

CHAPTER-II

Sales Tax/Value Added Tax

EXECUTIVE SUMMARY	
Increase in tax collection	In 2012-13 tax collection in respect of VAT including sales tax and central sales tax increased by 16.78 <i>per cent</i> over the previous year which was attributed by the Department mainly to increase on surcharge on sales tax, motor spirit sales, collection under VAT and West Bengal Sales Tax Act.
Low audit coverage by internal audit wing	Internal audit wing of the Directorate of Commercial Taxes does not have any Audit Manual. The wing planned three charge offices but audited only two charge offices out of 92 offices (67 charge offices, one Corporate Division and 24 Ranges) during 2012-13 which was only 2.17 <i>per cent</i> of the total auditable units.
Very low recovery by the Department against observations pointed out by audit	During the period 2008-09 to 2012-13 audit had pointed out non/short levy, non/short realisation, underassessment /loss of revenue, etc. with revenue implication of ₹ 881.66 crore in 79 paragraphs. Of these, the Department accepted 70 paragraphs involving ₹ 534.50 crore but recovered only a meagre amount of ₹ 0.17 crore.
Results of audit conducted in 2012-13	<p>In 2012-13, test check of the records of 41 units relating to VAT receipts indicated underassessment of tax and other irregularities involving ₹ 304.41 crore in 647 cases.</p> <p>The Department accepted underassessment and other deficiencies of ₹ 44.52 crore in 313 cases, of which 288 cases involving ₹ 42.94 crore were pointed out in audit during the year 2012-13 and the rest in the earlier years. An amount of ₹ 21.90 lakh was realised in 30 cases during the year 2012-13.</p>
What has been highlighted in this Chapter	<p>In this Chapter a Performance Audit on “Efficiency of the Administration of Value Added Tax in West Bengal” with financial effect of ₹ 532.15 crore has been presented.</p> <p>The following points have been highlighted in the Performance Audit:</p> <ul style="list-style-type: none"> • Absence of a system of cross verification of information of the other departments as well as within the department resulted in evasion of tax of ₹ 115.97 crore by 190 dealers.

	<ul style="list-style-type: none"> • Non-existence of a system of monitoring compliance of the findings of the preventive wings resulted in non-assessment and non-realisation of ₹ 3.14 crore. • Non-initiation of recovery proceedings resulted in evasion of tax of ₹ 642.62 crore in 1,620 cases of 1,570 dealers. • Absence of monitoring of the certificate cases by the department and inaction of the Tax Recovery Officers resulted in non-realisation of ₹ 43.08 crore in 697 cases. • Inefficiency of the administration in monitoring transit declarations resulted in evasion of tax of ₹ 91.73 crore by the transporters in 3,689 cases carrying goods on strength of transit declarations. • Non-disposal of appeal cases within the specified time limit resulted in allowance of claims of disputed amount of ₹ 63.16 crore to the appellants in 139 appeal cases without any hearing. • Deficiencies in the internal control mechanism like non-maintenance of database of preventive wing's findings, non-existence of working manual of Internal Audit Wing and poor maintenance of records were noticed. <p>Besides these, some illustrative cases of ₹ 51.41 crore noticed during the test check of records in compliance audit have also been included.</p> <p>Similar omissions on the part of the Assessing Authorities (AAs) were pointed out repeatedly in the Audit Reports for the past several years. However these irregularities persisted and remained undetected by the audited entity till these were redetected in audit. Omissions were apparent from the records which were made available to audit, however the AAs were unable to detect them.</p>
Conclusion	<p>Performance Audit on "Efficiency of the Administration of Value Added Tax in West Bengal " revealed a number of deficiencies regarding absence/inadequacy of system/departmental instructions, non-compliance of the prevalent provisions and in the internal control mechanism in the functioning of the DCT. Absence of any system of cross verification of information that can be obtained from other departments as well as information available in different wings of the department itself, non-monitoring of compliance of the findings of preventive wings, non-initiation of penalty as well as</p>

recovery proceedings and non disposal of seized goods adversely affected the realisation of revenue. Failure of the DCT to monitor the business activities of the dealers with cancelled registration and functioning of TROs and delayed disposal of the appeal cases within the specified time limit affected revenue realisation. Absence of a database of persistent tax evading dealers, non-existence of a working manual, non-maintenance of Scrutiny Register, absence of a structured Internal Audit Wing and poor record keeping were found to be weaknesses of the internal control mechanism of the DCT.

The Government may consider :

- establishing a system by issuing departmental instructions to coordinate with other departments/ within the department on information available with them, so as to bring eligible unregistered dealers into the tax net and to prevent tax evasion by registered dealers;
- instituting an effective surveillance system so as to curb business of dealers with cancelled registrations;
- timely initiation of recovery proceedings, raising demand in modified appeal cases and disposal of the seized materials to avoid delays in realisation of revenue;
- maintaining a database of the dealers identified as persistent tax evaders by the preventive wings of the department; and
- maintenance of Scrutiny register and providing a working manual for streamlining the functioning of the IAW.

CHAPTER II : SALES TAX/VALUE ADDED TAX

2.1 Tax administration

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

2.2 Trend of revenue

Actual receipts from VAT¹ during the years from 2008-09 to 2012-13 along with the total tax receipts during the same period is exhibited in the following table and chart:

Table 2.1 - Trend of revenue

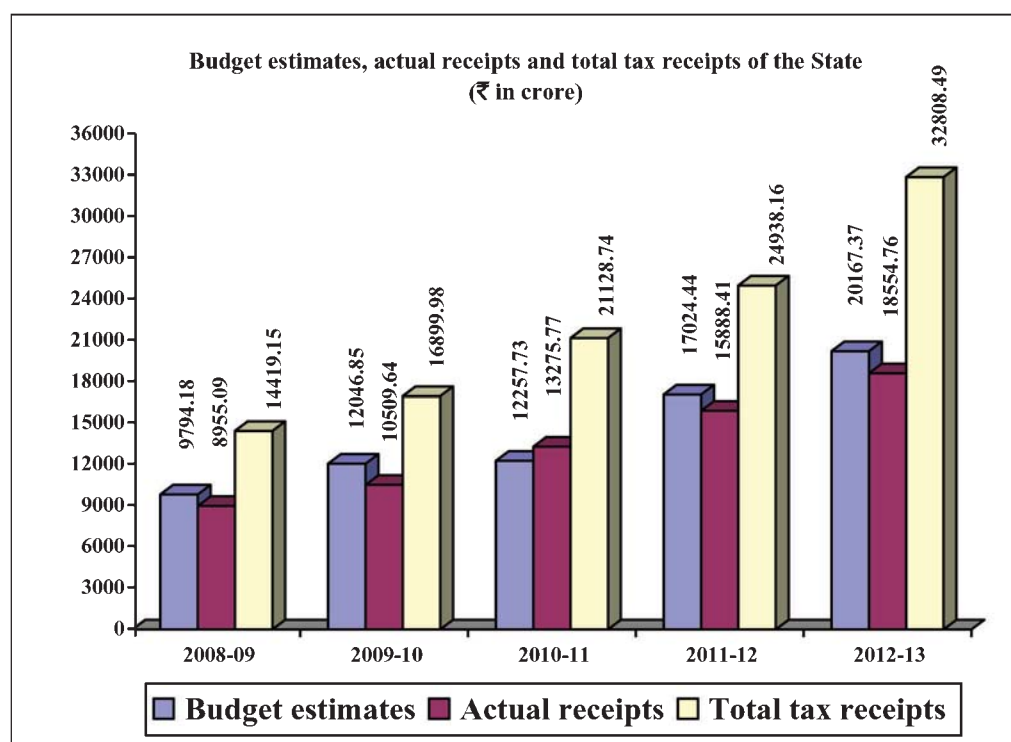
(₹ in crore)

Year	Budget estimates	Actual receipts	Variation Excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual VAT receipts vis-à-vis total tax receipts
2008-09	9,794.18	8,955.09	(-)839.09	(-)8.57	14,419.15	62.11
2009-10	12,046.85	10,509.64	(-)1,537.21	(-)12.76	16,899.98	62.19
2010-11	12,257.73	13,275.77	(+)1,018.04	(+)8.31	21,128.74	62.83
2011-12	17,024.44	15,888.41	(-)1,136.03	(-)6.67	24,938.16	63.71
2012-13	20,167.37	18,554.76	(-)1,612.61	(-)8.00	32,808.49	56.55

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

¹ Includes sales tax, central sales tax and VAT.

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



Total tax receipts of the State have shown an increasing trend for the last five years as is with the receipts of taxes on sales, trade etc. The percentage of revenue contribution to total tax receipts by receipts of taxes on sales, trade etc. has been almost stable within a range of 62 *per cent* to 64 *per cent* between 2008-09 and 2011-12. But in 2012-13 it has come down to 56.55 *per cent*. In 2012-13, tax collection in respect of sales, trade etc increased by 16.78 *per cent* over the previous year which was attributed by the Department mainly to increase on surcharge on sales tax, motor spirit sales, collection under VAT and West Bengal Sales Tax Act.

2.3 Cost of collection of VAT per assessee

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

Table 2.2 - Cost of collection of VAT per assessee

Year	Cost of collection (₹ in crore)	No. of dealers at the end of the year	Cost of VAT per assessee (₹ in thousand)
2010-11	165.18	3,10,832	5.31
2011-12	174.52	2,27,351	7.68
2012-13	190.91	2,44,434	7.81

Source: Finance Accounts and figures furnished by the Department.

Cost of collection of VAT per assessee suddenly increased to ₹ 7.68 thousand per assessee in 2011-12 from ₹ 5.31 thousand per assessee in 2010-11. In 2012-13, it has further increased by 0.13 thousand per assessee over 2011-12.

Thus, there is ample scope for better tax administration by lowering the cost of collection and bringing more dealers in the tax net.

2.4 Arrears in assessment

The position of arrears in assessment during the year 2012-13 was not furnished by the Department (though reminders were issued). The position of arrears in assessment during 2010-11 to 2011-12 is shown in the following table:

Table 2.3 – Number of assessment cases in arrear

Sl. No.	Particulars	2010-11	2011-12	2012-13
1.	Opening Balance	89,086	1,05,804	Not furnished by the Department
2.	Cases initiated during the year	61,514	77,383	
3.	Cases disposed of during the year	44,796	55,325	
4.	Cases pending at the end of the year	1,05,804	1,27,862	

Since the department did not furnish the figures of arrears in assessment for 2012-13, Audit could not analyse the disposal of assessments by the assessing authorities.

