



CHAPTER – II
COMMERCIAL TAX

EXECUTIVE SUMMARY

What we have highlighted in this Chapter

In this Chapter we present a paragraph on **Refund under Section 37 of Madhya Pradesh VAT Act, 2002** and other irregularities involving revenue implication of ₹ 23.75 crore selected from observations noticed during our test check of records relating to assessment and collection of Commercial Tax in the office of the Commercial Tax Officers (CTOs) and Regional Assistant Commissioners (RACs), where we found that the provisions of the Acts/Rules were not observed.

It is a matter of concern that similar omissions have been pointed out by us repeatedly in the Audit Reports for the past several years, but the Department has not taken corrective action.

Trend of receipts

In 2012-13, the collection from Taxes on sales, trade etc. increased by 18.69 *per cent* over the previous year which was attributed by the Department to better tax compliance.

Status of compliance to outstanding Inspection Reports (2007-08 to 2011-12)

During the period from 2007-08 to 2011-12, through our Inspection Reports we had pointed out non/short levy, non/short realisation, underassessment/loss of revenue due to incorrect exemption, concealment/suppression of turnover, application of incorrect rate of tax, incorrect computation etc., with revenue implication of ₹ 920.05 crore in 5,360 cases. Of these, the Department/Government has accepted audit observations in 2,478 cases involving ₹ 239.57 crore and had since recovered ₹ 3.98 crore in 434 cases.

Status of Compliance to Inspection Reports 2012-13

In 2012-13 we test checked the records of 115 units relating to Commercial Tax and found underassessment of tax and other irregularities involving ₹ 91.56 crore in 1,067 cases and an amount of ₹ 7.53 lakh recovered in three cases.

The Department accepted underassessment and other deficiencies of ₹ 55 lakh in 14 cases, which were pointed out by us during the year 2012-13.

Our conclusion

The Department needs to initiate immediate action to recover non/short levy of entry tax/purchase tax, incorrect grant of exemption, non recovery of tax from closed units, non-realisation of professional tax, non/short levy of penalty, non-levy of tax on transporters, non/short levy of tax on sale without declaration forms etc., pointed out by us.

CHAPTER – II COMMERCIAL TAX

2.1 Tax administration

The Principal Secretary, Commercial Tax Department is the administrative head of the Department at the Government level. The Commercial Tax Department functions under overall control of the Commissioner of Commercial Tax (CCT) assisted by a Director. The Department is divided in four zones, each headed by a Zonal Additional Commissioner. Each zone comprises of divisional offices headed by 15 divisional Deputy Commissioners (DCs). Under these divisions, there are 80 circle offices and 33 Regional assistant commissioner offices headed by the Commercial Tax Officers/Assistant Commissioners (CTOs/ACs). Levy and collection of Commercial Tax which includes Sales Tax/Value Added Tax, Central Sales Tax, Entry Tax, Profession Tax and Luxury Tax is administered under the provisions of the following Acts and Rules and notifications issued thereunder:

- Madhya Pradesh Value Added Tax (MPVAT) Act, 2002;
- Madhya Pradesh Value Added Tax (MPVAT) Rules, 2006;
- Madhya Pradesh *Vanijyik Kar Adhiniyam*, 1994 (No. 5 of 1995);
- Madhya Pradesh Commercial Tax Rules, 1995;
- Central Sales Tax (CST) Act, 1956;
- CST (Registration and Turnover) Rules, 1957;
- Madhya Pradesh Sales Tax (Central) Rules, 1957;
- Madhya Pradesh *Sthaniya Kshetra Me Mal Ke Pravesh Par kar Adhiniyam*, 1976;
- Madhya Pradesh *Sthaniya Kshetra Me Mal Ke Pravesh Par kar Niyam*, 1976;
- Madhya Pradesh Profession Tax Act, 1995;
- Madhya Pradesh Profession Tax Rules, 1995;
- Madhya Pradesh Luxury Tax Act, 1988; and
- Madhya Pradesh Luxury Tax Rules, 1988.

2.2 Trend of revenue from taxes on sales, trade etc.

According to para A-15 read with para 6.6.1 of Madhya Pradesh Budget Manual (Manual), 2012 the estimates of revenue receipts should include/project the actual demand including arrears due for the past years and probability of their realisation during the year. According to Rule 192 of Madhya Pradesh Financial Code, the Finance Department is required to prepare the estimates of revenue after obtaining necessary information/data from the respective Department/Government.

Actual receipts from Taxes on Sales, Trade etc. during the period 2008-09 to 2012-13 along with the total tax receipts during the same period are exhibited in the table no. 2.1:

Table No. 2.1

(₹ in crore)

Year	Revised budget estimates	Actual receipts	Variation excess (+) / shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual VAT/Taxes on sales, trade receipts vis-a-vis total tax receipts
2008-09	6,700.00	6,842.99	(+) 142.99	(+) 2.13	13,613.50	50.27
2009-10	7,894.11	7,723.82	(-) 170.29	(-) 2.16	17,272.77	44.72
2010-11	10,020.00	10,256.76	(+) 236.76	(+) 2.36	21,419.33	47.89
2011-12	12,000.00	12,516.73	(+) 516.73	(+) 4.31	26,973.44	46.40
2012-13	14,500.00	14,856.30	(+) 356.30	(+) 2.46	30,581.70	48.58

(Source: Budget Estimates and Finance Accounts of the Government of Madhya Pradesh)

It may be seen that there was an increasing trend in actual receipts during the years from 2008-09 to 2012-13, the percentage of variation between the Revised Estimates and the actual ranged between (-) 2.16 per cent and 4.31 per cent.

In 2012-13, the collection from Taxes on Sales, Trade etc. increased by 18.69 per cent over the previous year which was attributed by the Department to better tax compliance.

2.3 Analysis of Arrears

Position of arrears of Taxes on Sales, Trade etc., during the period 2008-09 to 2012-13, as furnished by the Commercial Tax Department, is given in the table no. 2.2:

Table No. 2.2

(₹ in crore)

Year	Opening balance	Addition during the year	Total	Recovery during the year	Closing balance	Target of recovery
2008-09	571.54	1,086.23	1,657.77	1,111.73	546.04	The Department stated that the recovery officers were being instructed to recover the previous year arrear.
2009-10	546.04	1,206.32	1,752.36	1,165.41	586.95	
2010-11	586.95	1,214.02	1,800.97	1,271.17	529.80	
2011-12	529.80	1,667.19	2,196.99	1,679.06	517.93	
2012-13	517.93	1,748.39	2,266.32	1,708.57	557.75	

(Source : Information furnished by the Department)

Out of ₹ 557.75 crore pending as on March 2013, an amount of ₹ 56.93 crore was pending in the courts and ₹ 5.05 crore was pending in appeals. We observed that there is no system of fixing recovery target to the Assessing Authorities for liquidation of arrears.

We recommend that the Department should take appropriate steps to reduce the arrears by fixing the target for recovery.

2.4 Arrears in assessment

The details of assessments relating to Taxes on sales, trade etc., Profession Tax, Entry Tax, Luxury Tax, Tax on works contracts pending at the beginning of the year, additional cases becoming due for assessment during the year, cases disposed of during the year and pending cases at the end of each year during 2010-11, 2011-12 and 2012-13, as furnished by the Commercial Tax Department, are mentioned in the table no. 2.3:

Table No. 2.3

Name of tax	Year	Opening balance	New cases due for assessment during the year	Total assessments due	Cases disposed during the year	Balance at the end of the year	Percentage of column 6 to 5
1	2	3	4	5	6	7	8
Taxes on sales, trade etc.	2010-11	2,44,922 ¹	2,53,990	4,98,912	3,74,824	1,24,088	74.68
	2011-12	1,24,088	2,94,265	4,18,353	3,30,229	88,124	78.94
	2012-13	88,124	2,32,539	3,20,663	2,00,552	1,20,111	62.54
Profession tax	2010-11	1,06,678	88,196	1,94,874	1,27,626	67,248	65.49
	2011-12	67,248	1,19,154	1,86,402	1,22,991	63,411	65.98
	2012-13	63,411	89,708	1,53,119	1,05,945	47,174	69.19
Entry tax	2010-11	1,51,732	2,00,164	3,51,896	2,62,535	89,361	74.61
	2011-12	89,361	2,27,878	3,17,239	2,55,173	62,066	80.44
	2012-13	62,066	1,93,494	2,55,560	1,64,443	91,117	64.35

¹ The figure was not tallying with last year's closing balance where it was shown as 2,47,922. Now the Department had reconciled the figures and reported that the figures of opening balance is 2,44,922.

1	2	3	4	5	6	7	8
Luxury tax	2010-11	638	3,619	4,257	3,234	1,023	75.97
	2011-12	1,023	308	1,331	911	420	68.44
	2012-13	420	1,337	1,757	871	886	49.57
Tax on works contracts	2010-11	2,631	6,704	9,335	6,593	2,742	70.63
	2011-12	2,742	5,328	8,070	5,450	2,620	67.53
	2012-13	2,620	7,371	9,991	6,305	3,686	63.11

Thus, there has been decrease in disposal of assessment cases relating to taxes on sales, entry tax and luxury tax during 2012-13 as compared to the previous year.

We recommend that the Department should take appropriate steps to increase the disposal of the cases.

