# CHAPTER IV

# REVENUE SECTOR

## 4.1 Trend of revenue receipts

**4.1.1** The tax and non-tax revenue raised by the Government of Sikkim during the year 2012-13, the State's share of net proceeds of divisible Union taxes and duties assigned to States and grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are mentioned below:

**Table 4.1.1**

*(₹ in crore)*

| Sl. no. | | 2008-09 | 2009-10 | 2010-11 | 2011-12 | 2012-13 |
|---|---|---|---|---|---|---|
| **I.** | **Revenue raised by the State Government** | | | | | |
| | • Tax revenue | 199.19 | 223.65 | 279.54 | 293.92 | 435.48 |
| | • Non-tax revenue | 1,205.31 | 1,356.44 | 1,137.76 | 1,044.57 | 806.96 |
| | **Total:** | 1,404.50 | 1,580.09 | 1,417.30 | 1,338.49 | 1,242.44 |
| **Percentage of increase over previous year** | | (-) 12.85 | (+)12.50 | (-) 10.30 | (-) 5.56 | (-) 7.18 |
| **II.** | **Receipts from the Government of India** | | | | | |
| | • State's share of net proceeds of divisible Union taxes | 364.20 | 374.68 | 524.99 | 611.65 | 698.48 |
| | • Grants-in-aid | 902.55 | 1,299.62 | 1,105.02 | 1,722.50 | 1,852.40 |
| | **Total:** | 1,266.75 | 1,674.30 | 1,630.01 | 2,334.15 | 2,550.88 |
| **III.** | **Total receipts of State Government (I + II)** | 2,671.25 | 3,254.39 | 3,047.31 | 3,672.64 | 3,793.32 |
| **IV.** | **Percentage of I to III** | **53** | **49** | **47** | **36** | **33** |

**Note: Tax and Non-tax revenue during 2007-08 was ₹ 1,611.60 crore**

Thus, growth of revenue during 2012-13 over previous year was at (-) 7.18 *per cent* against (-) 5.56 *per cent* in the year 2011-12. Further, during the year 2012-13, the revenue raised by the State Government (₹ 1,242.44 crore) was 33 *per cent* of the total revenue receipts against 36 *per cent* in the preceding year. The balance 67 *per cent* of receipts during 2012-13 was from the Government of India. Non-tax revenue and total receipts of the State shown in the table above include gross receipts under State Lotteries.

**4.1.2** The following table presents the details of tax revenue raised during the period from 2008-09 to 2012-13:

**Table 4.1.2**

*(₹ in crore)*

| Sl. No. | Head of revenue | 2008-09 | 2009-10 | 2010-11 | 2011-12 | 2012-13 | Percentage of increase (+) or decrease (-) in 2012-13 over 2011-12 |
|---|---|---|---|---|---|---|---|
| 1 | Sales Tax/VAT | 101.14 | 121.07 | 142.74 | 124.19 | 227.08 | 83 |
| 2 | Taxes on Income other than Corporation Tax | 16.16 | 2.84 | 4.94 | 4.86 | 6.73 | 38 |
| 3 | State Excise | 46.47 | 57.27 | 70.64 | 96.26 | 111.12 | 15 |
| 4 | Stamps and Registration Fees | 4.35 | 4.48 | 5.70 | 8.27 | 5.35 | (-) 35 |
| 5 | Taxes on Vehicles | 6.94 | 7.88 | 10.67 | 16.56 | 16.38 | (-) 1 |
| 6 | Other Taxes and Duties on Commodities and Services | 22.18 | 27.39 | 37.52 | 39.17 | 63.16 | 61 |
| 7 | Land Revenue | 1.95 | 2.71 | 7.33 | 4.61 | 5.66 | 23 |
| **Total** | | **199.19** | **223.64** | **279.54** | **293.92** | **435.48** | **48** |

The following reasons for variations were reported by the concerned departments:

***Increase:***

**Sales Tax/VAT:** The increase was due to increase in business activity and monitoring activities. Besides, computerisation and online tax administration were also the reasons for the increase.

**State Excise:** The increase was mainly due to receipt of more excise duty on wine and spirits manufactured in India and classed as Foreign Liquor and Distillery Spirits and Country Spirits.

**Other Taxes and Duties on Commodities and Services:** The increase was mainly due to more collection of Cesses under other Acts.