2.5 Working of internal audit wing

Internal audit wing of the Directorate of Commercial taxes started functioning from May 1991 as a permanent in-house mechanism for scrutinising and detecting irregularities in assessments of Sales Tax and VAT cases as well as checking of different records/registers to ascertain whether the internal control system as envisaged in the Act and Rules made thereunder is functioning properly. The wing is headed by the Commissioner of Commercial taxes, West Bengal who is assisted by one Additional Commissioner of Commercial Taxes (Addl. CCT), two Sr. Joint Commissioners, one Joint Commissioner/C.T.O, an Upper Divisional Clerk, a Lower Divisional Clerk and a Peon. The wing does not have any internal audit manual. The wing planned to audit three charge offices but audited only two out of total 92 auditable units (i.e. 67 charge offices, one Corporate Division and 24 Ranges) during the year 2012-13. Thus, coverage of internal audit wing during 2012-13 was only 2.17 *per cent* of the total auditable units which needs to be widened.

2.6 Cost of collection

Gross collection from sales tax and VAT, expenditure incurred on its collection and the percentage of such expenditure to gross collection for the years 2010-11 to 2012-13 are given in the following table:

Table 2.4 – Cost of collection

(₹ in crore)

Year	Gross Collection	Gross Expenditure	Percentage of expenditure to gross collection	All India average percentage of expenditure on collection for the preceding year
2010-11	13,275.77	165.18	1.24	0.96
2011-12	15,888.41	174.52	1.10	0.75
2012-13	18,554.76	190.91	1.03	0.83

Source: Finance Accounts.

Though the percentage expenditure on collection of VAT has steadily come down from 1.24 *per cent* in 2010-11 to 1.03 *per cent* in 2012-13, it was always higher than the all India average.

2.7 Analysis of collection

Table 2.5 – Analysis of collection

(₹ in crore)

Year	Amount collected at pre-assessment stage	Amount collected after regular assessment	Penalties for delay in payment of taxes and duties	Amount refunded	Net collection	Percentage of column 2 to 6
1	2	3	4	5	6	7
2010-11	13,292.42	95.09	47.82	48.82	13,386.51	99.30
2011-12	Not furnished by the Department.				15,904.44	--
2012-13	Not furnished by the Department.				18,554.76	--

Source: Figures furnished by the Department and Finance Accounts.

Since the department did not furnish (though called for) the figures of VAT collection at the pre-assessment stage and after regular assessment for 2012-13, Audit could not ascertain the voluntary tax compliance by the dealers.

2.8 Revenue impact of audit reports

During the last five years (including the current year's report), audit had pointed out non/short levy, non/short realisation, underassessment/loss of revenue, incorrect exemption, concealment/suppression of turnover, application of incorrect rate of tax, mistake in computation etc, in 79 paragraphs with revenue implication of ₹ 881.66 crore. Of these, the Department/Government had accepted audit observations of 70 paragraphs involving ₹ 534.50 crore against which recovery of only ₹ 0.17 crore has been intimated.

The details are shown in the following table:

Table 2.6 – Revenue impact of audit reports

(₹ in crore)

Year of audit report	Paragraphs included		Paragraphs accepted		Amount recovered	
	Number	Amount	Number	Amount	Number	Amount
2008-09	20	44.91	15 ²	10.39	-	-
2009-10	15	136.85	13 ³	92.87	-	-
2010-11	18	48.23	17 ⁴	17.97	2	0.04
2011-12	15	68.11	14	67.65	2	0.05
2012-13	11	583.56	11 ⁵	345.62	2	0.08
Total	79	881.66	70	534.50	6	0.17

The above table shows that the department did not report any recovery against the accepted cases during 2008-09 to 2009-10 and reported marginal recovery during 2010-11 to 2012-13.

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

² 14 paragraphs partly accepted.

³ All paragraphs partly accepted.

⁴ Three paragraphs fully and 14 paragraphs partly accepted.

⁵ One paragraph partly accepted.

2.9 Results of audit

In 2012-13, Audit test checked the records of 41 units relating to VAT receipts and found underassessment of tax and other irregularities involving ₹ 304.41 crore in 647 cases under the following categories:

Table 2.7 – Results of audit

(₹ in crore)

Sl. No.	Categories	Number of cases	Amount
1.	Incorrect determination of Contractual Transfer Price (CTP)/turnover of Sales (TOS)	76	28.97
2.	Irregular allowance of transfer of goods/Input Tax Credit (ITC)/remission	111	11.53
3.	Irregular allowance of compounded/concessional rate of tax	39	10.60
4.	Application of incorrect rate of tax/Mistake in computation	73	18.17
5.	Non/short levy of additional sales tax/purchase tax/penalty/interest	237	90.03
6.	Others	111	145.11
Total		647	304.41

During the course of the year, the department accepted underassessment and other deficiencies of ₹ 44.52 crore in 313 cases, of which 288 cases involving ₹ 42.94 crore were pointed out in audit during the year 2012-13 and the rest in the earlier years. An amount of ₹ 21.90 lakh was realised in 30 cases during the year 2012-13.

Audit findings of the Performance Audit on ‘**Efficiency of the Administration of Value Added Tax in West Bengal**’ with financial effect of ₹ 532.15 crore and a few illustrative cases involving ₹ 51.41 crore are mentioned in the succeeding paragraphs.

2.10 Performance Audit on “Efficiency of the Administration of Value Added Tax in West Bengal”

2.10.1 Introduction

The concept of ‘Value Added Taxation’, in keeping with the global trend of reforms in indirect taxes was introduced in West Bengal in 2003 and the West Bengal Value Added Tax (WB VAT) Act was implemented w.e.f. 01.04.2005. Under the provisions of the Act, the cascading effect of taxation at each stage of transaction of commodity till it reaches the final consumer was attempted to be minimised by setting off of the amount of input tax (tax paid on purchases) at each stage against the output tax (tax payable on the sale). Various commodities are classified into four⁶ main categories under the VAT Act for the purpose of application of different rates of VAT on their transaction. However, under the VAT regime of West Bengal’s indirect taxation, some of the commodities like liquor, diesel, motor spirit, petrol, etc. are not covered under VAT but instead administered under the West Bengal Sales Tax Act, 1994. Inter-state transactions of goods are administered under the Central Sales Tax Act, 1956.

Value Added Tax⁷ is the major tax-revenue of the State. During last five years, it contributed 62.44 *per cent* of the total tax revenue and 54.54 *per cent* of total revenue raised by the State.

Performance Audit on “Efficiency of the administration of Value Added Tax in West Bengal” for the period 2007-08 to 2011-12 was taken up from March to July 2013.

Highlights

- Absence of a system of cross verification of information of other departments as well as within the department resulted in evasion of tax of ₹ 115.97 crore by 190 dealers.

(Paragraphs 2.10.8.3, 2.10.8.4, 2.10.8.5 and 2.10.9.1)

- Lack of a system of monitoring compliance of the findings of the preventive wings resulted in non-assessment and non-realisation of ₹ 3.14 crore.

(Paragraph 2.10.11)

- Non-initiation of recovery proceedings resulted in evasion of tax of ₹ 642.62 crore in 1,620 cases by 1,570 dealers.

(Paragraphs 2.10.19.1, 2.10.19.2, 2.10.19.3 and 2.10.19.4)

- Absence of monitoring of certificate cases by the department and inaction of the Tax Recovery Officers resulted in non-realisation of ₹ 43.08 crore in 697 cases.

(Paragraphs 2.10.20.1, 2.10.20.2 and 2.10.20.3)

⁶ Zero rated commodities - as mentioned in Schedule A and AA, one *per cent* rate of tax- as mentioned in Schedule B, four *per cent* rate of tax – as mentioned in Schedule C (Part I, II and III) and 13.5 *per cent* rate of tax- as mentioned in Schedule CA.

⁷ Including Sales Tax.

- Inefficiency of administration in monitoring transit declarations resulted in evasion of tax of ₹ 91.73 crore by transporters in 3,689 cases.

(Paragraph 2.10.22)

- Non-disposal of appeal cases within the specified time limit resulted in allowance of claims of disputed amount of ₹ 63.16 crore to the appellants in 139 appeal cases without any hearing.

(Paragraph 2.10.23)

- Deficiencies in the internal control mechanism like non-maintenance of database of preventive wing's findings, non-existence of working manual of Internal Audit Wing and poor maintenance of records were noticed.

(Paragraph 2.10.24)

2.10.2 Organisational set up

The WBVAT Act, 2003 and the Rules made thereunder are administered by the Directorate of Commercial Taxes (DCT), which is under the administrative control of the Principal Secretary, Finance (Revenue) Department. The overall control and superintendence of the Directorate is vested with the Commissioner of Commercial Taxes (CCT) who is assisted by two Special Commissioners, 45 Additional Commissioners (Addl. CCTs), 1,105 Senior Joint Commissioners (Sr. JCCTs), Joint Commissioners (JCCTs), Deputy Commissioners (DCCTs), Commercial Tax Officers (CTOs) and 1,220 Assistant Commercial Tax Officers (ACTOs).

The Bureau of Investigation (BOI) and the Central Section (CS) are two main Preventive Wings under the Directorate. The BOI is headed by an Additional CCT who is assisted by one Sr. JCCT, two JCCTs, five DCCTs, eight CTOs and 23 ACTOs. The CS is also headed by an Addl. CCT who is assisted by 15 Sr. JCCTs, 10 JCCTs, 29 DCCTs, 62 CTOs and 123 ACTOs. The Central Section has its three branches at Beliaghata (Kolkata), Asansol and Siliguri.

2.10.3 Trend of Revenue

Actual receipts from VAT during 2007-08 to 2011-12 along with the total tax receipts during the period are as detailed below:

Table 2.8 – Trend of Revenue

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

The percentage of revenue contribution from VAT to the total tax receipts has been varying between 61.41 and 63.71 *per cent*.

2.10.4 Analysis of cost of collection

Gross collection from VAT, expenditure incurred on its collection and the percentage of such expenditure to gross collection for the period from 2007-08 to 2011-12 have been analysed and the same has been compared with the percentage of expenditure to gross collection of a few other states as well as all-India average percentage of expenditure on collection for the same period. The position is given below:

Table 2.9 – Analysis of cost of collection

Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	Percentage of expenditure to gross collection of other states					(₹ in crore)
				Tamil Nadu	Andhra Pradesh	Gujarat	Maha-rashtra	Punjab	All India average percentage of expenditure on collection
2007-08	8,060.46	92.42	1.15	0.77	0.92	0.65	0.58	0.86	0.82
2008-09	8,955.09	100.34	1.12	0.91	0.87	0.59	0.71	0.75	0.83
2009-10	10,509.64	150.01	1.43	0.91	0.91	0.71	0.87	0.79	0.88
2010-11	13,275.77	165.18	1.24	0.77	0.90	0.60	0.70	1.07	0.96
2011-12	15,888.41	174.52	1.10	0.62	0.81	0.52	0.68	0.89	0.75

Though expenditure on collection of VAT has come down from 1.43 *per cent* of gross revenue in 2009-10 to 1.10 *per cent* in 2011-12, it has always been higher than the percentage of other major States and the all India average. Thus, there is need to improve efficiency in collection of VAT in the State.