2.5 Cost of collection

The gross collection from Taxes on Sales, Trade etc., expenditure incurred on its collection and the percentage of expenditure to gross collection during the years 2010-11, 2011-12 and 2012-13 along with the relevant all-India average percentage of expenditure on collection for the relevant preceding year are mentioned in the table no. 2.4:

Table No. 2.4

(₹ in crore)

Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage of expenditure on collection for the previous year
2010-11	10,256.76	98.10	0.96	0.96
2011-12	12,516.73	111.36	0.89	0.75
2012-13	14,856.30	129.32	0.87	0.83

(Source: Finance Accounts of the Government of Madhya Pradesh)

During the year 2011-12 and 2012-13, the percentage of expenditure on collection in respect of taxes on Sales, trade etc. was marginally higher than the all-India average percentage.

2.6 Impact of audit

2.6.1 Status of compliance to Audit Reports (2007-08 to 2011-12)

In the Audit Reports 2007-08 to 2011-12, we had pointed out non/short levy, non/short realisation, underassessment/loss of revenue due to incorrect exemption, concealment/suppression of turnover, application of incorrect rate of tax, incorrect computation etc., with revenue implication of ₹ 377.05 crore in 72 paragraphs. Of these, the Department/Government had accepted audit observations in 55 paragraphs involving ₹ 70.05 crore and had since recovered ₹ 9.18 crore in 32 paragraphs. The details are shown in the table no. 2.5:

Table No. 2.5

(₹ in crore)

Year of Audit Report	Number of paragraphs	Money value	No. of accepted paragraphs	Money value of accepted paragraphs	No. of paragraphs against which recovery made	Amount recovered up to March 2013
2007-08	16	98.69	13	11.10	11	4.43
2008-09	16	19.48	13	5.90	11	2.62
2009-10	15	112.71	11	4.00	8	2.02
2010-11	14	85.11	10	1.53	Nil	Nil
2011-12	11	61.06	8	47.52	2	0.08
Total	72	377.05	55	70.05	32	9.18

The percentage of recovery as compared to the accepted cases has been very low during the last five years.

We recommend that the Government should take appropriate steps to improve the recovery position at least against the accepted cases.

2.6.2 Status of compliance to outstanding Inspection Reports (2007-08 to 2011-12)

During the period 2007-08 to 2011-12, through our Inspection Reports (IRs), we had pointed out non/short levy, non/short realisation, underassessment/loss of revenue due to incorrect exemption, concealment/suppression of turnover, application of incorrect rate of tax, incorrect computation etc., with revenue implication of ₹ 920.05 crore in 5,360 cases. Of these, the Department/ Government had accepted audit observations in 2,478 cases involving ₹ 239.57 crore and had since recovered ₹ 3.98 crore in 434 cases (as on 31 March 2013). The details are shown in the table no. 2.6:

Table No. 2.6

(₹ in crore)

Year of Audit Report	No. of units audited	Objected		Accepted		Recovered		Percentage of recovery to amount accepted
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	
2007-08	106	1,002	55.99	519	12.12	27	0.51	4.20
2008-09	102	1,234	181.03	497	39.97	20	0.87	2.17
2009-10	90	1,237	365.51	551	122.70	111	2.14	1.74
2010-11	100	1,015	189.50	570	59.48	272	0.44	0.74
2011-12	102	872	128.02	341	5.30	4	0.02	0.38
Total		5,360	920.05	2,478	239.57	434	3.98	

The percentage of recovery as compared to the accepted cases has been very low over the last five years. We brought (August 2013) this issue to the notice of the Head of the Department as well as the Finance Secretary of the Government. Their reply had not been received (January 2014).

2.6.3 Status of compliance to Inspection Reports 2012-13

Test check of the records of 115 units involving total revenue ₹ 12,552.38 crore out of 133 units relating to Commercial Tax during the year 2012-13 revealed underassessment of tax and other irregularities involving ₹ 91.56 crore in 1,067 cases which fall under the following categories in the table no. 2.7:

Table No. 2.7

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
1.	Refund under section 37 of Madhya Pradesh VAT Act, 2002	1	4.14
2.	Non/Short levy of tax	262	14.83
3.	Application of incorrect rate of tax	232	15.03
4.	Incorrect determination of taxable turnover	134	7.19
5.	Incorrect grant of exemption/deduction	158	13.10
6.	Other irregularities	280	37.27
	Total	1,067	91.56

During the course of the year, the Department accepted underassessment and other deficiencies of ₹ 55 lakh in 14 cases, which were pointed out in audit during the year 2012-13 and realised ₹ 7.53 lakh in three cases.

A paragraph on "**Refund under Section 37 of Madhya Pradesh VAT Act, 2002**" and other irregularities involving financial impact of ₹ 23.75 crore are mentioned in the following paragraphs.

2.7 Audit observations

We scrutinised the assessment records of Value added tax, Central sales tax, Entry tax etc. in the Commercial tax Department and found several cases of non-observance of the provisions of the Acts/Rules, non/short levy of tax/penalty/interest, incorrect application of rate of tax, incorrect deduction from taxable turnover, incorrect exemption and other cases as mentioned in the succeeding paragraphs of this chapter. These cases are illustrative and are based on a test check carried out by us. Such omissions on the part of the assessing authorities have been pointed out in earlier Audit Reports. Reference to paragraphs included in this Report and having similar observations raised earlier is given in **Annexure-I**, but not only do these irregularities continue to persist, these remain undetected till audit is conducted. There is need for the Government to improve the internal control system so that such omissions can be avoided.

2.8 “Refund under Section 37 of Madhya Pradesh VAT Act, 2002”

2.8.1 Introduction

Disposal of refunds is a key indicator for measuring the operational performance of tax administration in providing quality services to the dealers, dimensions of quality being accuracy of advice and timeliness in receipt of refund. Prompt disposal of refunds reduces the interest liability of the Government and by instilling confidence in the dealers, encourages them to greater tax compliance.

2.8.2 Mechanism for refund

The provisions of refund are contained in Section 37 of Madhya Pradesh VAT Act, 2002 (Act) enacted with effect from 01 April 2006. As per the provisions of the Act, if the Commissioner is satisfied that the tax or penalty or both or interest paid by or on behalf of a dealer for any year exceeds the amount of the tax to which he has been assessed or the penalty imposed or the interest payable under this Act for that year or that a registered dealer [or person other than a registered dealer] is entitled to the refund or rebate under Section 14, he shall, in the prescribed manner, refund any amount found to have been paid in excess in cash or by adjustment of such excess towards the amount of tax rebate due in respect of any other year from him.

The individual assessing officer is responsible for submission of the cases, assessed to refund, to the authorities competent to sanction refunds.

The Commercial Tax Officer (CTO), Assistant Commissioners (AC), Deputy Commissioners (DC), Additional Commissioners (Adl. Com.) of Commercial Tax and Director have been vested with the powers to sanction of refunds.

2.8.2.1 Monetary limit of sanction

The Commissioner of Commercial Tax vide circulars dated 8 May 2007 and 4 August 2009 fixed the monetary limit of power to sanction the refunds as shown in the table no. 2.8:

Table No. 2.8

Sanctioning Authority	Monetary limit
Commercial Tax Officer	Not more than ₹ one lakh
Assistant Commissioner	Not more than ₹ five lakh
Deputy Commissioner	Not more than ₹ 10 lakh
Additional Commissioner	Not more than ₹ 1.5 Crore
Director	In all remaining cases

2.8.3 Audit Objectives

Performance of the Department with respect to the topic was assessed with a view to ascertain:

- Whether the system of refund of tax is effective and efficient;
- Whether the rules and procedures prescribed in the Act, Rules and directives regarding timeliness and accuracy of refund were scrupulously followed; and
- Whether adequate internal control and monitoring mechanism exists for prompt exercise of constraints and checks prescribed for refunds.

2.8.4 Scope of audit and methodology

An audit covering a period of three years from 2010-11 to 2012-13 was carried out to ascertain the adequacy and effectiveness of the system and procedure prevailing in the Department for timely and assured refund in randomly selected 31 units² out of total 121 units. An Entry Conference was held on 18 June 2013 with the Commissioner, Commercial Tax in which the executive was informed about the selection of units as well as scope and methodology of Audit. The exit conference with the Commissioner, Commercial Tax was held on 4 September 2013 in which the Department accepted almost all the issues raised in the paragraph and assured to take remedial and preventive steps and stated that the weakness would be overcome through computer based module.

2.8.5 Acknowledgement

The Indian Audit and Accounts Department acknowledges the co-operation of the Commercial Tax Department in appointing a nodal officer for providing necessary information and records for the purpose of audit of refunds.

2.8.6 Trend of revenue and refund

As per the directives of the CCT, the assessing authorities, assessing the case to refund, would send the case to the Competent authority directly for sanction within seven days of date of such assessment order and the competent authority within 15 days of its receipt return the case to concerned assessing authority either with sanction of refund or with its directions for further action by the AAs. The table no. 2.9 presents the collection under Value Added Tax (VAT)/Commercial Tax, refund under the Act/MP *Vanijyik Kar Adhiniyam* and its revenue position during the period 2010-11 to 2012-13. This information has been collected by audit from selected units. The CCT was requested on 27 May 2013 followed by six reminders³ for this information with respect to whole Department. The CCT has informed vide his letter dated

² 17 Circle offices- Bhind, Bhopal(3), Dewas, Gwalior(2), Harda, Indore(4), Itarsi, Jabalpur, Rewa, Sagar and Satna, Nine Regional offices- Bhopal, Chhindwara, Dewas, Dhar, Indore(2), Khandwa, Sagar and Satna, Five Divisional offices- Gwalior(2), Indore, Satna and Ujjain

³ Up to 20 September 2013

10 July 2013 that the information was being collected from subordinate offices and audit would be intimated as soon as it is received. This information is still awaited (January 2014).