***Decrease:***

**Stamps and Registration Fees:** The decrease was mainly due to less receipt of Fees for registration of documents.

The other departments had not given reasons for the variations (September 2013).

**4.1.3** The following table presents the details of non-tax revenue raised during the period 2008-09 to 2012-13:

**Table 4.1.3**

*(₹ in crore)*

| Sl. no. | Head of revenue | 2008-09 | 2009-10 | 2010-11 | 2011-12 | 2012-13 | Percentage of increase (+) or decrease (-) in 2012-13 over 2011-12 |
|---|---|---|---|---|---|---|---|
| 1 | Interest Receipts | 25.94 | 44.18 | 28.14 | 29.39 | 46.00 | 57 |
| 2 | Road Transport | 17.64 | 20.29 | 24.76 | 30.89 | 29.01 | (-) 6 |
| 3 | Plantations | 2.35 | 1.80 | 2.90 | 2.59 | 3.98 | 54 |
| 4 | Dividends & Profits | 1.31 | 0.46 | 2.37 | 0.00 | 1.53 | - |
| 5 | Forestry and Wild Life | 11.26 | 8.79 | 12.25 | 12.53 | 12.28 | (-) 2 |
| 6 | Tourism | 2.11 | 1.62 | 3.00 | 1.84 | 2.13 | 16 |
| 7 | Crop Husbandry | 0.71 | 0.40 | 0.51 | 0.46 | 0.71 | 54 |
| 8 | Power | 154.74 | 285.83 | 87.86 | 79.70 | 82.90 | 4 |
| 9 | Printing & Stationery | 1.50 | 2.27 | 1.52 | 1.92 | 2.08 | 8 |
| 10 | Medical and Public Health | 0.96 | 1.02 | 0.72 | 1.27 | 1.50 | 18 |
| 11 | Village & Small Industries | 0.08 | 0.09 | 0.07 | 0.10 | 0.06 | (-) 40 |
| 12 | Public Works | 4.97 | 2.89 | 3.48 | 5.38 | 4.70 | (-) 13 |
| 13 | Police | 11.68 | 14.52 | 9.57 | 12.89 | 49.23 | 282 |
| 14 | Animal Husbandry | 0.30 | 0.32 | 0.38 | 0.48 | 0.72 | 50 |
| 15 | Industries | 0.25 | 0.18 | 0.27 | 0.54 | 0.85 | 57 |
| 16 | State Lotteries[1] | 957.00 | 949.92 | 938.15 | 844.15 | 546.39 | (-) 35 |
| | | (43.95) | (40.90) | (42.54) | (43.62) | (41.43) | (-) 5 |
| 17 | Others | 12.51 | 21.86 | 21.81 | 20.44 | 22.89 | 12 |
| **Total** | | **1,205.31** | **1,356.44** | **1,137.76** | **1,044.57** | **806.96** | **23** |

The following reasons for variations were reported by the concerned departments:

***Increase:***

**Dividends and profits:** The increase was due to more receipts by earning of dividends.

**Medical and Public Health:** The increase was due to increase in user charges collection and fee hike under PFA Act.

**Police:** The increase was mainly due to more receipts for police supplied to other State Government.

[1] *Figures in brackets represent net receipts.*

**Crop Husbandry:** The increase was mainly due to more collection of proceeds from sale of seeds by Government farms than previous year as the yield was comparatively more, and lease out of Bio-fertiliser unit at Mazitar.

**Animal Husbandry:** The increase was due to corrective measures adopted by the Department.

**Tourism:** The increase was due to more receipts under rent and catering, and leasing out of new properties.

***Decrease:***

**Public works:** The decrease was due to less realisation under Hire Charges of Machinery and Equipment.

The other departments had not given reasons for the variations (September 2013).

