

CHAPTER - II

Sales Tax/Value Added Tax

EXECUTIVE SUMMARY	
Increase in tax collection	In 2011-12 tax collection in respect of VAT including sales tax and central sales tax increased by 19.68 <i>per cent</i> over the previous year which was attributed by the Department to higher receipts under the Central Sales Tax Act and the Value Added Tax (VAT) Act.
Low audit coverage by internal audit wing	Internal audit wing of the Directorate of Commercial Taxes does not have any Audit Manual. The wing planned and audited only three charge offices out of 76 offices (67 charge offices and nine ranges) during 2011-12 which was only 3.95 <i>per cent</i> of the total auditable units.
Very low recovery by the Department against observations pointed out by audit	During the period 2007-08 to 2011-12 audit had pointed out non/short levy, non/short realisation, underassessment/loss of revenue, etc. with revenue implication of ₹ 710.61 crore in 89 paragraphs. Of these, the Department accepted 76 paragraphs involving ₹ 198.36 crore but recovered only a meagre amount of ₹ nine lakh.
Results of audit conducted in 2011-12	<p>In 2011-12, test check of the records of 44 units relating to VAT receipts indicated underassessment of tax and other irregularities involving ₹ 221.96 crore in 515 cases.</p> <p>The Department accepted underassessment and other deficiencies of ₹ 41.44 crore in 169 cases, of which 162 cases involving ₹ 41.18 crore were pointed out in audit during the year 2011-12 and the rest in the earlier years. An amount of ₹ 20.47 lakh was realised in seven cases during the year 2011-12.</p>
What has been highlighted in this Chapter	<p>In this Chapter a Performance Audit on “e-Services in the Directorate of Commercial Taxes” with financial effect of ₹ 1.20 crore has been presented.</p> <p>The following points have been highlighted in the Performance Audit:</p> <ul style="list-style-type: none"> • Lack of input and validation controls led to capturing of incomplete/invalid/duplicate data in the system. • Absence of validation control also led to manipulation of tax amount in

e-return by the dealers.

- Non-integration of return module with the registration module resulted in irregular claim of ITC on purchases from unregistered dealers.
- Non-mapping of business rules resulted in irregular issue of H forms and issue of declaration form H in excess of the purchases declared in the e-return.
- Non-submission of utilisation of e-transit declarations by transporters.

Besides these, some illustrative cases of ₹ 66.91 crore noticed during the test check of records in compliance audit have also been included.

Similar omissions on the part of the Assessing Authorities (AAs) were pointed out repeatedly in the Audit Reports for the past several years. However, these irregularities persisted and remained undetected by the audited entity till these were redetected in Audit. Omissions were apparent from the records which were made available to Audit, however the AAs were unable to detect them.

Conclusion

Performance Audit on "e-Services in the Directorate of Commercial Taxes" revealed a number of deficiencies in the system of e-services of the directorate. Documentation of the project, change management control, business continuity and disaster recovery plan were inadequate. Further proper input and validation controls were not put in place resulting in capturing of incomplete, invalid, duplicate data in the system. Business rules were also not properly incorporated in the application software and the modules were not integrated.

The department may :

- **Improve the efficiency and effectiveness of the system of e-services of the directorate.**
- **Streamline the functioning of the internal audit wing by preparing its Manual and widening the audit coverage.**
- **Initiate action to recover the non-realisation, undercharge of tax, etc pointed out by Audit, more so in cases where Audit contention has been accepted.**

CHAPTER II : SALES TAX/VALUE ADDED TAX

2.1 Tax administration

Sales Tax and Value Added Tax (VAT) comprise the receipts under the West Bengal Sales Tax (WBST) Act, 1994 (effective from May 1995), the Central Sales Tax (CST) Act, 1956 (effective from January 1957) and the Value Added Tax Act, 2003 (effective from April 2005). The WBST Act, 1994 is operative on sales of commodities like foreign liquor, country liquor, diesel, petrol and motor spirit, whereas, on the remaining commodities the WBVAT Act, 2003 is applicable. The various provisions under the Act/Rules are administered by the Finance (Revenue) Department headed by the Secretary to the Government of West Bengal. He is assisted by the Commissioner of Commercial Taxes (CCT), two Special Commissioners, 45 Additional Commissioners, 154 Senior Joint Commissioners, 166 Joint Commissioners, 208 Deputy Commissioners and 488 Commercial Tax Officers.

2.2 Trend of revenue

Actual receipts from VAT¹ during the years from 2007-08 to 2011-12 along with the total tax receipts during the same period is exhibited in the following table and chart:

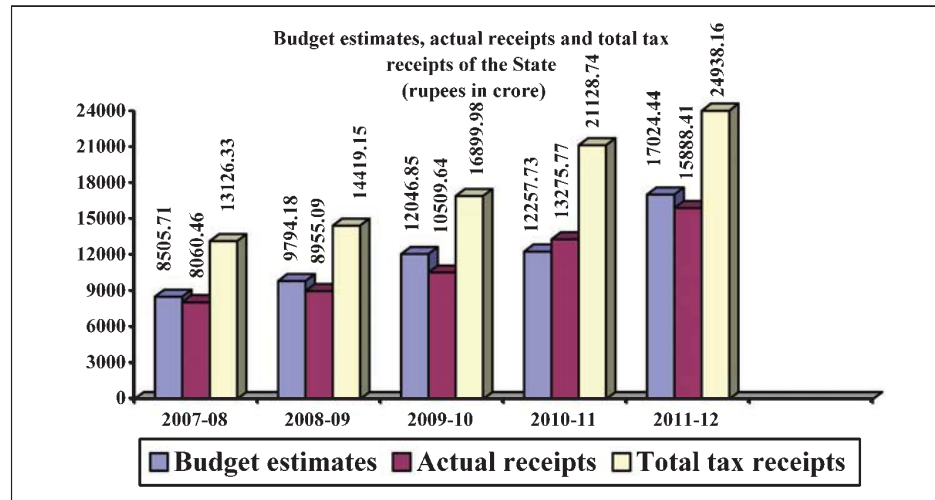
Table 2.1 - Trend of revenue

(₹ in crore)						
Year	Budget estimates	Actual receipts	Variation Excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual VAT receipts vis-à-vis total tax receipts
2007-08	8,505.71	8,060.46	(-)445.25	(-)5.23	13,126.33	61.41
2008-09	9,794.18	8,955.09	(-)839.09	(-)8.57	14,419.15	62.11
2009-10	12,046.85	10,509.64	(-)1,537.21	(-)12.76	16,899.98	62.19
2010-11	12,257.73	13,275.77	(+)1,018.04	(+)8.31	21,128.74	62.83
2011-12	17,024.44	15,888.41	(-)1,136.03	(-)6.67	24,938.16	63.71

Source : Finance Accounts and Budget Publications of the Government of West Bengal.

¹ Includes sales tax, central sales tax and VAT.

Chart 2.1: Budget estimates, Actual receipts and Total tax receipts



The total tax receipts of the State have been following an increasing trend for the last five years as is with the receipts of taxes on sales, trade etc. The percentage of the revenue contribution to the total tax receipts by the receipts of taxes on sales, trade etc. has been almost stable within a range of 61 per cent to 64 per cent. In 2011-12, tax collection in respect of sales, trade etc increased by 19.68 per cent over the previous year which was attributed by the Department to higher receipts under the CST Act and the VAT Act.

2.3 Cost of collection of VAT per assessee

Cost of collection of VAT per assessee for the last three years is shown in the following table:

Table 2.2 - Cost of collection of VAT per assessee

Year	Cost of collection (₹ in crore)	No. of dealers at the end of the year	Cost of VAT per assessee (₹ in thousand)
2009-10	150.01	2,89,299	5.19
2010-11	165.18	3,10,832	5.31
2011-12	174.52	2,27,351	7.68

Source: Finance Accounts and figures furnished by the Department.

Cost of collection of VAT per assessee suddenly increased to ₹ 7.68 thousand per assessee in 2011-12 from ₹ 5.31 thousand per assessee in 2010-11. Thus, there is ample scope for better tax administration by lowering the cost of collection and bringing more dealers in the tax net.

2.4 Arrears in assessment

The position of arrears in assessment during the period from 2009-10 to 2011-12 is shown in the following table:

Table 2.3 – Arrears in assessment

Sl. No.	Particulars	2009-10	2010-11	2011-12
1	Opening Balance	27,572	89,086	1,05,804
2	Cases initiated during the year	1,02,518	61,514	77,383
3	Cases disposed of during the year	41,004	44,796	55,325
4	Cases pending at the end of the year	89,086	1,05,804	1,27,862

Source: Figures furnished by the Department.

From above table it has been seen that the cases pending for assessment has steadily increased between 2009-10 and 2011-12. The Government may consider fixing a target for the disposal of assessment cases by the Assessing Authorities in a year.

2.5 Working of internal audit wing

Internal audit wing of the Directorate of Commercial taxes started functioning from May 1991 as a permanent in-house mechanism for scrutinising and detecting irregularities in the assessments of Sales Tax and VAT cases as well as checking of different records/registers to ascertain whether the internal control system as envisaged in the Act and Rules made thereunder is functioning properly. The wing is headed by the Additional Commissioner of Commercial Taxes (ACCT) who is assisted by two Sr. Joint Commissioners, two Joint Commissioners, one Upper Divisional Clerk and one Lower Divisional Clerk. The wing does not have any internal audit manual. The wing planned and audited only three charge offices out of 67 charge offices and nine ranges during the year 2011-12. Thus, coverage of internal audit wing during 2011-12 was only 3.95 *per cent* of the total auditable units and needs to be widened. The wing did not furnish information regarding the number of assessments done and the number of assessments selected for scrutiny in three charge offices audited by them, hence coverage of audit could not be ascertained.

The functioning of the internal audit may be streamlined by drafting its manual and widening the audit coverage.

2.6 Cost of collection

The gross collection from sales tax and VAT, the expenditure incurred on its collection and the percentage of such expenditure to gross collection for the years 2009-10 to 2011-12 are given in the following table:

Table 2.4 – Cost of collection

(₹ in crore)

Year	Gross Collection	Gross Expenditure	Percentage of expenditure to gross collection	All India average percentage of expenditure on collection for the preceding year
2009-10	10,509.64	150.01	1.43	0.88
2010-11	13,275.77	165.18	1.24	0.96
2011-12	15,888.41	174.52	1.10	0.75

Source: Finance Accounts.