Table No. 2.9**(₹ in lakh)**

Year	Total no of units	Total no of assessment	Total revenue of the year	No. of refund cases at the beginning of year	Amount of OB of Refund cases	No. of refund cases generated during the year	Amt. of Ref cases generated during the year	Total Column 5 & 7	Total Column 6 & 8	No of refund case in which refund is made	Total amount of refund paid	No. of refund cases Outstanding	Amount of refund cases Outstanding
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)
2010-11	31	66138	606890	42	38	1646	5024	1688	5062	1585	4633	103	429
2011-12	31	66424	862030	103	429	1478	3897	1581	4326	1486	4002	95	324
2012-13	31	49127	407848	55	41	1718	8266	1773	8307	1664	7743	109	564

We observed following from the table above:

- While the revenue has declined sharply from ₹ 8620.30 crore in 2011-12 to ₹ 4078.48 crore in 2012-13, there was a substantial increase in the number and amount of refund cases during the same period.
- the amount of refund cases pending at the end of 2011-12 was 75.52 *per cent* of that of the year 2010-11 and the amount of refund cases pending at the end of 2012-13 was 174.07 *per cent* of that of 2011-12. A substantive upsurge in the trend of outstanding amount of refund cases at the end of 2012-13, in percentage terms could be noticed.

One of the reasons contributing to the increase in refund, as observed in audit was steady increase in export of goods from the state on which input tax suffered on raw material was eligible for refund.

2.8.7 System Deficiencies

The observations arising out of the audit are discussed in succeeding paragraphs:

2.8.7.1 Delay in initiating refund proceedings

The CCT vide circular dated 8 May 2007 directed that the assessing authorities would send the case of refund to the Competent authority directly for sanction within seven days of date of such assessment order and the competent authority within 15 days of its receipt return the case to concerned assessing authority either with sanction of refund or with its directives for compliance.

Of the 4620 cases of refund in the 31 selected units during the period from 2010-11 to 2012-13, the Department produced 4455 cases for audit scrutiny. We noticed delay in initiation of refund proceedings in 1307 cases. While in 45 cases⁴, the delay was in excess of one

year in sending cases to competent authority for sanction of refund, the delay in sending back the cases to assessing authority by sanctioning authority exceeded one year in 69 cases. Besides, there is delay in sending the Refund Payment Order (RPOs) to treasuries for making payment to the dealer, of which the delay exceeded one year in 118 cases and the delay exceeded five year in three cases.

The Department may consider taking remedial measures for regular maintenance of prescribed registers and regular submission of returns to enable monitoring of timely and accurate disposal of refund cases.

2.8.7.2 Inaction of the Department in initiating refund proceedings

Due to inaction of the Department, refund proceedings was not initiated in 20 cases.

In compliance of the CCT's direction, contained in the circular dated 8 May 2007, the whole process of Refund has to be completed within 60 days.

During test check of 4455 cases in selected units, we noticed that in three units⁵ in 20 cases of 20 dealers the cases were assessed/ re-assessed to refund of ₹ 91.79 lakh between May 2010 and November 2012 for the period between 2005-06 and 2009-10.

⁴ Range of delay in days in sending the cases to the sanctioning authorities

Up to 15	15 to 30	30 to 90	90 to 180	180 to 365	1 year to 2 years	2 years to 5 years	Above 5 years
3	7	18	53	56	24	19	2

Range of delay in days in sending the cases back to AAs concerned by the sanctioning authorities

Up to 15	15 to 30	30 to 90	90 to 180	180 to 365	1 year to 2 years	2 years to 5 years	Above 5 years
8	11	45	40	45	44	24	1

⁵ Gwalior (2) and Indore.

Due to inaction of the Department, the refund proceedings could not be initiated and these cases remained unattended. This resulted in undue accumulation in refund cases to the tune of ₹ 91.79 lakh as detailed in **Annexure-II**.

In exit conference, the Department agreed to the fact and stated that a computer based module for taking timely initiative was being put in place which would help in ensuring timely and correct refund.

There is a need to sensitise the departmental staff to perceive themselves as service providers. This may be integrated into the training programmes and seminars/ workshops organised by the Department.

2.8.7.3 Non-adjustment of dues before payment of refund

As per provisions contained in the Act, the authority empowered to grant refund shall apply the refundable amount in respect of any year towards the recovery of any tax, penalty, interest or part thereof due under this Act or under the Act repealed by this Act or under the Central Sales Tax Act, 1956 or under the *Madhya Pradesh Sthaniya Kshetra Me Mal Ke Pravesh Par kar Adhinyam, 1976* and shall then refund the balance remaining, if any.

During test check in selected units, we noticed in one regional office⁶ and two circle offices⁷ that in five cases of four dealers, the cases were assessed to refund of ₹ 2.39 lakh between April 2010 and March 2013 for the period between 2007-08 and 2010-11.

The AA incorrectly issued Refund Payment Order (RPO) without adjusting the demand pending in other cases of the dealers for either same period or block period. This was irregular and led to excess refund.

In the exit conference, the Department agreed to the fact of non-adjustment of dues before payment of refund and stated that the weakness would be overcome through computer based module.

The Department may consider to devise a system to ensure adjustment of pending demands towards the dealer before making refund.

Issue of refund payment order without adjusting the demand pending in other cases of the dealers resulted in excess refund.

⁶ Sagar

⁷ Sagar and Itarasi.

2.8.7.4 Irregular re-assessment of the cases already accepted as self-assessed

Where a registered dealer has furnished, all returns or revised returns for any period of a year in the prescribed manner and within prescribed time or before, 31 July of the subsequent year, in case of such dealer whose annual turnover does not exceed ₹ 40 lakh; has paid the tax payable according to such returns or revised returns as also interest payable, if any, and has furnished the statement within the prescribed time; The returns or the revised returns furnished by such dealer for the year, subject to compliance of requirements made in the notice shall be accepted and his assessment shall be deemed to have been made, provided that the assessment of every such registered dealer, who is required to furnish audit report, shall be deemed to have been made only after such dealer has furnished the audit report. Further, as provided in Section 20-A (2) of the MP VAT Act, 2002, the Commissioner shall select for re-assessment a number of such dealers, as he deems fit, whose assessment for a year is deemed to have been made under the provision of self-assessment.

During test check of CTO Jabalpur and the AC Indore in June 2013, we noticed that in case of four dealers the cases were re-assessed to refund while the dealers had already applied for self assessment and accepted by the Department. This resulted in undue surge in refund.

The dealers were not taken up under selection for re-assessment. Hence, the cases should not have been re-assessed

by the AA.

In the Exit conference, the Department agreed to the fact and assured to look into the matter and to take remedial steps wherever necessary.

2.8.7.5 Irregular sanction of refund by surpassing the limit of sanction

The CCT, vide its directives in May 2007 and August 2009, has fixed the monetary limits of power to sanction the refunds by different refunding authorities i.e. for CTO not more than ₹ one lakh for AC not more than ₹ five lakh, for DC not more than ₹ 10 lakh for Addl. Com. not more than ₹ 1.5 crore and for Director in all remaining cases.

During test check of the refund cases in one regional office⁸ and seven circle offices⁹ out of selected 31 units, we noticed that in 21 cases, involving refund amounting to ₹ 2.57 crore, out of 4455 cases produced to audit, the AA's surpassed the limit

of sanctioning the refund. The refunds were sanctioned by authorities lower

⁸ Dhar

⁹ Gwalior (2), Harda, Indore (3) and Jabalpur.

than those authorised to sanction the refunds as per the directives of limit of sanction of refunds. This resulted in irregular sanction of refund to the tune of ₹ 2.57 crore detailed in **Annexure-III**.

In exit conference, the Department agreed to the fact and stated that the post-facto sanction had already been obtained in the cases and assured to develop a system for proper sanction of assessed refund. The reply of the Department is not convincing as it is not the question of post facto sanction but surpassing the limit of sanction.

2.8.7.6 Inordinate delay in adjustment of refund

In compliance of the CCT's direction, contained in the circular dated 8 May 2007, the whole process of Refund has to be completed within 60 days.

During test check of the office of the Divisional office I, Gwalior, we noticed that the cases of a dealer¹⁰ for the financial year 2005-06 and 2006-07 were assessed to refund for ₹ 5.50 lakh and ₹ 10.81 lakh respectively in March 2009 for the period 2005-06 and in April 2009 for the period 2006-07. Both the refunds were adjusted in

May 2012 in the case of financial year 2009-10. Thus, assessed refunds remained to be adjusted for more than three years. This resulted in inordinate delay of three years in making adjustment of assessed refund. This indicates lack of monitoring of refund cases.

There was inordinate delay of three years in making adjustment of assessed refund.

2.8.8 Internal Control of the Department

2.8.8.1 Internal Audit

Internal audit is a vital component of the internal control mechanism and is intended to provide reasonable assurance of proper enforcement of laws, rules and Departmental instructions. Internal control also helps in creation of reliable financial and management information system for prompt and efficient services and for adequate safeguards against evasion of tax, prevention of excess refund and other irregularities. Apart from this, audit by Finance Department of the State, of the Department involving financial implications to the exchequer, is a vital tool of Internal Control mechanism.

The CCT was requested to provide information about the establishment and function of the Internal Audit Wing (May 2013). The CCT stated (July 2013) that there was no separate Internal Audit Wing in the Department and audit of refund had not been carried out by the Finance Department of Government of Madhya Pradesh during the period 2010-11 to 2012-13.

In exit conference, the Department agreed to the concerns of audit regarding absence of separate audit wing in the Department and stated that efforts would be made to strengthen the mechanism that existed in the Department for audit of refunds.

