

CHAPTER-II

EXECUTIVE SUMMARY

Trend of receipts	The percentage of actual receipts of VAT to the total tax receipts ranged between 51.78 and 53.83 <i>per cent</i> during the five year period from 2007-08 to 2011-12.
Revenue Impact of Audit Reports	During the last five years, through our Audit Reports, we had pointed out non/short levy of taxes, incorrect exemption of tax, non/short levy of interest/penalty on tax, etc with revenue implication of ₹ 261.62 crore in 56 paragraphs. Of these, the Government / Department accepted audit observations in 42 paragraphs involving ₹ 54.44 crore and recovered ₹ 11.51 crore as on 31 March 2012.
Results of audit	<p>We conducted a test check of the records of 130 offices of the CTD covering VAT, Sales tax, Entry tax and Professions tax during the year 2011-12, which revealed under-assessments of tax and other irregularities involving ₹ 158.18 crore in 599 cases.</p> <p>During the year 2011-12, the Department had recovered an amount of ₹ 51.22 lakh in 24 cases in respect of observations raised during the year and also recovered an amount of ₹ 5.65 crore in 166 paras which were pointed out in earlier years in respect of VAT.</p>
What we have highlighted in this chapter	<p>A Performance Audit on “Arrears in assessment and collection of taxes in the Commercial Taxes Department” revealed the following:</p> <p>Demand, Collection and Balance (DCB) statements were not prepared and submitted to the Divisional offices after April 2005. In its absence, progress made in recovery of arrears could not be watched and ascertained at the apex level.</p> <p style="text-align: right;">(Paragraph 2.8.8)</p> <p>In six offices, 1,582 assessment files which had details relating to arrears of ₹ 8.77 crore were missing which adversely affected pursuance of recovery of arrears.</p> <p style="text-align: right;">(Paragraph 2.8.10)</p> <p>Government of Karnataka issued instructions in October 2009 for setting up joint committees at different levels consisting of both Commercial Taxes Department and State Excise Department officers for identifying sales</p>

	<p>tax defaulters who were still in the liquor trade. However, no committees were formed except in Mysore Division till date. Sales tax arrears of ₹ 205.90 crore from liquor dealers was pending recovery as on 1 October 2012.</p> <p style="text-align: right;">(Paragraph 2.8.12)</p> <p>Arrear tax of ₹ 8.38 crore in 29 cases for the period 1999 to 2011 could not be recovered through Judicial Magistrate First Class (JMFC) in Bangalore due to inability of the CTD to furnish mandatory information of the defaulters.</p> <p style="text-align: right;">(Paragraph 2.8.14)</p> <p>In eight cases, non-filing/belated filing of claims with the official liquidator resulted in arrears of ₹ 44.88 crore remaining uncollected.</p> <p style="text-align: right;">(Paragraph 2.8.15)</p> <p>In four cases, though department was aware of the fact that properties were attached/disposed of by financial institutions, it did not direct the financial institutions to recover the arrears of tax of ₹ 1.80 crore and remit the same to Government.</p> <p style="text-align: right;">(Paragraph 2.8.16)</p> <p>Seven industrial units who had availed deferment of sales tax of ₹ 1.34 crore did not repay the amount and department did not demand the same along with interest of ₹ 1.22 crore.</p> <p style="text-align: right;">(Paragraph 2.8.18)</p>
Recommendations	<p>The Government may consider:</p> <ul style="list-style-type: none">• a system for monitoring the correct accounting and recovery of arrears by maintaining the DCB Register and Watch Register;• a system for regular liaison with OL, BIFR and Court Authorities so that the claims are lodged without any delay and or not lost sight of;• a system for co-ordination with other Government Departments so that arrears are pursued with those departments without any delay; and• a system for monitoring the progress made in the recovery of arrears by prescribing periodical returns for submission to higher authorities.

CHAPTER-II: TAXES ON SALES, TRADE, ETC

2.1 Tax Administration

The levy and collection of Value Added Tax (VAT) and Sales Tax are governed by the Karnataka Value Added Tax Act, 2003 (KVAT Act), the Central Sales Tax Act, 1956 (CST Act), the Karnataka Sales Tax Act, 1957 (KST Act) and rules made thereunder. The Commercial Taxes Department (CTD) is under the administrative control of the Finance Department and headed by the Commissioner of Commercial Taxes (CCT). The CCT is assisted by 14 Additional Commissioners (AdCom) and Joint Commissioners (JCCTs). There are 13 Divisional VAT Offices (DVO) in the State each headed by JCCT in addition to 13 JCCT (Appeals). There are also 148 Audit Offices headed by Deputy Commissioners (DCCT) and Assistant Commissioners (ACCT). At the field level, VAT is being administered through 95 Local VAT Offices (LVOs) and VAT Sub Offices (VSOs) headed by ACCTs and Commercial Tax Officers (CTOs) respectively. The computer cell of the CTD is headed by an AdCom.

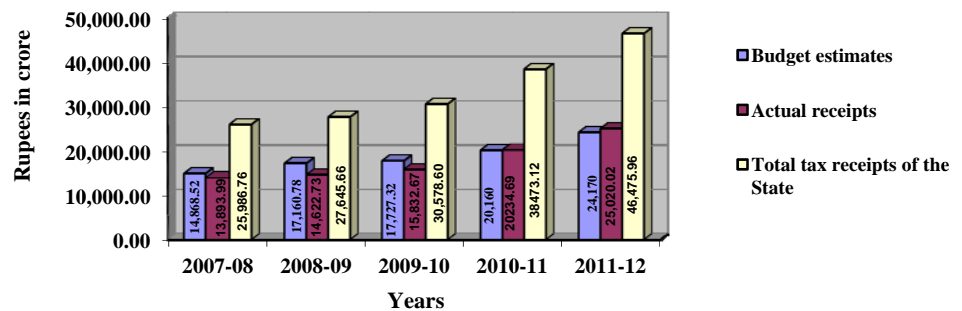
2.2 Trend of Receipts

Budget Estimates (BEs) and actual receipts from taxes on sales, trade etc. during the years 2007-08 to 2011-12 along with the total tax receipts during the same period is exhibited in the following table and graph.

(₹ in crore)

Year	Budget Estimates	Actual Receipts	Variation excess(+)/shortfall(-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2007-08	14,868.52	13,893.99	(-) 974.53	(-) 6.55	25,986.76	53.46
2008-09	17,160.78	14,622.73	(-) 2,538.05	(-) 14.79	27,645.66	52.89
2009-10	17,727.32	15,832.67	(-) 1,894.65	(-) 10.69	30,578.60	51.78
2010-11	20,160.00	20,234.69	(+) 74.69	(+) 0.37	38,473.12	52.59
2011-12	24,170.00	25,020.02	(+) 850.02	(+) 3.52	46,475.96	53.83

Graph 1 : Budget Estimates, Actual Receipts and Total Tax Receipts



The percentage of actual receipts of VAT to the total tax receipts ranged between 51.78 and 53.83 *per cent* during the five year period from 2007-08 to 2011-12.