### 4.1.4 Variation between budget estimates and actuals

The variations between the budget estimates and actuals of revenue receipts under the principal heads of Tax and Non-Tax revenue for the year 2012-13 are given in the following table:

**Table 4.1.4**

(*₹ in crore*)

| Sl. No. | Head of Revenue Receipt | Budget estimates | Actuals | Variation increase (+) decrease (-) | Percentage |
|---|---|---|---|---|---|
| | **Tax Revenue** | | | | |
| 1 | Sales Tax/VAT | 187.14 | 227.08 | 39.94 | 21.34 |
| 2 | Taxes on income other than corporation tax | 142.93 | 150.19 | 7.26 | 5.08 |
| 3 | State Excise | 95.00 | 111.12 | 16.12 | 16.97 |
| 4 | Other taxes and duties on commodities and services | 37.63 | 63.16 | 25.53 | 67.84 |
| 5 | Taxes on Vehicles | 15.00 | 16.38 | 1.38 | 9.2 |
| 6 | Stamp Duty and registration Fees | 7.47 | 5.35 | (-) 2.12 | (-) 28.38 |
| 7 | Other taxes on income and expenditure | 5.62 | 6.56 | 0.94 | 16.73 |
| 8 | Land revenue | 5.48 | 5.66 | 0.18 | 3.28 |
| | **Non-tax Revenue** | | | | |
| 9 | Miscellaneous General Services | 780.99 | 546.39 | (-) 234.6 | (-) 30.04 |
| 10 | Power | 100.05 | 82.90 | (-) 17.15 | (-) 17.14 |
| 11 | Police | 44.88 | 49.23 | 4.35 | 9.69 |
| 12 | Road transport | 29.05 | 29.01 | (-) 0.04 | (-) 0.14 |
| 13 | Forestry and wildlife | 13.48 | 12.28 | (-) 1.2 | (-) 8.9 |
| 14 | Interest Receipts | 21.15 | 46.00 | 24.85 | 117.49 |
| 15 | Public works | 4.56 | 4.70 | 0.14 | 3.07 |
| 16 | Other administrative services | 3.03 | 9.64 | 6.61 | 218.15 |
| 17 | Water supply and sanitation | 3.40 | 2.74 | (-) 0.66 | (-) 19.41 |
| 18 | Medical and Public Health | 1.27 | 1.50 | 0.23 | 18.11 |
| 19 | Tourism | 5.00 | 2.13 | (-) 2.87 | (-) 57.4 |
| 20 | Dividends and profit | 0.25 | 1.53 | 1.28 | 512 |
| 21 | Urban Development | 1.75 | 0.97 | (-) 0.78 | (-) 44.57 |
| 22 | Plantations | 3.20 | 3.98 | 0.78 | 24.38 |
| 23 | Other Rural Development Programme | 2.32 | 1.46 | (-) 0.86 | (-) 37.07 |
| 24 | Stationary and Printing | 1.51 | 2.08 | 0.57 | (-) 37.75 |

*Source: Estimates of Receipt and Finance Accounts for the year 2012-13*

The following reasons for variations were reported by the concerned departments:

**Other taxes and duties on commodities and services:** The increase was due to better collection.

**Urban Development:** Decrease was due to complete ban on allotment of sites and less number of regularisation proposals, unsuccessful tender in smaller towns.

**Sales Tax/VAT:** The increase was due to increase in business activity and monitoring activities. Besides, computerisation and online tax administration were also the reasons for the increase.

**Water supply and sanitation**: Decrease was due to unrealistic increase of yearly budget target estimate with the increase of connections and fewer tender forms sold.

**Medical and Public Health:** Increase was due to increase in user charges collection, fee hike under PFA Act.

**Tourism:** Decrease was due to non-payment of lease rents and low selling of Tender Forms.

The other departments had not given reasons for the variations (September 2013).

### 4.1.5 Cost of collection

The gross collection of major revenue receipts and expenditure incurred on collection and the percentage of such expenditure to gross collection during the period 2010-11 to 2012-13 along with the relevant all India average percentage of expenditure on collection to gross collections for 2011-12 are mentioned in the following table.

**Table 4.1.5**

*(₹in crore)*

| Sl. No. | Head of revenue | Year | Gross Collection | Expenditure on collection | Percentage of expenditure on collection to gross collection | All India average percentage for the year 2011-12 |
|---|---|---|---|---|---|---|
| 1 | Sales Tax/VAT | 2010-11 | 142.74 | 3.28 | 2.30 | 0.83 |
| | | 2011-12 | 124.19 | 6.08 | 4.90 | |
| | | 2012-13 | 227.08 | 5.73 | 2.52 | |
| 2 | State Excise | 2010-11 | 70.64 | 3.93 | 5.56 | 2.98 |
| | | 2011-12 | 96.26 | 3.87 | 4.02 | |
| | | 2012-13 | 111.12 | 4.50 | 4.05 | |
| 3 | Taxes on Vehicles | 2010-11 | 10.66 | 1.13 | 10.60 | 2.96 |
| | | 2011-12 | 16.56 | 1.32 | 7.97 | |
| | | 2012-13 | 16.38 | 1.73 | 10.56 | |
| 4 | Stamp Duty and Registration Fees | 2010-11 | 5.70 | 0.20 | 3.51 | 1.89 |
| | | 2011-12 | 8.27 | 0.13 | 1.57 | |
| | | 2012-13 | 5.35 | 0.16 | 2.99 | |