There is no Internal Audit Wing in the Department. Even the Finance Department had not carried out audit of refund.

¹⁰ Gwalior Distilleries

The Government may consider establishing an Internal Audit Wing in the Department.

2.8.8.2 Non-maintenance/irregular maintenance of prescribed registers

In compliance to the direction of the CCT regarding procedures and timelines of Refund the AA's and/or Refund sanctioning authorities are required to maintain Register of Refund cases in prescribed form, Disposal of Refund cases registers, Refund case sent for sanction register, Register of interest paid on Refund, Register for deferred Refund, Process server* register. Register of Refund Payment Order (RPO) sent to treasury and monthly diary, besides file of order of interest payable on Refund and Form DD (4) and 4(a).

* A person responsible to deliver assessment orders and demand notes to the dealer.

We reviewed the position of maintenance of prescribed registers/files during the period from May to July 2013 in each of 31 units selected for audit.

We observed that while the register of refund cases is being maintained by all the 31 units test checked such registers were not maintained in the prescribed proforma in 29 of the units. Besides, out of

selected 31 units, Register for RPO sent to treasury and Process server register was not being maintained in 23 and 30 units respectively. As these registers are crucial to monitor the timely refund of dues to the dealers after sanction by the competent authority, failure to ensure proper maintenance of the registers could result in delayed release of refund even after sanction. Similarly, monthly diary and form DD (4) /DD 4 (A) were also not being maintained in 15 and 9 units respectively.

In exit conference, the Department agreed to the fact and stated that a computer based module for taking timely initiative was being put in place which would help in ensuring timely and correct refund.

Non-maintenance of register/records in the proforma prescribed would handicap monitoring and control for timely disposal of refunds.

2.8.8.3 Absence of control over maintenance of registers and returns

There is no separate refund machinery in the Department to ensure timely and assured refund. In present refund machinery, the assessing authority, assessing the case to refund, has to send the case to the competent authority directly for sanction of assessed refund within seven days of date of assessment order and the competent authority within 15 days of its receipt has to return the case to the concerned assessing authority either with sanction of refund or with its directives in the case for compliance. For monitoring timely disposal of refund claims, registers and returns have been prescribed by the Department for maintenance by the assessing authorities. We, however, noticed that there

Prescribed registers crucial for monitoring timely refund were not maintained as prescribed.

There was no mechanism in the Department to monitor proper maintenance of registers/returns prescribed for ensuring timely refund.

was no mechanism within the Department to monitor proper maintenance of prescribed registers and timely submission of returns and compliance of provisions in assessing the cases to refund. As a result, the purpose of prescribing control registers and returns to monitor timely disposal of refund cases remained largely unfulfilled.

In exit conference, the Department agreed to the fact of absence of separate refund machinery in the Department.

The Government may consider putting in place a mechanism to monitor implementation of its orders/instructions on maintenance of registers/returns.

2.8.9 Compliance deficiencies

2.8.9.1 Application of incorrect rate of tax resulting in inadmissible refund

The Madhya Pradesh *Vanijyik Kar Adhiniyam*, 1994 (*Adhiniyam*) and the MP VAT Act, 2002 read with the Central Sales Tax (CST) Act, 1956 and notifications issued thereunder specify the rates of commercial tax and VAT leviable on different commodities.

We observed in one regional office¹¹ and three circle offices¹² between May and July 2013 that in five cases of five dealers assessed to refund of ₹ 2.73 lakh, between April and November 2012 for the period 2009-10 to 2010-11, tax on the sales turnover of ₹ 1.63 crore was levied at incorrect rates. This not only

resulted in short levy of tax of ₹ 28.20 lakh including interest/penalty of ₹ 20.68 lakh but also in payment of inadmissible refund of ₹ 2.73 lakh which otherwise would not have been due as detailed in **Annexure-IV**.

After we pointed out the cases, the assessing authorities (AAs), in case of three dealers stated that action would be taken after verification. In one case the AA stated that sand and stone metal were also used along with cement and cement had ample closing stock. The reply is not relevant as the consumption of cement as per trading account and purchase list clearly indicates that the tax on cement consumed was levied at incorrect rates.

In the remaining one case, the AA stated that the goods, used in the units of Defence Department, a central government concern in Madhya Pradesh, were taxable at the rate of five *per cent*. The reply does not address the levy of incorrect rate of tax on remaining sale, after considering the deduction for use by Defence Department.

Levy of tax levied at incorrect rates resulted in short-levy of tax and also inadmissible refund.

¹¹ Satna

¹² Gwalior, Indore, Jabalpur

2.8.9.2 Incorrect determination of turnover

As per Section 2 of the Madhya Pradesh VAT Act, 2002, turnover in relation to any period means the aggregate of sale prices received and receivable by a dealer in respect of any sale or supply of goods made during that period, excluding the amount of sales return within the prescribed period. For the purpose of determining taxable turnover (TTO), the Section provides for deductions of the sale price of tax paid goods and the amount of tax from turnover, if included in the aggregate of sale prices. Packing material is liable to tax at the same rate as applicable to the goods packed therein.

We observed between May and July 2013 in two regional offices¹³ and seven circle offices¹⁴ from assessment files of 22 cases of 22 dealers, out of 1621 cases, assessed between April 2012 to March 2013 for the periods between 2008-09 and 2011-12, the amount of assessed refund was ₹ 56.39 lakh. Further, we observed under determination of turnover to the tune of ₹ 22.56 crore against the aggregate turnover of the dealers recorded in their audited

books of accounts/ sale list/ relevant records. The aggregate turnover of ₹ 63.92 crore was determined by the AAs in those 22 cases. Thus, turnover aggregating ₹ 22.56 crore was not assessed to tax and resulted in non-levy of tax of ₹ 1.61 crore including interest and penalty of ₹ 31.20 lakh. This rendered the assessed refund of ₹ 56.39 lakh irregular in those 22 cases.

After we pointed out the cases in May and July 2013, in case of 17 dealers, the AAs stated in May 2013 and July 2013 that action would be taken after verification. In case of one dealer, the AA did not furnish relevant reply while in the remaining case of four dealers, the replies of the AAs are detailed in **Annexure-V**.

There was irregular refund in 22 cases due to incorrect determination of turnover.

2.8.9.3 Non/short levy of entry tax

Under the MP *Sthaniya Kshetra Me Maal Ke Pravesh Par Kar Adhinyam*, 1976 and rules and notifications issued there under, entry tax (ET) is leviable at the specified rates on the goods entering into a local area for consumption, use or sale therein.

We observed in divisional office Satna, two regional offices¹⁵ and five circle offices¹⁶ between May and June 2013 that in nine cases of nine dealers, assessed/ re-assessed between April 2012 and February 2013 for the periods 2008-09 to 2010-11, ET on goods like Cold drink, Iron and Steel and telecommunication tower material, Cement and sand etc. valued at ₹ 19.35 crore was either not levied or levied at incorrect rate on their entry into local

Applicable tax was either not levied or levied at incorrect rate on goods entering local area, resulting in irregular refund.

¹³

Indore, Satna

¹⁴

Dewas, Gwalior(2), Harda, Indore (2), Jabalpur

¹⁵

Dhar and Satna.

¹⁶

Bhopal, Gwalior, Harda, Jabalpur and Sagar.

area. This resulted in non/short realisation of ET of ₹ 67.48 lakh including interest and penalty of ₹ 45.65 lakh.

We further observed that refund of ₹ 0.47 lakh, ₹ 53.48 lakh and ₹ 1.28 lakh was sanctioned towards ET, VAT and CST, respectively to these nine dealers during the same period. Had entry tax been levied at applicable rates from the dealers and the refund payable to the dealers would have been lower by ₹ 55.23 lakh, as detailed in **Annexure-VI**.

The AAs in all nine cases stated that action would be taken after verification.

2.8.9.4 Allowance of inadmissible refund on input tax

As per Section 14 of the Madhya Pradesh VAT Act, 2002, where a registered dealer purchases any goods specified in Schedule II of the Act, other than those specified in part III of the said Schedule, from another registered dealer after payment of input tax, he shall be allowed input tax rebate (ITR) of the amount of such input tax. Further, the input tax rebate which remains unadjusted shall be carried over for adjustment towards tax payable in the subsequent year.

We observed in one regional office¹⁷ and two circle offices¹⁸ in June 2013 that inadmissible refund was allowed in case of four dealers, assessed between 2009-10 and 2012-13 for the period between 2006-07 and 2010-11. The details are given below:

- In two cases, the AA instead of carrying forward the unadjusted

ITR of ₹ 1.04 lakh against the tax payable in the subsequent year, allowed refund of input tax of ₹ 1.19 lakh.

- In another case, instead of complying to the directive of the competent refund sanctioning authority to verify the claimed ITR ₹ 20.11 lakh, issued RPO of ₹ 16.44 lakh on the very next day of receiving the directive, after adjusting ET dues of ₹ 3.66 lakh.
- In one case, the AA assessed the case to refund ₹ 1.47 lakh by allowing ineligible ITR ₹ 40,761 on import purchase.

The irregular grant of refund on ITR in respect of the four dealers worked out to ₹ 4.67 lakh. The cases are detailed in **Annexure VII**.

In all the four cases, the AAs stated that action would be taken after verification.

Incorrect allowance of input tax rebate resulted in payment of inadmissible refund.

¹⁷

Dhar

¹⁸

Bhind and Gwalior.