2.3 Cost of VAT collection per assessee

The number of assessees, cost of collection, and the cost of VAT per assessee during 2007-08 to 2011-12 were as follows:

(Amount in ₹)

Year	Number of assessees	Cost of VAT collection	Cost of VAT collection per assessee
2007-08	3,80,135	74,30,28,000	1,955
2008-09	4,01,817	81,61,95,000	2,031
2009-10	4,16,265	84,45,67,000	2,029
2010-11	4,03,639	92,86,95,000	2,301
2011-12	4,44,470	99,24,26,000	2,233

2.4 Cost of Collection

The gross collection in respect of taxes on sales, trade etc, expenditure incurred on collection and the percentage of such expenditure to gross collection during the years 2009-10, 2010-11 and 2011-12 along with the relevant All India average percentage of expenditure on collection to gross collection for the respective preceding years were as follows:

Year	Gross collection	Expenditure on collection	Percentage of cost of collection to gross collection	All India average percentage for the preceding year
	(₹ in crore)			
2009-10	16,546.34	84.46	0.51	0.88
2010-11	21,252.97	92.87	0.44	0.96
2011-12	26,203.81	99.24	0.38	0.75

2.5 Impact of Audit Reports

During the last five years, through our Audit Reports, we had pointed out non/short levy of tax, incorrect exemption of tax, non/short levy of interest/penalty on tax etc. with revenue implication of ₹ 261.62 crore in 56 paragraphs. Of these, the Government/Department accepted audit observations in 42 paragraphs involving ₹ 54.44 crore and recovered ₹ 11.51 crore as on 31 March 2012. The details are shown in the following table:

(₹ in crore)

Year of Audit Report	Paragraphs included		Paragraphs accepted		Amount recovered	
	Number	Amount	Number	Amount ¹	Number	Amount
2007-08	19	77.54	14	25.64	14	8.13
2008-09	09	7.41	07	1.72	06	1.36
2009-10	09	15.29	09	10.79	07	1.32
2010-11	10	79.26	06	0.53	06	0.43
2011-12	09	82.12	06	15.76	04	0.27
Total	56	261.62	42	54.44	37	11.51

As seen from the above table, the recovery made by the Department was 21.14 per cent of the revenue involved in the total accepted amount.

¹ Indicates the amount of acceptance and recovery in respect of individual cases included in the respective paragraphs.

We recommend that the Government may take measures to ensure expeditious recovery of revenue in respect of the accepted cases.

2.6 Working of Internal Audit Wing (IAW)

IAW 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 environment is a pre-requisite for the efficient functioning of any Department. However, consequent to introduction of VAT with effect from 01 April 2005, the Department abolished the IAW leaving it vulnerable to the risk of control failure.

The Department replied (October 2011) that the IAW was re-established in the Department with effect from June 2011. Information on working of internal audit such as number of units programmed for audit, number of units audited, observation raised and follow up action on internal audit observation though called for (June 2012) from the Department the same has not been received (December 2012).

2.7 Results of Audit

We conducted a test check of the records of 130 offices of the CTD covering VAT, Sales tax, Entry tax, and Professions tax during the year 2011-12, which revealed under-assessments of tax and other irregularities involving ₹ 158.18 crore in 599 cases, which fall under the following categories.

(₹ in crore)			
Sl. No.	Category	Number of cases	Amount
Value Added Tax			
1	Arrears in assessment and collection of taxes in Commercial Taxes Department (A Performance Audit)	1	75.91
2	Non / short levy of output tax	145	14.09
3	Incorrect/excess allowance of input tax credit	72	5.58
4	Incorrect/ excess carry forward of refund	63	7.34
5	Non/short payment of tax	96	9.38
6	Incorrect adjustment of TDS	34	31.79
7	Non/short levy of penalty	62	4.36
8	Non/short levy of interest	52	2.56
9	Non- forfeiture of tax collected in excess	3	0.87
10	Other irregularities	35	5.10
	Total	563	156.98
Sales tax, Entry tax and Professions tax			
11	Non/short levy of tax, interest, etc.	36	1.20
	Grand Total	599	158.18

During the year 2011-12, the Department had recovered an amount of ₹ 51.22 lakh in 24 cases in respect of observations raised during the year and also recovered an amount of ₹ 5.65 crore in 166 paragraphs which were pointed out in earlier years in respect of VAT.

A Performance Audit on 'Arrears in assessment and collection of taxes in Commercial Taxes Department' involving ₹ 75.91 crore and a few illustrative cases involving ₹ 6.21 crore are mentioned in the following paragraphs.

2.8 Performance Audit on "Arrears in assessments and collections of taxes in Commercial Taxes Department"

Highlights

Demand, Collection and Balance (DCB) statements were not prepared and submitted to the Divisional offices after April 2005. In its absence, progress made in recovery of arrears could not be watched and ascertained at the apex level.

(Paragraph 2.8.8)

In six offices, 1,582 assessment files which had details relating to arrears of ₹ 8.77 crore were missing which adversely affected pursuance of recovery of arrears.

(Paragraph 2.8.10)

Government of Karnataka issued instructions in October 2009 for setting up joint committees at different levels consisting of both Commercial Taxes Department and State Excise Department officers for identifying sales tax defaulters who were still in the liquor trade. However, no committees were formed except in Mysore Division till date. Sales tax arrears of ₹ 205.90 crore from liquor dealers was pending recovery as on 1 October 2012.

(Paragraph 2.8.12)

Arrear tax of ₹ 8.38 crore in 29 cases for the period 1999 to 2011 could not be recovered through Judicial Magistrate First Class (JMFC) in Bangalore due to inability of the CTD to furnish mandatory information of the defaulters.

(Paragraph 2.8.14)

In eight cases, non-filing/belated filing of claims with the official liquidator resulted in arrears of ₹ 44.88 crore remaining uncollected.

(Paragraph 2.8.15)

In four cases, though department was aware of the fact that properties were attached/disposed of by financial institutions, it did not direct the financial institutions to recover the arrears of tax of ₹ 1.80 crore and remit the same to Government.

(Paragraph 2.8.16)

Seven industrial units who had availed deferment of sales tax of ₹ 1.34 crore did not repay the amount and department did not demand the same along with interest of ₹ 1.22 crore.

(Paragraph 2.8.18)

2.8.1 Introduction

The CTD is responsible for levy and collection of taxes under the Karnataka Sales Tax (KST) Act 1957, Central Sales Tax (CST) Act 1956, Karnataka Value Added Tax (KVAT) Act 2003, Karnataka Tax on Entry of Goods (KTEG) Act 1979, Karnataka Tax on Luxuries (KTL) Act 1979, Karnataka Agricultural Income Tax (KAIT) Act 1957 and The Mysore Betting Tax Act 1932 and rules made thereunder. The Karnataka Commercial Taxes (KCT) Manual prescribes the procedure for assessment, levy, demand, collection and remittance of revenue under the Acts administered by the CTD.

2.8.2 Organisational Setup

The CTD is under the control of Finance Department (FD) and is headed by the Commissioner of Commercial Taxes (CCT) who is assisted by 12 Additional Commissioners of Commercial Taxes (AdCom) at the State level and 40 Joint Commissioners of Commercial Taxes (JCCT) at the Divisional level including appeals, vigilance and enforcement authorities. At the field office level, 123 Deputy Commissioners of Commercial Taxes (DCCTs), 320 Assistant Commissioners of Commercial Taxes (ACCTs) and 522 Commercial/ Professions Tax Officers are working in the administration of various Acts.

2.8.3 Audit objectives

The performance audit was conducted with a view to ascertain:

- the extent of arrears in assessment under KST, KVAT, CST, KTEG, KTL, KAIT and MBT Acts;
- whether adequate provisions/rules exist to safeguard the Government revenue;
- the efficiency and effectiveness of the system to collect the arrears of tax;
- whether the rules and procedures prescribed in the Act/Rules/Manuals were being complied with and
- whether adequate internal control mechanism exists for prompt realisation of arrears of revenue.

2.8.4 Scope and methodology of Audit

The performance audit was conducted for the period from 2006-07 to 2010-11. The records available in the CCT's office and 5² out of 14 divisions (36 per cent) in the State were selected by applying random sampling method without replacement from the list of divisions arranged in the alphabetical order and financial involvement. There were 168 unit offices under the selected five divisions, of which 17 offices (10 per cent) were selected. In the selected 17 offices there were 12,308 cases of arrears of which 1,232 cases (10 per cent) were test checked. An Entry Conference was held with the Additional Chief Secretary, Finance Department and the CCT in June 2012 in which objective, scope and methodology of performance audit was explained and discussed with them. An Exit Conference was held on 17 December 2012 with the

² DVO – 2, 3 and 5 Bangalore, Davanagere and Mangalore.

Additional Chief Secretary, Finance Department and the CCT wherein our findings, replies of the Department and our recommendations were discussed. The replies received in the Exit Conference and at other points of time have been appropriately commented in the relevant paragraphs.