Though the percentage expenditure on collection of VAT has steadily come down from 1.43 *per cent* in 2009-10 to 1.10 *per cent* in 2011-12, it was always higher than the all India average.

2.7 Analysis of collection

Table 2.5 – Analysis of collection

(₹ in crore)

Year	Amount collected at pre-assessment stage	Amount collected after regular assessment	Penalties for delay in payment of taxes and duties	Amount refunded	Net collection ²	Percentage of column 2 to 6
1	2	3	4	5	6	7
2009-10	10,600.09	96.37	41.27	114.05	10,623.68	99.78
2010-11	13,292.42	95.09	47.82	48.82	13,386.51	99.30
2011-12	Not furnished by the Department.				15,904.44	--

Source: Figures furnished by the Department.

Since the department did not furnish (though called for) the figures of VAT collection at the pre-assessment stage and after regular assessment for 2011-12, we could not ascertain the voluntary tax compliance by the dealers.

2.8 Revenue impact of audit reports

During the last five years (including the current year's report), audit had pointed out in the audit reports non/short levy, non/short realisation, underassessment / loss of revenue, incorrect exemption, concealment/suppression of turnover, application of incorrect rate of tax, mistake in computation etc., with revenue implication of ₹ 710.61 crore in 89 paragraphs. Of these, the Department / Government had accepted audit observations in 76 paragraphs involving ₹ 198.36 crore against which part

² Departmental figure is at variance with the Finance Accounts figure which is to be reconciled.

recovery of ₹ nine lakh in four cases has been intimated. The details are shown in the following table:

Table 2.6 – Revenue impact of audit reports

(₹ in crore)

Year of audit report	Paragraphs included		Paragraphs accepted		Amount recovered	
	Number	Amount	Number	Amount	Number	Amount
2007-08	21	412.51	17 ³	9.48	NA	NA
2008-09	20	44.91	15 ⁴	10.39	NA	NA
2009-10	15	136.85	13 ⁵	92.87	NA	NA
2010-11	18	48.23	17 ⁶	17.97	2 ⁷	0.04
2011-12	15	68.11	14	67.65	2 ⁸	0.05
Total	89	710.61	76	198.36	4	0.09

* NA- Not Available.

The above table shows that the department did not report any recovery against the accepted cases during 2007-08 to 2009-10 and reported marginal recovery in 2010-11 and 2011-12.

It is recommended that the Government may revamp the recovery mechanism to ensure that the amount involved in the accepted cases is promptly recovered.

³ 16 paragraphs partly accepted.

⁴ 14 paragraphs partly accepted.

⁵ All paragraphs partly accepted.

⁶ Three paragraphs fully and 14 paragraphs partly accepted.

⁷ Partly recovered.

⁸ Partly recovered.

2.9 Results of audit

In 2011-12 we test checked the records of 44 units relating to VAT receipts and found underassessment of tax and other irregularities involving ₹ 221.96 crore in 515 cases which fall under the following categories:

Table 2.7 – Results of audit

(₹ in crore)			
Sl. No.	Categories	Number of cases	Amount
1	e-Services in the Directorate of Commercial Taxes (A Performance Audit)	1	1.20
2	Incorrect determination of Contractual Transfer Price (CTP)/ Turnover of Sales (TOS).	76	56.93
3	Irregular allowance of transfer of goods/Input tax Credit (ITC) / remission.	85	51.48
4	Irregular allowance of compounded/concessional rate of tax.	81	3.75
5	Application of incorrect rate of tax / Mistake in computation.	50	12.19
6	Non / short levy of purchase tax / penalty / interest.	109	17.39
7	Others	113	79.02
Total		515	221.96

During the course of the year, the department accepted underassessment and other deficiencies of ₹ 41.44 crore in 169 cases, of which 162 cases involving ₹ 41.18 crore were pointed out in audit during the year 2011-12 and the rest in earlier years. An amount of ₹ 20.47 lakh was realised in seven cases during the year 2011-12.

Audit findings of the Performance Audit on ‘**e-Services in the Directorate of Commercial Taxes**’ with financial effect of ₹ 1.20 crore and a few illustrative cases involving ₹ 66.91 crore are mentioned in the following paragraphs.

2.10 Performance Audit on “e-Services in the Directorate of Commercial Taxes”

The Directorate of Commercial Taxes (DCT) under the administrative control of the Finance (Revenue) Department is responsible for assessment and collection of Central Sales Tax (CST) and Value Added Tax (VAT). The DCT introduced various e-services as a step towards modernisation of the tax administration by providing easily accessible services to the citizens and dealers.

With the objective to ensure the correctness, completeness and reliability of data and to assess the efficiency and effectiveness of the Information Technology system in tax administration we conducted the Performance Audit on “e-Services in the Directorate of Commercial Taxes” which revealed the following:

Highlights

Lack of input and validation controls led to capturing of incomplete/invalid/duplicate data in the system.

(Paragraphs 2.10.12 and 2.10.17)

Absence of validation control also led to manipulation of tax amount in e-return by the dealers.

(Paragraph 2.10.20)

Non-integration of return module with the registration module resulted in irregular claim of ITC on purchases from unregistered dealers.

(Paragraph 2.10.21)

Non-mapping of business rules resulted in irregular issue of H⁹ forms and issue of declaration form H in excess of the purchases declared in the e-return.

(Paragraphs 2.10.22 and 2.10.24)

Non-submission of utilisation of e-transit declarations¹⁰ by transporters.

(Paragraph 2.10.29)

2.10.1 Introduction

The initiative of computerisation in the Directorate of Commercial Taxes (DCT) commenced in 2001 and for better tax administration in the Value Added Tax (VAT) regime, the National Informatics Centre (NIC) developed web based application software ‘Information Management for Promotion of Administration in Commercial Taxes’ (IMPACT) in 2003 for the DCT. The objectives of development of IMPACT was to provide transparent and easily accessible service to the citizens and the dealers by building an Information and Communication Technology enabled modern tax administration that is equitable, efficient and effective. The NIC was also engaged as the consultant to the DCT for e-Governance under the National e-Governance Plan.

⁹ A central declaration form required for claiming exemption against inter-state sale made immediately preceding the export sale.

¹⁰ A declaration required to be submitted by the transporters for transporting any taxable goods from one State to other using West Bengal as a corridor.

e-Services were introduced by the DCT from December 2007 onwards under the Mission Mode Project of the Commercial Taxes (MMPCT) in a phased manner for e-registration, e-application and e-generation of waybills and central declaration forms, generation of e-transit declaration forms and e-payment of taxes.

2.10.2 Organisational set up

The Information Systems Division (ISD) under the DCT is responsible for computerisation in the Directorate. The ISD is headed by an Addl. CCT who is assisted by a Sr. Jt. CCT, three Jt. CCTs, five DCCTs, and five CTOs. Besides, one system analyst and a programmer are also serving under the ISD.

2.10.3 Information system architecture

IMPACT was developed using Oracle as the back-end database and IDS, D2K and J2EE as front-end. The entire system having three-tier architecture works in Wide Area Network (WAN) environment using West Bengal State Wide Area Network (WBSWAN) and Managed Leased Line Network (MLLN) from BSNL connectivity where WBSWAN is not available. All the 68 charge offices, 15 circle offices and six¹¹ road checkpoints were connected to the central server and worked online in WAN. One Disaster Recovery Server (DRS) for internet and one for the DCT server have also been setup. IMPACT contained 11¹² modules which helped the DCT for Customised Decision Support System (CDSS) and generation of Management Information System (MIS) reports. All the modules were functional at the time of Performance Audit.

2.10.4 Audit objectives

Performance Audit of the e-Services was undertaken with a view to ascertain whether

- documentation for user requirement specification (URS) and system requirement specification (SRS) are in order;
- adequate security controls and disaster recovery plan exist;
- proper input, validation and process controls exist in the system to ensure the authenticity, completeness and accuracy of data;
- the database provides complete, reliable and authorised information for management action; and
- the system is in accordance with the provisions of the commercial tax laws.

¹¹ Barobhisa, Baxirhat, Chichira, Dalkhola, Duburdih and Sonakania.

¹² Assessment, Audit, Central Declaration Forms, Challan, Decision Support System, Interface with TINXSYS, MIS Query and Reports, Registration, Return, Transit Document and Waybill.

2.10.5 Scope and methodology of audit

We conducted the Performance Audit covering five modules of IMPACT viz. Registration, Return, Central Declaration Forms, Waybill and Transit Declaration between November 2011 and March 2012 as only these modules were related to e-services and open to the dealers. The centralised data provided by the DCT was analysed using Interactive Data Extraction and Analysis (IDEA). The results of the analysis were also test checked with the manual records of fourteen¹³ charge offices.

2.10.6 Audit criteria

The provisions of the following Acts and Rules were used as audit criteria for conducting the Performance Audit:

- Central Sales Tax (CST) Act, 1956;
- Central Sales Tax (Registration and Turnover) Rules, 1957;
- West Bengal Value Added Tax (WBVAT) Act, 2003 and
- West Bengal Value Added Tax (WBVAT) Rules 2005.

2.10.7 Acknowledgement

An Entry Conference to discuss and explain the objectives and scope of the Performance Audit was held in February 2012 which was attended by the CCT, Addl. CCT (ISD) and other senior officials of the Directorate. The findings of the Performance Audit were forwarded to the Government in June 2012 and were discussed with the CCT, Addl. CCT (ISD) and other senior officials of the Directorate in an Exit Conference held in September 2012. The replies received from the Department have been suitably incorporated in the respective paragraphs. We acknowledge the co-operation of the Finance (Revenue) Department and the DCT in providing necessary information and records to audit.

Audit findings

Performance Audit revealed various deficiencies in the system relating to security and access controls, input and validation controls, non-mapping of business rules and non-integration of modules which are mentioned in the succeeding paragraphs.

General Controls

2.10.8 Organisational and management controls

Organisational and management controls are adopted to ensure that the computer system functions correctly and is achieving business objectives. The involvement of management and documentation of the objectives are vital elements for success of an IT system. This documentation includes the user requirement specification (URS), user manual etc.