2.8.9.5 Grant of deduction on the basis of irregular declarations 'E-I and C'

As per provision contained in Section 6 (2) of the Central Sales Tax Act, 1956 where a sale of any goods in the course of inter-State trade or commerce has either occasioned the movement of such goods from one State to another or has been effected by a transfer of documents of title of such goods during their movement from one State to another, any subsequent sale during such movement effected by a transfer of documents of title to such goods to a registered dealer shall be exempt from tax under this Act. Further, as per provisions of Rule 12(1) of CST (R and T) Rules, a single declaration may cover all transactions of sales, which take place in a quarter of a financial year between the same two dealers.

During test check of circle offices at Jabalpur and Sagar in June 2013, we noticed that

- the AA allowed deduction of subsequent sale on the basis of declaration forms 'E-I and C'¹⁹. As per list of sale on which deduction was claimed and relevant declarations E-I and C forms, the sale was made on date prior to the

date of purchase. As deduction was admissible only if the sale was subsequent to purchase, the turnover was not eligible for deduction. The AA, however, incorrectly, assessed the case of refund of ₹ 62,638 as against the assessable tax of ₹ 4.36 lakh including penalty ₹ 3.27 lakh.

- The AA allowed levy of tax at concessional rate against the "C" form that contained transactions of more than a quarter which was incorrect in terms of Section 6(2) of the CST Act. This resulted in short levy of tax amount to ₹ 7,050. The assessed refund in the ET case of the dealer for the same period was ₹ 10,108.

The AA stated in the case relating to sale prior to purchase that the date of purchase was wrongly mentioned as 30.06.2006 as against the correct date of 30.05.2006 and hence there was no short levy of tax. The reply is not correct as the purchase made on 30.05.2006 was sold to another dealer against another 'C' form and therefore deduction granted to the dealer was irregular. In other case, the AA replied that action would be taken after verification of facts.

There was irregular refund due to grant of deduction on the basis of irregular declarations.

¹⁹ As per requirement of Section 6 (2) of The Central Sales Tax Act, 1956, 'E-I' is a certificate duly signed by the registered dealer from whom the goods were purchased and 'C' is a certificate duly signed by the registered dealer to whom the goods were sold.

2.8.9.6 Adjustment of irregular TDS against assessed tax

As per provisions of Section 26 of the Act, the purchaser shall before crediting such sum of work done in pursuance of a work contract to the account of the dealer or before payment thereof in cash or by issue of a cheque or draft or by any other mode, deduct an amount equal to the amount payable by the purchaser to the dealer by way of tax and shall deposit such amount into the government treasury in such manner and within such period as may be prescribed. Further, as per provisions of Section 26-A of the Act the purchaser of notified goods, Mustard, shall issue a certificate of deduction of tax to the seller in Form 31-A. The certificate may cover the transaction effected during a period of one calendar month.

During test check in two regional offices²⁰ and two circle offices²¹ out of selected units in June 2013, we observed that the AA allowed adjustment of TDS that did not pertain to the financial year for which adjustment was made in three cases. We further observed that in three cases, the TDS did not bear the proof of payment of tax into Government treasury and in one case, the TDS certificate, for the sale of Mustard, was

used for transactions of more than one calendar month in violation of the relevant provisions. As a result, on the basis of irregular TDS certificates amounting to ₹ 61.37 lakh against assessed tax, refund of ₹ 58.99 lakh was allowed by the AA, as detailed in the **Annexure-VIII**.

In all the cases, the AAs stated that action would be taken after verification.

Adjustment of irregular TDS (Tax deducted at source) against assessed tax resulted in irregular refund.

²⁰ Bhopal and Satna.

²¹ Gwalior and Sagar.

2.8.9.7 Non-imposition of penalty

As per provisions contained in Section 21 of the Act, where an assessment or re-assessment of a dealer has been made under this Act or the Act repealed by this Act and for any reason any sale or purchase of goods liable to tax under this Act or the Act repealed by this Act during any period, has been under assessed or has escaped assessment, or a rebate if input tax has incorrectly been allowed while making the assessment, the Commissioner may assess or re-assess the dealer to tax. Further, the Commissioner shall, where the omission leading to assessment is attributable to the dealer, impose upon him a penalty not exceeding 3.5 times the amount of tax so assessed or re-assessed but shall not be less than three times the amount of tax assessed.

During test check in circle offices Gwalior and Sagar out of selected units in June 2013, we observed that in four cases of four dealers, the AA reassessed the cases to refund of ₹ 61.32 lakh between April and August 2012 for the period from 2007-08 to 2009-10. During reassessment, the AA noticed irregularities in three cases as the dealers were found to be guilty of claiming incorrect ITR. In one case, the dealer was found to be guilty of

There was irregular refund due to non imposition of penalty in four cases.

concealing the import purchase. The AA however failed to impose penalty of ₹ 70.07 lakh as detailed in the **Annexure-IX**.

In all four cases, the AAs stated that action would be taken after verification.

2.8.10 Conclusion

Disposal of refunds is a key indicator for measuring the operational performance of tax administration. The CCT has been given the powers to make refund if a case is assessed to refund, under the rules. For this, the CCT has issued directives. We observed that there was need for control over the mechanism of refund to prevent accumulation of the pending cases. The Department did not have a separate Internal Audit wing. We observed that the Department did not adequately monitor the refund cases through proper maintenance of prescribed Registers and timely initiation of refund proceedings. We noticed cases of non-adjustment of dues before payment of refund, irregular sanction of Refund by surpassing the limit of sanction and inordinate delay in adjustment of Refund. We also observed instances of non-compliance to the relevant provisions while assessing cases to refund. These aspects reflect weakness in the system which requires strong machinery for refunds with effective monitoring at appropriate level.

2.9 Application of incorrect rate of tax

The MP Value Added Tax (VAT) Act, read with the Central Sales Tax (CST) Act, and notifications issued thereunder specify the rates of VAT leviable on different commodities. Under the MP VAT Act, a dealer is liable to pay interest at the rate of 1.5 *per cent* per month under section 18(4), if he fails to pay tax payable by him according to the periodic returns and liable to pay penalty under Section 21(2) of the Act *ibid* at minimum 3 times but not exceeding 3.5 times of assessed tax where omission leading to assessment is attributable to dealer.

We test checked records such as assessment orders, audited accounts, purchase list etc. between September 2010 and February 2013 in two divisional offices²², 11 regional offices²³ and 14 circle offices²⁴ and found that in 42 cases of 37 dealers, assessed between January 2009 and March 2012 for the period 2006-07 to 2009-10, the Assessing Authorities (AAs) levied tax at incorrect rates on sale turnover of ₹ 33.95 crore.

This resulted in short levy of tax of ₹ 4.37 crore including interest of ₹ 17.19 lakh and penalty of ₹ 1.38 crore. A few instances are mentioned in the table 2.10:

Table No. 2.10

Sl. No.	Name of auditee unit	Assessment period Month of assessment	Name of commodity	Turn-over (₹ in crore)	Rate of tax applicable (per cent)	Rate of tax applied (per cent)	Amount of short levy of tax (₹ in lakh)
1.	CTO-I, Bhopal	2009-10 January 2011	Flush Doors	2.31	12.5	4/5	72.11 {including penalty of ₹ 54.08 lakh (three times of assessed tax)}
2.	RAC-II Satna	2009-10 November 2011	Plant & Machinery and truck	3.17	12.5	5/1.5	25.97
3.	RAC-III, Indore	2009-10 February 2012	Aluminium, FRP Sheet, Steel Sheet and refractories	4.32	12.5/4/1.5	4/5/Nil	33.15
4.	RAC-II, Gwalior	2008-09 June 2011	Radial crest Gate	3.32	12.5	4	39.39 (including interest of ₹ 11.16 Lakh)

²² Gwalior, Indore

²³ Bhopal, Dewas, Gwalior, Indore (2), Jabalpur, Morena, Satna, Sagar, Shajapur and Ratlam.

²⁴ Bhopal (2), Dewas, Gwalior, Indore (4), Jabalpur (2), Morena, Neemuch, Shahdol, and Ujjain.

After we pointed out the cases, the AAs in five cases²⁵ raised demand of ₹ 18.41 lakh (between November 2012 and June 2013). In two other cases, the AAs accepted (in February 2012 and in July 2012 respectively) the audit observations involving ₹ 30.68 lakh. In 17 cases of 14 dealers, AAs agreed to take action after verification/examination (between September 2010 and February 2013).

In 18 cases of 17 dealers, departmental replies and our comments thereon are in the table no. 2.11:

Table No. 2.11

Sl. No.	Name of auditee unit/No. of dealers	Amount involved (₹ in lakh)	Rate of tax applicable/applied	Commodity	Departmental reply	Our comments
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	CTO-II,Ujjain 1(2 cases)	48.87	12.5 4/5	Aquasheild	Materials used in water proofing were liable to tax at the rate of four and five per cent.	We do not agree with the reply as Aquasheild is a water proofing compound/treatment material and no specific entry of the same is available in schedule and hence is liable to tax at the rate of 12.5 per cent.
2.	RAC-II Gwalior 1	39.39	12.5 4	Radial Crest Gate	The tax was levied at the rate at which transfer of goods was done under contract.	We do not agree with the reply as the reply does not address audit objection regarding application of incorrect rate of tax.
3.	CTO, <u>Neemuch</u> 1 CTO-V, <u>Bhopal</u> 1	36.68	12.5 4	Home UPS	The dealer had sold UPS (IT Goods) and hence taxable at the rate of four per cent.	We do not agree with the replies of the AAs in view of the facts recorded in audited accounts, purchase list, quantitative details of sales etc. which clearly establish the sale of UPS invertors rather than IT goods and as per circular no. 292 dated 31 st July 2006, the same is taxable at the rate of 12.5 per cent.
4.	CTO <u>Neemuch</u> 3	17.36	12.5 4	Felt Component	The AA referring CCT, MP order dated 31 st August 2010 ²⁶ stated that Felt Component is liable to tax at the rate of four per cent	We do not agree with the reply as referred order relate to fabrics. Felt Component is a machinery part as per CCT, MP order dated 29 th March 1995 ²⁷ and thus liable to tax at the rate of 12.5 per cent.
5.	CTO-I, <u>Ujjain</u> 2	13.89	12.5 4	Paper Dona and Plates	The donas and plates were made up of khakra leaves and thus taxable at the rate of four per cent.	We do not agree with the reply as the documents like audited accounts, declaration form (Form 88) etc. clearly show that dealer had sold paper donas and paper plates.