2.8.5 Reasons for selection of the topic

We had not conducted a performance audit on the topic since last 14 years. Through our local audit inspection, we had felt that the department was not paying enough attention for recovering the arrears and the arrears were also mounting (₹ 2,168.48 crore). So we felt it was appropriate to conduct a performance audit on this topic.

2.8.6 Audit Criteria

The audit criteria for the Performance Audit are derived from the provisions of the following Acts and Rules made thereunder which govern levy and collection of taxes besides providing measures for recovery of arrears of revenue under the respective Acts:

1. The KVAT Act 2003 and KVAT Rules, 2005
2. The KST Act and Rules, 1957
3. The KTEG Act and Rules, 1979
4. The Karnataka Finance Code (KFC), 1958
5. The CST Act, 1956

In addition, compliance with the circulars and instructions issued by the CCT and procedures prescribed in KCT Manual were also verified.

2.8.7 Acknowledgement

We acknowledge the co-operation of the Finance Department, Government of Karnataka and CTD in arranging for Entry Conference (June 2012) and Exit Conference (December 2012) and in providing necessary information and records for audit.

2.8.8 Demand, Collection and Balance (DCB) Register

Paragraph 2 of Chapter XXVI of KCT Manual stipulates that statement of DCB is to be prepared by the Assessing Officers and submitted to the respective Divisional Officers on monthly basis. The DCB statements assume importance in ascertaining position of arrears for recovery action.

We noticed that in the test checked offices, the DCB statements were not prepared and submitted to the Divisional Offices after April 2005 either in manual or electronic form. No periodical returns have been prescribed by the Department for watching the progress made in recovery of the arrears at the apex level. In the absence of the DCB statement and the returns, no monitoring was done at the apex level.

After we pointed out between March and September 2012, the CCT stated in the Exit Conference that DCB Register has not been maintained after implementation of KVAT Act with effect from 1 April 2005 and DCB module is being developed which is likely to be ready by March 2013.

2.8.9 Arrears of revenue in CTD

As per the information furnished³ (15 July 2011) by the CCT to the Secretary to Government, Finance Department ₹ 2,168.48 crore were shown as arrears of CTD at the end of 31 March 2011. The CTD had not maintained the DCB Register; as such the correctness of the amount could not be ascertained by Audit. The details of arrears of revenue are as under:

(₹ in crore)

Sl. No.	Category-wise arrears in collection of taxes	Arrears of revenue	
		For the year 2009-10	For the year 2010-11
1.	Balance as on 1 April	4,164.96	2,726.06
2.	Demand created during the year	532.09	782.87
3.	Total	4,697.05	3,508.93
4.	Collection during the year	469.00	1,103.36
5.	Reduction during the year	477.26	237.09
6.	Balance as on 31 March	3,750.79	2,168.48
7.	Less deferred tax	1,024.73	--
8.	Actual revenue due for recovery	2,726.06	--

The break-up of the arrears furnished by the Department is mentioned in the following table:

(₹ in crore)

Sl. No.	Stage of recovery	Amount
1	Covered by stay orders	393.34
2.	Before BIFR/AAIFR	108.05
3.	Under liquidation process	176.35
4.	Covered by Revenue Recovery	82.54
5.	Covered by Court Recovery	184.07
6.	Covered by Departmental Recovery	1,023.55
7.	Held under payment verification	160.59
8.	Under write-off proposal	39.99
TOTAL		2,168.48

Further, CTD has not furnished (December 2012) the age-wise pendency/details of arrears of taxes though called for in March 2012.

³ The information was compiled and furnished in pursuance of an observation made by Public Accounts Committee while discussing the CAG's Audit Report (Civil) paragraph no. 1.6.3 for the year ended 31 March 2010.

2.8.10 Non-existence of assessment files/recovery records

Copies of returns filed by the dealers, order passed by assessing authorities (AAs), notices served on the dealers and other correspondence letters are filed in assessment files for each year in respect of each dealer. These files form the basis for proceeding with recovery process provided under the Act in cases where there were arrears of revenue.

We noticed that after the implementation of KVAT, restructuring of the CTD took place and new KVAT offices were formed. We found that 1,582 assessment files relating to pre-KVAT period i.e., prior to 1 April 2005 were

shown to have been transferred from six offices to other newly formed offices. These files involving arrears of ₹ 8.77 crore were stated by the CTD as missing. These are mentioned in the following table:

(₹ in lakh)

Sl. No.	Name of the office from which files were transferred	Name of the receiving Office	No. of assessments	Amount
1	CTO (Recovery)-2, Davanagere	CTO-Davanagere	102	18.41
2	ACCT (Recovery)-1, ACCT (Recovery)-2, CTO (Recovery)-2, Harihara	DCCT-Davanagere	1,228	90.05
3	DCCT (A&R)-2.8, Bangalore	DCCT-2.6 Bangalore	20	17.96
4	DCCT (A&R)-2.8, Bangalore	DCCT-2.5 Bangalore	41	148.48
5	DCCT (A&R)-6.9, Bangalore	DCCT-6.1 Bangalore	86	327.67
6	DCCT (A&R)-6.9, Bangalore	DCCT-6.2 Bangalore	105	273.93
Total (Six Offices)			1,582	876.54

Non-availability of assessment files would adversely affect the pursuance for recovery of arrears in these cases. Though the Department was aware of the fact of the missing files, no efforts were made to trace the files or to reconstruct the same with the help of the dealers to the extent possible.

2.8.11 Arrears in Appeals

The details of year-wise cases pending in appeals relating to KST, CST and KVAT and cases disposed of/pending disposal with JCCT (Appeals) was as under:

Year	2006-07	2007-08	2008-09	2009-10	2010-11
Opening Balance	3,387	2,634	5,558	7,502	11,755
Receipts	3,797	8,162	10,777	11,785	14,299
Total	7,184	10,796	16,335	19,287	26,054
Disposal	4,550	5,238	8,833	7,532	10,485
Closing Balance	2,634	5,558	7,502	11,755	15,569

It could be seen from the above that the cases pending for disposal in appeals increased from 3,387 in April 2006 to 15,569 in March 2011 i.e. increase by 360 per cent. The CTD should make extra effort for clearance of the arrears.

The year-wise and tax-wise breakup of the cases pending for disposal in appeals and revenue involved therein though called for in March 2012 has not been furnished by the Department.

After this was pointed out, the Department stated in November 2012 that keeping in view the pendency in disposal of appeal cases, three more appeal offices were created in August 2011.

2.8.11.1 Non-adherence to the instructions contained in Departmental Manual/Circular

As per the circular No. 28/1998-99 issued by CCT in December 1998, a watch register for watching appeals filed before first Appellate Authorities or Karnataka Appellate Tribunal (KAT) should be maintained by all the AAs. The register shall contain information regarding the files sent to Appellate Authorities or KAT and date of receipt of their order with gist of the order.

We noticed that a Watch Register was maintained only in one⁴ out of the five test checked divisions. However, even in that division, the actual number of cases sent to KAT on appeal during the period 2006-11 was not on record.

After we pointed out (April 2012), the CTD stated in November 2012 that it has since started maintaining a watch register.

2.8.11.2 Non-finalisation of assessments remanded for fresh disposal by Karnataka Appellate Tribunal (KAT)

As per Chapter XXVII (Time Schedule) of the KCT Manual, assessments of cases remanded by the Appellate authorities/Courts should be completed within three months from the date of receipt of the records in the office.

In the arrears cases test checked (May and July 2012) by us, there were 24 cases which were received from the KAT for fresh disposal. Of these, in five cases, we

noticed that though the KAT had passed orders between May 2010 and June 2011 for fresh disposal of assessments, these were not concluded by the concerned AAs even after a delay ranging from one to two years as of September 2012.