2.10.5 Audit objectives

Performance Audit was undertaken with a view to ascertain whether:

- provisions of the Act/Rules were effectively enforced and adequate departmental instructions were issued to ensure that all the prospective dealers are detected and brought under the tax net;
- tax, interest and penalty were properly assessed and collected in time and whether there exists an effective collection mechanism; and
- there exists an effective internal control mechanism including internal audit.

2.10.6 Scope, methodology and criteria of audit

Out of 68 charge offices, 23 were selected for Performance Audit by application of risk analysis and simple random sampling method. In addition, records of BOI, Central Sections, concerned Circle offices, Ranges, Checkposts and the Tax Recovery Officers/Certificate Officers were also checked. Data obtained from other Departments/Directorates/Divisions were

also cross-verified with data available with the Directorate/charge offices to detect evasion by the dealers. Similar audit findings of transaction audit also stand included in the report.

Provisions of West Bengal Value Added Tax Act, 2003 and West Bengal Value Added Tax Rules, 2005 were used as source of audit criteria for the Performance Audit. The Performance Audit covered the period from 2007-08 to 2011-12.

2.10.7 Acknowledgement

Audit acknowledges the co-operation of DCT in providing necessary records and information for the Performance Audit. Before taking it up, an Entry Conference was held on 21 March 2013 with the Commissioner of Commercial Taxes and Senior Officers of the DCT, in which the audit objectives, scope, criteria and methodology of Performance Audit were discussed. Findings of the Performance Audit were forwarded to the Directorate and Department in August 2013. The Exit Conference was held on 29 August 2013. Views of the Directorate have suitably been incorporated in the relevant paragraphs.

Audit findings

System deficiencies

Comprehensive Act, Rules/Procedure framed thereunder and its effective implementation ensure sound tax administration. Audit observed a number of system deficiencies *inter alia* related to absence and inadequacy of provisions. Due to them administration of VAT in the State could not realise its potential for collection. These are discussed in the following paragraphs:

2.10.8 Absence of a system to co-ordinate information with other departments

Sections 10, 14 and 23 of WB VAT Act, 2003 prescribe that a dealer shall get himself registered when his/her turnover exceeds the taxable turnover prescribed under the Act. The threshold limit of taxable turnover for a dealer to be registered is ₹ five lakh. The Act provides for penalty for failure to apply for registration. Sections 16 and 18 prescribe that the taxable turnover of sales and contractual transfer price (CTP⁸) of a dealer is to be taxed at prescribed rates after permissible deductions. Section 96 of the Act prescribes a penalty of sum not exceeding twice the amount of tax evaded to be imposed for concealment of sale/contractual transfer price.

During the Performance Audit, Audit observed that the Directorate had no effective system for cross verification of information of the other departments to detect unregistered dealers and to check evasion by the registered dealers/work contractors.

Information of other departments viz. Land and Land Reforms Department, Election Commission, Directorate of Registration and Stamp Revenue and Railways which contained records of potential tax payers, could have been

⁸ CTP- Cost of a project in case of works contractors.

made use of for the purpose of checking VAT registration. If utilised, it would have made substantial difference in bringing additional work contractors/dealers within the tax net. In some other cases, though dealers were registered with the DCT, they had not disclosed the turnover/CTP. In absence of such information the DCT was not in a position to levy VAT on them. Both these types of evasion could have been arrested if the department had cared to undertake such cross verification of related information available with other Government Departments.

Evasion due to non-detection of the unregistered dealers as well as evasion by the registered dealers is discussed in the following paragraphs:

2.10.8.1 Evasion by the unregistered brick field owners

Records are maintained by District Land and Land Reforms Officers (DL&LROs) in respect of extraction of brick earth by the brick field owners. Audit cross verified the information obtained from six⁹ DL&LROs, with Dealers' registration database of the DCT and found that 853 unregistered dealers (brick field owners) under jurisdiction of eight¹⁰ charge offices extracted 44.95 crore cft of brick earth between 2007-08 and 2011-12 which was sufficient to produce bricks valued at ₹ 2,004.20 crore¹¹. Though the sale quantities of these individual brick field owners exceeded the threshold limit of taxable turnover for the purpose of registration, the dealers were not brought under tax net. Thus, unregistered dealers engaged in the manufacture and sale of bricks escaped imposition of VAT.

On this being pointed out, three¹² charge offices in 269 cases involving ₹ 23.83 crore accepted the audit observations and stated that the brick field owners were not registered and action was being taken against them. In the remaining cases, the charge offices did not furnish any reply/specific reply.

Earlier, in response to a comment made under para 2.2.7 of the Audit Report (Revenue Receipts), Government of West Bengal for the year ended 31 March 2006, regarding evasion of tax due to non-registration by the brick field owners, the Department had replied that there was a need to set up a mechanism for exchange of information between the DCT and DL&LROs & other offices. However, audit noticed that no such mechanism has so far been set up (November 2013).

2.10.8.2 Evasion by the unregistered sand quarry permit/lease holders

Audit cross verified the information obtained from two¹³ DL&LROs, in connection with extraction of sand by the quarry permit/lease holders with

⁹ Burdwan, Hooghly, Howrah, Jalpaiguri, Midnapore (East) and Nadia. Total 19 DL&LROs in the state.

¹⁰ Asansol, Burdwan, Cooch Behar, Durgapur, Krishnanagar, Serampore, Shibpur and Tamluk.

¹¹ Calculated on the basis of the submission of Bengal Brickfield Owners' Association (about bricks that can be produced by using 100 cft of brick earth) in the Hon. Supreme Court (in Civil Appeal no.1532 of 1993) and the rates prescribed in the Schedule of rates of WB PWD.

¹² Asansol, Krishnanagar and Tamluk.

¹³ Burdwan and Midnapore (East).

Dealers' registration database of DCT and found that 106 unregistered dealers (quarry permit/lease holders) extracted 526.88 lakh cft of sand valued at ₹ 34.22 crore (calculated as per schedule of rates of WB PWD) between 2007-08 and 2011-12. Though the sand extracted was sold and the sale quantities of these individual dealers exceeded the threshold limit of taxable turnover for registration, they were not brought under tax net. The dealers engaged in extraction and sale of sand, had avoided payment of VAT by not getting themselves registered.

On this being pointed out, two¹⁴ charge offices accepted the audit observation in 24 cases involving ₹ 33.30 lakh and stated that the sand quarry/lease permit holders were not registered and action was being taken against them. In the remaining cases the charge offices did not furnish any reply/specific reply.

2.10.8.3 Evasion by work contractors in preparation of Electoral Photo Identity Cards (EPICs)

Cross verification of information obtained from the State Election Commission regarding the contracts for preparation of EPICs with the registration data/assessment records/returns of the contractors revealed the following:

- The State Election Commission had awarded the work of preparation of EPICs to IT firms. Audit found that four such unregistered IT firms received payment of ₹ 1.10 crore from the Election Commission between 2009-10 and 2012-13. Though the CTP of the individual work contractors exceeded the threshold limit of taxable turnover for registration, they were not brought under the tax net. Thus, these unregistered work contractors had avoided VAT to the tune of ₹ 4.39 lakh.

On this being pointed out, JCCT, Bankura accepted (September 2013) the audit observation in one case of ₹ 0.8 lakh. In remaining cases, the Sr. JCCT, Central Section did not furnish reply.

- Cross verification of information from the State Election Commission, in connection with preparation of EPICs further revealed that four other work contractors who were registered with the DCT, under jurisdiction of three¹⁵ charge offices, received payment of ₹ 9.66 crore from the Election Commission between 2007-08 and 2011-12. But the CTP was not disclosed by these dealers in their returns and the Assessing Authorities (AAs) also failed to detect concealment of these CTP in the absence of any system of cross verification. This resulted in evasion of VAT amounting to ₹ 38.64 lakh. Penalty not exceeding twice of the tax evaded under Section 96 of the Act was also leviable, but was not levied for reasons not on record.

On this being pointed out, JCCT, Salt Lake charge admitted audit observation in two cases of ₹ 35.99 lakh and stated (December 2012) that suo-motu revision proposal had been sent. In the remaining cases, no specific reply was furnished.

¹⁴ Asansol and Tamluk.

¹⁵ Salt Lake, Shibpur and Ultadanga.

2.10.8.4 Evasion by work contractors in computerisation of registration of documents

The Directorate of Registration and Stamp Revenue had awarded the work of computerisation of the process of registration of documents and delivery thereof to the executants in registering offices to IT work contractors. In response to an audit query, the Directorate communicated that two work contractors had received payment of ₹ 32.03 crore and ₹ 14.54 crore respectively from the Directorate during the period from 2007-08 to 2011-12.

On cross verification of this information with the dealers' assessment case records, it was observed that one party did not disclose the CTP in its VAT returns for the respective periods whereas the other disclosed only ₹ 1.62 crore as CTP in the returns as against actual receipts of ₹ 14.54 crore. The AAs also failed to detect such concealment of CTP in absence of any system of cross verification. This resulted in evasion of VAT amounting to ₹ 3.34 crore. Penalty not exceeding twice of the tax evaded under Section 96 of the Act was also leviable, but was not levied for reasons not on record.

On this being pointed out, JCCT, Corporate Division admitted the audit observation in respect of the first party and stated (May 2013) that action was being initiated. In the other case, JCCT, Ballygunge charge did not furnish any reply.

2.10.8.5 Evasion by Railway contractors

The South Eastern Railway awards civil work contracts to be executed in the State to various works contractors. In response to audit's request, the Sr. Divisional Engineer, Garden Reach, South Eastern Railway communicated that payments were made to 24 works contractors during the period 2007-08 to 2011-12. Results of cross-verification of this information in respect of eight dealers¹⁶ with DCT registration database and dealers' returns revealed that:

- An unregistered work contractor received payment of ₹ 1.17 crore from the South Eastern Railway between 2009-10 and 2011-12. Though, the CTP of the work contractor exceeded the threshold limit of taxable turnover for registration, he was not brought under the tax net. Thus, the unregistered work contractor avoided VAT of ₹ 4.03 lakh.
- Two dealers under Shibpur charge received payments of ₹ 32.81 lakh from the South Eastern Railway during the period of assessment from 2009-10 to 2011-12, but they did not disclose CTP in their returns. The AAs also failed to detect such concealment of CTP. This resulted in evasion of VAT amounting to ₹ 1.87 lakh. Penalty under Section 96 of the WBVAT Act was also leviable.

On these being pointed out, the CCT accepted the audit observations and stated in the Exit Conference (August 2013) that railways had been requested to set up an institutional mechanism for sharing electronic data. Cross verification with the departments not having electronic database, however, may not be practical. In respect of cases of tax evasion, the charge officers were instructed by the CCT to initiate action.

¹⁶ Assessment records/returns in respect of eight dealers were made available to audit.

