

Chapter-2 Taxes/VAT on Sales, Trade

2.1 Tax administration

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

2.2 Analysis of budget

Scrutiny of Budget records of the Department revealed that the actual receipts were ₹ 11,171.67 crore as against the revised Budget Estimates of ₹ 11,800 crore for the year 2011-12.

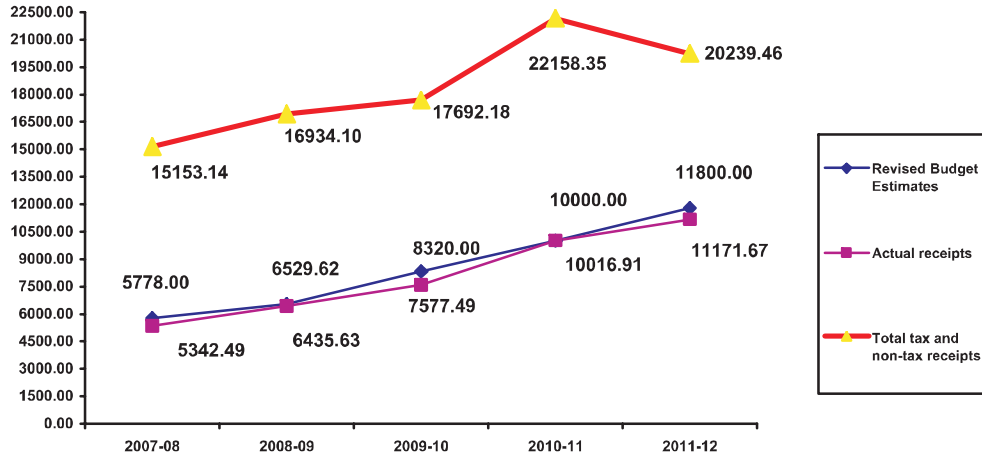
2.3 Trend of receipts

Actual receipts from Taxes/VAT on sales, trade in the State during the last five years 2007-08 to 2011-12 along with the total tax/non-tax receipts during the same period is exhibited in the following table:

(₹ in crore)

Year	Revised budget estimates	Actual receipts	Variation excess (+)/shortfall (-)	Percentage of variation	Total tax and non-tax receipts of the State	Percentage of actual VAT receipts vis-à-vis total tax and non tax receipts
2007-08	5,778.00	5,342.49	(-) 435.51	(-) 7.54	15,153.14	35
2008-09	6,529.62	6,435.63	(-) 93.99	(-) 1.44	16,934.10	38
2009-10	8,320.00	7,577.49	(-) 742.51	(-) 8.92	17,692.18	42
2010-11	10,000.00	10,016.91	(+) 16.91	(+) 0.17	22,158.35	45
2011-12	11,800.00	11,171.67	(-) 628.33	(-) 5.32	20,239.46	55

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



2.4 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2012 was ₹ 905.47 crore out of which ₹ 201.70 crore were outstanding for more than five years. The following table depicts the position of arrears of revenue for the five year period ending 2011-12:

(₹ in crore)

Year	Opening balance of arrears	Addition	Amount collected during the year	Closing balance of arrears
2007-08	1,547.84	486.78	--	2,034.62
2008-09	2,034.62	---	1,174.52	860.10
2009-10	860.10	--	484.12	375.98
2010-11	375.98	290.48	---	666.46
2011-12	666.46	245.90	6.89	905.47

The above table shows that there was sharp increase in arrear of revenue from 2009-10 to 2011-12.

The Government may take suitable steps to arrest this increasing trend of arrear of revenue.

2.5 Cost of VAT per assessee

(₹ in lakh)

Total no. of assessee as on 31-03-2012	Total expenditure on collection during the year 2011-12	Cost of per assessee
1	2	3
2,17,480	9,973	0.05

2.6 Arrears in assessments

The opening balance of assessment, assessment due, assessment disposed off and closing balance of assessment during the last five years from 2007-08 to 2011-12 as furnished by the Sales tax/VAT Department in respect of sales tax are mentioned in the succeeding table below:

Year	Opening balance	Cases which became due for assessment	Total	Cases disposed during the year	Cases pending at the end of the year
2007-08	3,58,383	--	3,58,383	30,460	3,27,923
2008-09	80,650	--	80,650	27,623	53,027
2009-10	53,027	--	53,027	12,968	40,059
2010-11	40,059	9,253	49,312	7,740	41,572
2011-12	41,572	10049	51,621	11,155	40,466 ¹

The closing balance of 2007-08 includes 2,47,273 cases pertaining to VAT and there was no provision for regular assessment under PVAT Act 2005. Further, the addition of 10,049 cases during the year 2011-12 pertains to VAT as all the assessments relating to PGST that became due upto 2007-08 had already been included in the arrears of assessments. The opening balance of 2008-09 and thereafter depicts the sales tax cases only.

It is recommended that Government may consider issuing instructions for early disposal of the cases.

2.6.1 Tax Audit

The number of cases selected for tax audit, tax audit completed, tax audit completed within the prescribed time, balance and revenue collection as a result of tax audit each year from 2009-10 to 2011-12 are mentioned below:

Year	No. of cases selected for Tax Audit	Tax audit completed	Tax audit completed within the prescribed time	₹ in crore)	
				Balance	Revenue collected
2009-10	210	181	181	29	2.10
2010-11	429	419	419	10	16.45
2011-12	412	301	301	111	3.27
Total	1,051	901	901	150	21.82

2.7 Cost of collection

The gross collection, expenditure on collection and the percentage of such expenditure to gross collection in respect of the major revenue receipts during the year 2007-08 to 2011-12 along with the relevant all India average percentage of expenditure on collection are mentioned below:

Head of revenue	Year	Collection	Expenditure on collection	Percentage of expenditure to gross collection	₹ in crore)
					All India average percentage over the previous year
Taxes/VAT on sales, trade etc.	2007-08	5,342.49	45.81	0.86	0.8
	2008-09	6,435.63	48.53	0.75	0.8
	2009-10	7,577.49	59.83	0.79	0.8
	2010-11	10,016.91	107.25	1.07	0.9
	2011-12	11,171.67	99.73	0.89	0.7

¹ PGST assessment case = 30,417 and VAT assessment = 10,049

2.8 Evasion of tax

The details of cases of evasion of tax detected by the Departments, cases finalised and the demand for additional tax raised at the end of each year during 2007-08 to 2011-12 as reported by the departments are given below:-

Revenue Head	Year	No. of cases pending at the beginning of the year	Cases detected during the year	Total no. of cases	No. of cases in which assessments / investigations completed and additional demand including penalty etc. raised		No. of cases pending at the end of year
					No. of cases	Amount (₹ in crore)	
Taxes/VAT on Sales Trade etc.	2007-08	3,850	2,506	6,356	3,049	5.83	3,307
	2008-09	3,307	1,725	5,032	2,706	17.84	2,326
	2009-10	2,326	4,538	6,864	3,068	24.94	3,796
	2010-11	3,796	7,970	11,766	8,376	63.86	3,390
	2011-12	3,390	6,154	9,544	7,203	108.83	2,341

2.9 Refunds

The opening balance of refund cases, refund cases received, refunds allowed and the closing balance during the period of five years ending 2011-12 as reported by the Excise & Taxation Department are mentioned below:-

(₹ in crore)

Revenue Head	Year	Claim Outstanding at the beginning of the year		Claim received during the year		Cases rejected		Refund made during the year		Balance at the end of the year	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
Taxes / VAT on Sales Trade etc.	2007-08	2,165	224.52	5727	223.19	38	2.85	4640	320.84	3214	124.02
	2008-09	3,214	124.02	10621	496.66	46	5.89	8666	373.80	5123	240.99
	2009-10	5,123	240.99	7765	437.23	314	38.33	7217	375.66	5357	264.23
	2010-11	5,357	264.23	7129	549.98	1102	131.50	8381	479.43	3003	203.28
	2011-12	3,003	203.28	9717	820.06	714	94.82	8888	668.99	3118	259.53

2.10 Analysis of collection

The breakup of the total collection into collection before assessment, collection after regular assessment, penalty levied and amount refunded for the five years period ending 2011-12 and as furnished by the Department is as follows:

(₹ in crore)

Head of revenue	Year	Amount collected at pre-assessment stage	Amount collected after regular assessment	Penalty for delay in payment of taxes and duties	Amount refunded	Net collection as per department	Net collection as per Finance Account	Percentage of column 3 to 8
1	2	3	4	5	6	7	8	9
Taxes/VAT on sales trade etc.	2007-08	6,128.94	49.04	14.15	320.84	5,871.29	5,342.49	114.72
	2008-09	7,397.86	14.67	4.27	373.80	7,043.00	6,435.63	114.95
	2009-10	8,634.88	20.76	4.15	375.66	8,284.13	7,577.49	113.95
	2010-11	7,740.05	144.70	201.10	479.43	7,606.42	10,016.91	77.27
	2011-12	12,034.35	242.72	16.22	662.92	11,630.37	11,171.67	107.72
Total			471.89	239.89	2,212.65	40,435.21	40,544.19	528.61

2.11 Impact of audit reports

2.11.1 Revenue impact

During the last five years, Audit had pointed out non/short levy, non/short realisation, underassessment/loss of revenue, incorrect exemption, concealment/ suppression of turnover, application of incorrect rate of tax, incorrect computation etc., with revenue implication of ₹ 326.27 crore in 1,274 cases. The Department/ Government had accepted ₹ 7.03 crore in 114 cases and recovered ₹ 7.05 crore in 388 cases. The details are shown in the following table:

(₹ in crore)

Year	Number of units audited	Amount objected		Amount accepted		Amount recovered	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
2006-07	242	241	14.08	29	0.88	31	0.61
2007-08	88	230	133.50	59	0.34	63	0.67
2008-09	138	295	35.02	18	2.07	29	0.38
2009-10	87	157	55.55	04	1.06	148	3.68
2010-11	42	351	88.12	04	2.68	117	1.71
Total	597	1274	326.27	114	7.03	388	7.05

2.12 Working of internal audit wing

Internal audit is intended to examine and evaluate the level of compliance with the rules and procedures so as to provide a reasonable assurance on the adequacy of the internal control. Effective internal audit system both in the manual as well as computerised environments are a pre-requisite for the efficient functioning of any Department. However, no internal audit wing exists in Department.