⁴ Mangalore Division

The position is shown in the following table:

Sl. No.	Division	Name of the dealer	Assessment year/Date of assessment	Date of KAT order remanding for fresh disposal	Date of receipt of the KAT order in the CTD
1.	Mangalore	Shri Nagaraja Ballal, Contractor	2004-05/ 23.2.2007	29.5.2010	13.10.2010
2.	Division 3, Bangalore	M/s Black Cadillac Hotels Pvt. Ltd.	1999-2000/ 30.5.2003	27.9.2010	2.2.2011
3.	Division 3, Bangalore	M/s Build Track Asphalts, Bangalore	2001-02/ 24.12.2003	14.6.2011	18.8.2011
4.	Division 5, Bangalore	M/s Manjunatha Marketing Services, Bangalore	2000-01/ 18.3.2006	16.6.2011	24.6.2011
5.	Division 3, Bangalore	M/s Sapna Wines, Bangalore	1990-91 to 1993-94/ 11.12.1993	7.7.2010	10.12.2010

After we pointed out between March and July 2012, the Department stated in November 2012 that in two cases assessments were concluded in June and September 2012 creating demand of ₹ 11.03 lakh of which ₹ 9.86 lakh was collected in one of them. In respect of the remaining three cases, action has been initiated for fresh disposal.

Non-maintenance of watch register of appeal cases and delay in finalisation of assessments shows that there is no effective monitoring over cases under appeal.

2.8.12 Recovery of arrears of sales tax from liquor dealers

Under Section 13 (3)(aaa) of KST Act, any tax assessed, or any other amount due under this Act from a dealer may without prejudice to any other mode of collection be recovered as if it were an arrear of excise revenue under the Karnataka Excise Act (KE Act), 1965 in the case of a dealer engaged in the manufacture or sale of liquor including beer, spirit and alcohol.

The liquor dealers were required to be registered with the CTD up to February 2001. Thereafter, liquor products were exempted from levy of sales tax/VAT and additional duties of excise was introduced under the KE Act. The arrears of sales

tax were not recovered at the time they ceased to be the dealers under the KST Act. The total amount due against these dealers as of 1 March 2001 was also not found on record.

As per information forwarded by the Department to Government in June 2009, arrears in sales tax from 2,607 manufacturers/dealers in liquor amounted to ₹ 383.88 crore. The CTD requested the Government (June/October 2009) for transferring the same to the State Excise Department (SED) on the ground that those liquor dealers were no longer registered with CTD. The Government issued instructions in October 2009 to form joint committees at different levels consisting of both CTD and SED officers for identifying sales tax defaulters who were still in the liquor trade. The CCT and the Excise Commissioner

were to monitor the progress of recovery of arrears monthly and the Finance Department, after six months. We found that not a single meeting of joint committees was conducted and only in Mysore Division, the SED had identified the dealers.

After this was pointed out, the CTD stated (November 2012) that the divisional officers conducted several meetings with the SED and necessary action was being taken for recovery of the arrears. In the Exit Conference, the Government stated that meetings of the joint committees have since been revived both at the divisional level and at the State level. The Department also intimated that arrears of ₹ 383.88 crore has been reduced to ₹ 205.90 crore, on account of amount recovered under Karasamadhan Scheme which provided for waiver of 90 *per cent* of interest and penalty on full payment of tax.

We test checked 24 cases of arrears from liquors dealers. Of these, in four cases, we found lack of monitoring and incorrect grant of exemption amounting to ₹ 2.10 crore as mentioned in the following table:

(₹ in lakh)

Sl. No.	Name of the dealer	Nature of observation	KST arrears
1.	M/s Raghavendra Enterprises, Mysore	The dealer firm was continuing in liquor business, the partners in the default firm held Excise Licence Nos. 8458, 8229, 31013 and 31065. An amount of ₹ 99.18 lakh was outstanding against the dealers as on February 2001. No efforts were made by the Department to take up the matter with SED (December 2012) for realising the amount.	99.18
After this was pointed out, the CTD stated that net tax payable was found to be ₹43.70 lakh and action was being taken to recover the same under Section 13(3)(b) and refer it to SED. The reply of the CTD did not indicate the reasons for not taking action for the last 11 years and for reduction in arrears from ₹99.18 lakh to ₹43.70 lakh.			
2.	M/s Chamundeshwari Agencies, Mysore	The partners of the firm had got individual excise license Nos. 8428, 8236, 8109 and 8328. An amount of ₹ 64.68 lakh was outstanding as on February 2001.	64.68
After the reasons for non-recovery were called for in July 2012, the CTD furnished two set of replies, one in December 2012 wherein it was stated that the records were not received from the previous office, hence information regarding payment of tax was not available. But in an earlier reply in November 2012 the CTD stated that entire amount has been collected in June 2010 under Karasamadhan Scheme. The facts need to be investigated for ascertaining the realisation of the dues.			
3.	M/s Prashanth Wholesale Wines, Madikeri AY: 1998-99, 1999-2000 and 2000-01	Karasamadhan Scheme was introduced under KST Act for recovery of the tax with 90 <i>per cent</i> waiver of the interest and penalty subject to the condition that the dealer paid the entire dues by 31 August 2010. However, the dealer paid the dues on 1 September 2010. As such he was not eligible for exemption of penalty/interest of ₹ 4.10 lakh.	4.10
4.	Goutham Wines AY: 1993-94, 1994-95 and 1996-97	The dealer was engaged in wholesale business of liquor. The case was entrusted to tax recovery officer (October 2002). Application was also filed by the CTD before JMFC Court on 16 October 2002 which was dismissed (05 November 2003) on the ground that whereabouts of the partners were not known and the notice could not be	42.11

(₹ in lakh)

Sl. No.	Name of the dealer	Nature of observation	KST arrears
		served. No further action is forthcoming from the records.	
The Department stated (November 2012) that SED is being approached for collection of the amount.			
Total			210.07

2.8.13 Arrears of tax referred to Revenue Department

Section 13(3)(a) of the KST Act provides that any tax or any other amount due under the Act from a dealer or any other person may without prejudice to any other mode of collection be recovered as if it were an arrear of land revenue.

As per Land Revenue (LR) Act, DC (Revenue) is empowered to issue Revenue Recovery Certificate (RRC) in respect of the arrears of Government revenue referred to him by the CTD.

As per the circular instruction No. 15 issued by CCT in February 2002, the AAs were required to file an application for recovery of the arrears of revenue due against any dealer to be recovered as arrears of land revenue under the Land Revenue Act through respective JCCTs. Further, JCCTs were instructed to get the details of revenue recovery certificates (RRC) issued by DC (Revenue) to the Sub-Divisional Officers/Tahsildars for recovery of arrears.

We test checked 24 cases that were sent by three divisions to the concerned DCs for issue of RRCs between September 1993 and December 2008. Of these, the fact of RRC having been issued was not found on record in seven cases. The concerned AAs had made no effort to ascertain issue of RRCs by the revenue authorities. The details are mentioned in the following table:

Sl. No.	Name of the office	Name of the dealer/ Assessment year	Revenue Authority/Date of sending the case to DC	Amount involved (₹ in lakh)
1	DCCT 3.7, Bangalore	M/s Maharaja Forest products 1996-97 and 97-98	DC. Bangalore 4.2.2002	13.13
2	DCCT Audit 2.6 Bangalore	M/s Elbee Traders 1988-89	DC, Quilon, Kerala 29.9.93 and 3.3.94	4.39
3		M/s Akash Steels 1993-94	DC Bangalore (Urban) 20.9.2002	11.70
4		M/s Bangalore Steels 1994-95	DC Bangalore (Urban) 20.9.2002	8.82
5	DCCT(A&R), Davanagere	Shri M.F. Zabiulla, 1985-86	DC, Hubli 18.11.1998	0.62
6.	CTO (A) 1, Davanagere	M/s Guru Traders 1993-94	DC .Davanagere 6.8.08	3.11
7.	DCCT (A&R)5, Mangalore	M/s Century Metal Stores 2004-05	DC, Cochin, Kerala 30.12.2008	2.91
Total				44.68

After we pointed out the cases, the CTD stated in November 2012 that action was being taken to obtain the RRC from the concerned Revenue Authorities.