2.10.9 Absence of a system to co-ordinate information within the department

Audit also observed that the Directorate had no effective system for cross verification of information within the department to detect unregistered dealers and to check evasion of VAT by registered dealers/work contractors. The endorsed way bills data and Tax Deducted at Source (TDS) data available electronically¹⁷ with the DCT were not utilised by AAs to restrict tax evasion by registered dealers and to bring the unregistered work contractors into the tax net as discussed in the following paragraphs:

2.10.9.1 Evasion by suppression of purchases through way bills

According to provisions of the WBVAT Act, 2003, purchase of the dealers includes purchases within the State and inter-state purchase through waybills¹⁸.

According to Section 96 of the WBVAT Act, 2003, where a dealer has concealed any purchase with an intent to reduce the amount of net tax payable by him, the AA may impose penalty of a sum not exceeding twice the amount of tax which would have been avoided by him if the concealed purchases were not detected.

Audit cross verified the information/returns furnished by dealers regarding their purchases from outside the state through way bills with the database of the endorsed way bills of the DCT in respect of 200 cases of 177 dealers assessed/deemed to be assessed by the AAs of 20 charge offices¹⁹ between January 2010 and September 2012. Audit found that dealers disclosed purchases from outside the State of ₹ 9,264.43 crore in their returns submitted to the AAs whereas their actual purchases from outside the State were ₹ 11,086.42 crore as evident from the database of the endorsed way bills of the Directorate. AAs failed to detect this suppression of purchases of the dealers and the cases were assessed/deemed to have been assessed by them. Suppression of purchase from outside the State resulted in concealment of sales of ₹ 1,822.00 crore and consequent evasion of tax by the dealers amounting to ₹ 112.14 crore. Penalty under Section 96 of the WBVAT Act was also leviable.

On being pointed out, five²⁰ charge offices accepted the audit observations in 38 cases involving ₹ 5.14 crore and initiated action accordingly. JCCT, Chinabazar, stated that in nine cases involving ₹ 80.71 lakh deemed assessment cases were to be completed without calling for books of accounts. Therefore, there was no question of checking the dealers' books of accounts and documents by which the database records could have been cross verified. The reply is not tenable as the database containing all relevant information

¹⁷ TDS data available at TDS Cell and endorsed way bills data at the Directorate of Commercial Taxes itself.

¹⁸ Waybill is a document issued by the Assessing Authority in Form-50 for transportation of goods.

¹⁹ Asansol, Bally, Ballygunge, Behala, Beliaghata, Bhowanipore, Burdwan, Chandni Chowk, Chinabazar, Colootola, Corporate Division, Durgapur, Fairlie Place, Midnapore, Park Street, Salkia, Serampore, Siliguri, Strand Road and Taltola.

²⁰ Asansol, Bally, Behala, Salkia and Strand Road.

was already available with the DCT and no additional information was required by the AAs to conduct the necessary verification. In the remaining cases, the charge offices did not furnish any reply/specific reply.

2.10.9.2 Evasion by unregistered work contractors

Sections 40 and 46 of the WBVAT Act prescribe that a person/entity responsible for paying any sum to any dealer for execution of a works contract within West Bengal shall deduct tax (TDS) at the prescribed rate on his contractual transfer price. The amount of tax so deducted shall be remitted to the Government accounts within 10 days and the deductor shall submit a scroll in Form 19 within 45 days after expiry of the month of such deduction.

Audit analysed and cross verified the data of Tax Deducted at Source (TDS) available in TDS cell with Dealers' registration database of DCT and observed through reverse calculation²¹ that gross CTP of the works contract in respect of 1,305 unregistered dealers (Works Contractors) exceeded the threshold limit of taxable turnover for registration but they did not get themselves registered under VAT Act. This resulted in evasion of tax of ₹ 8.75 crore. The TDS data was available with the Directorate, but they did not use this data to bring works contractors under tax net.

The CCT in the Exit Conference (August 2013) stated that it was difficult to bring all small dealers under the tax net. However, specific inputs would be definitely enquired into.

2.10.10 Absence of a mechanism to watch and prevent the business of cancelled registration dealers

Section 29 of the WBVAT Act, 2003 prescribes the conditions under which the certificate of registration of a dealer shall be cancelled. However, the department has not devised any mechanism to monitor such cancelled registration of dealers so that they do not run their business while evading tax. Misuse of cancelled registration certificates was noticed in following cases:

2.10.10.1 Non-detection of business activities of the cancelled registration dealers

Audit cross verified information obtained from the DL&LROs, TDS Cell of the Directorate, Public Works (Roads) Directorate and VAT returns of the dealers with the database of the cancelled dealers of the DCT and found that 103 dealers continued to operate their business even after the date of cancellation of their VAT registrations. In the absence of a mechanism in the Directorate to watch and prevent the business of such dealers whose registrations were cancelled, the Directorate could not detect and initiate necessary proceedings against them for possible tax evasion when identified.

CCT did not furnish any specific reply in the Exit Conference (August 2013).

²¹ CTP was calculated on the basis of TDS amount. TDS at the rate of two *per cent* in case of registered works contractor and four *per cent* in case of unregistered works contractor. After arriving at the CTP, tax at the rates prescribed in Rule 30(2) (Sl.no.21 of the table) of VAT Rules, 2005 in respect of dealers who exceeded the threshold limit of turnover, has been calculated by Audit.

2.10.10.2 Evasion of tax by misuse of cancelled Registration Certificates

Section 40 of the Act prescribes deduction of TDS at the rate of two and four *per cent* in case of registered and unregistered dealers respectively.

Audit cross verified the information obtained from the TDS Cell of the Directorate, South Eastern Railway and Public Works (Roads) Directorate with database of the cancelled dealers of the DCT and found that 59 dealers in 106 cases executed works contracts of ₹ 4.65 crore and used registration numbers for deduction of TDS at the rate of two *per cent* in place of four *per cent*, though their registration certificate numbers were cancelled on the dates prior to the dates of transaction (payment). Thus, the dealers misused registration certificate numbers and evaded tax of ₹ 22.89 lakh.

CCT did not furnish any specific reply in the Exit Conference (August 2013).

2.10.11 Absence of a system to monitor compliance to the findings of BOI and CS

Bureau of Investigation (BOI) and Central Section (CS) are the preventive units of the DCT. Reports containing findings of investigation conducted by BOI and CS are sent to the concerned AAs for assessment and realisation of the evaded tax. For cases where assessments have been finalised, Section 85 of the WBVAT Act provides that, assessments may be opened for *suo motu* revision and inclusion of the evaded tax.

Audit cross verified findings of BOI and CS with the assessment case records of the dealers in seven²² charge offices and found that in 16 cases of 12 dealers, the Directorate detected concealment of sale/purchase/CTP of ₹ 33.13 crore and under-charging of tax on ₹ 3.25 crore by a dealer at the rate of four *per cent* in place of 12.5 *per cent*. The investigation reports were forwarded to the AAs for necessary follow-up action and realisation of the under-assessed dues. But the AAs did not comply with the findings of the Preventive Wings at the time of assessment which resulted in non-assessment and non-realisation of government revenue of ₹ 3.14 crore. Penalty was also imposable in these cases under Section 96 of the Act.

On analysing the reasons for this, Audit observed that there was no mechanism for monitoring such compliance. The charge officers did not maintain any register for receipt of the BOI and CS reports and their subsequent distribution to the group officers for compliance. The Directorate also did not prescribe any item regarding 'compliance of BOI/CS findings' in the format of progressive reports of the Charge/Circle office. Under these circumstances, the findings, as noted above, of the BOI/CS escaped compliance leading to non-realisation of revenue.

On being pointed out, three²³ charge offices accepted (June 2013) the audit observations in eight cases involving ₹ 1.38 crore. In the remaining cases, the charge offices did not furnish any reply/specific reply.

²² Asansol, Ballygunge, Behala, Corporate Division, Durgapur, Lalbazar and Park Street.

²³ Asansol, Behala and Lalbazar.

The CCT stated in the Exit Conference (August 2013) that as per circular issued under the WBST Act in August 1997, the charge offices should monitor the compliance of the findings of the BOI and CS and send a report on action taken within six months. The circular had been reiterated through e-mail by the CCT.

Compliance Deficiencies

Deficiencies in assessment and collection of VAT, interest and penalties

Proper tax assessment and a sound collection mechanism are the essential elements of efficient and effective tax management. Audit noticed deficiencies in implementation of provisions of WBVAT Act for assessment and collection of VAT, interest and penalties as detailed in the succeeding paragraphs.

2.10.12 Non-initiation of assessment

Section 46(1) of the WBVAT Act prescribes that where no return has been furnished by a registered dealer for any return period of a year, the Commissioner shall, after giving a notice to such dealer, proceed for assessment in prescribed manner. Section 49(1) provides that no assessment under Section 46 shall be made after the 30th June next following the expiry of two years from the end of the year in respect of which the assessment has to be made.

Scrutiny of assessment case records of three²⁴ Charge offices revealed that in 28 cases of 26 dealers for the period of assessment between 2005-06 and 2009-10, the dealers did not submit all four quarterly VAT returns for the above periods. Their cases were liable for assessment under provision of Section 46 of the WBVAT, Act and notice in the prescribed form (Form-25) was to be issued to the dealers. But the AAs did not initiate any proceeding for assessment of these defaulting dealers. There was no recorded reason for non-initiation of assessments in the case records. By the date of audit, all the cases had already become time barred. Consequently, evasion and loss of government revenue cannot be ruled out due to non-assessment of such cases.

On being pointed out, the JCCT, Asansol Charge accepted the audit observations in 12 cases (August 2013). Other charge offices did not furnish any reply. On this being pointed out, the CCT instructed the charge offices to analyse the causes of such non-initiation of assessment.

2.10.13 Evasion due to excess claim of Input Tax Credit

In the VAT regime, false/fake/excess claim of ITC and their subsequent non-detection by AAs at the time of assessment/deemed assessment is the main area of evasion, especially in the cases of deemed assessments where the assessing officers can only go by the returns/documents available with them.

Section 22(4) of WBVAT Act, 2003 prescribes that the input tax credit shall be allowed to the extent of the amount of tax paid/payable by the purchasing

²⁴ Asansol, Burdwan and Siliguri.

dealer on his purchase of taxable goods within the state from a registered dealer for direct use in the business, other than such taxable goods as specified in the negative list. Under Section 16(3), a dealer under composite scheme shall not be entitled to issue tax invoice and as such purchases from such dealers is not eligible for ITC.

Under Section 22(13), where a registered dealer has enjoyed ITC on such purchases for which he is not entitled, he has to reverse the amount of ITC to that extent.

Under Section 33(3) of the Act, where a dealer required to adjust any amount of reverse credit by way of deducting ITC fails to do so, he shall pay a simple interest at the rate of 12 *per cent* per annum.

Audit scrutinised records of cases assessed/deemed to be assessed for the periods of assessment from 2006-07 to 2009-10, and observed in 21²⁵ charge offices that in 132 cases of 126 dealers, the dealers claimed ITC of ₹ 3.10 crore though purchases were made from dealers whose RCs were either cancelled²⁶ or they were composite dealers²⁷ not entitled to any ITC, or the items concerned appeared in the negative list. AAs failed to notice such irregularities and the cases were assessed/ deemed to be assessed by them. This resulted in evasion by the dealers amounting to ₹ 3.91 crore including interest.