The DCT did not prepare URS and thus, did not spell out the basic objectives of the designing and development of IMPACT to the NIC. Further, the DCT assigned the work

¹³ Ballygunge, Behala, Bhabanipur, Corporate Division, Esplanade, Ezra Street, Jorabagan, Manoharkatra, N.D. Sarani, Park Street, Purulia, Rajakatra, Strand Road and Taltala.

to the NIC without specifying the deliverables and time schedule for implementation of each module. As a result, there was no prioritisation of work and modules were incorporated as and when required basis.

After we reported the case, the Government accepted that there was no written down URS for the job and stated (November 2012) that NIC was assigned the job to study the system, develop SRS and design application.

2.10.9 Information security policy

An information security policy through physical and logical controls allows access of only authorised individuals to the system. We noticed a number of deficiencies in the system which are mentioned in the following paragraphs:

2.10.9.1 Inadequate physical and environmental controls

An IT system is required to be protected from unauthorised access and interferences. Physical controls should be put in place to prevent access of unauthorised users to computer equipments and information contained therein. The IT system should also be protected from power surges/shortages and risk of damage caused by environmental reasons like earthquake, fire, water, humidity etc.

The DCT did not formulate a documented security policy. We noticed that entry within the central server room located at the DCT headquarters was not restricted through logical devices to the unauthorised persons. The servers were neither protected in fire proof cabinets nor fire extinguishing devices were provided in the room. The condition of the uninterrupted power supply (UPS) room was reported to be poor by the annual maintenance contract (AMC) vendor. Thus, physical and environmental controls of the server room and the UPS room were inadequate to prevent the IT assets from unauthorised access and damages.

After we reported the case, the Government accepted (November 2012) the audit observation and stated that corrective measures would be taken.

2.10.9.2 Inadequate logical controls

In an IT system, logical access controls are required for protection of the data files and information therein from unauthorised access, amendment or deletion.

No documented password policy was formulated by the DCT. There was no system of documented approval of access profiles from the DCT authorising various levels of officials to access different modules and screens. There was also no evidence of review of system logs to detect attempts of unauthorised access or unexpected events. In the absence of adequate logical access controls, the system was prone to risk of intrusion and data corruption. Further, the system did not prompt the users to change passwords after periodical intervals.

After we reported the case, the Government accepted (November 2012) the audit observation and stated that the Department was in the process of formulating of a password policy.

2.10.10 Lack of change management controls

Change management controls should be put in place to ensure that the changes incorporated in the system are authorised, tested and documented to provide adequate audit trail. The Request For Change (RFC) should be authorised by the designated authorities of the organisation and all the changes should be tested before they are put to use in the live environment.

The documents regarding request, approval, testing and authorisation of changes made in the system were not made available to us, though called for. Absence of documentation not only resulted in lack of a trail of changes but was also fraught with the risk of non-detection of any

unauthorised changes made in the system.

After we reported the case, the Government stated (November 2012) that authorisation of changes are presently being done through e-mail to keep trail and eliminate any unauthorised changes. The reply is not tenable because e-mails may not always be available for retrospection of the system changes.

2.10.11 Lack of business continuity and disaster recovery controls

Business continuity and disaster recovery controls ensure that the organisation would not lose the capability to process, retrieve and protect information in the event of an interruption or disaster leading to temporary or permanent loss of data.

A Disaster Recovery Server (DRS) was installed at the disaster recovery site located at Salt Lake for taking real time backup of the data of the central server. We found that due to failure of

synchronisation between the central server and the backup server, no real time backup was taken in the DRS since December 2007 and synchronisation with the central server could not be established till March 2012. Despite lapse of five years the central server and DRS could not be synchronised for real time back up. The backup was taken only on digital tapes after periodical intervals. We found that online data of e-services stored in the (internet) server of the NIC was also not transferred to the central server of the DCT on real time basis. Non-utilisation of the DRS for taking the real time back up of data was fraught with the risk of loss of data in case of a system crash.

After we reported the case, the Government accepted (November 2012) the audit observation and stated that remedial action would be taken.

Application Controls

Registration Module

Registration module of IMPACT deals with capturing of details furnished by the dealers in the application forms. Registration Certificate (RC) is generated after processing the details furnished in the application form as prescribed under the WBVAT Act and the CST Act. The module also processes the application for cancellation of RCs of the dealers. E-registration was introduced by the DCT from January 2010. The dealers' database (REGD_DEALER) contained data of 3,10,917 dealers registered under the

VAT Act upto 5 April 2011. We noticed a number of deficiencies in the registration module which are mentioned in the following paragraphs:

2.10.12 Incomplete/invalid/duplicate data

We found that the essential fields like date of registration under different Acts, name of the owner, bank details, commodity details and PAN of the dealers were not made mandatory resulting in non-capturing of those information in many cases. Due to lack of input control, the system also accepted invalid and duplicate entries in the fields for capturing PAN and e-mail ID. Thus, the data base of the registered dealers' profile was incomplete and it contained invalid and duplicate entries as mentioned below:

Table 2.8 – Incomplete/invalid/duplicate data

Nature of deficiencies	Number of cases	Percentage of cases
Non-capturing of the date of VAT registration	68,277	21.96
Non-capturing of the date of CST registration	54,523	17.54
Non-capturing of the name of the owners	1,27,639	41.05
Non-capturing of bank details of dealers	1,52,890	49.17
Non-capturing of the name of the commodities dealt by dealers	79,492	25.57
Non-capturing of PAN data	23,743	7.64
Capturing of invalid PAN	39	0.01
Capturing of duplicate PAN	9,539	3.07
Capturing of invalid e-mail IDs	10,930	3.51
Capturing of duplicate e-mail IDs	1,69,448	54.50

After we reported the cases, the Government accepted (November 2012) the audit observations and stated that action had been initiated to rectify the deficiencies.

The Government may consider putting in place proper input and validation controls to avoid capturing of incomplete, invalid and duplicate entries in the system.

2.10.13 Partial mapping of commodities

Under the WBVAT Act, the rate of tax depends on the commodities sold by the dealers. Each commodity is identified by a unique seven digit code assigned by DCT in the system. A total of 750 commodities had been defined in the WBVAT Act as on 30 June 2011.

- We found that only 582 commodities out of 750 were codified in the master table of commodity (COMMODITY). Thus, commodities were partially mapped in the system and the database was incomplete to that extent.
- We also noticed that in 706 cases 247 commodities were captured against 659 dealers for which no commodity codes were available in the master table of commodities (COMMODITY). Thus, in the absence of input and validation control the system accepted the invalid data.

After we reported the cases, the Government stated (November 2012) that under VAT, commodity details are not required to be mapped as those are captured in waybills, returns etc. The reply is not tenable because the commodity detail is an essential information for determining the applicable rate of tax.

2.10.14 Ineffective monitoring of dealers

The Jt. CCT of a charge shall allot a group code to a dealer denoting the assessing authority (AA) under whom he would be assessed and shall update the group code in the dealers' database to keep an effective tracking of the dealers.

We found that 28,841 dealers were allotted group code '99' which is a default group code allotted by the system. The system was not prompting the Jt. CCTs to force change the group code in the system.

After we reported the cases, the Government accepted (November 2012) the audit observation and stated that steps were being taken to eliminate the problem.

2.10.15 Non-cancellation of RC of dormant dealers

Under Section 29(1)(e) of the WBvat Act, RC of a dealer shall be cancelled by appropriate authority if the dealer has defaulted in furnishing any return under section 32 together with receipted challan showing payment of net tax and interest payable, if any, according to such return within the prescribed date or the time.

We found that 3,616 dealers of 61 charge offices registered between April 2005 and September 2010 did not file any return for the return period between June 2010 and June 2011. However, no action was initiated by the AAs to cancel the RCs of these dormant

dealers till March 2012 though they had defaulted in submission of returns for three consecutive return periods and more. The purchasing dealers may enjoy Input Tax Credit (ITC) against purchases from these dealers due to non-cancellation of their RCs. Thus, the dealers remaining dormant for a considerable time might facilitate evasion of tax. Due to absence of an in-built MIS report in the system, the return defaulters remained undetected and no action could be taken by the AAs against them.

After we reported the cases, the Government accepted (November 2012) the audit observation and stated that NIC had been requested to develop a module so that, in future, the charge offices are informed of the dealers defaulting in filing return.

The Government may consider conducting periodical review of data to ensure prompt detection and cancellation of RCs of dormant dealers.

2.10.16 Delay in updating the database of the cancelled dealers

The database of cancelled dealers is required to be updated promptly to provide updated information to the AAs and dealers.

We found that the RCs of 86,544 registered dealers were cancelled upto March 2011. But the database of the cancelled dealers was updated after a

delay ranging between 1 and 2,173 days in respect of 73,193 dealers as mentioned in the following table:

Table 2.9 – Delay in updating the database of the cancelled dealers

Range of delay	Number of dealers involved
No delay	13,351
Upto 180 days	68,740
Between 181 and 365 days	1,460
Between 366 and 1095 days	2,703
Exceeding 1095 days	290
Total	86,544

Delay in updating the database resulted in submission of e-returns by the cancelled dealers and generation of e-waybills and central declaration forms by them as discussed below:

- We found that in 765 cases e-returns in form 14 or 15 were submitted by 341 dealers for the period between September 2008 and September 2011 though their RCs were cancelled prior to the return periods.
- We found that out of 86,544 cancelled dealers, five dealers generated five e-waybills during the period between January and March 2011 involving consignment value of ₹ 25.49 lakh. We also found that in two cases, involving ₹ 10 lakh, utilisation was also submitted by the dealers.
- We found that in 26 cases e-declaration form 'C' were generated by a dealer after the date of cancellation of the RC. Though the RC of the dealer was restored with retrospective effect, the fact remained that during the intervening period between the date of cancellation and the date of restoration the dealer had access to the system which might lead to misuse of the e-declaration forms.

After we reported the cases, the Government accepted (November 2012) the audit observation and stated that real time updating of the cancellation of RC had been started after issue of a Departmental circular in December 2011. The reply is not tenable because from analysis of data we found that between January 2012 and August 2012, RCs of 1,373 dealers were cancelled out of which, in 290 cases there was delay ranging between 11 and 229 days in updating the database.

The Government may consider issuing instructions to all the assessing officers for updating the cancelled dealers' database on the date of cancellation of RC of a dealer.