2.8.14 Non-initiation of action under Section 13 (3) (b) of KST Act, 1957

KCT Manual read with CCT Circulars No.650 dated 08.09.1976 and No.40 dated 30.01.1978 stipulates that the recovery applications filed before JMFC should bear the name and present address of the person liable to tax and his status, so that notices issued by Court are served in time. When the 'statement of objection' is filed by the defaulters before the Court, the AAs should file counter replies in time. Memo of calculation of penalty (interest) is to be enclosed along with the recovery applications for perusal by the Court. In this regard a register in prescribed form has to be maintained for recording the details of cases referred to JMFC and to watch follow up action.

During the test check of records of two divisions⁵ we observed (between March and June 2012) that in 29 cases involving arrears of tax of ₹ 8.38 crore for the period 1999 to 2011, no recovery could be effected through JMFC due to non furnishing of mandatory information of the defaulters like respondent dealer's current address (both business and residential) phone number, bank account number, details of movable and immovable property, PAN and

other relevant information. Though the above facts were brought to the notice of CCT by the JMFC, Bangalore in December 2011 and March 2012, no action was taken by the Department to furnish the required information to JMFC.

After we pointed out, the Department accepted that many cases could not be pursued as the information regarding present address, phone number, PAN etc. were not available and stated that efforts were being made to collect and furnish the required information to JMFC. The Department also stated that instructions have been issued to all AAs to be careful and diligent in filing recovery applications.

2.8.15 Cases referred to Board of Industrial and Financial Reconstruction (BIFR) and with Official Liquidator (OL)

As per the provisions of the Sick Industrial Companies (Special Provisions) Act (SICSP Act), 1985 where a reference for declaration as sick unit is filed and proceedings thereon are pending before the BIFR, no suit for recovery or enforcement of any dues against the Company shall lie or be proceeded further, except with the consent of the BIFR. Where a Company has been declared 'sick' by the BIFR, the Department has to ensure inclusion of all the arrears in the 'statement of liabilities' of the Company furnished to the BIFR and to the OL.

As per the circular dated 21 October 1995 the details of cases referred to the BIFR and their present status shall be maintained in each office to pursue the cases.

⁵ DVO-3 and DVO-5, Bangalore

We noticed (May 2012) that details of the BIFR cases were not available in any of the test checked offices. In the absence of this, total number of cases and action taken thereon could not be ascertained and the monitoring done by the Department at the apex level was also not ascertainable.

During test check of arrear cases, we noticed in eight cases that non-filing/belated filing of claims with the OL resulted in non realisation of arrears of ₹ 44.88 crore as of October 2012. These are mentioned in the following table:

Name of the dealer and Assessment year	Nature of observation	Amount involved (₹ in lakh)
Nihon Nirman 1993-94	The company was declared sick in April 1997. However, DCCT-14 had preferred the claims (in Form-66) only in August 2011 after a lapse of 14 years. After we pointed out, the Department stated that the position of the case is being verified with the OL appointed by the High Court of Rajasthan.	18.62
M/s. Altos India Co. Ltd. 1994-95 to 1997-98	The date of closure of business by the company was not mentioned in the assessment order. The AA requested the Registrar of Companies in September 2001 seeking details of closure of the company and information regarding OL. However, the case was not pursued thereafter. The DC (A&R) issued Form-66 in August 2011 to OL, appointed by the High Court of Punjab and Haryana based on the information published on the internet. The case has not been settled till date.	35.46
M/s Magna Sound India Ltd.; 2001-02 to 2003-04	The company was referred to the BIFR and the OL was appointed by the BIFR by its order dated 14.8.2003. However, claim for the sales tax dues (in Form-66) with OL was preferred only in January 2010 after a lapse of about seven years. Reason for delay in presenting the claim before the OL was not available on record.	3.28
M/s Gladstone Lyall and Co Ltd. 1987-88 and 1988-89	The company was wound up as per the orders of High Court of Calcutta on 18.4.1991 and OL was appointed by the High Court. The claims have been submitted to the OL in August 1994 after a lapse of three years. The present status of the case was not found on record.	4.56
M/s Hegde and Goley Ltd AY: 1975-76 to 1983-84	The company was ordered to be wound up in July 1985 by BIFR. The AA submitted claim on 9.12.1988 for an amount of ₹ 99.11 lakh to the OL after a lapse of three years. The present status of the case was not found on record.	99.11
M/s Saroj Alloys and Steels Ltd, Kriganur, Hospet 1976-77 to 1988-89	It was noticed from the assessment files that the assets of the said defaulter company were sold (May 2002) by public auction for ₹1.46 crore as per the directions (January 1992) of the High Court, Mumbai and the last date for filing the claim was 31 March 1999. The Department filed their claim (in Form 66) only in October 2002. The OL in his letter dated 9 October 2009 directed the AA to submit the condonation for delay from competent authority. However, it was noticed that the Department has not filed condonation even after lapse of three years. Reason for delay in submission of the claim and delay in condonation were not on record. The delay in submission of claim by the Department may result in non-realisation of Government revenue.	124.00

Name of the dealer and Assessment year	Nature of observation	Amount involved (₹ in lakh)
M/s India Sugars and Refineries Ltd AY 1996-97 to 2010-11	The company is engaged in manufacture and sale of white crystal sugar. The unit was declared as sick company on 22 July 1999 and a rehabilitation scheme was sanctioned under Sick Industry Company Act 1985, for the unit on 12 February 2002. As per the Rehabilitation Scheme, purchase tax arrears of ₹2.68 crore as on 31 March 2001 was deferred for three years, to be repayable thereafter. However, the company did not pay the deferred tax in violation of conditions set forth by BIFR. The High Court in response to a petition filed by the CTD directed (9 October 2007) the company to pay an amount of ₹ 2.50 crore within six weeks. Against this, the company filed an appeal which was dismissed on 7 December 2007. Despite this order the company did not pay tax of ₹2.50 crore till date. The company approached (11 June 2008) CCT for further concessions like waiver, moratorium and exemption from tax. However, the CCT found from the accounts that the company was in a good financial health and he requested BIFR (03 February 2008) to permit CTD to go ahead with the recovery of dues. However, permission for recovery of tax was not passed by the BIFR and the CTD again sought permission in March 2012 from the BIFR intimating that the total amount due against the company was ₹ 40.41 crore including the amount from 2001 which has not been paid.	4041.00
M/s Salar Jung Sugar Mills, (SJSM) Munirabad AY 1981 to 1995	The company was ordered to be liquidated by an order dated 31 October 1996 of High Court of Karnataka and it was taken over by M/s Hemakuta Sugar and Allied Industries (HSAI). The liability of the company was taken by the HSAI but no recovery has been made till date though it was stipulated in their Rehabilitation Scheme that it would be paid within six months. Thus the amount was recoverable from HSAI but the department issued notices to SJSM with the result that no recovery has been made till date.	161.57
Total		4,487.60

2.8.16 Failure to invoke provisions of Section 14 of the KST Act, 1957

As per Section 14 of the KST Act, AA may direct by notice in writing any person who is due to the dealer any money to pay such amount to the AA as is sufficient to pay the arrears of tax due by the dealer.