On being pointed out, 14²⁸ charge offices accepted the audit observations in 63 cases involving ₹ 1.99 crore, out of which ₹ 3.99 lakh had been realised in six cases. In the remaining cases, the charge offices did not furnish any reply/specific reply.

2.10.14 Evasion by the dealers under composite scheme

Sections 16 & 18 of the WBVAT Act and Rules 38 & 39 prescribe that a registered dealer intending to pay tax at compounded rate is required to exercise option in Form-16 within 90 days from the commencement of the year before the prescribed authority for a maximum period of one year at a time. The dealers who opt for compounded rate of tax have to submit their returns in Form-15.

Audit scrutinised the case records assessed/deemed to be assessed for the period of assessment from 2005-06 to 2009-10 and observed in eight²⁹ charge offices that in 72 cases, 58 dealers (resellers) submitted their returns in Form-15 but they did not exercise their option in Form-16, as ascertained from the records of the circle office also. Thus, the dealers did not fulfil the conditions

²⁵ Asansol, Ballygunge, Beliaghata, Bhowanipore, Burdwan, Chandni Chowk, Colootola, Corporate Division, Durgapur, Fairlie Place, Kadamtala, Lalbazaar, Midnapore, Park Street, Postabazar, Salkia, Salt Lake, Serampore, Siliguri, Strand Road and Taltola.

²⁶ Dealers whose registration had been cancelled were to be treated as “Unregistered Dealers” and purchase made from them was not entitled for Input Tax Credits.

²⁷ Registered dealers (resellers) eligible to pay tax at compounded rate (0.25 *per cent*). Such dealers cannot issue tax invoice.

²⁸ Asansol, Belighata, Burdwan, Colootola, Corporate Division, Durgapur, Kadamtala, Lalbazar, Park Street, Postabazar, Salkia, Serampore, Siliguri and Taltola.

²⁹ Asansol, Ballygunge, Beliaghata, Bhowanipore, Burdwan, Midnapore, Park Street and Siliguri.

for availing the benefits of composite scheme in order to avail the benefit of paying tax at the compounded rate, but the AAs allowed these dealers to pay tax at the compounded rate without checking their eligibility under the composite scheme. This resulted in evasion of revenue of ₹ 82.90 lakh.

On being pointed out, four³⁰ charge offices accepted the audit observations in 28 cases involving ₹ 39.47 lakh. In the remaining cases, the charge offices did not furnish any reply/specific reply.

The CCT stated in the Exit Conference (August 2013) that the charge offices were instructed to furnish replies.

2.10.15 Short determination of Gross Turnover

Section 16 of the WBVAT Act, 2003 levies tax on the turnover of sales which is defined as the aggregate of the sale prices or parts of sale prices receivable by a dealer in respect of sales of goods.

Audit found in three cases of two dealers in two³¹ charge offices that during the period of assessment from 2005-06 to 2007-08, the dealers did not include hiring charges and miscellaneous receipts of ₹ 1.10 crore in their gross turnover of sales in their returns. This resulted in short determination of gross turnover of ₹ 1.10 crore and consequent short levy of tax of ₹ 13.71 lakh.

On being pointed out, the JCCT, Asansol admitted the audit observation in two cases of ₹ 11.59 lakh. In the remaining case the charge office did not furnish any reply.

The CCT accepted the audit observations in the Exit Conference (August 2013) and stated that the charge offices were instructed to furnish replies.

2.10.16 Application of incorrect rate of tax

Section 16(2) of WBVAT Act, 2003 prescribes that the rate of tax on the goods/commodities sold depends upon classification of goods in the schedule appended to the Act.

Scrutiny of assessment case records of three³² charge offices for the periods of assessment from 2006-07 to 2009-10, revealed that in three cases, dealers applied incorrect rates of tax for determination of their tax liability. Hiring charges, pollution control equipments and miscellaneous goods not specified elsewhere should have been charged at the rate of 12.5 *per cent* but the dealers calculated their tax liability at the rate of four *per cent* on a total sale value of ₹ 174.72 crore, and paid tax of ₹ 6.99 crore in place of ₹ 21.84 crore. At the time of assessment/deemed assessment, the AAs also failed to detect underassessment of this tax liability by the dealers. This resulted in short levy of tax due to application of incorrect rate of tax amounting to ₹ 14.85 crore.

³⁰ Asansol, Beliaghata, Bhowanipore and Park Street.

³¹ Asansol and Ballygunge.

³² Asansol, Behala and Siliguri.

On being pointed out, two³³ charge offices admitted the audit observation in two cases of ₹ 14.83 crore. In the remaining case, the charge office did not furnish any reply.

The CCT accepted the audit observations in the Exit Conference (August 2013) and stated that the charge offices were instructed to furnish replies.

2.10.17 Evasion by poppy seeds importers

On evasion of VAT on sales of “Poppy Seeds” imported from outside India, the Sr. JCCT/ Central Section communicated (November 2010) to seven charge offices that during 2005-06 to 2008-09, 11 poppy seeds importers had disposed imported poppy seeds at a price as low as 20 *per cent* to 25 *per cent* of the prevailing market price and that the sales transactions were not only undervalued but the pattern of disposal was also designed so that incidence of taxation stopped at the first point and the subsequent sales were made non-traceable. Audit observed non-compliance as well as non-imposition of penalty in these cases as narrated below:

2.10.17.1 Audit cross verified the findings of the Central Section, Kolkata regarding evasion of tax by the importers of poppy seeds with the assessment case records of four dealers in four³⁴ charge offices and observed that the Preventive Wings of the Directorate detected concealment of sale of poppy seeds of ₹ 253.49 crore during the years 2007-08 and 2008-09. But the AAs did not comply with the findings of the Preventive Wings at the time of assessment, which resulted in non-assessment and non-realisation of government revenue of ₹ 10.14 crore.

On being pointed out, the charge offices admitted the audit observation in all cases and stated that action was initiated/being initiated.

2.10.17.2 Audit cross verified the findings of the Central Section regarding cases of search and seizure and tax evaded by the dealers with the assessment case records of six³⁵ charge offices and observed that in 12 cases of seven dealers, the CS detected concealment of sale of poppy seeds of ₹ 326.34 crore and consequent evasion by the dealers of ₹ 13.05 crore for assessment periods between 2006-07 and 2008-09. The findings were duly communicated to charge officers for taking necessary follow up action. At the time of assessment, a separate proceeding for imposition of penalty under Section 96 of the Act was not initiated by them. The AAs also did not quote any reason for non-initiation of separate proceedings for imposition of penalty in the assessment orders.

On being pointed out, all six charge offices accepted the observation in 11 cases and stated that penalty under Section 96 were initiated/ being initiated separately. In the remaining case, the charge officer did not furnish any specific reply.

The CCT accepted the audit observations in the Exit Conference (August 2013) and stated that the charge offices were instructed to initiate action. In

³³ Asansol and Behala.

³⁴ Armenian Street, Beadon Street, Park Street and Postabazar.

³⁵ Armenian Street, Beadon Street, Colootola, Jorasanko, Park Street and Postabazar.

respect of non-imposition of penalty, he stated that a circular had been issued in May 2013.

2.10.18 Non-initiation of penalty proceedings in established cases of tax evasion.

Section 96 of the WBVAT Act, 2003 prescribes that where a dealer has concealed any sale/purchase/CTP or any particular thereof or furnished incorrect statement of his turnover of sales /purchase/CTP or claimed excess amount of input tax credit with intent to reduce the amount of net tax payable by him, a separate proceeding to impose penalty may be started. After providing such dealers a reasonable opportunity of being heard, the AA may, by an order in writing, impose penalty of a sum not exceeding twice the amount of tax which would have been avoided by him if concealed sales/purchase/CTP or excess claim of ITC were not detected.

Audit cross verified the findings of the Bureau of Investigation (BOI³⁶) and Central Section (CS³⁷) regarding cases of search and seizure and tax evaded by the dealers with the assessment case records of nine³⁸ charge offices. On the basis of such cross verification, audit observed that in 39 cases in respect of 30 dealers, the BOI/ CS had detected concealment of sale/purchase/CTP and excess claim of input tax credit (ITC) amounting to ₹ 756.74 crore and consequent evasion by the dealers of ₹ 50.47 crore for assessment periods between 2005-06 and 2010-11. The findings were duly communicated to the charge officers to take follow up action. At the time of assessment, though AAs had agreed with the detection of the BOI/CS and took appropriate action by levying tax etc., a separate proceeding for imposition of penalty under Section 96 of the Act was also required to be initiated by them which were not done for reasons not found on record.

Non-imposition of penalty, in such established cases of evasion detected by the Preventive Wings, defeated the purpose, relevance and spirit of the provisions of penalty under Section 96 of the Act.

On being pointed out, seven³⁹ charge offices admitted the audit observations between March and June 2013 in 20 cases of ₹ 40.23 crore and assured that proper action would be taken. In the remaining cases, they did not furnish any reply/specific reply.

The CCT accepted the audit observations and stated in the Exit Conference (August 2013) that a circular had been issued to impose minimum penalty of 25 *per cent* of the tax in evasion cases.

³⁶ The main function of the BOI is to search a dealer's place of business, seize records/ documents/ physical stock of goods and to lodge complaints to the police in evasion cases.

³⁷ The main function of the CS is to conduct way side checking, search and seizure of vehicles/goods.

³⁸ Asansol, Ballygunge, Bhowanipore, Colootola, Corporate Division, Durgapur, Lalbazar, Park Street and Serampore.

³⁹ Asansol, Bhowanipore, Colootola, Durgapur, Lalbazar, Park Street and Serampore.

2.10.19 Non-initiation of recovery proceedings

According to provisions of the WBVAT Act, 2003 and Rules made thereunder, the due amount of tax, penalty, late fee and interest assessed by the AA shall be paid by the dealer on or before the date specified in the notice of demand. In case of default in payment within the specified dates, such amount shall be recovered by initiating special mode of recovery (issue of Garnishee notice⁴⁰) under Section 60 or referring the cases to the Tax Recovery Officers (TRO) under Section 55.

Audit scrutinised the demand register (Register 58), certificate case register (Register IX) and related case records in 21⁴¹ charge offices and observed that arrear dues were getting accumulated over years. Even in cases of confirmed or modified appellate decisions, the charge offices did not initiate immediate recovery proceedings. In many cases, the dealers were running their business but the assessed dues remained uncollected from them for want of recovery proceedings as discussed in the subsequent paragraphs:

2.10.19.1 Non recovery from the dealers whose Registration Certificates were cancelled due to default in payment of tax

Audit noticed in 17⁴² charge offices that in 463 cases of 434 dealers assessed between March 2007 and June 2012, the dealers defaulted in payment of assessed tax, penalty, late fee and interest within the dates specified in the demand notices, and neither did they appeal against the assessment orders issued by the AAs. Cross-verification of Registration Certificates (R.Cs) of these dealers with the database of the cancelled dealers of the Directorate revealed that the R.Cs of the dealers were cancelled between June 2005 and February 2013 and they had closed their business.