Way Bill Module

Waybills are used to monitor import of goods into the State. Issue of e-waybill (in Form – 50A) was introduced from December 2010. The registered dealer willing to import goods has to generate the e-waybill and submit its utilisation online within seven days from the date of entry of the goods in the State. Upto April 2011, 2,24,305 e-waybills were generated. The waybill module

contained data of e-waybills issued to the dealers and their utilisation. We noticed a number of deficiencies in the waybill module which are mentioned in the following paragraphs:

2.10.17 Lack of validation control

Absence of input controls led to entry and acceptance of incorrect data in the database which made the data unreliable as is evident from the cases cited below:

We analysed the data of issue and utilisation of e-waybills upto April 2011 and found that

- In 461 cases the date of utilisation of e-waybills was prior to the date of their issue.
- In 17 cases the date of consignment of the imported goods was after the date of expiry of the e-waybills.
- In 1,063 cases goods were imported from the north eastern States by road but the system accepted the entry check posts which were not situated on the north eastern borders.

Thus, lack of validation control in the system resulted in entry of invalid data in the e-waybills database.

After we reported the cases, the Government accepted (November 2012) the audit observations and stated that the problem existed at the nascent stage of the e-application which has since been rectified.

2.10.18 Non-submission of utilisation of e-waybills

Under Rule 110B(3) of the WBVAT Rules, 2005 registered dealers are required to submit utilisation statement of e-waybills within seven days from the date of entry of consignment in West Bengal.

During analysis of e-waybill data pertaining to the period from December 2010 to April 2011 we found that utilisation in respect of 49,176 e-waybills involving consignment value of ₹ 4,460.68 crore, were not submitted by 605 dealers. There was no inbuilt

mechanism in the system to restrict the dealers in generating the subsequent e-waybills in case of non-submission of utilisation within prescribed period.

After we reported the cases, the Government stated (November 2012) that this was due to cancellation of e-waybills. The reply is not tenable since there was no provision in the Act/Rules for such cancellation.

Return Module

The return module contains information about the assessment of a dealer. E-filing of returns was introduced by the DCT from the quarter ended December 2007 initially with 4,518 big and selected dealers and was subsequently made mandatory for all the dealers from the quarter ended March 2010. After filing of e-return the dealers are required to submit the printed copy of the e-return to the concerned charge offices. The return module contained data of 12,73,976 VAT returns (Form-14 and 14D); 1,55,506 VAT returns (Form-15) and 8,05,793 CST returns upto September

2011. We noticed a number of deficiencies in the return module which are discussed in the following paragraphs:

2.10.19 Non-mapping of business rules

Specific business rules of the organisation are required to be studied to evaluate corresponding application controls.

We found that business rules of the department were not mapped in many cases as discussed below:

- **Acceptance of belated revised returns**

Under section 32(3) of the WBVAT Act, revised returns are required to be submitted by a dealer within six month from the end of the month in which the original return is due.

We found that in 14 out of 58,963 cases of revised returns the system accepted belated revised returns for the quarters ended between March 2009 and September 2010, though those were submitted after the due dates. Verification at the front-end also corroborated the audit finding.

After we reported the cases, the Government accepted (November 2012) the audit observations and stated that necessary validation control has been introduced in the system so that no revised return is accepted after due date.

- **Irregular benefit of Composition Scheme**

Under section 16(3) of the WBVAT Act, manufacturing and importing dealers and dealers making inter-state sale/purchase are not eligible for the benefit of composition scheme¹⁴. Further, under rule 34 (2) of the WBVAT Rules, 2005 the dealers under composition scheme shall furnish return in Form-15.

We found that:

In 411 cases VAT returns in Form 15 for the quarters ended between December 2009 and September 2011 were submitted by 124 dealers though they were either importer or manufacturer as per information available in the system. Thus, due to non-mapping of business rules, the system accepted such returns.

In 25 cases 20 dealers submitted returns in Form 15 for the return periods between June 2009 and September 2011, showing inter state sale during those periods. Thus, the dealers ceased to be eligible for the composition scheme. However, they continued to file returns in Form 15 by paying tax at the rate of 0.25 or 2 *per cent* under the composition scheme and the system did not restrict them due to non-mapping of business rules in the system.

The Government did not furnish any specific reply to the cases reported.

¹⁴ Composition scheme is an optional scheme where a dealer can pay tax at a concessional rate between 0.25 *per cent* and 4 *per cent*.

- **Submission of CST returns without submitting VAT returns**

Under Rule 8 (4) of the CST (West Bengal) Rules, 1958, every dealer, who is required to furnish CST return, shall furnish such return only after furnishing the VAT return for the relevant period under the WBVAT Act.

We noticed that in four out of 8,05,793 cases the CST returns were submitted by the dealers without submitting VAT returns. Due to lack of validation control the system allowed submission of CST return without filing VAT return.

After we reported the cases, the Government stated (November 2012) that NIC was examining the reasons for such irregularity.

- **Submission of returns in two formats**

Under Rule 34(1) and 34(2) of the WBVAT Rules, 2005 every registered dealer shall submit return quarterly in any of the Form-14, 14D or 15. However, no dealer shall submit returns in both the forms in the same return period.

We found that in 15 cases the dealers furnished VAT returns both in Form 14 and Form 15 for the same period between January 2009 and April 2011. Due to lack of validation control, the system allowed the dealers to furnish returns in two formats.

After we reported the cases, the Government stated (November 2012) that due to technical snags, some dealers under the composition scheme were allowed to file form-14. The reply is not tenable because manual verification of records revealed that the dealers though not enjoying composition scheme submitted e-return in both Form-14 and 15 and submitted hard copy of Form-14 only.

- **Non-assessment of purchase tax**

Under Section 12(2) of the WBVAT Act, every registered dealer under Composition Scheme shall, in addition to the tax payable under the Act shall also pay tax at the appropriate rate on his taxable turnover of purchase.

We found that in 656 cases the dealers registered under composition scheme furnished returns for the return periods between June 2009 and September 2011 showing unregistered purchase of ₹ 32.31 crore but did not pay purchase tax of ₹ 1.29 crore (calculated at minimum four *per cent*) on such purchases. Due to non-mapping of business rules, the system allowed the dealers to file returns without payment of purchase tax. Thus, non-payment of purchase tax in these cases could not be ruled out. Test check of manual records also corroborated the audit observation.

After we reported the cases, the Government accepted (November 2012) the audit observations and stated that the validation process has been introduced.

2.10.20 Lack of validation controls

Proper validation control is required to be inbuilt in the system not only for capturing correct and complete data but also to prevent manipulation of data in a calculated field.

We found lack of validation controls in the return module as discussed in the following points:

- **Manipulation of tax amount**

We found that the amount of output tax payable by a dealer on his turnover of sales under different tax rates was calculated automatically in the e-return form downloaded from the DCT's website. We noticed that in 866 cases the calculated tax amount was manipulated in the e-return form submitted for the quarter ending between September 2008 and September 2011 which resulted in short payment of tax of ₹ 5.86 crore as detailed below:

Table 2.10 – Manipulation of tax amount

(₹ in lakh)						
Form Type	No of cases	Rate of tax	Turnover of sales	Tax payable	Tax paid	Short payment of tax
Form-14	327	4%	37,297.09	1,491.88	1,304.45	187.43
	155	12.5%	45,004.38	5,625.55	5,355.94	269.61
	93	13.5%	3,046.99	411.34	375.51	35.83
Form-15	9	0.25%	132.32	0.33	0.06	0.27
	282	2%	7,129.19	142.58	49.32	93.26
Total	866		92,609.97	7,671.68	7,085.28	586.40

This was due to lack of validation control in e-return form. Test check of manual records also corroborated the audit observation.

After we reported the cases, the Government accepted (November 2012) the audit observations and stated that the matter had since been rectified and steps were being taken to realise the taxes.

- **Non-assessment of late fee**

Under section 32 of the WBVAT Act, every dealer is required to file returns quarterly within the next calendar month from the end of the relevant quarter. In case of late submission of return, a dealer is liable to pay late fee at the prescribed rate at the time of submission of return.

We found that in 1,133 cases VAT returns (Form-14) and in 31 cases CST returns for the periods between December 2007 and July 2010, the dealers submitted the returns after a delay ranging between one and fourteen months. Thus, the dealers were liable to pay late fee at the prescribed rate for delayed submission of returns. However, due to non-mapping of business rule, the late fee payable by the dealers for delayed submission of returns was not assessed by the system and the system accepted the value inserted by the dealers. Thus, the system allowed the dealers to submit returns without payment of late fee of ₹ 49.04 lakh. Test check of manual records in 28 cases also corroborated the audit observation.

After we reported the cases, the Government accepted (November 2012) the audit observations and stated that the validation was introduced.

- **Mismatch between tax paid amount and payment details**

In the VAT e-return dealers furnish the amount of tax, interest and late fee paid into the government treasury in each month of a quarter. The challans against which such payments are made, are shown in the payment details of the e-return. The amount shown as paid into the government treasury should tally with the payment details.

We found that out of 9,65,837 VAT returns submitted by the dealers for the return periods between December 2007 and March 2011, in 1,805 cases the challan amount shown in payment details was found to be less than the tax paid amount by ₹ 21.33 crore. We also noticed that in all the cases the dealers did not file revised returns. Due to lack of validation control the system accepted returns having mismatched data. Verification at the front-end also corroborated the audit observation.

After we reported the cases, the Government accepted (November 2012) the audit observations and stated that the validation was introduced at the instance of audit.

2.10.21 Non-integration of modules

Modules are required to be integrated to make the IT application efficient and effective.

We found that modules of the IMPACT software were not integrated as discussed below:

- **Irregular Claim of ITC against unregistered purchases**

Under Section 22(4) of the WBVAT Act, the benefit of ITC is allowable to the extent of tax paid or payable by the registered purchasing dealer on his purchase of taxable goods from the registered dealers of West Bengal. No ITC is allowable on purchase from unregistered dealers.

We analysed the data of return for the quarter ended between December 2007 and March 2009 and found that in 1,231 cases 634 registered dealers filed returns for the period between December 2007 and March 2009 showing the details of purchases made from 399 dealers amounting to ₹ 221.40 crore. The tax paid towards the above transaction was shown as ₹ 8.98 crore. We however found that the RCs of all the selling dealers were cancelled prior to the date of purchase of goods from them. Thus due to non-integration of return module with the registration module, the purchasing dealers were able to upload return showing the unregistered purchase as registered purchase and claiming inadmissible ITC thereon. This resulted in irregular claim of ITC of ₹ 8.98 crore.