2.13 Results of audit

Test check of the records of 38 units relating to Sales tax/VAT during 2011-12 revealed underassessment of tax and other irregularities involving ₹ 621.41 crore in 256 case under the following broad categories:

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
1.	Taxation of works contracts under Punjab Value Added Tax Act	1	555.16
2.	Loss of revenue due to excess refund of VAT	26	13.76
3.	Non/short levy of sales tax/VAT	98	29.83
4.	Incorrect grant of exemption from tax	11	2.03
5.	Excess/irregular claim of ITC	48	3.96
6.	Other irregularities	17	4.61
7.	Non/short levy of penalty	12	2.93
8.	Non/short apportionment of ITC	21	5.40
9.	Short levy of CST	22	3.73
Total		256	621.41

During the year 2011-12, the Department accepted ₹ 8.51 crore involved in 67 cases and recovered ₹ 0.18 crore in three cases pertaining to earlier years.

A few illustrative audit observations involving ₹ 11.22 crore and a performance Audit on '**Taxation of works contracts under Punjab Value Added Tax Act**' with financial impact of ₹ 555.16 crore are discussed in the following paragraphs.

2.14 Performance Audit on Taxation of Works Contracts under PVAT, Act

Highlights

- Failure to identify/detect the unregistered contractors by conducting a survey resulted into non-realisation of revenue of ₹ 413.68 crore.
(Paragraph 2.14.12)
- Short deduction of tax deducted at source resulted in loss of revenue of ₹ 9.10 crore.
(Paragraph 2.14.13)
- Real Estate Developers/work contractors had consumed materials/sold flats/towers/EWS/shop etc., worth ₹ 157.18 crore without payment of VAT tax of ₹ 17.05 crore. Only ₹ 0.03 crore was paid resulting in short payment of tax of ₹ 17.02 crore.
(Paragraph 2.14.14)
- Short levy/payment of tax of ₹ 4.36 crore due to declaration of lesser rate of tax by work contractors.
(Paragraph 2.14.15(a))
- Under assessment of taxable turnover (TTO) at 489.50 crore instead of correct turnover at ₹ 875.39 crore considering the amount of turnover as per trading account, corresponding turnover with reference to tax deducted at source and consumption of materials in the works contract. This resulted in short levy of tax of ₹ 29 crore.
(Paragraph 2.14.16)
- Depicting consumption of material of ₹ 103.52 crore as work in progress to the tune of ₹ 133.35 crore by real estate developers/work contractors resulted in non-payment of tax of ₹ 13.35 crore.
(Paragraph 2.14.19)
- The Designated Officer (DO) in seven cases while finalising assessment determined the taxable turnover incorrectly by short computation of TTO, applying lower rates of tax, ITC on invalid TDS certificates and other mistakes in computation of tax etc., and thereby arrived at TTO of ₹ 79.59 crore as against of ₹ 83.36 crore. This resulted in loss of revenue of ₹ 84.70 lakh.
(Paragraph 2.14.21)
- Irregular allowance of refund resulted in loss of revenue of ₹ 1.52 crore.
{Paragraph 2.14.24(a)}

2.14.1 Introduction

The assessment, levy and collection of Tax on works contracts is being regulated under the Punjab Value Added Tax Act 2005 (PVAT Act), the Punjab Value Added Rules 2005 (PVAT Rules) made there under and notifications/instructions issued by the Government from time to time.

Sub section (zu) of Section 2 of PVAT Act, provides that “works contract” includes any agreement for carrying out, for cash, deferred payment or other

valuable consideration, building construction, manufacturing, processing, fabrications, erections, installation, fitting out, improvement, modification, repair or commissioning of any movable or immovable property”. PVAT Act further envisages that, no person other than a casual trader, who is liable to pay tax under this Act, shall carry on business, unless he is registered under this Act.

Section 27(1) of PVAT Act provides that every contractee, responsible for making payment to any person for discharge of any liability on account of valuable consideration exceeding rupees five lakh in a single contract payable for transfer of property in goods (whether as goods or in some other form) in pursuance of a work contract, shall, at the time of making such payment to the contractor either in cash or in any other manner, deduct the tax at source (TDS) at the prescribed rates. It is also provided in the Act that on production of the certificate, credit on account of TDS shall be given to the person from whose bill it has been deducted. Further the provisions of section 27 (4) of the Act requires the person responsible to deduct the tax under sub-section I & II of that section to deposit the amount so deducted into Government Treasury.

2.14.2 Organisational Set-up

The Financial Commissioner, Taxation and Principal Secretary is the overall incharge of the ETD (Excise and Taxation Department) and the department is headed by an Excise and Taxation Commissioner (ETC), who is assisted by Additional Excise and Taxation Commissioners (Addl. ETCs), Joint Excise and Taxation Commissioners (JETCs) at Headquarters, Deputy Excise and Taxation Commissioners (DETCs) at divisional level and Assistant Excise and Taxation Commissioners (AETCs), Excise and Taxation Officers (ETOs) and other allied staff at district level. The Chief Executive Officer (CEO), ETTSA directly reports to the ETC and is responsible for overseeing the task of computerisation of ETD with the help of system analysts. The authorities performing duties within their jurisdictions as specified by the Government under PVAT Act are called designated officers (DOs).

2.14.3 Audit objective

The Performance Audit was conducted with the view to ascertaining whether:

- the provisions of the Act and Rules governing scrutiny, assessment, levy and collection of tax on works contracts were adequate;
- exemptions of tax/deductions from turnover claimed by the contractors and allowed by the DO's were admissible/correct;
- the refund has been issued after the verification of the remittance of the TDS and other tax with the treasury record; and
- an effective internal control existed in the Department to ensure that the proper assessment, levy and collection of tax in respect of works contracts so as to prevent leakage of revenue.

2.14.4 Audit Scope and coverage

The Performance Audit covering the assessments/self assessed returns and refunds for the period 2007-08 to 2010-11 was conducted in seven districts² out of 24 Excise districts in the State which were selected on the basis of probability proportional to sizes (PPS) method in respect of the revenue for financial year 2010-11. Besides, other cases based on the regular audit of other districts were also included in the performance audit report.

Out of the seven selected districts, AETC Patiala (except sub-office Nabha and Rajpura) did not provide the records relating to Performance Audit, inspite of Government directions.

2.14.5 Audit criteria

The following are the sources of audit criteria:

- Punjab VAT Act 2005,
- Punjab VAT Rules 2005
- Guidelines notifications/Departmental decisions taken u/s 85 of PVAT Act.

2.14.6 Audit methodology

The audit methodology was as follows:

- Scrutiny of assessment records/returns in the selected Excise Districts;
- Scrutiny of refund cases in the selected Excise Districts;
- Survey to detect the unregistered dealers;
- Cross verification of transactions; and
- Analysis of arrear of revenue and assessments relating to work contract transactions.

2.14.7 Acknowledgement

The Indian Audit and Accounts Department acknowledges the co-operation of Excise and Taxation Department in providing necessary information and records facilitating audit by us. An entry conference was held with the Financial Commissioner, Taxation and Principal Secretary to Government of Punjab, Chandigarh on 27 February 2012. During the conference, the objectives, scope, criteria and methodology of audit were explained. An exit conference was held with the Financial Commissioner, Taxation and Principal Secretary to Government of Punjab on 7 September, 2012, wherein the audit findings were discussed. No written replies were furnished by the Department and it was assured that the replies will be furnished shortly.

² Barnala, Bathinda, Hoshiarpur, Jalandhar-II, Ludhiana-I, Mohali and Patiala.

System deficiencies

2.14.8 Survey to detect the unregistered dealers

Section 21 of PVAT Act, provides that ‘no person other than casual traders, who is liable to pay tax under the Act, shall carry on business unless he is registered under the Act’.

Further, Section 48 of the PVAT Act provides that for identification of the persons, who are liable to pay tax but have remained unregistered, the Commissioner may order conducting survey of such unregistered persons by issue of notices to the persons or class of persons to furnish information and by calling for information from the service providers like banks or financial institutions, divisions, municipal corporations etc., for furnishing details and particulars of services rendered to them.

Audit noticed that no survey was conducted in four districts³ during the year 2007-08 to 2010-11 and only 11 dealers were registered as a result of surveys in two districts⁴. The failure of the Department to conduct adequate survey facilitated unregistered dealers being brought into the tax net. Some of the cases of unregistered contractors detected through cross verification of records are discussed in paragraph No. 2.14.12.