Authorities neither initiated any special mode of recovery proceeding under Section 60 (issuing Garnishee notice) nor referred the cases to the Tax Recovery Officer (TRO)/Certificate Officer (CO) even after lapse of period ranging between five to 97 months from the dates of cancellation of their R.Cs. As the R.Cs of the dealers were cancelled, the possibilities of recovery of the assessed dues became remote and there was evasion of tax by ₹ 94.02 crore.

On being pointed out, six⁴³ charge offices accepted the audit observations in 115 cases involving ₹ 19.55 crore and stated (between December 2012 and August 2013) that recovery proceedings were initiated/being initiated. In the remaining cases, the charge offices did not furnish any reply/specific reply.

⁴⁰ Notice served to a third party by the VAT authorities to surrender money in settlement of a debt/claim in respect of a dealer.

⁴¹ Asansol, Ballygunge, Behala, Beliaghata, Bhowanipore, Burdwan, Chandni Chowk, Chinabazar, Colootola, Durgapur, Fairlie Place, Krishnanagar, Lalbazar, Midnapore, Park Street, Salkia, Salt Lake, Serampore, Siliguri, Strand Road and Taltola.

⁴² Asansol, Ballygunge, Beliaghata, Bhowanipore, Burdwan, Chandni Chowk, Chinabazar, Durgapur, Fairlie Place, Lalbazar, Midnapore, Park Street, Salkia, Serampore, Siliguri, Strand Road and Taltola.

⁴³ Asansol, Beliaghata, Bhowanipore, Lalbazar, Strand Road and Taltola.

2.10.19.2 Evasion by the defaulting dealers

Audit noticed in 21⁴⁴ charge offices that 1,075 dealers in 1,096 cases were assessed and demand notices were issued between June 2008 and November 2012. The dealers had defaulted in payment of assessed tax, penalty, late fee and interest within the dates specified in the demand notices and also did not prefer any appeal against the assessment orders issued by the AAs.

Authorities did not initiate recovery proceedings under Section 60 or 55 of the Act even after expiry of periods ranging between seven to 59 months after the dates specified for payment in the demand notices. Though the dealers were running their businesses, neither were the special mode of recovery initiated by the charge officers nor were the cases sent to the TRO for recovery of the assessed dues. Thus, the dealers evaded assessed dues in the absence of initiation of any recovery proceedings. This resulted in evasion of revenue of ₹ 533.21 crore.

Ten charge offices⁴⁵ accepted the audit observations in 152 cases involving ₹ 113.66 crore, out of which ₹ 3.60 lakh was realised in one case and in rest of the admitted cases, they stated that recovery proceedings were initiated/being initiated. In the remaining cases, the charge offices did not furnish any reply/specific reply.

2.10.19.3 Non-recovery in appeal cases where assessments were confirmed

Section 84 of WB VAT Act, 2003 prescribes that if any dealer is aggrieved of any assessment by AAs, he may prefer an appeal before the Appellate Authority. The Appellate Authority while disposing of any appeal case, may confirm, modify or annul the assessment and direct the AAs to make a fresh assessment.

Audit cross verified the judgments on appeal cases of nine⁴⁶ Appellate Authorities with the assessment records of 15⁴⁷ charge offices and found that in 45 cases of 45 dealers involving disputed amount of ₹ 13.76 crore, the dealers filed appeal petition before the Appellate Authorities between 2008-09 and 2011-12. The Appellate Authorities confirmed the assessments between April 2009 and May 2012 and directed the dealers to pay the assessed tax dues immediately.

Further scrutiny revealed that though the dealers continued their business without paying their dues, the AAs neither initiated the recovery proceedings under Section 60 nor sent the cases to the TRO for recovery even after a lapse of periods ranging from 14 to 51 months from the date of confirmation of

⁴⁴ Asansol, Ballygunge, Behala, Beliaghata, Bhowanipore, Burdwan, Chandni Chowk, Chinabazar, Colootola, Durgapur, Fairlie Place, Krishnanagar, Lalbazar, Midnapore, Park Street, Salkia, Salt Lake, Serampore, Siliguri, Strand Road and Taltola.

⁴⁵ Asansol, Beliaghata, Bhowanipore, Chandni Chowk, Colootola, Krishnanagar, Lalbazar, Park Street, Strand Road and Taltola.

⁴⁶ Bally, Berhampore, Burrabazar, Chowringhee, Dharmatala, Durgapur, Kolkata (South) Circle, Midnapore and Siliguri Circle.

⁴⁷ Ballygunge, Bhowanipore, Burdwan, Chandni Chowk, Chinabazar, Durgapur, Fairlie Place, Krishnanagar, Midnapore, Park Street, Salkia, Serampore, Siliguri, Strand Road and Taltola.

appeal cases. As a result, the defaulting dealers continued to evade revenue of ₹ 13.76 crore.

On being pointed out, six⁴⁸ charge offices accepted the audit observations in 13 cases involving ₹ 4.54 crore and stated that recovery proceedings were initiated/being initiated. In the remaining cases, the charge offices did not furnish any reply/specific reply.

2.10.19.4 Non-recovery in appeal cases where assessments were modified and revised demands were raised

Audit cross verified the judgments on appeal cases of six⁴⁹ Appellate Authorities with the assessment records of eight⁵⁰ charge offices and found that 16 dealers in 16 cases filed appeal petitions before the Appellate Authorities between 2008-09 and 2010-11. The Appellate Authorities modified the assessments between May 2010 and August 2012 and modified demands had been issued to the dealers directing them to pay the dues.

Further scrutiny revealed that though the dealers continued to run their business without payment of their dues, the AAs neither initiated the recovery proceeding under Section 60 nor sent the cases to the Tax Recovery Officer for recovery even after a lapse of period from 11 to 38 months from the specified dates of payment in modified demand notices. As a result, the dealers continued to evade revenue of ₹ 1.63 crore in modified appeal cases while still running their businesses.

Charge offices did not furnish any reply/specific reply. CCT accepted the observations in the Exit Conference (August 2013) and stated that recovery proceedings would be initiated immediately after the expiry of the specified date of payment.

2.10.19.5 Non-raising of demands in appeal cases where assessments were modified

Cross verification of judgments on appeal cases of the five⁵¹ Appellate Authorities with assessment case records of six⁵² charge offices revealed that in seven cases of seven dealers, the dealers had appealed before the Appellate Authorities during 2009-10 and 2010-11. The Appellate Authorities had modified the assessments between June 2010 and January 2012 and instructed the AAs to raise demands as per modified orders. However, no demand has been raised by the AAs even after expiry of a period between 18 to 37 months. This resulted in non-realisation of revenue of ₹ 1.68 crore.

On being pointed out, the JCCT, Park Street raised a modified demand of ₹ 1.05 lakh in one case. In the remaining cases, the charge offices did not furnish any reply.

⁴⁸ Bhowanipore, Burdwan, Krishnanagar, Serampore, Strand Road and Taltola.

⁴⁹ Bally, Berhampore, Burrabazar, Chowringhee, Durgapur and Kolkata (South) Circle.

⁵⁰ Ballygunge, Bhowanipore, Chinabazar, Durgapur, Fairlie Place, Krishnanagar, Salkia and Strand Road.

⁵¹ Circles: Chowringhee, Dharamtalla, Durgapur, Kolkata South and Siliguri.

⁵² Ballygunge, Burdwan, Chandni Chowk, Fairlie Place, Park Street and Siliguri.

The CCT accepted the observation in the Exit Conference (August 2013) and stated that a circular specifying the time limit for raising demand in modified appeal cases was being issued. Report on action taken was yet to be received (November 2013).

2.10.20 Absence of monitoring in respect of transmission of certificates for recovery of dues

Section 55 of the WB VAT Act prescribes that where any amount of tax, late fee, interest or penalty is recoverable, the Commissioner may send a certificate to the Tax Recovery Officer specifying the amount of dues. Thereafter, the CO/TRO serves a demand notice upon the defaulting dealer specifying date of payment therein. If the dealer defaults in payment within the prescribed date, the CO/TRO is empowered to recover the dues by attaching/selling the moveable/immovable property of the dealer.

2.10.20.1 Cross verification of registers maintained in 16⁵³ charge offices with those maintained in seven⁵⁴ offices of the TROs revealed that in 2,225 cases involving ₹ 256.28 crore, certificates were forwarded by the charge officers to the TROs for recovery of the assessed dues between April 2007 and March 2012. Out of these, in 151 cases involving ₹ 8.64 crore, these certificates were found not to have been received by the TRO offices as there were no corresponding entries in their registers.

On being pointed out, six⁵⁵ TROs admitted non-receipt of 106 certificate cases involving ₹ 3.61 crore. In the remaining cases, the TROs did not furnish any specific reply.

2.10.20.2 Audit scrutiny of records maintained in the offices of four⁵⁶ Tax Recovery Officers further revealed that in 90 cases of certificate requisition received from eight⁵⁷ charge offices between June 2007 and November 2011, no action for recovery of the assessed dues was taken by the TROs since last one and half years. In the absence of any action taken to realise the assessed dues by the TROs, an amount of ₹ 9.62 crore remained unrealised.

On being pointed out, two⁵⁸ TROs accepted the audit observation between July and August 2013 in 30 cases involving ₹ 57.31 lakh and stated that immediate action would be taken. In the remaining cases, the TROs did not furnish any specific reply.

2.10.20.3 Audit scrutinised certificate case records maintained in six⁵⁹ TROs and observed that in 456 cases of certificate requisitions involving recoverable amount of ₹ 24.82 crore, received during 2007-08 and 2011-12, the TROs initiated the recovery proceedings against the dealers. As the dealers were

⁵³ Asansol, Ballygunge, Bhowanipore, Burdwan, Chandni Chowk, Darjeeling, Durgapur, Fairlie Place, Krishnanagar, Midnapore, Park Street, Salkia, Salt Lake, Serampore, Siliguri and Taltola.

⁵⁴ TROs: 24 Parganas, Berhampore, Durgapur, Howrah, Midnapore, Serampore and Siliguri.

⁵⁵ TROs: 24 Parganas, Berhampore, Durgapur, Midnapore, Serampore and Siliguri.

⁵⁶ TROs: 24 Parganas, Berhampore, Serampore, and Siliguri.

⁵⁷ Beliaghata, Bhowanipore, Fairlie Place, Krishnanagar, Lalbazar, Serampore, Siliguri and Taltola.

⁵⁸ TROs: Berhampore and Siliguri.

⁵⁹ TROs: 24 Parganas, Berhampore, Durgapur, Midnapore, Serampore and Siliguri.

untraceable at their declared places of business the notices were returned undelivered.