*Source: Finance Accounts*

As would be seen from the above table, cost of collections in respect of all the four revenue heads were more than the corresponding All India averages which the concerned departments need to look into.

### 4.1.6 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2013 in respect of some Heads of Revenue as reported by the departments was ₹ 29.17 crore of which ₹ 4.50 crore (15.43 *per cent*) were outstanding for more than five years as per details mentioned in the following table:

**Table 4.1.6**

*(₹ in crore)*

| Sl. No. | Head of revenue | Amount outstanding as on 31 March 2013 | Amount outstanding for more than five years |
|---|---|---|---|
| 1 | Sales Tax/VAT | 0.38 | 0.16 |
| 2 | Tourism | 0.25 | 0.25 |
| 3 | Police | 20.89 | Nil |
| 4 | Food Storage and Warehousing | 0.01 | Nil |
| 5 | Non-ferrous Mining and Metallurgical Industries | 3.30 | 2.55 |
| 6 | Animal Husbandry | 0.57 | 0.57 |
| 7 | Water Supply and Sanitation | 1.76 | 0.12 |
| 8 | Public works | 2.01 | 0.85 |
| | **Total** | **29.17** | **4.50** |

### 4.1.7 Refunds

As per information received in respect of Commercial Tax/VAT, there was no refund case during the year. No information was received in respect of other departments.

## 4.2 Response of the departments/ Government towards Audit

On the basis of inspections conducted in various departments of the State Government by sending Audit parties from the office of the Principal Accountant General each year, all irregularities which are of serious nature are incorporated in the Inspection Reports (IRs) and forwarded to the concerned offices with a request to furnish replies within a specified period. Audit findings of very serious nature are processed into draft paragraphs and forwarded to the Administrative Head of the concerned Department through demi-official letters drawing their attention to the audit findings with a request to furnish their response within six weeks. The response of the departments/Government towards audit is discussed in the succeeding paragraphs.

### 4.2.1 Failure of senior officials to enforce accountability and protect the interest of the State Government

The Principal Accountant General (Audit), Sikkim (PAG) conducts periodical inspection of the Government departments to test check the transactions and verify the maintenance of important accounts and other records as prescribed in the rules and procedures. These inspections are followed up with the IRs incorporating irregularities detected during the inspection and not settled on the spot, which are issued to the Heads of the Offices inspected with copies to the next higher authorities for taking prompt corrective action. The Heads of the Offices/Government are required to promptly comply with the observations contained in the IRs, rectify the defects and omissions and report compliance through initial reply to the PAG within one month from the date of the issue of the IRs. Serious financial irregularities are reported to the Heads of the departments and the Government.

IRs issued upto December 2012 disclosed that 328 paragraphs involving ₹ 710.16 crore relating to 131 IRs remained outstanding at the end of June 2013 as mentioned in the following table along with the corresponding figures for the preceding two years.

**Table 4.2.1**

| | June 2011 | June 2012 | June 2013 |
|---|---|---|---|
| Number of outstanding IRs | 110 | 127 | 131 |
| Number of outstanding audit observations | 248 | 332 | 328 |
| Amount involved (*₹ in crore)* | 281.70 | 814.27 | 710.16 |

The Department-wise details of the IRs and audit observations outstanding as on 30 June 2013 and the amounts involved are mentioned in the following table:

**Table 4.2.2**

| Sl. No. | Name of Department | Nature of Receipts | No. of Outstanding IRs | No. of Outstanding Audit Observations | Money value involved (₹ in crore) |
|---|---|---|---|---|---|
| 1 | Finance, Revenue and Expenditure (Commercial Taxes Division) | VAT/Taxes on Sales, Trade, etc. | 11 | 62 | 234.52 |
| 2 | Finance, Revenue and Expenditure (State Income Tax) | Income Tax | 14 | 60 | 32.95 |
| 3 | Excise (Abkari) | State Excise | 08 | 23 | 22.97 |
| 4 | Land Revenue and Disaster Management | Land Revenue | 21 | 24 | 0.81 |
| 5 | Transport | Taxes on Motor vehicles | 06 | 18 | 2.97 |
| 6 | Mines and Geology | Non-ferrous Mining and Metallurgical Industries | 05 | 06 | 3.35 |
| 7 | Forest, Environment and Wildlife Management | Forestry and Wildlife | 42 | 69 | 46.48 |
| 8 | Finance, Revenue and Expenditure (State Lotteries Division) | Lottery | 05 | 10 | 13.16 |
| 9 | Energy and Power | Power | 10 | 32 | 344.79 |
| 10 | Urban Development and Housing | UD & HD | 09 | 24 | 8.16 |
| **Total** | | | **131** | **328** | **710.16** |

The first replies required to be received from Heads of Offices within one month from the date of issue of the IRs were not received for three IRs (issued during 2012-13) upto December 2013. The large pendency of the IRs due to non-receipt of the replies is indicative of the fact that Heads of Offices and Heads of the departments had not initiated adequate action to rectify the defects, omissions and irregularities pointed out by Audit through IRs.

***It is recommended that Government takes suitable steps to put in place an effective procedure for prompt and appropriate response to audit observations as per the prescribed time schedules.***

### 4.2.2 Departmental Audit Committee Meetings

In order to expedite settlement of the outstanding audit observations contained in the IRs, Departmental Audit Committees are constituted by the Government. These committees are to be chaired by the Secretaries of the concerned administrative departments and attended by the concerned officers of the State Government and officers of the PAG. The audit committees need to meet regularly in order to expedite clearance of the outstanding audit observations. During 2012-13, one meeting was held, in which 11 IRs containing 89 paragraphs were discussed and 31 paragraphs were settled.

***The Government may ensure regular holding of meetings of the Audit Committees for ensuring effective action on the audit observations.***

### 4.2.3 Response of the departments to the draft audit paragraphs

Five draft paragraphs proposed for inclusion in the Audit Report of the Comptroller and Auditor General of India for the year ended March 2013 were forwarded (July 2013) to the Secretaries/Commissioners of the respective departments through demi-official letters. The administrative Secretaries/Commissioners furnished replies in respect of all draft paragraphs.

### 4.2.4 Follow up on Audit Reports – summarised position

The administrative departments are required to submit Action Taken Notes on paragraphs and reviews included in the Audit Reports after its presentation in the State Legislature.

As at the end of 2012-13, Audit Reports for the period upto 2007-08 were discussed and recommendations made.

### 4.2.5 Compliance with earlier Audit Reports

In the Audit Reports 2007-08 to 2011-12 cases of irregularities involving ₹ 105.14 crore were reported. As of March 2013, the departments concerned have accepted observations of ₹ 3.17 crore and recovered ₹ 0.19 crore. Audit Report wise details of cases accepted are given in the following table:

**Table 4.2.3**

(*₹ in crore*)

| Year of Audit Report | Total money value | Accepted money value | Recovery made |
|---|---|---|---|
| 2007-08 | 1.33 | 0.32 | Nil |
| 2008-09 | 8.48 | 0.25 | Nil |
| 2009-10 | 7.08 | 0.15 | Nil |
| 2010-11 | 86.03 | 0.24 | Nil |
| 2011-12 | 2.22 | 2.21 | 0.19 |
| **Total** | **105.14** | **3.17** | **0.19** |

### 4.3 Analysis of the mechanism for dealing with issues raised by Audit

In order to analyse the system of addressing the issues highlighted in the IRs/Audit Reports by the departments/Government, the action taken on the paragraphs and Performance Audits included in the Audit Reports of the last five years in respect of **Excise (Abkari) Department** is evaluated and included in this Report.

The succeeding paragraphs 4.3.1 to 4.3.2 discuss the performance of the Excise Department in dealing with the cases detected in course of local audit conducted during the last five years and also the cases included in the Audit Reports for the years 2002-03 to 2011-12.