2.8.16.1 In the arrear cases selected for test check, we noticed that in two cases the Department initiated proceedings under Section 14 of the KST Act. Of these, in one case, it was noticed that proceedings were initiated belatedly and in the other case proceedings initiated were withdrawn without recovery of arrears in full and without assigning any reasons. In two other cases though the department was aware of the fact that the financial institutions have attached/disposed of the properties of the defaulter, no action was taken to direct the concerned financial institutions to pay arrears of tax due. The arrears of revenue involved in these cases amounted to ₹ 1.80 crore. These cases are as mentioned below:

Sl. No	Assessee / Assessment Year	Nature of observation	Amount of arrears (₹ in lakh)
1.	M/s Guru Springs and Vessels (P) Limited 1999-2000 to 2002-03	M/s Guru Springs and Vessels (P) Limited was assessed for the period 1999-2000 to 2002-03 between June 2002 and October 2006 and tax of ₹ 21.27 lakh was levied. A paper clipping dated 16 July 2004 published in a Kannada daily was available in the assessment file of the dealer which indicated that the KSFC, Mangalore branch was to auction the properties of the company on 'as is where is' basis, but no attempt was made by the Department to inform the KSFC about the tax due to the Department. The assets of the company were taken over by the KSFC in July 2004 and the CTD issued (January 2009) notice to KSFC for payment of the dues under Section 14 of KST Act. Belated submission of the claim may result in non-recovery of the tax dues.	21.27
After this was pointed out, the CTD stated (November 2012) that letter has been addressed to the KSFC to furnish the property details and to the Registrar of Companies to furnish the list of directors and property details held.			
2.	M/s Punjab Crockery House 1987-88 to 1993-94	M/s Punjab Crockery House, Bangalore (RC No. 00200511) was assessed to tax of ₹ 60.28 lakh for the period 1987-88 to 1993-94 and tax was demanded (23 December 2009). The dues were not paid by the dealer. The accounts of the dealer were found to have been maintained in Dena Bank, Jayanagar Branch, Bangalore and a notice was issued under Section 14 of the Act for payment of the same under intimation to the dealer. In response to this demand, an amount of ₹ 2 lakh was paid by the dealer as against a demand of ₹ 60.28 lakh. Balance tax ₹ 58.28 remained unpaid (December 2012).	58.28
After this was pointed out, the Department stated that as per the bank, the dealer held a cash credit hypothecation account and there was debit balance in his account. Hence the amount could not be recovered. However, the fact remains that the dealer had paid the amount only when notice was issued to the bank and after its withdrawal no amount was paid by him. Records available in the file further revealed that the dealer was running the same business in the same premises in a different trade name ⁶ . Thus, despite availability of details of defaulter on record, effective action has not been taken to recover the dues which are outstanding for more than 18 years.			
3	M/s Basaveswara Solvent and Oil Extraction AY 1993-94 to 1998-99	In this case an application for recovery of tax dues filed (2004) before JMFC was withdrawn in November 2007 on the ground that the land and building of the defaulter was hypothecated to M/s KSSIDC and M/s KSFC. However, the matter was not taken up with M/s KSSIDC and M/s KSFC under Section 14 of the KST Act.	11.72
After we pointed out the Department stated (November 2012) that M/s KSSIDC and M/s KSFC have disposed the property in 2006 itself. The recovery of sales tax arrears will be taken up with those authorities, if any amount is available for recovery.			

⁶ M/s. P.C.H. Marketing Services, Bangalore TIN 29210318881

Sl. No	Assessee / Assessment Year	Nature of observation	Amount of arrears (₹ in lakh)
4	M/s Cold Extrusions (P) Ltd Bangalore AY: 1995-96 to 2000-01	The arrears were outstanding since October 2000, a request was made to M/s KSSIDC in December 2008 for recovery of tax dues from the sale proceeds of a house property attached (December 2000) by them. Thus claim was preferred after a lapse of eight years.	88.82
The Department stated (November 2012) that M/s KSSIDC is yet to dispose of the property and recovery of sales tax dues would be pursued with them.			
Total			180.09

2.8.17 Non-recovery of arrears of tax due to inappropriate action by the Department

2.8.17.1 We noticed that arrears of ₹ 1.37 crore were outstanding in the DCB Register since 2002 in respect of a dealer (M/s Shreeji Packaging) which was a proprietorship concern. The dealer owned a residential property in Bangalore which was free from encumbrance as identified by the CTD in November 2004. However, no action was taken to attach the property. Records revealed that the defaulter is now a proprietor of new concern⁷. Though the defaulter is registered with the CTD and running a business, no effort has been made by the Department to recover dues.

After we pointed out, the CTD stated that the concerned officers have been instructed to collect the details of the property held by the dealer from the jurisdictional revenue officers of Bruhat Bengaluru Mahanagara Palike (BBMP)/Sub-Registrar Office and to collect the details regarding new business, if any.

2.8.17.2 We noticed that M/s S.C. Chinniah & Co. was liable to pay arrears of tax and interest of ₹ 60.11 lakh relating to the years 1980-81 to 1985-86. The firm had five partners of which two were adjudicated (November 1988) as insolvents and unable to pay debts. As per insolvency order, the firm had ₹ 18.05 lakh receivables for which an Official Receiver (OR) was appointed. The OR was requested (August 1994) to remit the amount to sales tax head of account after taking the necessary action on the assets of the petitioner. However, the case was not pursued for recovering the dues from the remaining three partners of the firm.

After we pointed out (August 2012), the CTD stated (November 2012) that notices have been issued to three partners and letter addressed to the OR seeking information regarding recovery of sales tax arrears in October 2012.

2.8.17.3 In respect of M/s Naveen Enterprises against which there were arrears of tax of ₹ 37.52 lakh relating to the assessment years 1993-94 to 1999-2000, application filed by the CTD for recovery of tax was dismissed by JMFC in April 2003 on the ground that notices have not been served. Though the Department identified one of the partners of the firm (Shri J.T. Raju) with the property held by him, it was recorded (December 2011) that he refused to receive the notice. No further pursuance to recover the dues or action to attach the property was forthcoming from the records.

⁷ M/s Jayvee Enterprises, Lakshmipura Main Road Bangalore, TIN 29250844599

After we pointed out, the CTD replied (November 2012) that action was being taken to attach the property.

2.8.17.4 We also observed in respect of M/s. Neela Kanteswara Oil Industries that the JMFC issued direction for attaching the property for recovery of tax dues of ₹ 15.55 lakh on 4 January 2005. Copy of the warrant was received by the AA in January 2005. However, the dealer alienated his property to different persons in 2010. This indicated that the property in question was not attached at all. Thus, inaction on the part of the CTD resulted in non-recovery of entire amount of tax of ₹ 33.52 (including interest) outstanding as on 25 February 2012.

After we pointed out, the CTD stated that the case was being pursued with the Revenue Authorities. However, the fact remains that property has been sold and the possibility of recovery of the arrears of tax has become remote.

2.8.17.5 In one case of a wholesale liquor dealer (M/s Shiva Enterprises, Bangalore) there was arrear of ₹ 4.29 crore pertaining to the year 1993-94. Though the Department identified that the defaulter was residing in Bangalore and running a Film Distribution business at Gandhinagar, Bangalore no action was taken to recover the dues (December 2012).

2.8.17.6 We noticed in one case (M/s Sheethal Wines, Chikkamagaluru) that the dealer was liable to pay arrears of sales tax of ₹ 1.22 lakh relating to the year 1997-98 and was liable to pay interest on the same till the date of payment of tax. However, our cross verification with the SED revealed that the ACCT, LVO-250, Chikkamagaluru issued (March 2011) a clearance certificate declaring that no amount was due from the dealer under the KVAT Act.

2.8.18 Arrears of tax in case of deferment of taxes under industrial incentive schemes

Under Industrial Policies of the Government of Karnataka, concession to industries in the form of deferred payment of tax under KST Act, CST Act and KTEG Act was allowed. In this regard it was necessary to record the data of concessions availed by each industry and also to take action for recovery of taxes after expiry of period of concessions. In case of defaults in making payment of deferred tax as stipulated in the policy, interest at prescribed rate was recoverable.

The CCT issued a circular in May 1999, directing the AAs to maintain a register to record the tax concessions granted in the form of exemption or deferment of tax. In the register each unit shall be allocated separate pages for entries to be made in respect of tax concession allowed from the date of commercial production which shall be maintained from 1 April 1999 and concessions availed in earlier years shall also be recorded. The extract of the said

register shall be submitted to the JCCT (Administration) every month.