Test check of manual records in twelve¹⁵ charge offices revealed that in 133 cases inadmissible ITC of ₹ 1.20 crore was allowed by the AAs due to non-detection of the cases at the assessment stage. Two charge offices reported realisation of ₹ 1.71 lakh in four cases at the instance of audit.

¹⁵ Behala, Bhabanipur, Corporate Division, Esplanade, Ezra Street, Jorabagan, Manoharkatra, N.D. Sarani, Park Street, Purulia, Strand Road and Taltala.

After we reported the cases, the Government accepted (November 2012) the audit observations and stated that the cases had been referred to the respective charge offices for necessary action. Regarding non-integration of the modules the Government did not furnish any specific reply.

- **Understatement of import value in returns**

We found that in 318 cases VAT returns were submitted by the dealers for the return period March 2011 showing import of goods of ₹ 255.77 crore. We, however, noticed from waybill module that these dealers imported goods of ₹ 529.84 crore against 5,898 e-waybills during the said return period and submitted the utilisation thereof. Due to non-integration of the waybill module with the return module, the dealers were able to understate the import by ₹ 274.07 crore in the e-return. Test check of manual records established the audit observation.

After we reported the cases, the Government stated (November 2012) that this was due to non-cancellation of incorrectly generated e-waybills. The reply is not tenable because the dealers submitted online utilisation of the e-waybills in all the cases and the system did not detect the mismatch.

The Government may consider integrating all the modules to prevent mismatch of information provided by the dealers in different modules.

Declaration Forms Module

Declaration forms module contains details of central declaration forms issued to the registered dealers and its utilisation. E-application for obtaining central declaration forms was introduced by the DCT from January 2009. Press printed blank declaration forms were issued to the dealers' business place against their e-application. From July 2010, replacing this system the DCT introduced online issue of C and F forms. Dealers could generate e-declaration form C and F after e-filing of CST returns along with its annexure. We noticed a number of deficiencies in the declaration form module which are mentioned in the following paragraphs:

2.10.22 Irregular issue of H forms

Under section 5(3) of the CST Act, last sale or purchase of any goods preceding the export of those goods out of the territory of India is exempted from sales tax subject to production of H form. Such last sale or purchase should take place after the agreement or order of export and for complying with the order of the foreign buyer. If such last sale or purchase is made prior to the date of such agreement or order, it cannot be deemed to be in the course of export and the purchasing dealer is not eligible to get H forms in such cases.

We analysed the data of issue and utilisation of H forms and found that 603 H forms were issued to 119 dealers of 36 charge offices between April 2009 and March 2011 against 1,710 transactions involving ₹ 92.08 crore though the dates of inter-state purchases were prior to the dates of export orders by 1 to 1,096 days. Since, the purchases were made prior to the dates of export orders, the dealers were not eligible to get the forms. Manual verification of 460 H forms involving

₹ 70.36 crore corroborated the audit observation. Remaining 143 H forms involving ₹ 21.72 crore were not furnished by 10 charge offices though called for in audit. Thus, due to lack of validation control, the system allowed the dealers to file e-application for supply of H forms against inadmissible transactions. The selling dealers may get exemption of tax against those forms resulting in revenue loss to other States.

After we reported the cases, the Government accepted (November 2012) the audit observations and stated that, the problem has since been rectified.

2.10.23 Incomplete e-application for H forms

All the particulars prescribed in the e-application form (Form 2B), are required to be entered in the system. Input and validation control are essential to ensure correct and complete capturing of data in e-application form.

We found that data capturing was partial even in crucial fields like the date of export order (74 cases) the date of purchase order (1,212 cases), date of export invoice (335 cases), and the date of bill of lading

(2,468 cases) out of a total 53,334 applications made between January 2009 and March 2011. This indicated that these essential information fields were not made mandatory and consequently, the database remained incomplete.

After we reported the cases, the Government accepted (November 2012) the audit observations and stated that the problem has since been rectified.

2.10.24 Issue of excess valued H form

In column 15C of the VAT return, dealers are required to furnish the amount of purchases made under section 5(3) of the CST Act in a quarter. The dealers are eligible for H forms only to that extent. No dealer can get H forms exceeding the amount of purchases shown in the return.

We found that in seven cases VAT returns for the return periods between September 2008 and September 2009 were submitted by four dealers showing purchase of goods of ₹ 21.03 crore. However,

H forms of ₹ 35.79 crore were issued to them against their e-application for the same return periods. Thus, due to non-integration of return module and declaration form module the system failed to detect mismatch of figure in the e-return and e-application resulting in excess issue of H forms of ₹ 14.76 crore.

After we reported the cases, the Government stated (November 2012) that all the forms were issued after proper reconciliation at the charge offices. The reply is not tenable. The system not only accepted it, but also the DCT issued H forms of the excess value and the system did not have provision for non-acceptance for mismatched figures. Manual verification of records in two cases of a dealer also revealed that the figures were not reconciled by the dealer.

2.10.25 Issue of online C forms without checking the RC coverage

Under Section 8(1), 8(3) and 8(8) of the CST Act, a selling dealer shall be liable to pay tax at the concessional rate on production of C form and subject to the condition that such goods are covered under the registration certificate (RC) of the purchasing dealer of other State. Annexure - E to the CST return contains the details of inter-state purchases for which Form-C is required.

We found that provision for capturing the commodity details of purchased good was not made in Annexure - E. We also noticed that in 22,661 cases e-declaration form C of ₹ 2,937.39 crore were issued between

August 2010 and April 2011 to 2,834 dealers but commodity dealt by those dealers were not available in the database of dealers' commodity.

In the absence of these details, RC coverage of the goods could not be verified by the system and e-declaration form C were being issued without verifying the RC coverage from the dealers' profile in the Registration Module.

After we reported the cases, the Government, citing a judgment of the Hon'ble High Court of Calcutta, stated (November 2012) that Form C can be issued even if there is no coverage in the RC. The reply is not tenable because the judgment is not relevant in the instant case.

Transit Declaration Module

Under Section 80(1) of the WBVAT Act, 2003 when a goods vehicle, transporting any taxable goods enters into West Bengal, and such vehicle is bound for any place outside West Bengal, the transporter is required to make a declaration. Such declaration is called Transit Declaration (TD). The transporters are not permitted to sale or unload the goods transported in the State. Transit Declaration Module maintained data of TDs issued to the transporters and their utilisation. Issue of e-TDs was introduced by the DCT in November 2010. Transporters can generate e-TDs by furnishing required particulars in the e-application form and shall submit utilisation online. We noticed a number of deficiencies in the TD module which are detailed in the following paragraphs:

2.10.26 Absence of user authentication

User ID and passwords are the most common ways of authentication of a user's identity. The system of user id and password is required to be placed in the system to restrict unauthorised user access.

No user id and passwords were required for generation of e-TDs. Thus, in absence of user authentication, e-TDs can be generated by non-existent transporters with

the willful intention to evade tax by unauthorised import of goods into the state.

After we reported the case, the Government stated (November 2012) that a change in the TD module had already been under way for development by NIC in which a transporter's registration page would be introduced.

2.10.27 Absence of internal control of the DCT on e-TDs

Under Section 80(2) of the WB VAT Act, 2003 the transporter shall produce the e-TD and other connected documents before the commercial tax authorities only if the goods vehicle is intercepted during its movement within West Bengal. The e-TDs are endorsed only in case of interception by the commercial tax authorities.

There was no system of compulsory endorsement of e-TDs at the entry and exit checkpoints. This is fraught with risk of evasion of tax as the transporters may sell the transported goods in the State and submit false

utilisation online. Further, after the introduction of Entry Tax in the State from April 2012, the unscrupulous dealers may be encouraged to import goods through e-TDs instead of waybills leading to leakage of revenue.

After we reported the case, the Government accepted the audit observation (November 2012) and stated that though there was no legal endorsement provision, barcode printing on e-TDs had been introduced by the Department and online barcode reading facility at the time of both entry and exit was going to be introduced in two checkpoints as a pilot project with a plan to extend it to all existing checkpoints along with internal ranges and other places in near future.

2.10.28 Repeated generation of e-TDs without submitting utilisation

For generation of e-TDs, transporters are required to register the goods vehicle on the DCT's website.

However, there is no provision in the system to restrict the generation of e-TDs on subsequent occasions without submission of utilisation of the e-TDs generated on the previous occasions.

We found that e-TDs were generated repeatedly by the transporters against 12,137 vehicles without submitting utilisation of the e-TDs generated on the previous occasions. Thus, the system was not able to restrict repeated generation of e-TDs by the

transporters defaulting in submission of utilisation of e-TDs.

After we reported the cases, the Government stated (November 2012) that in the newly proposed TD module, certain restrictions are possible to be imposed.

The Government may consider introducing provisions in the system for preventing generation of e-TDs by defaulters to prevent evasion of tax.

2.10.29 Non-submission of utilisation of e-TDs

Under section 80 (5A) and (14) of the WBVAT Act, the transporters are required to submit the utilisation statement of e-TDs within two days from the date of exit of the goods from the State.

In case of non-submission of utilisation by the transporters within the prescribed time, the goods shall be presumed to be sold within the State and the transporter shall be liable to pay taxes on such goods.

We found that out of 4,47,388 e-TDs generated between November 2010 and March 2011 in 72,422 cases involving goods of ₹ 13,810 crore utilisation was not submitted by the transporters. We further observed that

no MIS report was generated by the IMPACT application to monitor such cases of non-submission of utilisation statement of e-TDs for taking appropriate action against the defaulters. Tax liability of ₹ 552.40 crore (calculated on ₹ 13,810 crore at the minimum rate of tax of 4 per cent) was involved in the aforesaid cases.

After we reported the cases, the Government accepted the audit observation (November 2012) and stated that with the introduction of proposed new e-TD module and barcode system, the matter will be taken care of.