Out of these 456 cases, in 100 cases involving ₹ 3.95 crore, additional information was sought for by two⁶⁰ TROs from four⁶¹ charge offices, but they did not respond to the request of the TROs till the date of audit. In the absence of additional information about the dealers, no further action for recovery of the assessed dues could be taken by TROs. Hence, owing to non-coordination between the charge officers and TROs, an amount of ₹ 24.82 crore involved in these certificate cases could not be realised.

Non-existence/non-traceability of the dealers had been accepted by six⁶² TROs in 384 cases involving amount of ₹ 11.87 crore. In the remaining cases, the TROs did not furnish any specific reply.

The CCT accepted the audit observations in the Exit Conference (August 2013) and stated that a mechanism was to be developed for periodical reconciliation between the charge offices and the TROs and instructed the TROs to initiate action immediately.

2.10.21 Non-disposal of seized goods

According to provisions of Rule 129 of the WB VAT Rules, where the goods are seized for transportation of goods without way bills or transit declarations (under Section 76) and the penalty imposed has not been paid by the date specified in the notice issued, the authority which has seized such goods shall sell the goods in open auction for cash on delivery fixing a date.

Audit scrutinised the ‘Seizure Register’ maintained in six⁶³ offices and found that in 73 cases of 73 dealers/ transporters, goods valuing ₹ 2.56 crore were seized by the VAT authorities between April 2007 and September 2012 as these goods had been transported without way bills or transit declarations. In these cases, penalty of ₹ 89.44 lakh was imposed by the Authorities and demands were raised accordingly. Out of this amount of penalty imposed, only ₹ 18.33 lakh could be realised and an amount of ₹ 71.12 lakh remained unrealised. These cases were not involved in any appeal, revision or litigation as no mention to this effect had been found in the Seizure Register.

VAT Authorities did not take action for disposal of the seized goods even after expiry of 10 to 75 months from the dates of seizure of the goods, hence, revenue towards the disposal value of these goods against the penalty amounting to ₹ 71.12 lakh remained unrealised. The condition of those goods had been deteriorating with passage of time and the possibility of realisation of the penalty has become remote. This was admitted by Sr. JCCT, Alipurduar Range, who also admitted the observation in seven cases of ₹ 9.21 lakh and stated (August 2013) that quality of the goods were deteriorating in the absence of disposal. Sr. JCCT, Central Section, Kolkata stated (May 2013) in 34 cases involving ₹ 28.67 lakh that goods were kept in the custody of the

⁶⁰ TROs: Durgapur and Siliguri.

⁶¹ Asansol, Burdwan, Durgapur and Siliguri.

⁶² 24 Parganas, Berhampore, Durgapur, Medinipur, Serampore and Siliguri.

⁶³ Alipurduar Range, Asansol Central Section, Kharagpur Range, Kolkata Central Section, Phansidewa More Check post and Siliguri Range.

Directorate and such goods would be placed in auction. In the remaining cases, the officers-in-charge did not furnish any specific reply.

CCT stated in the Exit Conference (August 2013) that a circular specifying the time limit for disposal of seized goods was being issued. Report on action taken was yet to be received (November 2013).

2.10.22 Deficient monitoring of transit declarations

Section 80(1C) of the WB VAT Act, 2003 prescribes that the transporters, carriers or transporting agents shall not transport any goods in a goods vehicle bound for any place outside West Bengal unless he has in his possession a valid Declaration (Transit Declaration) as specified in Rule 121(1)(a). In the Declaration, particulars like description, quantity and value of goods, the entry and exit points, etc. are required to be declared. Section 80(14) specifies that if the goods vehicle transporting the goods does not move outside West Bengal, it shall be presumed that the goods so transported have been sold in the State by the transporters, carriers or the transporting agents and he shall be deemed to be a dealer under the Act.

Audit scrutinised the system of generation and monitoring of Transit Declarations (T.Ds) under the Directorate during the period under Performance Audit and found that till 14 November 2010, there was a system of manual generation of T.Ds and thereafter a system of electronic T.Ds was introduced by the Directorate. Audit observed lack of monitoring and control of the Directorate in both the manual and electronic system of T.Ds which resulted in loss of substantial amount of Government revenue as discussed in the following sub-paragraphs:

2.10.22.1 Data regarding entry of consignments in the State through T.Ds. and exit thereof from four⁶⁴ different check posts (as declared in the T.Ds.) was obtained from the Information System Division (ISD) of the DCT for the period from 01.04.2007 to 14.11.2010. Analysis of this data revealed that out of the 5,39,810 consignments entered into the State, exit details in respect of 1,23,819 consignments were not on record, as detailed in the following table.

	Number of consignments	Value (₹ in crore)
Consignments entered	5,39,810	47,183.70
Consignments exited	4,15,991	37,908.04
Exit details not available	1,23,819	9,275.66

Out of above 1,23,819 exit details which were not available in the online data, 20,078 cases valued at ₹ 4,369.44 crore (having values above ₹ two lakh and above) were selected for cross verification with the manual Exit Registers maintained at these four check posts to ascertain their status of exit. Out of the selected sample, 13,479 cases valued at ₹ 3,173.81 crore could be cross verified in audit and the remaining 6,599 cases valued at ₹ 874.63 crore could not be cross verified due to non-production of Exit Registers to audit by the two⁶⁵ check post authorities. Results of cross-verification are as follows:

⁶⁴ Barobisha, Baxirhat, Haldia and Phansidewa.

⁶⁵ Barobisha and Haldia.

	Number of consignments	Value (₹ in crore)
Consignments selected for cross-verification	20,078	4,369.44
Exit Registers not made available	6,599	1,195.63
Consignments cross-verified	13,479	3,173.81
Consignments exited	6,142	1,478.24
Consignments not exited	7,337	1,695.57

Thus, in 7,337 cases transporters carrying goods valued at ₹ 1,695.57 crore entered West Bengal by furnishing T.Ds at the entry check posts, but did not report for exit at any of exit check posts till the date of audit. Therefore, under provisions of Sub-Section 14 of Section 80 of the WB VAT Act, the goods so transported, should be deemed to have been sold in West Bengal by the transporters, carriers or transporting agents. In the absence of any system of monitoring and control, tax evasion by the dealers (transporters, carriers or transporting agents) cannot be ruled out.

On being pointed out, three⁶⁶ check posts accepted the audit observation in 3,689 cases involving ₹ 91.73 crore and stated (March and July 2013) that the cases were being forwarded to the entry check posts for initiating action. In the remaining cases, the check post authority stated (June 2013) that action would be taken immediately.

2.10.22.2 Under Section 80(5A) of the Act, the transporters are required to submit the utilisation statement of e-TDs within two days from the date of exit of the goods from the State. Further, Section 80(14) provides that in case of non-submission of utilisation by the transporters within the prescribed time, the goods shall be presumed to be sold within the State and the transporter shall be deemed to be a dealer under this Act.

Audit analysed the e-TDs data of the Directorate for the period from April 2011 to March 2012 and found that out of 11,88,385 e-TDs of ₹ 1,27,829.18 crore generated during that period, utilisation in case of 1,52,429 e-TDs of ₹ 18,420.77 crore was not submitted by the transporters. Audit further observed that no report was generated by the IMPACT software application used for the purpose to monitor such cases of non-submission of utilisation statement of e-TDs for taking appropriate action against the defaulters. A tax liability of ₹ 736.83⁶⁷ crore was involved in the aforesaid cases.

On being pointed out, the Addl. CCT, Information System Division (ISD) did not furnish any reply.

The CCT stated in the Exit Conference (August 2013) that there were some practical difficulties in exercising checks at the exit check posts. In case of e-TDs, the CCT stated that decision would be taken after discussion with the officers of ISD and National Informatics Centre (NIC).

⁶⁶ Baxirhat, Haldia and Phansidewa.

⁶⁷ four per cent of ₹ 18,420.77 crore.

2.10.23 Non-disposal of appeal cases within specified time limit

Section 84 of the WB VAT Act, 2003 prescribes that an appeal case is to be disposed of within the period specified. If any appeal could not be disposed of within the specified period, the same shall be deemed to have been disposed of in accordance with law and all the claims of the appellant shall be deemed to have been allowed in full.

Audit scrutinised the Appeal Receiving and Disposal Register maintained in two⁶⁸ Circle offices, and found that out of 19,860 appeal cases received during the period from 2007-08 to 2011-12, 144 cases were barred by limitation of time and were disposed in favour of the dealers without any hearing by the Appellate Authorities. This resulted in disposal of disputed amount of ₹ 63.16 crore in favour of the dealers in 139 cases. In five appeal cases the disputed amounts were not furnished to audit though sought for.

CCT accepted the audit observation in the Exit Conference (August 2013) and instructed the concerned Circle offices to examine the cases and initiate necessary action. However, the time limit had already expired in these cases.

2.10.24 Internal Control Mechanism

Internal Control is an integral component of an organisation's management processes established in order to provide reasonable assurance that the organisation's operations are carried out effectively, economically and efficiently. Evaluation of Internal control mechanism in the administration of VAT revealed deficiencies in the administrative, operational and monitoring controls. Internal audit arrangements were also deficient and unable to provide complete assurance against irregularities. Deficiencies in the internal control mechanism are discussed in the following sub-paragraphs:

- Audit observed that the Preventive Wing of the Directorate i.e. Bureau of Investigation detected evasion valuing ₹ 183.27⁶⁹ crore in 445⁷⁰ search and seizure cases during the period from 2007-08 to 2011-12. Further, the Central Sections also detected concealment/suppression of sales /purchases of ₹ 987.22⁷¹ crore in 602⁷² search and seizure cases during the period from 2008-09 to 2011-12. A database of dealers who are persistent evaders of tax and the modus-operandi of tax evasions could be helpful for the AAs to judge and make appropriate decisions while assessing such dealers or the dealers with whom such tax evading dealers have business transactions. However, a database of such dealers has not been prescribed by the Act and Rules. Neither has the Directorate initiated any measure in this regard by issuing administrative circulars and notifications, etc.
- Audit observed that the WB VAT Act and West Bengal Value Added Rules were enacted in 2003 and 2005 respectively. Unlike in other states,

⁶⁸ 24 Parganas Circle and Kolkata South Circle.

⁶⁹ 2007-08-14.81 crore, 2008-09-18.57 crore, 2009-10-9.70 crore, 2010-11-38.09 crore and 2011-12-102.10 crore.

⁷⁰ 2007-08-82 cases, 2008-09-41 cases, 2009-10-86 cases, 2010-11-89 cases and 2011-12-147 cases.

⁷¹ 2008-09-348.83 crore, 2009-10-446.87 crore, 2010-11-96.74 crore and 2011-12-94.78 crore.