2.14.9 Scrutiny of returns

The PVAT Act read with Rule 43 of PVAT Rules provides that, ‘the DO shall scrutinise every return filed under Section 26 of the Act. Scrutiny of the returns filed by the dealers is a tool of enforcement strategy of VAT administration. Section 29(1) of the PVAT Act further provides that during scrutiny of the return, if it is found that tax has been paid less than what was actually payable, the DO shall serve a notice upon the person concerned, directing him to rectify the same and to pay the difference alongwith the interest payable under the Act and produce the treasury receipt(s) to the DO, within the time specified in the said notice. However, no intimation under the PVAT Act shall be sent after the expiry of one year from the end of the financial year in which the return was filed’.

Audit noticed that in the case of six AETCs⁵, none of the returns filed by the contractors for the years 2007-08 to 2009-10 were scrutinized at all. The notice of demands for short payment on account of tax, interest and penalty found payable, if any, could not be issued in such cases as the stipulated period of one year for the issuance of notice had already expired.

Audit reported the matter to the Department and the Government (August, 2012), the Department stated (between March and July 2012) that in cases of work contracts, no scrutiny was done whereas the Government accepted the fact and stated (October 2012) that the short fall of the scrutiny was due to the fact that department is working on almost 50 *per cent* strength.

³ Ludhiana-I, Hoshiarpur, Mohali and Jalandhar-II.

⁴ Barnala and Bathinda.

⁵ Barnala, Bathinda, Hoshiarpur, Jalandhar-II, Ludhiana-I and Mohali

2.14.10 Acceptance of annual returns without certification by a Chartered Accountant

Under Rule 41 of PVAT Rules, 'every taxable person whose gross turnover in a year exceeds ₹ fifty lakh, shall furnish the annual Statement with Part 'B' thereof duly certified by a Chartered Accountant'.

During test check of records (between June 2012 to July 2012) of AETC Mohali for the period 2007-08 to 2010-11, audit noticed that 14 contractors submitted their annual returns without certification by the chartered accountant even though their gross turn over exceeded ₹ fifty lakh and the same had been accepted by the department. In absence of certified accounts, the possibilities of under reporting of turnover could not be ruled out.

The Department admitted the para and stated (October 2012) that dealers have been directed to submit their audited balance sheet and same will be shown as and when received. Final outcome of the cases were awaited.

2.14.11 Implementation of National e-Governance Plan/ E-governance in the Department

Government of India plans to make all services available to the common man via electronic media under the National e-Governance Plan (NeGP). NeGP further consists of mission mode projects which cover e-governance plans of various sectors. This project comes under the commercial tax mission mode project.

The Government of Punjab has embarked on a reform programme to modernise its tax administration. The key focus is on improving operational efficiency, enabling voluntary compliance and enhancing tax payer's convenience. The Department has already implemented the project on computerisation of VAT Information System (COVIS) which included designing of a statewide I.T. infrastructure with the central server at Patiala. All Excise and Taxation district offices are linked with the Central Server through leased-lines, Very Small Aperture Terminal(V-Sat) and formulation of centralised data base. The Department has engaged Ernst & Young as I.T. auditors for the Department. The Department also has a separate agency known as Excise & Taxation Technical Services Agency (ETTSA) to look after the technical and other modernisation related issues of the Department.

Some of the e-services planned to be provided for simplification of administrative procedures and reduction of processing timelines are as given below:

- e-Registration
- e- filing of returns (quarterly/annual)
- e- clearance of refunds
- e- payment of tax
- Online dealer ledger
- Online issuance of CST statutory forms through Tax Information Exchange System (TINXSYS)
- e-ICC
- e-Pass
- e-TDS

- e-Trip
- e-Form
- Facility to dealer to obtain various online information services like Notifications, Public notice, tender and award.

Audit noticed that out of the above services, the following services were not being provided to the people of the State.

- e- filing of returns (annual)
- e- clearance of refunds
- Online dealer ledger
- Online issuance of CST statutory forms through Tax Information Exchange System (TINXSYS)
- e-TDS

Audit reported the matter to the Department and the Government. The Government has implemented the e-filing of returns (annual) from the financial year 2011-12 and e-clearance of refunds from the financial year 2012-13.

Compliance deficiencies

2.14.12 Execution of works contracts by un-registered contractors

Section 47 of the PVAT Act provides that ‘with a view to prevent evasion of tax and to ensure proper compliance of the provisions of this Act, the Commissioner or the DO may, from time to time, collect information in respect of sales and purchases effected by a person, class or group of persons and cause any of such sales and purchases to be cross checked.

Sub section 2(A) of Section 8 provides that every person executing work contract, shall pay tax on the value of goods at the time of incorporation of such goods in the works executed at the rates applicable to the goods under this Act, provided that where accounts are not maintained to determine the correct value of goods at the time of incorporation, such person shall pay tax at the rate of 12.5 *per cent* on the total consideration received or receivable, subject to such deductions as may be prescribed. Further, Section 15 (5) of the Act provides that the net tax payable for a tax period by a person who is liable to pay tax, but not registered under this Act, shall be equal to the output tax payable for the said tax period as per the provisions of this Act and no input tax credit shall be admissible to him. It was also provided in Section 52 of the Act that whoever fails to make an application for registration, as required under sub-section (2) of Section 21, shall be liable for penalty equal to the amount of tax, in addition to the tax due, and the interest payable from the date, the person becomes liable for registration as a taxable person or a registered person, as the case may be, till the application for registration is made.

Cross verification of the data collected from different departments of Central/State Government of seven selected districts⁶ revealed that 824 unregistered contractors received payment of ₹ 2363.86 crore. After allowing

⁶ Barnala-7, Bathinda-90, Hoshiarpur-51, Jalandhar-II-122, Ludhiana-I-124, Mohali-330 and Patiala-100.

deductions as per above said codal provision on account of labour and services at the rate of thirty *per cent*, deemed taxable turnover worked out to ₹ 1654.70 crore. No mechanism was devised by the Taxation Department to carry out cross verification of records of contractees/buying departments, and to ascertain the number of works contracts carried out by unregistered dealers. Failure to identify/detect the unregistered contractors by conducting a survey as required under provisions of the PVAT Act resulted into non-realisation of revenue of ₹ 413.68 crore including penalty of ₹ 206.84 crore leviable under section *ibid*.

Audit reported the matter to the Department and the Government (August, 2012). In cases of Mohali district, the Department stated (October 2012) that the TDS has been deducted by the contractee and deposited the same with the Department and nothing to do whether an assessee is registered or not, hence the para is not sustainable. The reply of the Department is not acceptable as in Second Exit Conference the Government stated "TDS amount was not total tax liability. But, the department was of the view that on an average tax liability of a contractor comes to 0 to 6 *per cent*, that may differ from case to case. After taking TDS amount into consideration, the net loss to the exchequer will be calculated". The average tax liability as per Department's reply amounted to ₹ 198.56 crore including penalty of ₹ 99.28 crore. The reply of the Government is not acceptable as Section 21 of PVAT Act, provides that 'no person other than casual traders, who is liable to pay tax under the Act, shall carry on business unless he is registered under the Act' and Section 15(5) of the Act provides that the net tax payable for a tax period by a person who is liable to pay tax, but not registered under this Act, shall be equal to the output tax, payable for the said tax period as per the provisions of this Act and no input tax credit shall be admissible to him.

Final action taken by the Department is awaited (December 2012).

2.14.13 Failure to deduct tax at source

Under Section 27(1) of the PVAT Act, 'every contractee responsible for making payment to any person for discharge of any liability on account of valuable consideration, exceeding rupees five lakh in a single contract payable for the transfer of property in goods in pursuance of a works contract, shall at the time of making such payment to the contractor either in cash or in any other manner, deduct at source an amount equal to two/four *per cent* of such sum towards the tax payable under this Act on account of such contract'.

Test check of records of two districts⁷ (between March 2012 to July 2012) revealed that in 13 cases the contractors had been paid a sum of ₹ 360.19 crore during 2005-06 to 2010-11. Though an amount of ₹ 12.19 crore was deductible on account of TDS, yet ₹ 3.09 crore only was deducted leaving a short recovery of Government revenue of ₹ 9.10 crore.

Audit reported the matter to the Department and the Government. In cases of Mohali district, the Department stated (October 2012) that concerned ETOs had already been directed to recover the short deposit of TDS and in case of

⁷ Mohali-12 and Patiala-1

Patiala district, reply would be filed shortly after examining the contents of para and also its admissibility.

2.14.14 Short payment of tax on construction and sale of flats

The Excise & Taxation Commissioner passed an order under Section 85 of PVAT Act that a dealer (works contractor) engaged in the business of real estate development was liable to be registered under the Punjab VAT Act as a taxable person and pay tax on the transfer of property in goods involved in such works contract under the Punjab VAT Act 2005.

Audit noticed (between March 2012 to July 2012) during the test check of records of self assessed returns for the period 2006-07 to 2010-11 in two districts⁸ that 14 Real Estate Developers/work contractors had consumed materials/ sold flats/ towers/ EWS/shops etc. of ₹ 157.18 crore but did not pay VAT. As against ₹ 17.05 crore recoverable, only ₹ 0.03 crore was recovered resulting in short recovery of ₹17.02 crore.