### 4.3.1 Position of Inspection Reports

The summarised position of IRs issued during the last five years, paragraphs included in these Reports and their status as on 30 June 2013 are given in the following table:

**Table 4.3.1**

(₹ *in crore*)

| Year | Opening balance | | | Addition during the year | | | Clearance during the year | | | Closing balance | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | IRs | Paragraphs | Money value | Irs | Paragraphs | Money value | Irs | Paragraphs | Money value | Irs | Paragraphs | Money value |
| 2008-09 | 4 | 11 | 7.70 | 1 | 4 | 0.09 | 1 | 4 | 5.29 | 4 | 11 | 2.50 |
| 2009-10 | 4 | 11 | 2.50 | 1 | 5 | 0.71 | 0 | 2 | 0.26 | 5 | 14 | 2.95 |
| 2010-11 | 5 | 14 | 2.95 | 1 | 4 | 15.85 | 0 | 2 | 0.01 | 6 | 16 | 18.79 |
| 2011-12 | 6 | 16 | 18.79 | 1 | 6 | 4.05 | 0 | 0 | 0.00 | 7 | 22 | 22.84 |
| 2012-13 | 7 | 22 | 22.84 | Nil | Nil | Nil | Nil | Nil | Nil | 7 | 22 | 22.84 |

The Department was periodically reminded to furnish replies to the outstanding audit observations.

### 4.3.2 Assurance given by the Department/Government on the issues highlighted in the Audit Reports and recovery of accepted cases

The position of paragraphs included in the Audit Reports of the last five years accepted by the Department and the amounts recovered there against are mentioned in the following table:

**Table 4.3.2**

| Year of Audit Report | No. Of paragraphs included | Money value of the paragraphs | Number of paragraphs accepted | Money value of accepted paragraphs (₹ in crore) | Amount recovered during the year (₹ in crore) | Cumulative position of recovery of accepted cases (₹ in crore) |
|---|---|---|---|---|---|---|
| 2003-04 | 1 | ₹ 4.83 crore | *No reply* | - | Nil | Nil |
| 2005-06 | 1 | ₹ 1.49 crore | - | - | Nil | Nil |
| 2007-08 | 1 | ₹ 26.10 lakh | - | - | Nil | Nil |
| 2010-11 | 1 | ₹ 7.50 crore | *No reply* | - | Nil | Nil |
| 2011-12 | Nil | Nil | Nil | - | Nil | Nil |

From the above table it would be seen that the Department has not accepted any of the cases mentioned above and resultantly, the entire objected amount remained unrecovered.

## 4.4 Results of audit

### 4.4.1 Position of local audit conducted during the year

Test-check of the records of five units under Revenue departments (Motor Vehicles, Commercial Taxes Division, Mines, Minerals and Geology, State Lotteries and State Excise) conducted during the year 2012-13 revealed irregularities involving revenue aggregating ₹ 51.50 crore in 27 cases. During the course of the year, the departments concerned accepted all these cases which were pointed out in audit during 2012-13.

### 4.4.2 This Report

Five paragraphs involving financial effect of ₹ 32.84 crore were forwarded to respective Government/departments. The Government/departments accepted audit observations involving ₹ 31.37 crore, out of which ₹ 1.36 crore has been recovered (₹ 73.98 lakh relating to State Lotteries and ₹ 62.04 lakh relating to Commercial Taxes, both under the Finance, Revenue and Expenditure Department). This Chapter contains three paragraphs involving ₹ 30.03 crore with accepted amount of ₹ 28.94 crore. These are discussed in the succeeding paragraphs.

## FINANCE, REVENUE & EXPENDITURE DEPARTMENT (COMMERCIAL TAXES DIVISION)

### 4.5 Undue benefit to a company

**Delay in assessment of tax for the period 2006-07 to 2010-11 on sales turnover of ₹ 142.80 crore benefitted a company as it retained tax collected from the consumers amounting to ₹ 28.56 crore over a period exceeding two to seven years.**

Section 11(2) of Sikkim Sales Tax Act 1983 read with Rule 12 (1,2 and 4) of Sikkim Sales Tax Rules 1983 required mandatory submission of quarterly returns alongwith the proof of payments by the dealers within 30 days following the quarter (30 April, 31 July, 31 October and 31 January of every year).