Other Points of interest

2.10.30 Irregularities in engagement of programmers in the software development

On the recommendation of the NIC, the DCT hired 18 programmers from empanelled vendors of the National Informatics Centre Services Inc. (NICS), for development of software at an approved rate from October 2008. Administrative approval and financial sanction for hiring programmers was accorded by the Government on the condition that the programmers should have qualification of BE, B Tech or MCA and have a minimum of three years experience in development of software.

We found that out of 12 programmers, four did not have any experience in development of software while the remaining had less experience than required. Of these, one programmer did not have even the required qualification. The experience in development of software of the six programmers joined in February 2010 was not furnished though called for. Thus,

inexperienced and less qualified programmers were engaged for the software development in violation of Government order on the pay package of experienced programmers. This resulted in not only payment of higher pay package to less qualified and inexperienced programmers but also development of software with deficiencies mentioned in the foregoing paragraphs.

After we reported the case, the Government citing various communication of the NICSI¹⁶ stated (November 2012) that qualification and experience for the programmers had been kept under ‘either – or’ condition and was as per standard norms of NIC/NICSI. The reply is not tenable as in the proposal of DCT and in the administrative approval and financial sanction, qualifications and required experience was specifically defined.

2.10.31 Non-digitisation of endorsed waybills of six checkpoints

Manual waybills were issued prior to December 2010 and were required to be endorsed at the check posts. Subsequently, these endorsed waybills were to be digitised and uploaded in the central server. The digitisation work of endorsed waybills of six checkpoints Duburdih, Chichira, Dalkhola, Barobisha, Baxirhat and Haldia Dock for the year 2011-12 was entrusted to a vendor, M/s CMC Ltd in June 2011. The vendor was required to send digitised data from the check posts to the DCT for uploading in the system for the purpose of cross verification with the returns of the dealer at the time of assessment/scrutiny by the AA.

We noticed that the work of digitisation was not started by the vendor till March 2012. No action was taken by the DCT in this regard. Thus, the waybill database was incomplete to that extent. At the time of assessment/scrutiny, the AA might not be able to cross verify the import value shown in the return through the system and would have to depend on the dealers’ documents. Thus, the possibility of evasion of tax could not be ruled out.

After we reported the cases, the Government accepted the audit observation (November 2012) and stated that the process had since been started. However, no documentary evidence was provided by the Department.

2.10.32 Conclusion

Performance Audit of e-Services in the DCT revealed a number of deficiencies in the system. Documentation of the project, change management control, business continuity and disaster recovery plan were inadequate. Further, proper input and validation controls were not put in place resulting in capturing of incomplete, invalid, duplicate data in the system. Business rules were also not properly incorporated in the application software (IMPACT) and the modules were not integrated. E-TDs were being generated without any authentication in the system and also did not ensure reliability of data. As a result, IT system could not address business needs of the DCT and benefits of the computerisation sought to be achieved did not materialise.

¹⁶ National Informatics Centre Services Incorporated, a Government of India Enterprise under the NIC.

2.10.33 Summary of recommendations

Government may consider to

- Put in place proper controls in the system for capturing correct, complete, valid and reliable data in the system and to update it promptly to provide the latest information.
- Incorporate business rules specifically in the system wherever required to avoid irregular transactions through the system.
- Integrate modules wherever required to make the IT application more efficient and effective.
- Introduce the system of user authentication for generation of e-TD for ensuring data reliability.
- Put in place effective business continuity and disaster recovery plan for providing smooth services.

Sales Tax/Value Added Tax

2.11 Audit observations

Scrutiny of the assessment records of sales tax/value added tax (VAT) indicated several cases of non-observance of the provisions of the Act/Rules, non/short levy of tax/penalty/interest, besides acceptance of defective statutory forms/suppression of sales/irregular concession/incorrect application of rate of tax as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on test check carried out in audit. Similar omissions on the part of the Assessing Authorities have been pointed out by Audit earlier, but the irregularities persist and remain undetected till next audit. Therefore, there is need to improve the internal control system including internal audit so that such errors can be corrected timely and avoided in future.

Non-compliance of provisions of the Acts/Rules

As per the provisions of the WBST Act 1994, WBVAT Act, 2003 and the CST Act 1956, while finalising the assessments of a dealer, the Assessing Authorities are required to follow the provisions of the Acts and Rules and conduct required verifications to ensure the correctness of the assessment.

The West Bengal Sales Tax (WBST)/West Bengal Value Added Tax (WBVAT)/Central Sales Tax (CST) Act and Rules made thereunder provide for:

- Determination of turnover after allowing permissible deductions;
- Levy of tax/interest/penalty at the prescribed rate;
- Allowing exemption of turnover subject to fulfillment of the prescribed conditions; and
- Allowing input tax credit as admissible.

We noticed that the Assessing Authorities (AAs) while finalising the assessments did not observe some of the provisions which resulted in non/short levy/non-realisation of tax/interest/penalty of ₹ 66.91 crore as mentioned in the following paragraphs.

2.12 Short determination of turnover of sales

Sections 2(40) and 17 of the WBST Act, 1994 and sections 2(55) and 16 of the West Bengal Value Added Tax (WBVAT) Act, 2003 prescribe that turnover of sales (TOS) in relation to any period means the aggregate of the sale prices or parts of sale prices receivable by a dealer, or if a dealer so elects, actually received by the dealer during such period. A dealer is liable to pay tax at prescribed rates on the amount of such turnover after allowing permissible deductions.

(1) We found in Corporate Division (CD 2001- CD 2010) in Kolkata between September 2010 and December 2010 that in three cases under the WBST Act the AAs between June 2007 and December 2009 incorrectly determined turnover of sales (TOS) for the assessment period 2004-05, at ₹ 625.42 crore instead of ₹ 644.50 crore. This resulted in short

determination of TOS by ₹ 19.08 crore and consequent short levy of tax of ₹ 3.01 crore as detailed in the following table:

Table 2.11.1 – Short determination of turnover of sales

(₹ in lakh)

Sl No.	Nature of irregularity	No. of cases	TOS to be determined	TOS determined by AAs	Short determination of TOS	Short levy of tax
1.	Non-inclusion of sales of plant and machinery	1	20,958.01	20,596.37	361.64	33.27
2.	Excess deduction of inter-unit transfer	1	23,478.42	22,963.52	514.90	59.21
3.	Allowance of inadmissible discounts	1	20,013.19	18,981.62	1,031.57	208.89
Total		3	64,449.62	62,541.51	1,908.11	301.37

After we pointed out the cases, the department stated (January 2011) in one case involving ₹ 33.27 lakh that the case is pending with the West Bengal Commercial Taxes Appellate and Revisional Board and the audit observation would be considered at the revisional forum; but did not furnish further report. In the remaining two cases, the department did not furnish any reply (December 2012).

The Government accepted (October 2012) the audit observation and stated that detailed reply would be submitted shortly; however their detailed reply is awaited (December 2012).

(2) We found in eight¹⁷ charge offices between May 2010 and September 2011 that in 20 cases assessed under the WBVAT Act between June 2007 and June 2010 for the assessment periods between 2005-06 and 2006-07, the AAs

¹⁷ Ballygunge, Corporate Division (CD 2001-CD 2010), Esplanade, Ezra Street, New Market, Park Street, Salt Lake and Taltala.

incorrectly determined TOS at ₹ 788.15 crore instead of ₹ 827.81 crore due to errors/omissions/irregularities. These resulted in short determination of TOS by ₹ 39.66 crore and consequent short levy of tax of ₹ 2.33 crore as detailed in the following table:

Table 2.11.2 – Short determination of turnover of sales

(₹ in lakh)

Sl. No.	Nature of irregularity	No. of cases	TOS to be determined	TOS determined by AAs	Short determination of TOS	Short levy of tax
1.	Non-inclusion of turnover admitted by the dealers/ determined by Internal Audit Wing	8	40,165.66	38,575.85	1,589.81	90.99
2.	Non-inclusion of amount of carriage outward and sales of vehicle, plant and machinery etc.	3	1,983.98	1,125.06	858.92	40.70
3.	Non-inclusion of non-reconciled stock transfer/ import value of goods	3	7,418.87	6,921.77	497.10	37.79
4.	Underassessment of inter-State sales and intra-State sales	2	2,464.64	1,950.76	513.88	20.56
5.	Non-inclusion of excise duty	1	2,182.62	1,883.95	298.67	19.33
6.	Short disclosure of closing stock	1	20,724.97	20,602.00	122.97	15.37
7.	Excess deduction towards tax free goods and allowance of double deduction towards sale of DEPB ¹⁸	2	7,840.08	7,755.77	84.31	8.64
Total		20	82,780.82	78,815.16	3,965.66	233.38

After we pointed out the cases, the department accepted the audit observations (between December 2010 and October 2011) in 13 cases involving ₹ 1.56 crore; but did not furnish any report on levy and realisation of tax. In the remaining seven cases, the department did not furnish any reply/specific reply (December 2012).

The Government accepted (October 2012) the audit observation and stated that detailed reply would be submitted shortly; however their detailed reply is awaited (December 2012).

¹⁸ Duty Entitlement Pass Book.

2.13 Non-levy of surcharge and additional surcharge

Under sections 16 and 16A of the WBST Act, 1994 every dealer is liable to pay surcharge and additional surcharge at the rate of 10 *per cent* and five *per cent* respectively on the amount of sales tax payable by him. Further, under section 9(2) of the CST Act, 1956 the authorities empowered to assess, re-assess, collect and enforce payment of tax under the WBST Act are also empowered to assess, re-assess, collect and enforce payment of tax under the CST Act.

We found in Corporate Division (CD 2001 - CD 2010) in Kolkata in August 2010 and February 2011 that in two cases assessed in June 2007 under the CST Act for the assessment period 2004-05, the AAs levied tax of ₹ 1.08 crore at the rate of 15 *per cent* on inter-State sales of goods of ₹ 7.22 crore. However, surcharge and additional surcharge though leviable were not levied. This resulted in non-levy of surcharge and additional surcharge of ₹ 16.24 lakh.

After we pointed this out, the department accepted (February 2011) the audit observation in one case involving ₹ 12.89 lakh and stated that a revision proposal was being sent to the higher authority, but did not furnish report on revision. In the remaining case the department did not furnish any reply (December 2012).

The Government accepted (October 2012) the audit observation and stated that detailed reply would be submitted shortly; however their detailed reply is awaited (December 2012).