Audit reported the matter to the Department and the Government. The Government/Department stated in Second Exit Conference that every person executing works contracts shall pay tax on the value of goods at the time of incorporation of such goods in the works executed at the rates applicable to the goods under this Act and that the TDS shall be deducted on the quantum and value of goods purchased at the time of execution of particular work and not on some hypothetical price on subsequent transfer of the finished product. The reply of the Government/Department is not acceptable as the contractor is liable to pay tax on value of goods at the time of incorporation of such goods in the works executed; however, the TDS was to be deducted on the gross receipt instead of value of goods purchased and incorporated in execution of works. Moreover, audit observation was about short payment of tax on construction and sale of flats rather than non deduction of TDS.

Final action of the Department was awaited.

2.14.15 Short levy of tax due to mis-classification of materials

Section 8{2(2A)} of PVAT Act provides that 'Every person executing works contracts shall pay tax on the value of goods at the time of incorporation of such goods in the works executed at the rates applicable to the goods under this Act'.

(a) During scrutiny of refunds orders, assessed returns and self assessed returns for the period 2006-07 to 2010-11, it was noticed (between March 2012 to July 2012) in ten districts⁹ that in 32 cases work contractors had not maintained accounts to ascertain the correct value of goods at the time of incorporation of such goods in the work executed by them. Further, these dealers paid tax at lower rate of four *per cent* instead of applicable rate of 12.5 *per cent*. Thus, payment at lower rate of tax resulted into short levy/payment of tax of ₹ 4.36 crore.

⁸ Jalandhar II-1 and Mohali-13

⁹ Amritsar-I-1, Barnala-3, Gurdaspur-3, Hoshiarpur-3, Jalandhar-II-8, Kapurthala-2, Ludhiana-III-1, Mohali-9, Muktasar-1 and Ropar-1.

Audit reported the matter to the Department and the Government (August, 2012). The Government/Department clarified in Second Exit Conference that generally disallowed labour portion is taxed in the same ratio as per material attracting different rate of tax consumed in works contract. It was further clarified in the case of M/s GPL Brahamputra Consortium Ltd., the labour portion was rejected by DO just to raise additional demand and it has been taxed at the rate of 4 percent and not in the ratio of 4 percent and 12.5 *per cent*. The reply is not acceptable due to the fact that the whole of rejected labour portion was taxed at the rate of four *per cent* instead of apportioning the labour portion in the ratio of material consumption attracting different rates of tax and tax it accordingly.

Final action of the department/Government was awaited.

(b) Cross verification of the Information Collection Centre (ICC) data with the annual return furnished by a contractor under AETC Jalandhar-II for the period 2008-09 revealed that the contractor made inter state purchases and consumed cement, paint, glass, lime stone etc. valued at ₹ 5.04 crore. The dealer assessed tax of ₹ 20.15 lakh at the rate of 4 *per cent* instead of ₹ 62.97 lakh at the applicable rate of 12.5 *per cent*. This resulted into short payment of ₹ 128.46 lakh including penalty of ₹ 85.64 lakh under Section 56 of PVAT Act. Interest of ₹ 7.71 lakh was also leviable upto March 2012.

Audit reported the matter to the Department and the Government. The Department accepted and stated that the dealer is a works contractor and has made interstate purchases of ₹ 5.04 crore from out of state of Punjab which is taxable at the rate of 12.5 *per cent*, but has calculated the out put tax liability at a flat rate of four *per cent*. In accordance with the definition of sale price as per section 2 of the Act, the dealer is liable to pay the out put tax liability as per the proportion of consumption of goods with respect to the purchases made. The dealer has under assessed his output tax liability, which resulted in short levy of tax of ₹ 42.82 lakh during 2008-09.

The Department stated that the assessment proceedings are being initiated to determine the actual liability. Final action was awaited.

2.14.16 Under reporting of gross turnover

Explanation 1 under Section 2 (zg) of PVAT Act provides that in relation to the transfer of property in goods (whether as goods or in some other form) involved in the execution of works contracts, 'sale price' means such amount as is arrived at by deducting from the amount of valuable consideration paid or payable to a person for the execution of such works contract, the amount representing labour and other charges incurred and profit accrued other than in connection with transfer of property in goods for such execution. Where such labour and other charges are not quantifiable, the sale price shall be cost of acquisition of the goods and the margin of profit on them plus the cost of transferring the property in the goods and all other expenses in relation thereto till the property in such goods, whether as such or in any other form, passes to the contractee and where the property passes in the different form, it shall include the cost of conversion.

During test check of refunds, assessed/self assessed returns for the period 2005-06 to 2010-11, audit noticed (between March 2012 to July 2012) in 11 districts¹⁰ that in 57 cases of work contractors, under assessment of taxable turnover (TTO) at ₹489.50 crore was made instead of correct turnover at ₹ 875.39 crore considering the amount of turnover as per trading account, corresponding turnover with reference to tax deducted at source and consumption of materials in the works contract. This resulted in short levy of tax of ₹ 29 crore.

In respect of 25 cases pertaining to Mohali district, the Department denied the audit observations on the plea that while arriving at TTO, tax element included in gross turnover was required to be deducted. The reply of the Department is not acceptable as no dealer claimed tax element included in sale under column 1(g) in self assessment annual return (VAT-20). Moreover, audit observation was about suppression of gross receipt corresponding to TDS, material consumed and difference in receipts as per Trading Account. In one case of Amritsar-I, the Department stated that the objection is not tenable as the sale of soil is not to be considered under the head taxable goods. However in the exit conference, the Government clarified that the soil is an unclassified item attracting tax at the rate of 13.75 per cent. In another case the Department created an additional demand of ₹ 44.46 lakh. In case of Ropar district the Department stated that freight which has been wrongly added is not freight but was shifting charges of manpower and old machinery from approach road to work site and at various projects in India. The reply of the department is not acceptable since as per Trading Account, the dealer had shown it as freight charges. In remaining 29 cases assessment proceedings have been initiated.

Final action was awaited.

2.14.17 Input Tax Credit on inadmissible goods

Under the provision of Sub section 5 of Section 13 of PVAT Act, 'a taxable person shall not qualify for input tax credit in respect of tax paid on purchase of petrol, diesel, aviation turbine fuel, liquified petroleum gas and condensed natural gas, unless the taxable person was in the business of selling such products'.

During scrutiny of refund orders, assessed returns and self assessed returns for the period 2006-07 to 2010-11, audit noticed in four districts¹¹ that in six cases work contractors for civil work had claimed ITC of ₹ 33.70 lakh on account of tax paid on purchase of ₹ 3.98 crore of diesel/aviation turbine fuel, which resulted into inadmissible claim of ITC of ₹ 33.70 lakh.

The Department admitted the audit observation and in one case recovery of ₹ 11.22 lakh has been made and in remaining cases assessment proceedings have been initiated. Final action was awaited.

¹⁰ Amritsar-I-2, Amritsar-II-1, Barnala-7, Bathinda-6, Gurdaspur-4, Hoshiarpur-2, Jalandhar-II-5, Kapurthala-1, Mohali-25 Patiala-3 and Ropar-1.

¹¹ Barnala-3, Gurdaspur-1, Hoshiarpur-1 and Mohali-1

2.14.18 Non-levy of penalty

(a) Under the provision of Section 27(6) of PVAT Act, 'if any contractee or the contractor, as the case may be, fails to make the deduction or after deducting such amount fails to deposit the amount so deducted, the DO may, after giving an opportunity of being heard, by order in writing, direct that the contractee or the contractor shall pay, by way of penalty, a sum equal to the amount deductible under this Section, but not so deducted, and if deducted, not so deposited into the Treasury'.

Audit noticed (between March 2012 to July 2012) during audit of refund orders, assessed returns and self assessed returns for the period 2007-08 to 2010-11 of three districts¹² that in 18 cases of work contractors TDS amounting to ₹ 13.83 crore were not deducted and paid into Government treasury attracting levy of penalty of ₹ 13.83 crore, besides interest leviable under section 27(7) of the Act. The Department in one case of Jalandhar-II stated that the contractee had deposited TDS late, the penalty proceeding shall be initiated. In cases of Mohali the reply of the Department was not relevant to the para. In case of Patiala the Department gave an interim reply.

Final action of the Department was awaited (December 2012).

(b) Under the provision of Section 53 of PVAT Act, 'if a registered dealer fails to pay the tax by due date, the prescribed authority shall impose a penalty for such delay, which would be at the rate of two per cent per month on the tax so due and payable from the date it had become due to the date of its payment or from the date of the order of the assessment whichever is earlier. The amount of penalty payable under this Section shall be calculated by considering a part of the month as one month'.

Audit noticed (between March 2012 to July 2012) during audit of refund orders, assessed returns and self assessed returns for the period 2007-08 to 2010-11 of three districts¹³, seven work contractors deposited tax after the due date but the D.O. while finalising the assessment failed to impose penalty of ₹ 55 lakh for late deposit of tax.

In case of Mohali the reply of the Department was not relevant to the para. In Hoshiarpur and Patiala, the Department stated that the action is being taken and in case of Barnala the Department stated that as the assessee had suo moto paid the tax with interest, the assessing authority exempted him from payment of penalty with the reasoning that there was no concealment of tax deductions except for mis-calculation of labour assessed. The reply of the Department is not acceptable as this was not a case of concealment but case of late deposit of due tax and therefore the penalty has been levied under section 53 instead of 56 of the PVAT Act.