Test check (February 2013) of records of Commercial Taxes Division revealed that one dealer i.e., M/s Mount Distilleries had not been assessed for local sales tax (LST)[2] for the period from April 2006 to March 2010. The Division issued demand notice after provisionally assessing (April 2011) the tax liability of the said dealer for ₹ 7.71 crore on a turnover of ₹ 77.11 crore. Audit scrutiny of the said assessment revealed the following irregularities:

- The tax liability was calculated at the rate of 10 *per cent* of the gross sales turnover instead of applicable 20 *per cent*. It was done presuming, without verification that the dealer had claimed for eligibility of tax benefit for having gone for expansion.
- Assessment was done after deducting ₹ 32.53 crore from gross sales turnover as cash discount. Sikkim Sales Tax Act 1983 defines 'sale price' as the amount payable towards the sale of goods, less any sum allowed as 'cash discount' by the seller to the buyer. Other types of discounts like turnover discount, target discount, sales promotion discount, etc. are not eligible for deduction from the sale price.

Scrutiny revealed that the said amount was not eligible to be treated as cash discount as the same was not granted through the invoice/bill at the time of sale of goods. The Division had admitted the discount as cash discount only on the basis of dealer's

[2] *LST of 10 per cent is applicable for the industrial units eligible for incentives under the Industrial Policy Scheme of the Government. Other units including M/s Mount Distilleries are liable to pay LST @ 20 per cent.*

statement without verifying the documents in support of any cash discount. In absence of any record with the Division in support of 'cash discount', requisition for documents was issued to Excise Department. However, no such document could be produced by that Department too.

After these being pointed out (February 2013) in Audit, the Division made (March 2013) final assessment at the rate 20 *per cent* of gross sales turnover and disallowing the 'cash discount' earlier admitted in provisional assessment. The turnover was, therefore, enhanced to ₹ 142.80 crore and the tax liability assessed for ₹ 28.56 crore.

The Division stated (August 2013) that it had issued the demand notice for the said amount and penalty (₹ 14.28 crore). It was further stated that the dealer has filed application for review of the assessment and has raised objection on the imposition of full rate of tax and penalty, which was under examination.

While the tax due has not been realised and is under review (October 2013), fact remains that the company was not assessed for the period 2006-07 to 2010-11, before 8 March 2013, thereby extending the undue benefit to the dealer of retention of the tax amount of ₹ 28.56 crore collected by him over a period of two to seven years as detailed in **Appendix 4.1.**

## 4.6 Non-levy of Sikkim Value Added Tax

**Irregular utilisation of Way Bills resulted in evasion of SVAT amounting to ₹ 1.09 crore.**

According to Section 2 (xxxvi) of the Sikkim Value Added Tax (SVAT) Act 2005, taxable turnover means the turnover on which a dealer is liable to pay tax as determined after making such deductions from his total turnover and in such manner as may be prescribed. Under Section 2 (vii), capital goods which are exempted from tax liability, means plant, machinery, dyes, tools and equipment used in the process of manufacturing, excluding civil structures and such goods as may be notified from time to time. Issue of demand notice is prerequisite under Rule 44 or 45 of SVAT 2005 for initiating the realisation/recovery process against any dealer.

Test-check of records (February-March 2013) of the Commercial Tax Division, Gangtok for the period from May 2007 to March 2012, revealed that the Division had not systemically monitored the legitimate use of Way Bills by the dealers. From the records, it was seen that the Division detected (April 2008) irregular utilisation of Way Bills towards purchase of iron, steel and cement, not directly involved in usual course of its business, which was to manufacture medicines and cosmetics, by M/s Golden Cross Pharma Pvt. Ltd., Rorathang. In response to the related query of the CTD, the company confirmed that the purchase of construction materials were not related to the manufacturing process and assured (May 2008) the Division that it shall pay full amount of the SVAT for all such purchases.

It was, however, seen that despite the earlier detection (April 2008) of evasion of SVAT, by irregular utilisation of Way Bills, and assurance given by the company to pay the full amount of tax, the company took inadmissible deductions[3] while calculating its "taxable turnover" beyond the period of detection. The company thus, on its continued purchase of construction materials, kept on evading payment of SVAT. It was further observed that during the period from May 2007 to March 2012, construction materials worth ₹ 13.48 crore were purchased by the company without any payment of SVAT. The Division also had not issued any Demand Notice even for the period up to March 2008, for which the evasion of SVAT was detected by them.