2.14 Non-levy of additional sales tax

Section 18A of the West Bengal Sales Tax (WBST) Act, 1994 prescribes that an additional sales tax at the rate of 20 *per cent* shall be levied on the sales tax payable by a dealer in respect of sales of goods specified in Part B of Schedule IV other than furnace oil and kerosene oil. Further, under section 9(2) of the Central Sales Tax (CST) Act, 1956, the authorities empowered to assess, re-assess, collect and enforce payment of tax under the WBST Act are also empowered to assess, re-assess, collect and enforce payment of tax under the CST Act. Section 8(2)(b) of the CST Act provides that in case of inter-State sales made to unregistered dealers of goods other than declared goods, tax shall be leviable at the rate of 10 *per cent* or at the rate applicable to the sale or purchase of such goods inside the State, whichever is higher.

We found in Corporate Division (CD 2001 - CD 2010) in Kolkata in August 2010 that in two cases assessed in June 2007 for the assessment period 2004-05 under the CST Act, the AAs levied tax of ₹ 115.88 crore on inter-State sales made to unregistered dealers of goods specified in Part B of Schedule IV other than furnace oil and kerosene oil. However, additional sales tax though leviable was not levied. This resulted in non-levy of additional sales tax of ₹ 23.18

crore.

After we reported the cases, the department admitted (February 2011 and January 2012) the audit observations and in one case involving ₹ 22.92 crore stated that a proposal for revision had been sent; but did not furnish any report on revision/ realisation of tax (December 2012).

The Government accepted (October 2012) the audit observation and stated that detailed reply would be submitted shortly; however their detailed reply is awaited (December 2012).

2.15 Non/short levy of interest

Sections 31 and 32 of the WBST Act, 1994 and sections 33 and 34 of the WBVAT Act, 2003 prescribe that if a dealer who

- furnishes a return of any period but fails to make full payment of tax payable for such period by prescribed date; or
- fails to furnish a return of any period and after assessment it is found that full amount of tax payable for such period have not been paid by him by prescribed date; or
- fails to deduct inadmissible input tax credit (ITC) from the amount of ITC for a period by prescribed date; or
- fails to make payment of the tax demanded after assessment by the date specified in the demand notice;

he shall be liable to pay interest at the rate of one per cent per month.

1. We found in two¹⁹ charge offices in February and December 2010 that in two cases assessed in June 2007 and November 2008 for the assessment period 2004-05 under the WBST Act, the AAs did not levy interest of ₹ 21.15 lakh though the dealers failed to pay the tax within the prescribed dates. This resulted in non-levy of interest of ₹ 21.15 lakh.

After we pointed out the cases, the department admitted

(September 2011) the audit observation in one case involving ₹ 19.82 lakh and stated that modified demand notice was issued; but did not furnish any report on realisation. In the remaining case, the department did not furnish any reply (December 2012).

The Government accepted (October 2012) the audit observation and stated that detailed reply would be submitted shortly; however their detailed reply is awaited (December 2012).

2. We found in 16²⁰ charge offices between March 2010 and September 2011 that in 34 cases assessed between September 2008 and July 2010 for the assessment periods between 2005-06 and 2007-08 under the WBVAT Act, the AAs in 31 cases did not levy interest of ₹ 2.71 crore and in other three cases levied interest short by ₹ 27.82 lakh on non-payment of tax by prescribed/ specified dates, failure to deduct inadmissible ITC and commencement of certificate proceedings. This resulted in non/short levy of interest of ₹ 2.99 crore.

After we pointed out the cases, the department admitted (between September 2011 and May 2012) the audit observations in 25 cases involving ₹ 1.19 crore; but did not furnish any report on realisation. The department in one case involving ₹ 36.95 lakh stated (June 2011) that the amount of tax payable was

¹⁹ Corporate Division (CD 2001 – CD 2010) and Esplanade.

²⁰ Ballygunge, Beadon Street, Bhowanipore, Bowbazar, Corporate Division (CD 2001 – CD 2010), Coochbehar, Esplanade, Ezra Street, Jorabagan, Park Street, Salt Lake, Serampore, Siliguri, Suri, Taltala and Ultadanga.

not admitted by the dealer and thus, interest was not leviable. The reply is not tenable since the dealer did not furnish his returns and after assessment it was found that the amount of tax payable by him was not paid. In the remaining eight cases involving ₹ 1.43 crore, the department did not furnish any reply/specific reply (December 2012).

The Government accepted (October 2012) the audit observation and stated that detailed reply would be submitted shortly; however their detailed reply is awaited (December 2012).

2.16 Irregular allowance of deferment of tax and non-realisation of deferred tax

Section 40 of the WBST Act, 1994 and Rule 112 of the WBST Rules, 1995 prescribe that a dealer who has enjoyed the benefit of deferment of payment of tax, shall pay the full amount of deferred tax within 15 days from the end of the deferment period. Further, rule 181(1) of the Rules prescribes that the AA shall specify in the demand notice the amount of tax which is eligible for deferment and the date on which such deferred tax shall be paid.

Under the deferment scheme, an eligible dealer would collect the tax levied on the sales of manufactured goods and retain it for a specified period (deferment period) and thereafter, the tax so retained shall be deposited into Government account.

1. We found in Corporate Division²¹ in Kolkata in December 2010 that in March 2010 in one case for the assessment period 2002-03, the AA allowed deferment of payment of tax of ₹ 74.49 lakh, of which deferment of payment of tax of ₹ 53.31 lakh had expired in December 2009. But the AA did not take note of this and allowed the deferment in full. This resulted in irregular allowance of deferment of payment of tax of ₹ 53.31 lakh.

The Government accepted (October 2012) the audit observation and stated that detailed reply would be submitted shortly; however their detailed reply is awaited (December 2012).

2. We found in Corporate Division²² in Kolkata in April and August 2011 that in three cases the dealers did not pay the deferred tax of ₹ 2.68 crore for the assessment periods between 1999-2000 and 2002-03 though the deferment periods had expired between 2006-07 and 2009-10 and as such, they were required to pay the deferred tax between April 2007 and April 2010. We noticed that the AAs did not specify in the demand notices the dates on which such deferred tax should be paid and, no record/register was maintained to monitor the realisation of deferred tax dues after expiry of deferment period. Thus, non-compliance of the provisions of the Acts and Rules and lack of internal control mechanism resulted in non-realisation of Government revenue of ₹ 2.68 crore.

²¹ CD 2001 – CD 2010.

²² CD 2011 – CD 2020.

After we pointed out the cases, the department admitted (April 2012) the audit observations in two cases involving ₹ 2.27 crore and stated that ₹ 3.24 lakh was realised and the remaining amount would be realised; but did not furnish report on realisation of the balance amount. In another case involving ₹ 40.73 lakh, the department admitted (November 2011) the audit observation; but did not furnish any report on realisation (December 2012).

The Government accepted (October 2012) the audit observation and stated that detailed reply would be submitted shortly; however their detailed reply is awaited (December 2012).

2.17 Irregular allowance of remission of tax

Section 41 of the WBST Act, 1994 prescribes that a manufacturer dealer who holds an Eligibility Certificate (EC) issued by the Commercial Tax Directorate may avail the benefit of remission of tax for a specified period. However, the dealer shall not be eligible for remission of tax on goods which are not specified in his EC. Further, in a circular issued in October 2002, the Commissioner of Commercial Taxes instructed that the benefit of remission of tax will be limited to the items and respective production capacity specified in the EC.

We found in Corporate Division²³ in Kolkata between November 2009 and January 2011 that in four cases between June 2005 and June 2009 for the assessment periods between 2002-03 and 2004-05, the AAs in three cases allowed remission of tax of ₹ 3.33 crore on sales of “coal tar pitch”

instead of ₹ 1.14 crore as calculated by audit upon the specified production capacity in the EC and in one case the AA allowed remission of tax of ₹ 14.55 lakh on sales of “mustard oil” which was not included in the items specified in his EC. These resulted in irregular allowance of remission of tax of ₹ 2.33 crore.

After we pointed out the cases, the department admitted (February 2012) the audit observation in one case involving ₹ 84.80 lakh; but did not furnish any report on realisation. In the remaining three cases the department did not furnish any reply (December 2012).

The Government accepted (October 2012) the audit observation and stated that detailed reply would be submitted shortly; however their detailed reply is awaited (December 2012).

²³ CD 2001 – CD 2010 and CD 2011 – CD 2020.

2.18 Non-levy of minimum penalty on evaded tax

Section 76(1) of the WBST Act, 1994 prescribes that if a dealer has concealed any turnover or furnished incorrect particulars thereof with intent to reduce the amount of tax payable by him, the AA in addition to tax, may impose by way of penalty a sum which shall not be less than one and half times and not more than thrice the amount of tax that would have been avoided by him.

We found during test check of 800 assessment cases in the Corporate Division (CD 2001- CD 2010) between August 2010 and January 2011 that in four cases between June 2007 and September 2010 for assessment periods 2004-05 and 2005-06 respectively under the

WBST Act, the AAs detected concealment of sales/import of commodities valuing ₹ 4.76 crore by the dealers with the intent to evade payment of tax of ₹ 71.09 lakh.

But the AAs while finalising the assessments did not levy minimum penalty for such concealment. This resulted in non-levy of minimum penalty of ₹ 1.07 crore.

After we reported the cases, the department in November and December 2011 admitted the audit observations in two cases involving ₹ 43.69 lakh and stated that proceedings for imposition of penalty had been started in one case and a proposal for revision had been sent to the higher authority in another case; but did not furnish any report on realisation/revision. In the remaining two cases involving ₹ 62.93 lakh, the department did not furnish any reply/specific reply (December 2012).

The Government accepted (October 2012) the audit observation and stated that detailed reply would be submitted shortly; however their detailed reply is awaited (December 2012).

2.19 Non-raising of demand

Rule 190 of the WBST Rules, 1995 prescribes that where any amount of tax, penalty or interest due from a dealer is modified in consequence of an order passed on re-assessment, re-determination, appeal, review or revision, the AA shall serve upon such dealer a notice in Form 33 specifying therein the modified amount of tax, penalty or interest remaining due from him. The AA shall also specify, in Form 33, the date by which a receipted copy of challan as proof of payment of such amount is to be furnished.