Final action in these cases was awaited.

(c) Under the provision of Section 56 of PVAT Act, if the Commissioner or the DO is satisfied that the persons in order to avoid payment of tax, has

¹² Jalandhar-II-1, Mohali-14 and Patiala-3

¹³ Barnala-1, Hoshiarpur-3 and Mohali-3

concealed any particulars from any return furnished by him or has deliberately furnished incorrect particulars therein, he shall direct that the person shall pay, by way of penalty, in addition to the tax and interest payable by him, a sum equal to twice the amount of tax, assessed on account of the aforesaid reasons’.

Audit noticed (between March 2012 to July 2012) during test check of refund orders, assessed returns and self assessed returns for the period 2007-08 to 2010-11 in five districts¹⁴ that in 18 cases contractors had concealed transactions of sale or purchase from their account books to evade or avoid payment of tax of ₹ 19.96 crore. Penalty imposable under provisions of the Act ibid worked out to ₹ 40 crore.

In cases of Mohali the reply of the Department was not relevant to the para. In case of other districts, the Department stated that action was being taken.

Final action was awaited.

2.14.19 Evasion of tax by developers

The Excise & Taxation Commissioner passed an order under Section 85 of PVAT Act that a dealer (works contractor) engaged in the business of real estate development was liable to be registered under the Punjab VAT Act as a taxable person and pay tax on the transfer of property in goods involved in such works contract under the Punjab VAT Act 2005.

Audit noticed (between March 2012 to July 2012) during audit of self assessed returns for the period 2007-08 to 2010-11 of two districts¹⁵ that nine real estate developers/work contractors had consumed material worth ₹ 103.52 crore and shown as work in progress to the tune of ₹ 133.34 crore but they neither paid tax nor accounted for the same in the subsequent years. This resulted into evasion of tax of ₹ 13.35 crore.

In case of Mohali the reply of the Department was not relevant to the para. In case of Jalandhar-II assessment proceedings was being initiated.

Final action was awaited.

2.14.20 Short payment of VAT on works contracts

Under the provision of Rule 15(4) of PVAT Rules, ‘the value of goods, involved in the execution of works contract, shall be determined by taking into account the value of entire works contract by deducting there from the components of payment, made towards labour, services, hire charges for machinery and tools and cost of consumables, cost of establishment and the profit relatable to supply of labour and services.

Audit noticed (between March 2012 to July 2012) during audit of assessed/self assessed returns from eight AETCs¹⁶ for the period from April 2007 to March 2011 that 30 contractors had incorrectly claimed inadmissible deductions such

¹⁴ Bathinda-1, Jalandhar-II-5, Mohali-10, Mukatsar-1 and Patiala-1.

¹⁵ Jalandhar-II-1 and Mohali-8.

¹⁶ Barnala-4, Bathinda-1, Gurdaspur-1 Jalandhar-II-4, Kapurthala-1, Ludhiana-I-1, Mohali-10 and Patiala-8.

as tax deducted at source, service tax, labour etc., from the TTO which were not admissible under Rule 15(4) of the Rules. This resulted into short payment of VAT of ₹ 6.48 crore.

In cases of Mohali the reply of the Department was not relevant to the para and in all other districts (except Barnala and Gurdaspur) the Department stated that proceedings were being initiated.

Final action of the Department was awaited.

2.14.21 Undue benefit to contractors

Explanation 1 under Section 2(zg) of PVAT Act provides that in relation to the transfer of property in goods (whether as goods or in some other form) involved in the execution of works contracts, 'sale price' means such amount as is arrived at by deducting from the amount of valuable consideration paid or payable to a person for the execution of such works contract, the amount representing labour and other charges incurred and profit accrued other than in connection with transfer of property in goods for such execution. Where such labour and other charges are not quantifiable, the sale price shall be cost of acquisition of the goods and the margin of profit on them plus the cost of transferring the property in the goods and all other expenses in relation thereto till the property in such goods, whether as such or in any other form, passes to the contractee and where the property passes in different form, it shall include the cost of conversion.

Audit noticed (between March 2012 to July 2012) during audit of the assessment records maintained under three AETCs¹⁷ for the period from April 2007 to March 2011, that the DO while finalising assessment of 11 cases of contractors determined the taxable turnover at ₹ 79.60 crore instead of ₹ 83.36 crore after allowing various inadmissible deductions resulting in loss of revenue of ₹ 84.70 lakh.

In case of Mohali the reply of the Department was not relevant to the para. In case of Barnala district, the Department denied the objection on the basis that deduction under rule 15(4) was rightly granted; however, the audit observation was that the tax was levied at the rate of four *per cent* instead of 5.5 *per cent* in the last quarter of 2009-10 as the rate of tax was revised from four to five *per cent* with effect from January 2010. No reply was furnished in respect of Amritsar-1 district.

Final action was awaited.

2.14.22 Inadmissible allowance of ITC on capital goods

Under the provision of Section 13 of PVAT Act, 'a taxable person is entitled to ITC on Capital Goods purchased by him from a taxable person within the State provided that the capital goods so purchased were used for manufacturing of taxable goods'.

Audit noticed (between November 2011 to July 2012) during audit of Refund/assessed/self assessed returns for the period 2008-09 to 2010-11 of

¹⁷ Amritsar-I-1, Barnala-2 and Mohali-8.

three districts¹⁸, that six contractors had claimed and were allowed ITC of ₹ 16.78 lakh on account of purchase of capital goods worth ₹ 3.39 crore which was inadmissible as the dealers were engaged in work contract alone. This resulted into inadmissible claim/allowance of ITC of ₹ 16.78 lakh.

The reply furnished by the Department relating to cases of Jalandhar II was that proceedings was being initiated for verification, in respect of one case relating to Gurdaspur district the Department partially accepted and in another case the reply was irrelevant because recovery effected by department related to allowance of inadmissible ITC in respect of diesel (Para 2.14.17). In case of AETC Kapurthala, no reply was furnished. Final action in respect of remaining cases were awaited.

2.14.23 Non deposit of tax

Under the provision of Rule 51 of PVAT Rules, read with section 53 of the Act 'if any sum is payable by a person under the Act or these Rules, the DO shall serve a notice in Form VAT 56 upon him specifying the date, not less than fifteen days and not more than thirty days from the date of service of the notice, on or before which, payment shall be made and he shall also fix a date on or before which, the person shall furnish the treasury challan in proof of such payment'.

Audit noticed (between April 2012 to July 2012) during audit of self assessment returns for the period 2007-08 to 2008-09 of two districts¹⁹ that in two cases of work contractors, the out put tax liability was ₹ 49.81 lakh and admissible ITC was ₹ 35.10 lakh. The dealers neither paid balance tax of ₹ 14.71 lakh nor the DO issued notice and made efforts for realising balance amount of tax. Total realisable amount worked out to ₹ 36.41 lakh including penalty of ₹ 21.70 lakh.

In case of Mohali the reply of the Department was not relevant to the para and in case of Patiala it was stated that reply would be filed shortly.

Final action was awaited.

2.14.24 Irregular allowance of refund

As per section 15(5) of PVAT Act, the tax liability of unregistered dealer will be equal to output tax payable and he shall not be entitled to input tax credit. Further, Rule 5 of PVAT Rules provides that the Registration Certificate (RC) shall be valid from the date of receipt of application for registration or from the date of commencement of the liability to pay tax, whichever is later. Further as per section 27(6) a person who fails to make deduction or after deducting such amount fails to deposit the amount will be levied with penalty of a sum equal to the amount deductible under this section, but not deducted and if deducted not deposited into Government Treasury'.

During test check of refund case of a contractor under AETC Mohali audit noticed (November 2011) that:

¹⁸ Jalandhar-II-1, Gurdaspur-4 and Kapurthala-1.

¹⁹ Patiala-1 and Mohali-1.

(a) A contractor issued with registration certificate dated 5 September 2007 was allowed credit of TDS of ₹ 1.52 crore relating to the period prior to 5 September 2007 when he was an unregistered dealer. This resulted into irregular allowance of refund of ₹ 1.52 crore.

(b) Further, TDS of ₹ 1.89 crore deducted during January to October 2008 by a contractee was deposited in the Government Treasury after the RC was granted to the contractor in November 2008 in order to make him eligible to claim the refund of ITC. This violation also attracts penalty of ₹ 1.89 crore leviable under section 27(6) of the Act *ibid*.

In reply the Department stated that the concerned ETO has been directed to recover the due amount of tax.

Final action was awaited.

2.14.25 Short levy of VAT and excess allowance of ITC

As per Rule 15 of Punjab VAT Rules, in case of non maintenance of accounts or claiming of deductions which are considered unreasonable under Rule 4, the contractee shall pay tax at the rate of 12.5 per cent on the total consideration received in such cases the contractee is not eligible to claim input tax credit and not eligible to issue VAT invoice. In such cases the deduction on account of labour and service on account of civil work like construction of building, bridges, roads etc. has been kept in thirty percent of total receipt.

Audit noticed (April 2012) in the test check of the assessment record under AETC Patiala for the period 2009-10, that a contractor had not maintained accounts, the DO while determining the TTO had incorrectly allowed ITC of ₹ 19.44 lakh and calculated the tax ₹ 47.79 lakh instead of ₹ 97.55 lakh. This resulted into short levy of tax of ₹ 49.76 lakh and allowance of inadmissible ITC of ₹ 19.44 lakh and total tax effect of ₹ 69.20 lakh.