We noticed in two offices in Bangalore that seven industrial units who availed tax payment deferment incentive under 1993 and 1996 package of industrial incentives were liable to pay deferred tax of ₹ 40.76 crore with effect from December 2002, of which, the industrial units paid ₹ 39.42 crore leaving a balance of ₹ 1.34 crore. The last instalments paid by these units were between March 2008 and August 2011. An interest of ₹ 1.22 crore was also leviable in these cases.

We noticed that 'Watch Register' was not maintained in any of the offices test checked except in one office (DCCT A&R) 6.2, Bangalore). But even in this office the register was not properly maintained i.e. periodical updating of the register where instalments have been paid were not noted. In the absence of the DCB and the Watch Register, the unpaid deferred tax and interest leviable thereon were not worked out and shown as recoverable arrears in the books of CTD as detailed below:

(₹ in lakh)

Sl. No.	Name of the assessee	Deferment of tax availed	Deferred tax repaid	Month of payment of last instalment	Balance	Interest due
1.	M/s Akzo Nobel Coatings India Pvt. Ltd.	1,270.17	1,199.75	September 2009	70.43	59.35
2.	M/s Delphi Automotive Systems Pvt. Ltd.	1,696.31	1,683.37	June 2008	12.94	9.71
3.	M/s E. M. Shivamani Engineering Pvt. Ltd.	48.33	45.49	December 2009	2.84	3.03
4.	M/s Haat Incinerators Pvt. Ltd.	42.02	40.20	March 2008	1.82	2.28
5.	M/s Kirloskar Toyoda Textile Machinery Pvt. Ltd.	783.14	768.74	June 2009	14.40	16.00
6.	M/s Vectra Azad Engineering Pvt. Ltd.	59.25	48.83	August 2011	10.42	17.76
7.	M/s Alpine Housing Development Corp	176.90	155.57	June 2011	21.33	13.64
	Grand Total	4,076.12	3,941.95		134.18	121.77

After we pointed out between May and July 2012 the CTD issued notices to six dealers in September 2012. In respect of the remaining case, it was stated (November 2012) that interest of ₹ 13.64 lakh is being adjusted out of the refund amount due to the unit. However, in this case, action taken to recover the tax of ₹ 21.33 lakh due has not been furnished (December 2012).

2.8.19 Reconciliation

Article 329(v) of KFC provides for reconciliation of payments made into the treasury/bank with that of treasury schedule and furnishing of certificate in this regard. It was noticed that no such reconciliation was made during the period 2004 to 2011. The amount shown as arrears as of March 2011 under the category of "under payment verification" continued to remain the same as of April 2012 indicating that no effort was made by the CTD to reconcile the amount shown as remitted to treasury/under payment verification.

We noticed (May/June 2012) that the CTD had submitted statement of arrears to the Government in pursuance of enquiry of the Public Accounts Committee. The statement of arrears contained 3,907 items involving ₹ 14.07 crore which were shown to have been recovered but these items were pending for want of reconciliation by the Department. On verification in audit, we noticed that these cases included amount due in respect of closed cases where demand notices had not been served, payment made in other offices which was yet to be transferred to the concerned office, payments received through cheques which required verification with reference to treasury records etc. The breakup of arrears was not forthcoming. In respect of payment already made, reconciliation with reference to Treasury records was yet to be made. The period for which such reconciliation is pending is not on record.

Sl. No	Name of the Office	No. of cases	Amount (₹ in lakh)
1.	DCCT-5 Mangalore.	51	22.83
2.	DCCT-Davanagere	648	287.22
3.	DCCT-2.6 Bangalore	98	131.91
4.	DCCT-2.5 Bangalore	2,265	614.37
5.	DCCT-3.7 Bangalore	828	279.57
6.	DCCT(A&R) Bangalore	17	71.20
Total		3,907	1,407.10

2.8.20 Conclusion

The performance audit revealed a number of deficiencies in monitoring the collection of arrears of tax like non-maintenance of basic records (DCB registers), lack of monitoring at the apex level, inordinate delay in assessments of cases remanded, lack of co-ordination between CTD and SED, failure to make timely claim before Judicial, Financial and other administrative authorities. A number of cases have not been pursued and stages at which the arrears are pending, action required to be taken, appropriate authority required to take action was not known to the CTD. As a result, the arrears from defaulters are fraught with the risk of revenue becoming irrecoverable with efflux of time.

2.8.21 Recommendations

We recommend that Government may put in place

- a system for monitoring the correct accounting and recovery of arrears by maintaining the DCB Register and Watch Register;
- a system for regular liaison with OL, BIFR and Court Authorities so that the claims are lodged without any delay and or not lost sight of;
- a system for co-ordination with other Government Departments so that arrears are pursued with those departments without any delay; and
- a system for monitoring the progress made in the recovery of arrears by prescribing periodical returns for submission to higher authorities.

2.9 Non-observance of provisions of the Act/Rules

The KVAT Act provides as under:

- Section 4 for levy of output tax at prescribed rates;
- Section 10(2), 11, 14 and 17 for deduction of ITC subject to certain restrictions;
- Section 10(3) for net tax liability which shall be the amount of output tax less the input tax deductible;
- Section 10(5) for adjustment/refund of excess ITC for any other tax period;
- Section 9-A for tax deduction at source in respect of works contractors;
- Section 15 for composition of tax in lieu of net tax payable;
- Sections 35 and 36 for levy of interest for omission to pay tax;
- Section 35(4) for furnishing of revised returns within six months after the end of the relevant tax period; and
- Section 72(2) for levy of penalty for understatement of output tax/overstatement of ITC.

Under the KVAT Act, every registered dealer is required to furnish returns in the prescribed form and pay the tax due on such return within 20 days after the end of the preceding month or any other tax period. Every dealer shall be deemed to have been assessed to tax based on such return filed by him. Where any prescribed authority has grounds to believe that any return furnished, which is deemed as assessed, understates the correct tax liability, it may re-assess such cases.

We noticed in test check of the records of 27 VAT offices that the above provisions were not fully followed by the concerned Assessing Authorities (AAs). The omissions and irregularities in 79 cases involve non/short realisation of Government revenue amounting to ₹ 6.21 crore. The Department has accepted audit observations in 26 cases involving ₹ 52.97 lakh out of which it intimated recovery of ₹ 26.59 lakh in 19 cases. In respect of the remaining cases, final reply has not been received (December 2012).

2.9.1 Non-demand of tax

Nine VAT offices in seven⁸ districts

As per section 31(4) of the KVAT Act 2003, every dealer whose total turnover in a year exceeds ₹ 40 lakh shall have his accounts audited by a Chartered Accountant or a Cost Accountant or a Tax Practitioner (Auditor) and shall submit to the prescribed authority a copy of the audited statement of accounts in Form VAT-240 prescribed under Rule 34(3) of the KVAT Rules, 2005.

Form VAT-240 provides for the Auditor to fill a comparative statement of dealer's liability to tax and his entitlements for input tax/refund as declared in the tax returns and corresponding correct amount determined on audit. In case of difference between them, the Auditor may advise the dealer either to pay the differential tax together with the interest and penalty if any, or to claim refund due to him as the case may be.

⁸ Bangalore, Belgaum, Chikkamagaluru, Gadag, Dharwad, Gulbarga and Kolar.

We noticed (between February and October 2011) that in case of 18 dealers, audited statement of accounts filed in Form VAT-240 for the years 2006-07 to 2009-10, the concerned Auditors brought out short payment of tax by the dealers in their returns. Further, the Auditors advised the dealers to file revised returns and pay tax of ₹ 3.69 crore, interest of ₹ 41.60 lakh and penalty of ₹ 35.67 lakh.

However, the concerned dealers neither filed revised returns nor paid the dues as advised by their Auditors in Form VAT-240. The AAs concerned also had not taken any action to demand the tax together with mandatory interest and penalty. This deprived the Government of revenue of ₹ 4.46 crore.

After we pointed out the cases between February and October 2011, the Government/Department accepted our observations in 10 cases involving tax effect of ₹ 31 lakh and recovered ₹ 17.28 lakh in seven of them. In respect of the remaining cases replies are still awaited (December 2012).