²⁵ RAC Jabalpur (2), RAC Dewas (2), CTO-III Jabalpur

²⁶ M/s Shanti Textile (2010)-17 STJ,485

²⁷ M/s Sealwell Neemuch (1995) 14 TLD-237

(1)	(2)	(3)	(4)	(5)	(6)	(7)
6.	RAC-II <u>Indore</u> 1 DC-II, <u>Gwalior</u> 1	9.68	<u>12.5</u> 4	Plant & Machinery	The AA, Indore stated that dealer had sold scrap of Plant & Machinery whereas the AA Gwalior initially stated that dealer had sold C I Mould. Later on he stated that the dealer had sold the scrap of machinery.	We do not agree with the replies in view of the audited accounts in which sale of old Plant & Machinery is clearly shown.
7.	CTO-VI <u>Indore</u> 1	8.56	<u>12.5</u> 4	CRGO, Lamination	CRGO Lamination is a part of transformer and hence tax was levied at correct rate.	We do not agree with the reply in view of the CCT circular no. 292 dated 29 July 2006 according to which CRGO Lamination is liable to tax at the rate of 12.5 <i>per cent</i> .
8.	RAC-Ratlam	6.48	<u>12.5</u> 4	Invertors	The dealer had sold UPS, which is taxable at the rate of four <i>per cent</i> .	We do not agree with the reply in view of the documents such as balance sheet, purchase list etc., which clearly establish sale of Invertors.
9.	RAC-Shajapur 1 RAC-Sagar 1	4.54	<u>12.5</u> 4/5	Tractor accessories	The AA Shajapur stated that goods sold were tractor parts whereas the AA Sagar stated that dealer had to provide tractor parts as accessories on warranty claim and did not purchase it for trading and hence levied tax was correct.	We do not agree with the replies in view of the facts available in the documents like purchase list, audited account which clearly show the sale of tractor accessories.
10.	CTO-V, <u>Indore</u> 1	2.75	<u>12.5</u> 4	Hoarding	The tax was levied at correct rate after verification.	We do not agree with the reply as there is no specific entry of Hoardings and hence is liable to tax at the rate of 12.5 <i>per cent</i> .
11.	RAC-I, <u>Bhopal</u> 1	0.89	<u>12.5</u> 4/5	Adhesives	Adhesive is a chemical component. Hence levied tax was correct.	We do not agree with the reply as there is no specific entry of adhesives in schedule and as per CCT circular no. 292 dated 29 July 2006 adhesives is liable to tax at the rate of 12.5 <i>per cent</i> .

We reported the matter to the Department and the Government between February and April 2013; their replies have not been received (January 2014).

2.10 Short imposition of penalty

According to Section 21 (2) of the MP VAT Act, 2002, where the omission leading to assessment or re-assessment made under Sub-section (1) is attributable to the dealer, penalty not exceeding 3.5 times and not less than 3 times the amount of tax so assessed or re-assessed is leviable.

2.10.1 We test checked the records such as assessment orders, audited accounts, purchase list etc. between June and October 2012 in divisional office Chhindwara and two regional Offices²⁸ and found that four dealers had either concealed their taxable turnover or paid tax at lower rate for the period 2006-07 to 2008-09. The AAs, while finalising the re-assessment between May 2011 and March 2012, imposed penalty of ₹ 26.52 lakh only at different rates²⁹ against minimum leviable penalty of ₹ 2.06 crore. This resulted in short imposition of penalty of ₹ 1.80 crore.

After we pointed out the cases (between June and October 2012), the AA in one case raised (May 2013) additional demand of ₹ 67.86 lakh. In remaining three cases the AAs stated (between June and October 2012) that action would be taken after verification. Further report has not been received (January 2014).

We reported the matter to the Department and the Government (between February and April 2013); their replies have not been received (January 2014).

As per provision of the Section 52 of the MP VAT Act, 2002, if the commissioner or the appellate authority or appellate board is satisfied that a dealer has concealed his turnover or has furnished false particulars of his sales, he may impose by way of penalty a sum which shall not be less than three times but shall not exceed by 3.5 times of the amount of tax evaded. As per provisions contained in Section 13 of *Sthaniye kshetra me mal ke pravesh par kar Adhiniyam-1976* the provision of Section 52 of MP VAT Act, 2002 shall apply *mutatis-mutandis* to a dealer for the purpose of penalty.

2.10.2 We test checked the records such as assessment orders, audited accounts, purchase list etc. in circle-9, Indore in June 2012 for the period 2007-08 and found that in two cases the dealer had furnished false particulars of sales under VAT assessment and Entry tax (ET) assessment. However, the AA while re-assessing the case in April 2011, assessed the tax leviable at ₹ 8.80 lakh instead of ₹ 88 lakh leviable on the concealed turnover of ₹ 22 crore at the rate of four *per cent*. Further, the penalty was levied at equivalent amount instead of levying three times of the amount due in terms of MP VAT Act. This resulted in the short imposition of penalty of ₹ 2.55 crore.

²⁸ Chhindwara and Indore

²⁹ In two cases penalty was imposed equal to tax, in one case penalty was imposed after adjusting the amount of input tax rebate and in another case lump sum penalty was imposed

In ET case of same dealer, penalty was imposed equal to the assessed tax of ₹ 21 lakh instead of ₹ 63 lakh being the minimum three times of assessed tax. This resulted in short imposition of penalty of ₹ 42 lakh.

We reported the matter to the Department and the Government in February 2013; their replies have not been received (January 2014).

2.11 Allowance of Inadmissible Input Tax Rebate

According to Section 14 of the MP VAT Act, 2002, where a registered dealer purchased any goods specified in Schedule II of the Act, other than those specified in Part III of the said Schedule within the state of Madhya Pradesh, from another registered dealer after payment of input tax, he shall be allowed input tax rebate (ITR) of the amount of such input tax for the same year.

2.11.1 We test checked records such as assessment orders, audited accounts, purchase list etc. between March and November 2012 in three regional offices³⁰, circle office, Indore and found that in four cases of four dealers assessed between April 2010 and February 2012 for the period 2008-09 to 2009-10, the AAs allowed

inadmissible ITR of ₹ 3.19 crore as shown in the table no. 2.12:

Table No. 2.12

Sl. No	Name of auditee unit No. of dealers	Period of assessment Month of assessment	Our observation
(1)	(2)	(3)	(4)
1	<u>RAC-II, Satna</u> 1	<u>2008-09</u> April 2011	The dealer was allowed ITR of ₹ 5.06 crore on purchase value of ₹ 71.82 crore. However, in this purchase of ₹ 42.94 crore pertained to period 2006-07 & 2007-08. This resulted in excess grant of ITR of ₹ 3.14 crore.
After this was pointed out, the AAs raised (May 2013) demand of ₹ 4.50 crore including interest of ₹ 1.49 crore.			
2	<u>CTO-X, Indore</u> 1	<u>2009-10</u> February 2012	The dealer purchased sanitary goods and tiles valued at ₹ 21.50 lakh from out of MP. However, the AA allowed inadmissible ITR ₹ 2.69 lakh on the same.
After this was pointed out, the AA stated (September 2012) that action would be taken after verification. Further reply has not been received (January 2014).			
3	<u>RAC-I, Bhopal</u> 1	<u>2008-09</u> April 2010	The dealer got trade discount of ₹ 16.12 lakh on which ITR is not admissible. The AA allowed ITR on total purchase including amount of trade discount. This resulted in excess grant ITR of ₹ 2.01 lakh.
After this was pointed out the AA stated (March 2012) that action would be taken after verification.			

³⁰ Bhopal, Jabalpur and Satna

(1)	(2)	(3)	(4)
4	<u>RAC-I Jabalpur</u> 1	<u>2009-10</u> October 2011	The dealer purchased mobile and SIM card valued at ₹ 71.46 lakh after paying input tax of ₹ 5.74 lakh. The AA allowed ITR of ₹ 6.39 lakh, resulting in grant of inadmissible ITR of ₹ 65,470.
After this was pointed out, the AA raised (January 2013) additional demand of ₹ 34,395 after adjusting ₹ 31,075 deposited by the dealer through challans. Report on recovery has not been received (January 2014)			

We reported the matter to the Department and the Government between February and March 2013; their replies have not been received (January 2014).

Section 26-A (4) of the MPVAT Act, 2002, provide that no input tax rebate shall be claimed or be allowed in respect of the goods notified for Tax Deducted at Source (TDS) under sub-section (1) of the said section. Mustard and cotton have been notified for TDS under the provision of aforesaid sub-section under notification dated 4 January 2008 and dated 3 August 2009 respectively. Further under Section 21(1) (d) and (2) of said Act, if rebate of input tax has incorrectly been allowed while making the assessment and it is attributable to the dealer, penalty not exceeding 3.5 times but not less than 3 times of the amount of assessed tax shall be imposed.