The Department stated that the particulars have not been given in annexure. As this is an individual paragraph about only one assessee, no annexure was required.

Final action was awaited.

2.14.26 Inadmissible benefit to the dealers

Under the provision of Section 13(11) of PVAT Act, 'the input tax credit shall be non transferable except where the ownership of the business of a person is entirely transferred'.

Audit noticed (November 2011) during the test check of refund cases of a dealer for the period 2006-07 and 2007-08 under AETC Mohali that while allowing the refund the DO, instead of issuance of refund order, issued refund adjustment order of ₹ 29.03 lakh in favour of another dealer having a separate TIN number for discharging liability on account of additional demand. This resulted into inadmissible adjustment of refund ₹ 29.03 lakh.

The reply of the Department was not relevant to the Para.

Final action was awaited.

2.14.27 Excess allowance of refund

Section 39(1) of PVAT Act provides that, 'subject to the provisions of this Act and the rules made there under, the Commissioner or the designated officer shall, in such manner and within such period, as may be prescribed, refund to a person, the amount of tax, penalty or interest, if any, paid by such person in excess of the amount due from him and also the excess of input tax credit over output tax payable under this Act.

Audit noticed (June 2012) during audit of refund case of a dealer for the year 2010-11 under AETC Mohali that the out put tax liability was ₹ 2.38 lakh, ITC including TDS was ₹ 2.74 lakh. The dealer had been allowed refund of ₹ 2.12 lakh instead of ₹ 0.36 lakh. This resulted into allowance of excess refund of ₹ 1.76 lakh.

The reply of the Department was not relevant to the Para.

Final action was awaited.

2.14.28 Excess claim of ITC of Entry Tax

Under the provision of Section 13-A of PVAT Act, 'a taxable person shall be entitled to input tax credit in respect of the tax paid by him under the Punjab Tax on Entry of Goods into Local Area Act, 2000, if such goods are for sale in the State or in the course of inter state trade or commerce or in the course of export or for use in the manufacture, processing or packing of taxable goods for sale within the state or in the course of inter state trade or commerce on in the course of export'.

Audit noticed (March 2012) during audit of self assessed return of a dealer for the year 2010-11 under AETC Jalandhar that the dealer had made inter state purchases of ₹ 2.36 crore. Out of this, cement valuing ₹ 5.65 lakh attracted payment of entry tax of ₹ 0.70 lakh at the rate of 12.5 *per cent*. However, the dealer claimed input tax credit on account of entry tax of ₹ 25.34 lakh. This resulted into excess claim of ITC of ₹ 24.64 lakh.

The Department stated in reply that the proceeding in the case was being initiated. Final action of the Department was awaited.

2.14.29 Allowance of refund without adjusting arrear

Under the provision of Section 34 of PVAT Act, 'Tax or any other amount due or payable by a person under this Act, shall be a debt, due to the State Government and shall be payable or recovered as per the provisions of this Act'.

Audit noticed (March 2012) that demand of ₹ 5.19 lakh was created in respect of an assessee for the year 2007-08. However, the DO allowed refund for the two subsequent years without adjusting the above said arrears. This resulted into irregular issuance of refund without adjusting outstanding demand.

The Department stated that the para was admitted and efforts for recovery of additional demand were being made.

Final action was awaited.

2.14.30 Conclusion

The Performance Audit revealed a number of systemic and compliance deficiencies in implementation of VAT on supplies/works contracts. Survey has not been undertaken to detect unregistered dealers, widen the tax base and augmenting revenue. In none of the test checked districts, the data of works executed/supplies made was collected from the other departments and cross verified. These system failures led to widespread leakage of revenue which remained undetected. Apart from the above, cases were also noticed involving large sums of unrealised revenue due to non compliance by the DO with the provisions of the Act/Rules.

2.14.31 Summary of recommendations

- The Government may ensure conducting regular surveys, inter departmental cross verification of data/records and provide for other suitable measures for registration of works contractors. Government should make registration of contractors under PVAT Act mandatory before awarding any works contract.
- Ensuring the transparent, timely and hassle free delivery of services to the people of State which will also be in the interest of the revenue;
- Ensuring verification of various declaration forms as well as inter-departmental cross verification of data/information.
- Ensure timely processing of return so as to ensure further action within the time stipulated under the Act.

2.15 Other audit observations

Audit noticed several cases of non-observance of provisions of Acts/Rules; non/short levy of tax, penalty and interest; incorrect allowance of exemption; and other cases during scrutiny of records of sales tax/VAT as mentioned in the succeeding paragraphs. These cases are illustrative and are based on the test check carried out by Audit. Such omissions on the part of Assessing Authorities (AAs)/Designated Officers (DOs) are pointed out in audit repeatedly, but not only the irregularities persist, they also remain undetected till an audit is conducted. There is need for the Government to improve the internal control system so that such omissions can be detected timely and corrective measures taken without loss of time.

2.16 Non-observance of the provisions of Acts/Rules

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

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

The AAs while finalising the assessment did not observe some of the provisions of Acts/Rules in the cases mentioned in paragraphs 2.16.1 to 2.16.11. This resulted in non/short levy and non-realisation of tax, interest and penalty of ₹ 11.22 crore.

2.16.1 Short apportionment/non reversal of input tax credit

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

(i) Audit noticed in the case of a dealer in AETC, Hoshiarpur for the assessment year 2008-09 that the dealer had gross turnover of ₹ 223.32 crore including branch transfer of ₹ 108.99 crore. The dealer had eligible purchases for input tax credit of ₹ 129.54 crore inclusive of inter State Purchases

₹ 118.30 crore subjected to entry tax. Audit observed that without considering inter State purchases of ₹ 118.30 crore and the correspondence entry tax of ₹ 4.73 crore, the assessing officer apportioned ITC of ₹ 22.34 lakh against the apportionable ITC of ₹ 2.53 crore resulting in short apportionment of ITC of ₹ 2.31 crore in respect of sales within the state.

Audit reported the matter to the Department and Government (February 2012). The case had been re-opened and the final outcome of the case and reply of the Government are awaited (December 2012).

(ii) Audit noticed in the case of AETC, Patiala (July 2010) from self assessed annual return for 2007-08, the GTO of ₹ 42.15 crore was exclusive of branch transfer of ₹ 10.54 crore. The dealer was allowed an ITC of ₹ 10.19 lakh on the eligible purchases of ₹ 20.71 crore relating to branch transfer against the apportionable ITC of ₹ 16.57 lakh resulting in short apportionment of ITC of ₹ 6.38 lakh on his sale within the state.

Audit reported the matter to the Department and the Government (November 2011). Department accepted and created an additional demand of ₹ 30.36 lakh. However, the reply of the Government is awaited (December 2012).

(iii) Audit noticed from the records of three AETCs²⁰ relating to assessment in one case for assessment year 2006-07, and self assessed annual returns for 2007-08 in two cases that out of the GTO of ₹ 144.76 crore, these dealers had sale of self manufactured tax free goods of ₹ 91.88 crore. Similarly these dealers had claimed the ITC of ₹ 97.90 lakh on their eligible purchases of ₹ 4.73 crore claimed and apportioned the ITC of ₹ 1.46 lakh on account of sale of tax free goods instead of apportionable ITC of ₹ 17.49 lakh resulting in non/short reversal of ITC of ₹ 16.03 lakh.

Audit reported the matter to the Department and the Government. AETC, Jalandhar accepted and created (June 2011) an additional demand of ₹ 3.45 lakh against ₹ 3.39 lakh pointed out by audit. The reply of the Department in the remaining two cases and of the Government in all the cases was awaited.

(iv) Audit noticed from the records of three AETCs²¹ relating to self assessed annual returns for 2007-08, three dealers had gross turnover of ₹ 264.78 crore inclusive of consignment sale of ₹ 46.04 crore and sale of self manufactured tax free goods of ₹ 97.06 crore. Similarly they have purchases eligible for ITC of ₹ 81.99 crore on which ITC of ₹ 3.76 crore was claimed by them. Thus, sales of self manufactured tax free goods of ₹ 97.06 crore and consignment sales of ₹ 46.04 crore which were liable for apportionment of relatable ITC to the tune of ₹ 1.97 crore were apportioned ITC of ₹ 1.26 crore resulting in short apportionment of ITC of ₹ 70.92 lakh.

Audit reported the matter to the Department and the Government. AETCs Ludhiana-II and Ropar accepted and created additional demands of

²⁰ Hoshiarpur, Jalandhar-I and Ludhiana-I.

²¹ Ludhiana-I, Ludhiana-II and Ropar.

₹ 13.42 lakh on 28.4.2011 and ₹ 8.52 lakh on 25.7.2011 against ₹ 21.65 lakh and ₹ 11.18 lakh. The demand of ₹ 8.52 lakh was also got deposited into Government treasury but the reply of AETC Ludhiana-I and the Government were awaited.

(v) PVAT Rules 2005 provides that no input tax credit shall be admissible to a person for tax paid on purchases of goods, if such goods are lost or destroyed or damaged beyond repair. Rules further provide that input tax credit availed on the goods, which are lost, destroyed or damaged beyond repair, shall be reversed immediately on the occurrence of such event.