2.9.2 Excess adjustment of credit amount

12 LVOs and one Audit Office in seven⁹ districts

Any dealer in whose case, on the basis of return filed for any tax period, the input tax deductible exceeds the output tax payable by him, such dealer may adjust the excess amount towards the tax payable by him for any other tax period.

We noticed between January 2011 and February 2012 that 25 dealers in their returns filed for tax periods between July 2006 and December 2010, adjusted credit amount of ₹ 9.35 crore as brought forward from earlier tax periods. However, credit carried

forward by them in the respective previous returns was ₹ 8.79 crore only. The LVOs concerned failed to verify the returns of the dealers with reference to respective previous returns and to disallow the excess credit claimed by them. This resulted in excess adjustment of credit amount of ₹ 56.57 lakh. A few illustrative cases are mentioned below:

(₹ in lakh)

Sl. No.	Assessing Authority and Name of the dealer	Previous tax period	Credit carried forward	Subsequent tax period	Credit brought forward	Excess credit availed
1.	LVO-045, Bangalore M/s Universal Steel Rolling Mills Ltd.	March 2009	0.93	April 2009	13.28	12.35
		April 2009	4.22	May 2009	6.20	1.98
2.	LVO-045, Bangalore M/s Planet M Retail Limited	November 2010	Nil	December 2010	6.21	6.21
3.	LVO-390, Belgaum M/s Bharath Electrical Contractor & Manufacturing (P) Limited	September 2008	2.48	October 2008	5.48	3.00
4.	LVO-260, Mangalore M/s Mandovi Motors (P) Ltd.	September 2009	Nil	October 2009	10.81	10.81

⁹ Bangalore, Belgaum, Bellary, Dakshina Kannada, Gadag, Dharwad and Mysore.

After we pointed out the cases, the Government/Department accepted audit observations in respect of 10 cases involving ₹9.86 lakh and recovered ₹4.35 lakh in seven of them. We have not received final reply in the remaining cases (December 2012).

2.9.3 Non-levy of interest

Four VAT offices in Bangalore and Dharwad districts

Every dealer is liable to pay simple interest at the rate of 1.25 *per cent* per month on any amount of tax omitted to have been declared in a return and also for default in payment of tax wrongly collected. Further, interest shall also be demanded on additional tax liability determined on re-assessment.

We noticed from the six assessments finalised by DCCT (Audit) 64 in respect of a dealer and 24 returns filed by six other dealers with three LVOs between August 2011 and January 2012 that tax aggregating ₹ 41.29 crore relating to tax periods between October 2005 and April 2010 was paid after delay ranging from two

days to 54 months. The delay in payment of tax in these cases attracted interest of ₹60.87 lakh. Against this, interest of ₹ 5.81 lakh was only levied by the LVOs/DCCT. The non/short levy of interest amounted to ₹55.06 lakh.

We pointed out the cases to the Department between August 2011 and March 2012 and reported to the Government in June 2012. Their replies are still awaited (December 2012).

2.9.4 Short payment of tax

Three VAT offices in Bangalore and Belgaum districts

Every registered dealer is liable to pay tax in respect of any taxable sale of goods made by him after deducting the tax on the purchase of goods made by him, for use in the course of business.

We noticed between April and November 2011 that four dealers in their returns for the tax periods between March 2009 and May 2010, had short paid the net taxes amounting to ₹ 13.48 lakh. The LVOs concerned also failed to demand the tax.

After we pointed out the cases, the Government/Department accepted audit observations in one case involving ₹7.15 lakh and issued notice to the dealer concerned. We have not received final reply in the remaining case (December 2012).

2.9.5 Underassessment of output tax

Three VAT offices in Bangalore, Belgaum and Mysore districts

Every registered dealer is liable to pay tax (output tax) on his taxable turnover at the rates specified in the relevant schedules to the Act. In respect of goods not specified in any of the schedules, tax is payable at the rate of 12.5 *per cent*.

We noticed between April 2011 and February 2012 that eight dealers in their self assessed returns for the tax periods between April 2008 and March 2011 declared tax liability of only ₹ 26.88 lakh

as against actual output tax liability of ₹ 45.10 lakh. This was due to application of incorrect rate of tax, error in computation of the tax liability, error in declaring taxable turnover, etc.

The LVOs concerned also did not notice these errors at the time of accepting the returns and did not demand the tax due. This resulted in underassessment of output tax of ₹ 18.22 lakh which may be recovered along with interest.

These cases were pointed out to the Department between August 2011 and March 2012 and reported to Government in June 2012. We have not received their reply (December 2012).

2.9.6 Short levy of Central Sales Tax

Two VAT offices in two¹⁰ districts

Under the provisions of CST Act, every registered dealer who sells goods to another registered dealer in the course of inter-State trade or commerce is liable to pay tax at the rate of three *per cent* of his turnover subject to production of declaration in Form 'C'. The rate of tax was reduced to two *per cent* with effect from 1 June 2008.

We noticed between July 2011 and February 2012 that two dealers in their returns for the months of

April and May 2008 declared inter-state sales turnover of ₹ 10.69 crore covered by 'C' Form declarations. However, the dealers had computed and discharged their liability to tax on their turnover at the rate of two *per cent*. The LVOs concerned also failed to raise demand for the tax at the differential rate of one *per cent* after receipt of incorrect returns filed by the dealers. This resulted in short levy of CST of ₹ 10.69 lakh.

These cases were pointed out to the Department between July 2011 and March 2012 and reported to the Government in June 2012. Their replies are still awaited (December 2012).

2.9.7 Excess/ Incorrect allowance of input tax

Five VAT offices in Bangalore and Bellary district

Input tax in relation to a registered dealer means the tax paid or payable on the purchase of any goods under KVAT Act for use in his business. ITC is not admissible on purchase made from outside the State. As per Section 11(a)(2) of KVAT Act, ITC is not admissible on purchase of goods specified in V Schedule and used for the purpose other than for resale or manufacture. In terms of a Notification dated 30 March 2007 ITC on cement used in manufacture of cement bricks was not admissible.

We noticed between May and December 2011 that six dealers had claimed ITC of ₹ 1.37 crore in 62 (deemed assessments) returns for tax periods between April 2005 and March 2010. The input tax admissible as per the provisions of the Act in these cases was ₹ 1.26 crore only. The excess claim was due to arithmetical errors,

¹⁰ Belgaum and Bellary.

allowance of ITC on interstate purchases and on cement used in manufacture of cement bricks which were not eligible for deduction. The LVOs concerned also accepted the returns filed by the dealers. The excess allowance of ITC deprived the Government of revenue of ₹ 11.84 lakh.

After we pointed out the cases, the Government/Department accepted and recovered ₹ 1.64 lakh in two cases including interest under Section 36(2) of the KVAT Act. We have not received replies in the remaining cases (December 2012).

2.9.8 Non/short levy of penalty on Shortfall in payment of taxes as per returns

Three VAT offices in Bangalore and Bellary districts

Section 72(2) of KVAT Act provides that a dealer who for any prescribed tax period furnishes a return which understates his liability to tax or overstates his entitlement to a tax credit by more than five *per cent* of his actual liability to tax or his actual tax credit, as the case may be, shall after being given the opportunity to show cause in writing against the imposition of a penalty, be liable to a penalty equal to ten *per cent* of the amount of such tax under or overstated.

We noticed between June 2011 and January 2012 that in 10 returns filed by nine dealers for tax periods between July 2008 and March 2010 understated output tax liability of ₹ 70.20 lakh and overstated ITC of ₹ 21.43 lakh aggregating ₹ 91.63 lakh. These omissions were corrected by the dealers in the revised returns filed. However, in none of these cases the penalty due was demanded by

the concerned AAs. This resulted in non-levy of penalty of ₹ 9.16 lakh.

After we pointed out the cases, the Government/Department reported recovery of ₹ 3.32 lakh in three cases. In respect of the remaining cases, their replies are still awaited (December 2012).