2.11.2 We found during test check of records such as assessment orders, audited accounts, purchase list of Regional office Gwalior and Jabalpur between February 2011 and November 2012 and found that in two cases of two dealers assessed between February 2010 and February 2011 for the period 2007-08 and 2009-10, the AAs incorrectly allowed ITR of ₹ 10.45 lakh on purchase value of cotton bales (January to March

2010) and mustard. As these commodities were notified for TDS, ITR was not admissible in these cases. This resulted in inadmissible grant of ITR of ₹ 38.71 lakh including minimum penalty of ₹ 28.26 lakh³¹

We reported the matter to the Department and the Government in April 2013; their replies have not been received (January 2014).

³¹ Three times of inadmissible rebate of input tax of ₹ 9.42 lakh in one case, in another case having tax effect of ₹ 1.03 lakh, penalty was not leviable.

In terms of Section 14 of the MP VAT Act, 2002, where a registered dealer purchases any goods specified in Schedule II of the Act, other than those specified in part III of the said Schedule, for use or consumption in the manufacture of other goods or manufacturing goods declared tax free under Section 16 of the Act, and the dealer has claimed ITR (Input tax rebate) towards the tax payable by him, in the event of disposal of the goods otherwise than by way of sale within the State ITR shall be allowed only to the extent by which the amount paid in the State exceeds four *per cent*.

2.11.3 We test checked the records such as assessment orders, audited accounts, purchase list etc. between October 2012 and January 2013 in two divisional offices³² and three regional offices³³ and circle office, Dewas. We found that in six cases of six dealers assessed between April 2010 and June

2011 for the period 2007-08 to 2008-09 and April to December 2009, the AAs allowed ITR of ₹ 27.62 lakh though the rebate admissible to the dealer being in excess of four *per cent* on goods disposed of otherwise than by way of sale or sale of tax free goods, worked out only to ₹ 15.12 lakh. This resulted in inadmissible grant of ITR of ₹ 12.50 lakh.

After we pointed out the cases, the AA, Chhindwara in one case stated (May 2013) that additional demand of ₹ 3.20 lakh has been raised. In remaining five cases of five dealers, the AAs stated (between November 2012 and January 2013) that action would be taken after verification/ examination of cases. Further reply has not been received (January 2014).

We reported the matter to the Department and the Government between February and April 2013; their replies have not been received (January 2014).

32 Chhindwara, Sagar.

33 Khandwa, Khargone, Satna.

2.12 Incorrect determination of turnover

According to Section 2 of the Madhya Pradesh VAT Act, 2002 turnover in relation to any period means the aggregate of sale prices received or receivable by a dealer in respect of any sale or supply of goods made during that period, excluding the amount of sales return within the prescribed period. For the purpose of determining taxable turnover (TTO), the Madhya Pradesh VAT Act provides for deduction from turnover the sale price of tax paid goods and the amount of tax, if included in the aggregate of sale prices.

We test checked the records such as assessment orders, audited accounts, purchase list etc. between March 2012 and February 2013 in divisional offices Sagar, six regional offices³⁴, 11 circle offices³⁵ and found that in 25 cases of 25 dealers, assessed between December 2008 and March 2012 for the period between 2006-07 and 2010-11, the AAs while finalising the assessment

determined the taxable turnover as ₹ 174 crore. We, however, noticed that the aggregate turnover as recorded in the audited accounts of these dealers was ₹ 216 crore. Thus, the turnover was determined short by ₹ 42 crore which was not subjected to tax. This resulted in non-levy of tax of ₹ 3.35 crore including interest/penalty of ₹ 1.10 crore.

A few instances are mentioned in the table no. 2.13:

Table No. 2.13

Sl. No.	Name of auditee unit	Our observation	Department's reply
1.	RAC-V, Bhopal	The AA allowed deduction of ₹ 15.32 crore on account of Inter-state sale from gross turnover. However, the assessment order of the central case of the dealer for the same period revealed that the gross turnover under Central sales tax (CST) Act was Nil. This resulted in non levy of tax of ₹ 61.28 lakh.	The AA stated (November 2011) that action would be taken after verification of cases. Further reply has not been received (January 2014)
2.	CTO-I, Jabalpur	The AA determined the taxable turnover ₹ 8.30 crore against taxable turnover of 10.91 crore as shown in audited accounts. Further, the AA allowed incorrect deduction of ₹ 19.23 lakh on account of sale returns whereas in audited accounts the net sale was recorded. This resulted in non levy of tax of ₹ 34.98 lakh at the rate of 12.5 per cent.	The AA stated (July 2012) that action would be taken after verification of cases.
3.	CTO-Waidhan	In a self-assessed case the dealer determined his TTO of ₹ 4.07 crore as against the actual turnover of ₹ 5.05 crore as shown in audited accounts Further the AA accepted the self-assessment in December 2011. Thus there was under determination of TTO by ₹ 98 lakh, which resulted in short-levy of tax of ₹ 12.74 lakh at the rate of 13 per cent. Besides, minimum penalty of 38.22 lakh at three times of the tax so evaded was also leviable.	The AA stated (July 2012) that action would be taken after verification from challans.

³⁴ Bhopal, Gwalior (2), Morena, Khandwa and Jabalpur

³⁵ Bhopal (2), Gwalior (2), Indore (3), Jabalpur, Satna, Rewa and Waidhan.

After we pointed out the cases (between March 2012 and February 2013), the AA raised (March 2013) additional demand of ₹ 45.13 lakh in two cases related to RAC- Jabalpur. In other 21 cases of 21 dealers, AAs stated (between March 2012 and February 2013) that action would be taken after verification/examination of cases while in the remaining two cases of two dealers, the reply of the AAs are in the table 2.14:

Table No. 2.14

Sl. No.	Name of auditee unit	Period Month of assessment	Our observation in brief	Department reply/ our comments
(1)	(2)	(3)	(4)	(5)
1	CTO-III, Bhopal	<u>2010-11</u> March 2012	In self-assessed case, accepted by the AA in March 2012, the taxable turnover was determined as ₹ 6.28 crore against the actual turnover of ₹ 6.60 crore as per audited accounts. Thus the TTO was determined short by ₹ 31.41 lakh This resulted in short levy of tax of ₹ 1.57 lakh.	The AA stated that the determined turnover was gross sales turnover and not the net turnover. We do not agree in view of the fact that VAT on sales has been shown separately and therefore ₹ 6.60 crore mentioned as sales in the audited accounts represents only the net sales.
2.	DC-Sagar	<u>2009-10</u> November 2011	The AA while finalising the assessment did not include the import purchase of fertilisers of ₹ 47.86 lakh in total import purchase and accordingly under determined the total sale to that extent. This resulted in non levy of tax of ₹ 9.57 lakh including penalty of ₹ 7.18 lakh	The AA replied that in import list all import purchase was included. The reply is not acceptable as purchase of fertiliser of ₹ 47.86 lakh from Jhansi (UP) was not included in total import purchase list.

We reported the matter to the Department and the Government between February and April 2013, their replies had not been received (January 2014).

2.13 Non/Short levy of entry tax

Under the *Madhya Pradesh Sthaniya Kshetra Me Mal Ke Pravesh Par Kar Adhiniyam*, 1976 and rules and notifications issued thereunder, entry tax (ET) is leviable at the specified rates on the goods entering into local area for consumption, use or sale therein. Under the *Adhiniyam* and the MP VAT Act 2002, a dealer is liable to pay interest, if he fails to pay tax payable by him according to the periodic returns and liable to pay penalty where omission leading to assessment is attributable to dealers.

We test checked records such as assessment orders, audited accounts, purchase list etc. between August 2011 and February 2013 in seven divisional offices³⁶, eleven regional offices³⁷, nine circle offices³⁸ and found that in 43 cases of 37 dealers assessed/re-assessed between March 2009 and March 2012 for the period 2005-06 to 2009-10, ET on goods like iron & steel, motor parts, high speed diesel (HSD), coal, furnace oil, Hexane, HDPE/PP woven bags etc.,

valued at ₹ 86.14 crore was either not levied or was levied at incorrect rate on their entry into local area. This resulted in non/short realisation of ET of ₹ 2.67 crore including interest of ₹ 11.09 lakh and penalty of ₹ 1.03 crore.

After we pointed out the cases (between August 2011 and February 2013), the assessing authorities (AAs) in 13 cases raised additional demand of ₹ 1.19 crore (between March 2012 and July 2013) out of which in three cases ₹ 7.53 lakh was deposited (between June 2012 and May 2013) through challan. In other 28 cases, the AAs stated (between August 2011 and February 2013) that action would be taken after verification/examination. In remaining two cases, the Department's reply and our comments are in the table no. 2.15:

Table No. 2.15

Sl. No.	Name of auditee unit/No. of dealers	Assessment period/ month of assessment	Name of Commodity/ Cost of goods (₹ in lakh)	Rate of tax applicable/ applied	Departmental reply	Our comments
1.	2.	3.	4.	5.	6.	7.
1.	DC-I, Bhopal 1	2008-09 April 2011	Limestone 326	10 Nil	The AA stated that the dealer had mined out clay alongwith limestone which was liable to tax at the rate of one per cent.	We do not agree with the reply in view of the annexure XI of the audited account where the Limestone was shown as purchased and not mined.

³⁶ Bhopal (2), Gwalior, Jabalpur, Sagar, Satna and Ujjain.