Audit noticed from the records of AETC, Amritsar relating to assessments for the year 2006-07 of two dealers, the assessing authority omitted to reverse the ITC, already claimed by these dealers on the purchases of goods of ₹ 4.05 crore, the stocks of which had expired during the year. This has resulted in non-reversal of ITC of ₹ 16.20 lakh.

Audit reported the matter to the Department and the Government whose replies are awaited.

(vi) Punjab Value Added Tax Act, 2005 provides that input tax credit on furnace oil, transformer oil, mineral turpentine oil, water methanol mixture, Naphtha and lubricants, when used in the production of taxable goods or captive generation of power, shall be allowed only to the extent by which the amount of tax paid in the State exceeds four *per cent*.

Audit noticed in AETC Ludhiana-I relating to self assessed annual return of a dealer for 2007-08 that out of total purchases of furnace oil of ₹ 1.09 crore, the dealer had purchased furnace oil of ₹ 82.25 lakh from the State of Punjab by paying the tax at the rate of four *per cent*. As indicated from the return/trading account, the dealer had used this oil in the production of taxable goods and not sold in re-sale transactions. He claimed ITC on the purchases of furnace oil at full rate instead of at a rate more than four per cent resulting in excess claim of ITC of ₹ 3.29 lakh.

Audit reported the matter to the Department and the Government. Department accepted and created an additional demand of ₹ 3.94 lakh. However, the reply of the Government is awaited.

(vii) Audit noticed (February 2011) from records of AETC Barnala relating to refunds issued to an assessee for ₹ 1.37 crore, the assessee had gross turnover of ₹ 324.11 crore inclusive of branch transfer of ₹ 126.71 crore. The assessee had purchases eligible for ITC of ₹ 227.89 crore inclusive of inter state purchases. While computing apportionment of ITC on account of branch transfer the designated officer erroneously apportioned ITC of ₹ 2.24 crore instead of correct apportionment of ₹ 3.56 crore resulting in inadmissible refund ₹ 1.32 crore due to non consideration of entry tax for apportionment.

Audit reported the matter to the Department and the Government whose replies were awaited.

(viii) (a) Audit noticed from the records of AETC Hohisarpur that an assessee had gross turnover of ₹ 219.71 crore inclusive of branch transfer of ₹ 98.53 crore. The assessee had eligible purchases for ITC of ₹ 146.73 crore inclusive of interstate purchases. While computing apportionment of ITC on

account of branch transfer, the designated officer erroneously apportioned ITC of ₹ 14.53 lakh instead of correct apportionment of ₹ 2.63 crore resulting in short apportionment of ₹ 2.49 crore leading to inadmissible refund of ₹ 1.75 crore and short levy of tax of ₹ 0.74 crore mainly due to non consideration of entry tax for apportionment.

Audit reported the matter to the Department and the Government whose replies were awaited.

(viii)(b)(i) PVAT Act, provides that a taxable person shall not qualify for input tax credit in respect of tax paid on the purchases of diesel, unless he is in the business of selling such product. This view point was also confirmed by Punjab and Haryana High Court²² in an appeal case against the decision of VAT Tribunal Punjab delivered on 23.01.2009.

Audit noticed from the records of AETC Hoshiarpur relating to refunds for assessment year 2009-10, the total eligible purchase of ₹ 96.12 crore inclusive of purchases of diesel of ₹ 4.48 crore, incorrectly claimed the ITC alongwith the ITC claim of total purchases and same was also allowed by the assessing authority. This had resulted in inadmissible ITC of ₹ 39.39 lakh leading to inadmissible refund to this extent.

Audit reported the matter to the Department and the Government whose replies were awaited.

(viii)(b)(ii) Audit noticed (November 2011) from the records of AETC Mukatsar relating to 2008-09, the total eligible purchase of ₹ 75.25 crore inclusive of purchases of diesel of ₹ 89.47 lakh, on which the dealer had incorrectly claimed the ITC resulting in inadmissible ITC of ₹ 7.54 lakh.

Audit reported the matter to the Department and the Government whose replies are awaited (December 2012).

(ix) (a) In terms of the provisions contained in item No.16 of Schedule 'B' appended to PVAT Act, capital goods i.e. Plant and Machinery and Parts thereof are liable to tax at the rate of four per cent

Audit noticed (December 2010) from the records of AETC Moga relating to refunds for the year 2005-06 to an assessee the designated officer incorrectly allowed the ITC of ₹ 12.80 lakh on the purchase value of capital goods of ₹ 1.36 crore instead of admissible ITC of ₹ 5.45 lakh. Computation of ITC at higher rate over four per cent had resulted in excess allowance of ITC/refund of ₹ 7.35 lakh.

Audit reported the matter to the Department and Government. The Department stated that the ITC was allowed correctly as paid by the assessee on the purchases of capital goods including electrical goods. The reply of the Department was not accepted because ITC on the capital goods is admissible only upto the rate of four per cent on plant and machinery and no ITC was admissible on electrical goods until or unless the dealer is in the business of such goods. However, reply of the Government was awaited.

²² Punjab State and others v/s M/s Malwa Colton and Spinning Mill Ltd. (P&H), (2011)-39 VAT-65 (P&H).

(ix) (b) Audit noticed from the records of AETC Patiala relating to the year 2005-06 and 2006-07 of an assessee, the designated officer incorrectly allowed the ITC of ₹ 11.58 lakh on the purchase value of capital goods of ₹ 1.37 crore instead of admissible ITC of ₹ 5.48 lakh. Computation of ITC at higher rate over four *per cent* had resulted in excess allowance of ITC of ₹ 6.10 lakh.

Audit reported the matter to the Department and Government whose replies were awaited.

2.16.2 Excess/inadmissible claim of refund

(i) Section 2(zc) of PVAT Act and Rules made there under provides that every taxable person shall keep a true account of goods sold and purchased by him.

Audit noticed (July 2011) from the records relating to refund of AETC Ludhiana-III that while claiming refund of ₹ 4.69 lakh for the quarter ended December 2008, an assessee claimed and was allowed entry tax of ₹ 19.86 lakh on account of tax paid on the purchase of ₹ 4.89 crore made from outside the State of Punjab, but had actually accounted for the purchase of ₹ 3.42 crore only. Though the details of inter state purchases were on record, the DO did not verify them and point out the suppression of the purchases. This resulted in suppression of sales equivalent to the short accounting of ₹ 1.47 crore of imported purchase leading to inadmissible refund of ₹ 4.69 lakh and short levy of tax of ₹ 1.18 lakh.

Audit reported the matter to the Department and the Government. The Department stated that entry tax was charged after including all the expenses like custom duty, freight etc., but the taxable person has shown only purchase value in his return and hence audit observation is not accepted. The reply of the Department was not acceptable as the purchase price means the amount of valuable consideration paid or payable by a person for any purchase made, including any sum of surcharge on account of freight, storage, demurrage, insurance and any other sum charged for anything done by a person in respect of the goods at the time of or before delivery thereof and the reply of the Government was awaited.

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

Audit noticed from the records of AETC, Amritsar-I relating to refunds that while allowing refunds of ₹ 12.71 lakh (April 2010) for the period from October 2007 to December 2008 to a dealer, who was availing the benefit of exemption from the payment of tax under Punjab General Sales Tax Act (Deferment and Exemption Rules) 1991, the designated officer did not observe the new conditions regulating deferment and exemption and incorrectly allowed input tax credit of ₹ 3.54 lakh against entry tax paid by the dealer alongwith input tax credit paid on the purchases made within the State.

This resulted in inadmissible allowance of ITC on account of entry tax and consequent grant of refund to the extent of ₹ 3.54 lakh.

Audit reported the matter to the Department and the Government whose replies were awaited.

2.16.3 Excess/inadmissible claim of input tax credit

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

(i) Excess/inadmissible claim of ITC due to excess claim of purchases, short and non-accountal of discount, mistake in the computation of ITC inadmissible claim of ITC on the purchases of diesel and claim of ITC on capital goods at the higher rate were noticed in the following cases.

(i) (a) Audit noticed from the records of four AETCs²³ relating to assessment year 2005-06 to 2006-07 that three dealers had claimed the ITC on the gross purchases of ₹ 82.43 crore as against the gross purchases of ₹ 79.13 crore stated in the trading accounts. Incorrect computation of gross purchases resulted in excess claim of ITC of ₹ 17.53 lakh on the excess purchases of ₹ 3.31 crore.

Audit reported the matter to the Department and Government (between March 2010 and February 2012); which was accepted by AETC Faridkot and Jalandhar-I and created additional demands of ₹ 43.83 lakh and ₹ 6.11 lakh against ₹ 3.51 lakh and ₹ 3.80 lakh. The replies of the Department in remaining two cases and of the Government in all the cases were awaited.

(i) (b) Audit noticed (November 2009) from the records of AETC, Hoshiarpur for the year 2006-07 and certified trading account attached with the return, the dealer had gross purchases of ₹ 2.89 crore in the head of account of the goods liable to tax at the rate of 12.5 *per cent* which was inclusive of discount of ₹ 28.23 lakh. The dealer did not consider the discount for the purpose of output tax and accounted for net purchases of ₹ 2.60 crore for computing the gross sale in the said account and paid the output tax accordingly. On the other hand while computing the ITC in the annual return gross purchase of ₹ 2.89 crore, inclusive of discount was considered for claiming the ITC leading to excess claim of ITC of ₹ 3.53 lakh.