We found in Corporate Division (CD 2001-CD 2010) in Kolkata in January 2011 that in one case in October 2009 for the assessment period 2004-05 under the WBST Act, the AA assessed the amount of tax, penalty and interest due from the dealer at ₹ 45.78 lakh and fixed 30 December 2009 for production of challan. However, demand notice in Form 33 was not served

upon the dealer till January 2011. This resulted in non-raising of demand of ₹ 45.78 lakh.

After we reported the case, the department admitted (February 2011) the audit observation regarding non-raising of demand and stated that the dealer had filed an application for revision before the West Bengal Appellate and Revisional Board (WBARB) in December 2009 and the matter would be taken care of after receiving the order of the WBARB. The reply is not tenable since the AA should have issued demand notice to the dealer in Form 33 for the modified amount of tax dues under rule 190 of the WBST Rules.

The Government stated (October 2012) that detailed reply would be submitted shortly; however their detailed reply is awaited (December 2012).

2.20 Non/short levy of purchase tax

Section 12 of the WBVAT Act, 2003 provides that a registered dealer is liable to pay purchase tax at prescribed rates on all his unregistered purchases of goods which are not directly related to his business or fall in the Negative List of the Act.

We found in four²⁴ charge offices between August 2009 and May 2011 that in five cases between June 2008 and June 2010 for the assessment periods 2005-06 and 2007-08 under the WBVAT Act, the AAs incorrectly assessed the taxable purchases at ₹ 20.95 lakh instead of ₹ 2.13 crore. This was due to non-inclusion of unregistered purchases shown by the dealers in their returns and annexure in their taxable purchases. This resulted in underassessment of taxable purchases of ₹ 1.92 crore and consequent non/short levy of purchase tax of ₹ 13.46 lakh.

After we reported the cases, the department accepted (in June and September 2011) the audit observations in three cases involving ₹ 10.23 lakh; but did not furnish any report on realisation. In the remaining two cases involving ₹ 3.23 lakh, the department did not furnish any reply (December 2012).

The Government accepted (October 2012) the audit observation and stated that detailed reply would be submitted shortly; however their detailed reply is awaited (December 2012).

²⁴ Corporate Division (2001-2010), Ezra Street, Park Street and Taltala.

2.21 Short levy of tax on contractual transfer price

Sections 14 and 18 of the WBVAT Act, 2003 prescribe that any transfer of property in goods involved in the execution of works contract shall be deemed to be a sale by the person making such transfer and tax at prescribed rates shall be levied on his contractual transfer price (CTP) after allowing deductions towards labour charges, service charges and payments to sub-contractors etc. Further, where the taxable CTP for application of proper rate of tax is not ascertainable from the books of accounts maintained by the dealer or where a dealer does not maintain books of accounts worthy of credence, tax on CTP should be assessed according to the table given under Rule 30(2) of the WBVAT Rules, 2005.

We found in three²⁵ charge offices between September 2010 and August 2011 that in three cases under the WBVAT Act between November 2008 and June 2010 for the assessment periods between 2005-06 and 2007-08, the AA in one case allowed deduction of labour charges of ₹ 1.93 crore instead of ₹ 2.02 lakh from CTP as disclosed in books of accounts of the dealer which resulted in excess deduction of labour

charges of ₹ 1.91 crore. In the remaining two cases, the AAs allowed deductions towards labour charges of ₹ 201.10 crore and payments to sub-contractors of ₹ 23.89 crore from gross CTP of ₹ 356.75 crore though the dealers did not produce supporting documents or books of accounts. Hence, tax on gross CTP of ₹ 356.75 crore was chargeable after allowing deductions as per the table²⁶ under Rule 30(2). These omissions resulted in excess allowance of deduction from CTP / irregular levy of tax on CTP and consequential short levy of tax of ₹ 18.66 crore.

After we pointed out the cases, the department admitted (May and September 2012) the audit observation in two cases involving ₹ 18.42 crore; but did not furnish any report on levy/realisation of tax. In the remaining one case, the department did not furnish any specific reply (December 2012).

The Government accepted (October 2012) the audit observation and stated that detailed reply would be submitted shortly; however their detailed reply is awaited (December 2012).

²⁵ Corporate Division (CD 2001- CD 2010), Durgapur and Esplanade.

²⁶ The table prescribes percentage of deduction allowable (for labour, service and other like charges) from gross CTP and rates of tax leviable on remaining taxable CTP depending upon the type of the works contract.

2.22 Application of incorrect rate of tax

Section 16(2) of the WBVAT Act, 2003 prescribes that the rate of tax on the goods/commodities sold depends on classification of goods in the schedule. Section 8(2) of the CST Act, 1956 provides that in case of goods other than declared goods, inter-State sale made to unregistered dealers or not supported by declaration in form C tax is leviable at the rate of 10 per cent or at the rate applicable to the sale or purchase of such goods inside the State, whichever is higher.

We found during test check of 2,126 assessment cases in four charge offices²⁷ between February 2010 and September 2011 that in seven cases between May 2008 and June 2010 for the assessment periods from 2005-06 to 2007-08, the AAs in five cases levied tax on sales of ₹ 12.11 crore at the rate of four per cent instead of 12.5 per cent due to misclassification of goods. In two other cases the AAs levied tax at the rate of four and ten per cent instead of 12.5 per cent under the CST Act on inter-State sales of ₹ 2.13 crore to unregistered dealers or sales not supported by declaration forms. Thus, application of incorrect rate of tax resulted in short levy of tax of ₹ 1.05 crore.

After we reported the cases, the department admitted (between December 2010 and September 2011) the audit observations in three cases involving ₹ 31.85 lakh but did not furnish report on levy and realisation of tax. In two cases involving ₹ 54.71 lakh the department stated in March and September 2011 that proposals for *suo motu* revision were sent but did not furnish any report on revision. In the remaining two cases involving ₹ 18.53 lakh the department did not furnish any specific reply (December 2012).

The Government accepted (October 2012) the audit observation and stated that detailed reply would be submitted shortly; however their detailed reply is awaited (December 2012).

²⁷ Asansol, Ballygunge, New Market and Salt Lake.

2.23 Irregular allowance of ITC

Section 22 of the WBVAT Act, 2003 prescribes that a registered dealer can avail the benefit of Input Tax Credit (ITC) to the extent of tax paid or payable by him in respect of purchases of taxable goods from registered dealers of West Bengal. However, the ITC shall not be allowed on purchase of capital goods or goods specified in the Negative List of the Act. Further, ITC is not allowable to a registered dealer who does not receive an original invoice (containing the prescribed particulars) or where the original invoice is not available with the dealer.

We found in nine²⁸ charge offices between June 2010 and August 2011 that in 22 cases between July 2008 and February 2011 for assessment periods between 2005-06 and 2007-08, the AAs allowed ITC of ₹ 19.78 crore instead of ₹ 15.51 crore. Such excess allowance of ITC was attributable to non-verification of purchase documents, non-furnishing of purchase documents by dealers, on

purchase of capital goods or goods specified in the Negative List, on purchases of goods from non-existent dealers or dealers whose registrations were cancelled and non-consideration of the reports of the VAT Audit Wing regarding inadmissibility of ITC. Such omissions/mistakes/irregularities resulted in irregular allowance of ITC of ₹ 4.27 crore.

After we pointed out the cases, the department admitted (between September 2010 and January 2012) the audit observations in 11 cases involving ₹ 1.86 crore; but did not furnish any report on levy and realisation of tax. In the remaining cases, the department did not furnish any reply/specific reply (December 2012).

The Government accepted (October 2012) the audit observation and stated that detailed reply would be submitted shortly; however their detailed reply is awaited (December 2012).

2.24 Short levy of tax due to mistake in computation

Under the WBVAT Act, 2003, tax is to be computed at the rates applicable from time to time along with interest and penalty, if any, on the goods sold.

We found in seven²⁹ charge offices between February 2010 and September 2011 that in 10 cases under the WBVAT Act between May 2009 and June 2010 for the assessment periods between 2005-06 and 2007-08, the AAs assessed tax at ₹ 30.30

crore instead of ₹ 33.60 crore due to arithmetical mistakes in computing the tax payable. This resulted in short levy of tax of ₹ 3.30 crore.

²⁸ Armenian Street, Asansol, Corporate Division, Cossipore, Durgapur, Esplanade, Ezra Street, Park Street and Ultadanga.

²⁹ Ballygunge, Bhowanipore, Corporate Division (CD 2001 - CD 2010), Durgapur, Esplanade, Salt Lake and Siliguri.

After we reported the cases, the department admitted (between December 2010 and September 2012) the audit observations in nine cases involving ₹ 3.29 crore; but did not furnish any report regarding levy and realisation of tax. In the remaining one case involving ₹ 1.15 lakh, the department did not furnish specific reply (December 2012).

The Government accepted (October 2012) the audit observation and stated that detailed reply would be submitted shortly; however their detailed reply is awaited (December 2012).

2.25 Irregular allowance of compounded rate of tax

Rules 38(4) and 39(4) of the WBVAT Rules, 2005 prescribe that a registered dealer who intends to avail the benefit of paying tax at compounded rate in lieu of normal rate shall have to exercise such option in Form 16 before the appropriate authority within 90 days from the date of commencement of the assessment year.

During test check of assessment records in seven³⁰ charge offices between August 2010 and June 2011 we found that in 11 cases between May and June 2009 and three deemed assessment cases for assessment periods between 2006-07 and 2007-08, the AAs levied tax of ₹ 12.82 lakh at compounded rate³¹ instead of ₹ 67.03 lakh at normal rate on turnover of sales of ₹ 8.48 crore though the dealers were not eligible for such benefit due to non/delayed submission of Form 16. This resulted in short levy and consequent short payment of tax of ₹ 54.21 lakh.

After we pointed out the cases, the department admitted (between November 2010 and December 2011) the audit observations in nine cases involving ₹ 45.09 lakh; but did not furnish any report on realisation of tax. In the remaining five cases involving ₹ 9.12 lakh, the department did not furnish any specific reply (December 2012).

The Government accepted (October 2012) the audit observation and stated that detailed reply would be submitted shortly; however, their detailed reply is awaited (December 2012).

³⁰ Armenian Street, Asansol, Ballygunge, Bhowanipore, Esplanade, Jalpaiguri and Rajakatra.

³¹ @ 0.25% under Rule 38(3) and @ 2% under Rule 39(3) of the WBVAT Rules, 2005.