³⁷ Bhopal (2), Gwalior (2), Indore (2), Jabalpur, Khandwa, Morena, Sagar and Satna.

³⁸ Dhar, Dewas, Gwalior (2), Indore, Ratlam, Satna, Ujjain and Waidhan.

1.	2.	3.	4.	5.	6.	7.
2.	DC-II-Bhopal 1	2007-08 July 2010	Furnace oil/ 23.44 Refrigerator 37.10	1 nil 2 1	The AA stated that it was actually purchase of light diesel oil and not furnace oil. which is schedule –II goods and purchased from registered dealer. Hence did not attract FT. Further, the AAs raised additional demand of ₹ 37,105 in respect of Refrigerator's sale.	We do agree with the reply in view of the facts available in relevant documents like purchase list and tax calculation sheet etc. which clearly establish purchase of furnace oil.

We reported the matter to the Department and the Government between February and March 2013; their replies have not been received (January 2014).

2.14 Non/short levy of tax under the Central Sales Tax Act

Under Section 8 of the CST Act, every dealer, who in the course of inter-state trade or commerce, sells to a registered dealer, goods of the classes specified in the registration certificate of the purchasing dealer shall be liable to pay tax at the concessional rate of four *per cent* (three *per cent* with effect from 1 April 2007 and two *per cent* with effect from 1 June 2008) of such turnover provided such sales are supported by declarations in form 'C'. Further, the said section provides that every selling dealer who fails to furnish declaration, duly filled and signed by the purchasing registered dealer in form 'C' obtained by the latter from the prescribed authority, shall be liable to pay tax in respect of inter-State sale of declared goods at twice the specified rate and in respect of other goods at the rate of ten *per cent* or at the specified rate, whichever is higher up to 31 March 2007 and at schedule rate from 1 April 2007, instead of concessional rates of tax.

2.14.1 We test checked the records such as assessment orders, audited accounts, purchase list etc. between March and November 2012 in three regional offices³⁹, three circle offices⁴⁰ and found that in 10 cases of eight dealers assessed between January and December 2011 for the period 2006-07 to 2009-10, 'C' form in respect of interstate sale of ₹ 3.15 crore were not furnished. However, the AAs while finalising the assessment either

levied tax at concessional rate or did not levy tax at all. This resulted in non/short levy of tax of ₹ 36.42 lakh, including interest of ₹ 6.94 lakh. After we pointed out the cases, in one case the AA raised (November 2013) demand of ₹ 1.18 lakh relating to RAC Dewas and in other two cases of one dealer, the AA stated that the case would be reopened and tax would be levied

³⁹ Jabalpur, Dewas, Ujjain.

⁴⁰ Morena, Neemuch, Ujjain.

accordingly. In other two cases of two dealers, the AAs stated that action would be taken after verification/examination of cases.

In the remaining five cases of four dealers, the reply of the AAs and our comments are in the table 2.16:

Table No. 2.16

Sl. No.	Name of auditee unit No. of dealers	Period Month of assessment	Commodity Turnover (₹ in lakh)	Rate of tax applicable (per cent)	Rate of tax applied (per cent)	Amount of non/ short levy of tax (₹ in lakh)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	CTO-I,Ujjain, 2	2008-09 January 2011 2008-09 February 2011	Paper donas and plates 38.06	12.5	4	3.24
The dealer had not furnished C form in respect of Inter State Sale (ISS). However, the AA levied tax at concessional rate of four per cent. After we pointed out the AA stated that donas and plates were sold on declaration form. The contention of the AA is not acceptable as the sale was not supported with form 'C' as mentioned in assessment order.						
2.	CTO-Neemuch 2 (3cases)	2008-09 & 2009- 10 April 2011 & November 2011 2009-10 November 2011	Felt component 25.59 9.24	12.5 12.5	4 5	2.18 0.69
The dealer had not furnished 'C' form in respect of ISS. However, the AA levied tax at rate of four and five per cent. After we pointed out the AA stated that felt component is liable to tax at the rate of four per cent as per the Commissioner Commercial tax (CCT) MP order dated 31 August 2010. We do not agree with the reply of the AA as the referred order relates to fabrics and as per CCT, MP order dated 29 March 1995 M/s Sealwell Neemuch (1995)14 TLD-237, felt component is a machinery part .						

We reported the matter to the Department and the Government (between February and April 2013); their replies have not been received (January 2014).

As per Notification No.1/2007-CST-F.No.34/135/2005 dated 29 March 2007 effective from 1 April 2007 every dealer shall be liable to pay tax at the rate of three per cent in respect of inter-State sale of goods supported by 'C' form. The rate of tax was reduced to two per cent by the notification 1277 dated 30 May 2008 with effect from 1 June 2008.

2.14.2 We test checked the records such as assessment orders, audited accounts, purchase list etc. between February and August 2012 in divisional office Satna, regional office, Bhopal and circle office Satna

and found that in three cases of three dealers assessed between January and June 2011 for the period 2008-2009, tax on inter State sale of ₹ 5.65 crore (supported with 'C' form), was either not levied or levied at incorrect rate. This resulted in non/short levy of tax of ₹ 8.75 lakh, including interest of ₹ 1.22 lakh as shown in the table no. 2.17:

Table No. 2.17

Sl. No.	Name of auditee unit No. of dealers	Period Month of assessment	Commodity Turnover (₹ in lakh)	Rate of tax applicable (per cent)	Rate of tax applied (per cent)	Amount of non/short levy of tax (₹ in lakh)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	CTO, Circle-II <u>Satna</u> 1	<u>2008-09</u> July 2011	<u>limestone</u> 73.02	3	-	2.19
The dealer had furnished 'C' form in respect of ISS up to 31 May 2008 on which tax was leviable at the concessional rate of three <i>per cent</i> . However, the AA did not levy the tax on the same. After we pointed out the case the AA stated that action would be taken after verification.						
2.	<u>RAC-I Bhopal</u> 1	<u>2008-09</u> January 2011	<u>Copper strips</u> 41.94 79.93	3 2	1 1	0.83 0.80
The AA levied tax at the rate of one <i>per cent</i> on ISS supported with 'C' form. After we pointed out the case the AA stated that action would be taken after verification.						
3.	<u>DC Satna</u> 1	<u>2008-09</u> June 2008	<u>Heavy machinery</u> 3.70	3	2	3.70 1.21 (Interest)
The dealer had furnished 'C' form in respect of ISS up to 31 May 2008 but the AA levied the tax on the same at rate of two <i>per cent</i> instead of three <i>per cent</i> . After we pointed out the case the AA raised demand of ₹ 6.48 lakh, including interest of ₹ 2.78 lakh in September 2012. Further details of recovery has not been received (January 2014)						

We reported the matter to the Department and the Government in February 2013; their replies have not been received (January 2014).

2.15 Short levy of tax due to allowing incorrect deduction

According to Section 2(x) (iii) of MP VAT Act, 2002 taxable turnover is determined after deducting amount of tax included in aggregate of sale price.

We test checked the records such as assessment orders, audited accounts, purchase list etc. between May 2012 and January 2013 in regional office, Ujjain and nine circle offices⁴¹ and found that in 11 cases of 10 dealers, assessed between April 2009 and January 2012 for the period from 2006-07 to 2009-10, the

AAs while determining the turnover allowed deduction of ₹ 22.14 lakh towards amount of tax included in the aggregate sale of price. We, however, noticed that tax was not included in the sale price and therefore no deduction should have been made. This irregular grant of deduction resulted in short levy of tax of ₹ 22.14 lakh alongwith interest/penalty of ₹ 6.41 lakh.

After we pointed out the cases (between May 2012 and January 2013), in one case of CTO-IV, Jabalpur the AA raised additional demand of ₹ 81,142 in July 2012. In other 10 cases of 9 dealers, the AAs stated (between May 2012 and January 2013) that action would be taken after verification of cases. Further reply has not been received (January 2014).

⁴¹ Bhopal(2), Dewas, Indore(2), Gwalior, Jabalpur, Khargone and Morena.

We reported the matter to the Department and the Government between February and April 2013; their replies have not been received (January 2014).

2.16 Non-levy of tax on sales incorrectly treated as tax free

The Madhya Pradesh VAT Act, and notifications issued thereunder prescribe rates of tax leviable on different commodities except those which are specified under Schedule I of the Act or exempted through notifications.

We test checked the records such as assessment orders, audited accounts, purchase list etc. between July and December 2012 in divisional office Indore and regional office, Sagar and found that two dealers had sold taxable

commodities like pesticides, readymade garments and hosiery valued at ₹ 1.59 crore. However, the assessing authorities (AAs) while assessing the cases between November 2011 and January 2012 for the period 2009-10 did not levy tax on the same by incorrectly treating them as tax free goods. This resulted in non-levy of tax of ₹ 7.60 lakh.

After we pointed out the cases (between July and December 2012), in one case, the AA stated (July 2012) that action would be taken after verification. In another case, the AA claimed (December 2012) that assessment was done after proper verification of book of accounts and invoices of purchase and sale list. We do not agree with the reply as sale of pesticides is clearly mentioned in the audited accounts and it is taxable at the rate of four *per cent* under entry no. 24 of schedule II of the VAT Act.

We reported the matter to the Department and the Government between February and March 2013; their replies have not been received (January 2014).

We recommend that the Department needs to initiate immediate action to recover non/short levy of entry tax/purchase tax, incorrect grant of exemption, non recovery of tax from closed units, non-realisation of professional tax, non/short levy of penalty, non-levy of tax on transporters, non/short levy of tax on sale without declaration forms etc., pointed out by us.