Audit reported the matter to the Department and the Government. The Department accepted and an additional demand of ₹ 13.13 lakh including penalty and interest was created in assessment proceeding. However, the reply of the Government was awaited.

(ii) Rule 43 of the PVAT Act provides that on finding out that a taxable person had made a false input tax credit claim, the Commissioner or the designated officer, as the case may be, shall order for recovery of whole or any part of

²³ Amritsar-I, Faridkot and Jalandhar-I and Ludhiana-I.

such input tax credit, within a period of one year from the end of financial year in which the return is filed.

Audit noticed from the records of three AETCs²⁴ that six dealers in their returns filed for 2007-08 and 2008-09 had claimed excess input tax credit on the purchases of ₹ 59.67 crore eligible for ITC, at the different rates of tax specified in different schedules appended to PVAT Act, due to mistake in the calculation of the computation of ITC. These dealers had claimed the ITC of ₹ 3.19 crore instead of correct ITC of ₹ 2.96 crore. It was further noticed that in all of these cases neither audit were conducted nor notice of demands were issued by the Department. Thus, mistake in the calculation of computation of ITC had resulted in excess claim of ITC of ₹ 24.43 lakh.

Audit reported the matter to the Department and the Government whose replies were awaited.

2.16.4 Claim of inadmissible exemption/non-levy of tax

In terms of notification No. S.O. 9/P.A. 8/2005/S-92/2006 dated 23 February 2006 issued under Deferment and exemption Rules 1991, the electronic goods manufacturing units, notified in annexure-A appended to the PVAT Act, shall continue to avail the exemption from the payment of tax or availing concessional rate of tax under the repealed Act or under the Industrial policy of 1996.

Audit noticed from the records of AETC Mohali relating to refunds for assessment years 2005-06, 2006-07 to 2008-09 issued in three cases that the Department did not levy the tax on the sale of electronic goods of ₹ 18.59 crore made both within and outside the State of Punjab, treating the goods as manufactured by the exempted units whereas these units were not found mentioned in the list of exempted units issued under PVAT Act. This has resulted in non-levy of tax of ₹ 2.32 crore.

Audit reported the matter to the Department and the Government which contested and stated that valid entitlement certificate dated 16.9.2005 was issued by the Department to these two dealers, but the same could not be entered in annexure-A due to some clerical mistake. The contention of the Department is not accepted because this scheme of exemption for electronic units was not applicable at the time of its implementation of PVAT Act (April 2005) and later notified in 2006. Certificate issued prior to February 2006 cannot be taken as valid and only those dealers who were notified in annexure-A were entitled for exemptions. The reply of the Department in the remaining one case and that of the Government were awaited.

2.16.5 Short levy of notional tax

Ministry of Finance, Government of India, by taxation Law (Amendment) Act, 2007 (Act No. 16 of 2007), with effect from 1.4.2007 notified vide notification No. 7/2007-CST-F-No. 34/135/ 2005-ST dated 29.3.2007 had withdrawn the facility of concessional rate of CST on the sales of goods made in the course of inter-state trade or commerce to the Government Department.

²⁴ Ludhiana-II, Mukatsar and Sangrur.

The CST Act further provides that the tax payable by any dealer shall be at the rate applicable to the sale or purchase of such goods inside the appropriate State under the Sales Tax Law of the State.

Audit noticed from the records of AETC, Ropar that a dealer for the year 2007-08 was assessed the sale of cement of ₹ 2.45 crore, made in the course of inter state trade or commerce to the Government Department, at concessional rate of CST of three *per cent* and levied CST of ₹ 7.35 lakh instead of ₹ 30.64 lakh leviable at the rate of 12.5 *per cent* and thus, resulted in short levy of notional CST of ₹ 23.29 lakh.

Audit reported the matter to the Department and the Government. Department accepted and created an additional demand of ₹ 85.59 lakh including interest and penalty. However, the reply of the Government was awaited.

2.16.6 Short/non-levy of notional tax

Condition 3(ii) of New Conditions regulating exemption from the payment of tax under the PVAT Act, 2005 and the Punjab General Sales Tax Act, 1948 (PGST Act) (Deferment and Exemption) Rules, 1991 provides that the quantum of deferment of or exemption from the payment of tax, as the case may be, availed during a return period, by a unit, shall be calculated by adding, the output tax on inter-State Stock transfer calculated at the rate of four *per cent* on the estimated value of goods so transferred, on the production of Form-“F”, as specified in the Central Sales Tax Act, 1956.

Audit noticed from the records of AETC, Mohali relating to assessments, for the year 2005-06 and 2007-08 that in respect of two dealers availing the benefit of exemption from the payment of tax, the assessing authorities assessed inter state stock transfer of ₹ 11.42 crore to notional tax at incorrect rate of tax of three *per cent* instead of four *per cent* in the case of one dealer and, the interstate stock transfer of ₹ 71.29 lakh in the case of other dealer were not assessed to notional tax leading to short/non levy of notional tax of ₹ 11.42 lakh. The period of exemption as well as exemption limit of the dealer in whose case the tax was charged at the rate of three *per cent* had expired/exhausted by October 2010.

Audit reported the matter to the Department and the Government. Department accepted in one case and created an additional demand of ₹ 3.58 lakh which had been adjusted against the balance exemption on 29.2.2012. However, the replies of the Department in respect of other case and of the Government were awaited.

2.16.7 Short levy of output tax

Section 8 (1) of the PVAT Act, 2005 provides that subject to the provision of this Act, there shall be levied on the taxable turnover of a person other than registered person, VAT at such rate, as specified in schedules. The PVAT Rules, 2005 further provides that a taxable person and a casual trader shall calculate the tax payable on the taxable turnover in accordance with the rates of tax specified in the schedule.

Audit noticed from the records of AETC, Ludhiana-II relating to self assessed annual returns of two dealers for 2007-08, that the dealers had incorrectly

computed the output tax of ₹ 6.07 crore instead of ₹ 6.15 crore on the taxable turnover of ₹ 153.76 crore at the rate of four *per cent* resulting in short levy of output tax of ₹ 7.56 lakh.

Audit reported the matter to the Department and the Government. Department in one case assessed and created an additional demand of ₹ 19.20 lakh against ₹ 3.80 lakh. However, the replies of the Government in two cases and of the Department in the remaining case were awaited.

2.16.8 Under assessment of output tax

In terms of the provision contained in explanation 5 of Section 2 (zg) of the PVAT Act, sale price shall not include tax paid or payable to a person in respect of such sale. The PVAT Rules further provides that to determine the taxable turnover of sales, a person, shall deduct from his gross turnover of sales, a sum, to be calculated by applying a tax fraction in case, gross turnover includes retail sales

Audit noticed from the records of AETC, Hoshiarpur assessments that in the case of an assessment for the year 2007-08 finalised (February 2010), the assessee had been allowed the deduction of ₹ 2.83 crore against the admissible deduction of ₹ 2.13 crore on account of tax element from his gross turnover resulting in excess deduction of ₹ 70.92 lakh leading to under assessment of output tax of ₹ 2.84 lakh.

Audit reported the matter to the Department and the Government. The Department stated that additional demand of ₹ 50.32 lakh was created in the re-assessment proceeding. This reply was not accepted because the designated officer allowed deduction on account of tax element same as previously pointed out by audit in the re-assessment, inspite of creation of additional demand. However, reply of the Government was awaited.

2.16.9 Short levy of output tax

Section 2(zg) of PVAT Act, 2005 provides that the amount of duties levied or leviable on goods under the Central Excise Act, 1944, or the Customs Act, 1962, or the Punjab Excise Act 1914, shall be deemed to be part of the sale price of such goods, whether such duties are paid or payable by or on behalf of the seller or the purchaser or any other person.

Audit noticed in the office of AETC, Ludhiana-II that dealer had reported GTO of ₹ 5.83 crore in his return as against ₹ 6.53 crore as mentioned in his Trading Account. The omission resulted in short computation of GTO to the tune of ₹ 0.70 crore and consequent short levy of output tax of ₹ 2.80 lakh.

Audit reported the matter to the Department and the Government whose replies were awaited.

2.16.10 Incorrect computation of output tax

New conditions regulating exemption from the payment of tax under PGST (D&E) Rules 1991 saved under PVAT Act, 2005 provides that the quantum of exemption from payment of tax, availed during the return period, by a unit

shall be calculated by adding to the notional output tax on account of local sales, interstate sales and consignment sale, the amount of refund allowed to the unit under condition No. 2 of new condition *ibid* during that return period. Further PVAT Act, 2005 provides that branded washing soap being unspecified goods is liable to tax at the rate of 12.5 *per cent*. Further, as the tax is not being charged by the exempted units, they are not entitled to compute the notional output tax by formula.

Audit noticed from the records of AETC Mukatsar that a dealer availing benefit of exemption from payment of tax under PGST had balance of exemption to the tune of ₹ 1.94 lakh as on April 2005. While finalising the assessment, the assessing officer failed to adjust the amount of refund of ₹ 1.49 lakh against the said exemption. Further, output tax was calculated incorrectly on exempted sales of ₹ 49.88 lakh which includes sales of branded washing soap of ₹ 16.87 lakh at ₹ 1.92 lakh instead of ₹ 3.43 lakh. Thus, failure to adjust the amount of refund coupled with wrong calculation of output tax resulted in short levy of tax of ₹ 2.98 lakh.

Audit reported the matter to the Department and the Government whose replies were awaited.