Thus, inadmissible deductions while calculating its taxable turnover by irregular utilisation of Way Bills by the company, and lack of follow up and monitoring by the Division, resulted in evasion and non-recovery of SVAT amounting to ₹ 1.09 crore as detailed in the **Appendix 4.2**.

The Division replied (August 2013) that a registered dealer involved in manufacturing can file way bill for goods imported for use as raw material, packing material, plant, machinery, consumables and construction material. Hence, the issue of way bill for import of cement and steel by the dealer was neither irregular nor was there any revenue loss. The reply is not tenable as the deductions availed by the company pertained to inter-State transactions of purchase of iron, steel and cement which were not directly related to the business of the company.

## 4.7 Non-realisation of revenue

**Systemic lacunae in the Commercial Taxes Division (CTD) to ensure realisation of taxes from works contractors executing works of registered dealers, resulted in loss of revenue of ₹ 38.21 lakh.**

As per Sikkim Value Added Tax (Amendment) Rules 2006 read with Sub-rule (1) and Sub-rule (2) of Rule 39 of the Sikkim Value Added Tax (SVAT) Rules 2005, in the case of the works contract where amounts towards labour charges and other like charges or no non-taxable components, not involving any transfer of property in goods, actually incurred in connection with the execution of such works contract are not ascertainable, the State or Central Government or a body making payment of any sums to any contractor for carrying out such works contract, at the time of payment of such sums in any manner, shall deduct at source a tax payable under Section 13, at the rate of two *per cent* on the gross value of each bill on account of the execution of the works contract. The paying authority shall issue a certificate in Form 11A to the contractor and a copy thereof to the appropriate assessing authority, duly verified and signed by the authorised officer of the paying authority. Further, as per the Rule 42 of the Act *ibid* every person entering into any contract with any contractor for execution of works contract, shall inform the Commissioner of such contract within fifteen days from the date of signing of the contract or issue of letter of intent. The contractor was also required to file quarterly and annual returns as per Section 30 of the SVAT Act 2005.

[3] *Inadmissible deduction: The deductions availed by the company were inadmissible as the transactions pertained to the purchase of iron, steel and cement which were not directly related to the business of the company.*

Test check of records revealed (March 2013) that there was no system in place in the CTD, Gangtok to ensure realisation of tax from the contractors undertaking works of registered dealers/organisations/bodies in the State through registration of all works executing contractors, making the works awarding dealers accountable to enforce realisation from contractors and deposit the same in to the Government account, obtaining periodical returns along with proof of payment of appropriate tax from the work awarding entities, appropriate follow up and monitoring etc. It may be mentioned that in the case of Government departments, such deduction at the source of payment itself were being ensured by the departmental Drawing and Disbursing Officers.

Scrutiny revealed that there were 422 works contractors registered under CTD, out of which records relating to only seven were produced. Two firms[4] out of seven functioning as registered works contractors were awarded execution of various works by the Central Agricultural University at Gangtok. It was further noticed that the works awarding organisation did not deposit any tax payable by these contractors as required under the Rules. This organisation also neither informed the CTD of entering into contract with these contractors for execution of works nor did the Division enquire about the same. The CTD had not taken any initiative to introduce appropriate system in the Division to ensure realisation of taxes due from the dealers/organisations/ bodies/ contractors. Further, the works contractors never filed any quarterly or annual return till the date of Audit (March 2013).

It was further seen that one works contractor (M/s Supreme Engineering Services, a Mumbai based contractor), who was not registered, was not paying tax despite the fact that it was executing various works in the State for pharmaceutical companies (M/s Golden Cross Pharma Pvt. Ltd and M/s Cipla Ltd). The extent of evasion of tax could not be quantified due to non-availability of information with the CTD. Ignorance of non-registration of works contractors functioning in the State also indicated that the prevailing system of ensuring realisation of taxes from works contractors was inadequate with consequential serious risk of evasion of tax. The Division also confirmed (June 2013) the non-payment of taxes by these works contractors.

Thus, due to systemic inadequacy in the CTD in ensuring realisation of taxes, the Government could not realise ₹ 38.21 lakh as detailed in **Appendix 4.3**.

The matter was reported to the Division/Government (May 2013); their reply has not been received (October 2013).

[4] *Deecon India Pvt.Ltd, Dikchu and M/s North East Engineering & Associates, Marchak, Ranipool.*