⁷² 2008-09-129 cases, 2009-10-189 cases, 2010-11-155 cases and 2011-12-129 cases.

such as Andhra Pradesh which has formulated its Value Added Tax (APVAT) Manual, the DCT, West Bengal, has not done so even after expiry of ten years from the enactment of WB VAT Act, 2003. Manual on the working of the Directorate where segregation of duties, power, role and responsibility of various wings/sections/officers of the Directorate, the working procedure of the anti evasion wings like Bureau of Investigation, Central Section, duties and responsibilities of their officers, internal controls prevailed in these wings, etc. would go a long way in systematising work.

- No Scrutiny Register has been prescribed by the WB VAT Act and Rules made thereunder. The CCT, however, issued instructions for maintenance of a Scrutiny Register for each group under the charge in the format prescribed. Audit observed in 21⁷³ charge offices between October 2012 and July 2013 that out of 176⁷⁴ groups under the charge offices, Scrutiny Registers were not produced to audit by 150⁷⁵ groups. In 26⁷⁶ groups where Scrutiny Registers were found maintained, it was observed that not all the returns were being scrutinised. The Scrutiny Registers were also not inspected by the charge officers every month as required. Thus, instructions of the CCT were not followed by the charge offices. In the absence of a properly maintained Scrutiny Register, it was difficult to ensure that all the returns were being scrutinised by the AAs. Consequent tax evasion by the dealers whose returns were left unscrutinised cannot be ruled out.

In response to a comment made under Para 2.2.8.2 of the Audit Report (Revenue Receipts), Government of West Bengal for the year ended 31 March 2009 regarding non-maintenance of Scrutiny Register, the Department had earlier admitted the audit observation, but has not initiated any action so far (November 2013).

- Audit observed that the Internal Audit Wing (IAW) of the Directorate headed by a Special Commissioner and presently having two Sr. JCCTs and one JCCT had started functioning since May 1991 but no manual on the working of the IAW has been prepared yet, and neither is there any structured plan for conducting internal audit of various Wings, Circles, Charges, Ranges, Checkposts, etc. during last five years. Performance and functioning of the Preventive Wings have never been evaluated and audited by the IAW. During 2009-10 to 2011-12, only nine⁷⁷ charge

⁷³ Asansol, Ballygunge, Behala, Beliaghata, Bhowanipore, Burdwan, Chandni Chowk, Chinabazaar, Colootola, Darjeeling, Durgapur, Fairlie Place, Krishnanagar, Lalbazar, Midnapore, Park Street, Salkia, Saltlake, Serampore, Siliguri and Taltola.

⁷⁴ Asansol-10, Ballygunge-14, Behala-13, Beliaghata-7, Bhowanipore-11, Burdwan-7, Chandni Chowk-6, Chinabazaar-3, Colootola-8, Darjeeling-3, Durgapur-6, Fairlie Place-6, Krishnanagar-7, Lalbazaar-6, Midnapore-10, Park Street-10, Salkia-8, Salt Lake-12, Serampore-10, Siliguri-12 and Taltola-7.

⁷⁵ Asansol-10, Ballygunge-14, Behala-13, Beliaghata-3, Bhowanipore-11, Burdwan-7, Chandni Chowk-6, Chinabazaar-3, Colootola-8, Fairlie Place-6, Krishnanagar-7, Lalbazaar-3, Midnapore-8, Park Street-10, Salt Lake-12, Serampore-10, Siliguri-12 and Taltola-7.

⁷⁶ Beliaghata-4, Darjeeling-3, Durgapur-6, Lalbazaar-3, Midnapore-2 and Salkia-8.

⁷⁷ Barrackpore, Belgachia and Howrah in 2009-10; Postabazar, Salt Lake and Ultadanga in 2010-11 and Barasat, Beadon Street and Shyambazar in 2011-12.

offices were audited by the IAW. Number of charges audited by the IAW during 2007-08 and 2008-09 were not intimated to audit though sought for. The IAW could not provide specific information regarding the cases detected by them during last five years, recommendations made by them and follow up action taken by the Directorate thereupon.

- Audit observed lack of proper system and procedures in 17⁷⁸ charge offices in respect of record-keeping and maintenance. The Directorate did not issue any guidelines for periodic weeding, indexing and destruction of old assessment case records to the charge offices, neither did charge offices evolve any system of weeding and indexing of the assessment case records. Neither were the assessment case records maintained according to types of assessments like scrutiny assessment, deemed assessment, assessed by VAT audit etc, nor were those maintained dealer-wise. Assessment case records of different periods of the same dealer were not kept together. In the absence thereof, it is difficult for the dealing assistants to make the case records available for different periods of the same dealer to the AAs/ Audit. During Performance Audit, audit team requisitioned last five years' case records related to 4,545⁷⁹ dealers from the charge offices; but due to poor record keeping, case records in respect of 1,509 dealers could not be made available to audit.

On this being pointed out, the CCT in the Exit Conference (August 2013) agreed to the issue and assured that it would maintain the database of the dealers who persistently evade tax, formulate Manuals, strengthen the functions of the IAW and to implement Data Management System (DMS). Report on action taken was yet to be received (November 2013).

2.10.25 Conclusion

Audit noticed deficiencies regarding absence/inadequacy of system/departmental instructions, non-compliance of the prevalent provisions and in the internal control mechanism in the functioning of the DCT. Absence of system of cross verification of information that can be obtained from other departments as well as information available in different wings of the department itself, non-monitoring of compliance of the findings of preventive wings, non-initiation of penalty as well as recovery proceedings and non disposal of seized goods adversely affected realisation of revenue. Failure of the DCT to monitor the business activities of the dealers with cancelled registration and functioning of TROs and failure to dispose the appeal cases within the specified time limit affected revenue realisation. Absence of a database of persistent tax evading dealers, non-existence of a working manual, non-maintenance of Scrutiny Register, absence of a structured Internal Audit Wing and poor record keeping were found to be weaknesses of the internal control mechanism of the DCT.

⁷⁸ Asansol, Ballygunge, Behala, Beliaghata, Bhowanipore, Burdwan, Chandni Chowk, Darjeeling, Durgapur, Fairlie Place, Lalbazar, Midnapore, Park Street, Salt Lake, Serampore, Siliguri, and Taltola.

⁷⁹ Asansol-349, Ballygunge-541, Behala-355, Beliaghata-296, Bhowanipore-371, Burdwan-250, Colootola-219, Darjeeling-33, Durgapur-247, Fairlie Place-164, Lalbazar-223, Midnapore-298, Park Street-591, Siliguri-411 and Taltola-197.

2.10.26 Summary of recommendations

The Government may consider taking the following steps to enhance the efficiency and effectiveness of the Directorate in respect of implementation of VAT in the State:

- establishing a system by issuing departmental instructions to coordinate with other departments/ within the department on information available with them, so as to bring eligible unregistered dealers into the tax net and to prevent tax evasion by registered dealers;
- instituting an effective surveillance system so as to curb business of dealers with cancelled registrations;
- timely initiation of recovery proceedings, raising demand in modified appeal cases and disposal of the seized materials to avoid delays in realisation of revenue;
- maintaining a database of the dealers identified as persistent tax evaders by the preventive wings of the department; and
- maintenance of Scrutiny register and providing a working manual for streamlining the functioning of the IAW.

Sales Tax/Value Added Tax

2.11 Audit observations

Scrutiny of assessment records of sales tax/value added tax (VAT) indicated several cases of non/improper-observance of the provisions of the Act/Rules and inefficient/ineffective monitoring resulting in non/short levy/realisation of taxes and penalties as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on test check carried out in audit. Similar omissions on the part of the Assessing Authorities have been pointed out by Audit earlier, but the irregularities have persisted suggesting systemic deficiencies. There is a need to improve the internal control system including internal audit so that such errors can be corrected timely and avoided in future.

2.12 Short determination of Turnover of Sales

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

1. During test check of records, carried out in the Corporate Division, Kolkata, Audit found that in two cases assessed in June 2007 under the WBST Act for assessment period 2004-05, the Assessing Authorities (AAs) had incorrectly determined turnover of sales (TOS) at ₹ 23.88 crore instead of ₹ 26.31 crore. In one case, AA determined the TOS less than the TOS disclosed by the dealer in his returns and in the other case, did not include all taxable items in the TOS. This resulted in short determination of TOS by ₹ 2.43 crore and consequent short levy of tax of ₹ 25.33 lakh.

Department admitted (April 2011) the audit observation in one case involving ₹ 13.79 lakh and stated that the dealer had gone to appeal (on some other grounds) and a cross-revision would be filed with the appellate authority. Their report on further action taken is awaited. In the other case, department did not furnish any reply (November 2013).

The Government accepted (September 2013) the audit observation, but did not furnish any report on further action taken (November 2013).

2. Audit found in 13⁸⁰ charge offices that in 20 cases assessed between June 2008 and December 2011 under the WBVAT Act for the assessment periods between 2005-06 and 2008-09, AAs incorrectly determined TOS at ₹ 610.54 crore instead of ₹ 736.99 crore. This resulted in short determination of TOS by ₹ 126.45 crore and consequent short levy of tax of ₹ 6.37 crore as detailed in the following table:

⁸⁰ Alipore, Asansol, Ballygunge, Bankura, Barasat, Beadon Street, Chandney Chawk, Corporate Division, Howrah, Park Street, Postabazar, Salt Lake and Shibpur.

Table 2.10 – Short determination of turnover of sales

(₹ in lakh)

Sl. No.	Nature of irregularity	No. of cases	TOS to be determined	TOS determined by AAs	Short determination of TOS	Short levy of tax
1.	Determination of TOS less than the TOS disclosed by dealers in their returns	12	18,816.80	13,451.44	5,365.36	249.30
2.	Exemption allowed on sales not supported by the requisite declaration forms	1	1,826.26	956.49	869.78	86.98
3.	Determination of sales less than disclosed by the dealer in books of accounts	1	309.15	246.15	63.00	2.52
4.	Double deduction of export sales from TOS	1	4,648.77	4,132.82	515.95	64.49
5.	Non-inclusion of all the taxable items in TOS	3	39,217.36	38,441.03	776.33	31.05
6.	Selling price per unit was valued abnormally lower than the value of closing stock per unit	2	8,880.51	3,825.80	5,054.71	202.19
Total		20	73,698.85	61,053.73	12,645.13	636.53

After audit pointed out the cases, department admitted (between August 2011 and March 2013) the audit observations in 19 cases involving ₹ 6.32 crore; but did not furnish any report on levy and realisation of tax. In the remaining one case involving ₹ 5.01 lakh, the department did not furnish any reply (November 2013).

The Government accepted (September 2013) the audit observation, but did not furnish any report on further action taken (November 2013).

2.13 Non/short levy of interest

Sections 31 and 32 of the WBST Act and Sections 33 and 34 of the WB VAT Act prescribe that if a dealer, who

- furnishes a return of any period but fails to make full payment of tax payable for such period by prescribed date; or
- fails to deduct inadmissible input tax credit (ITC) from the amount of ITC for a period by prescribed date; or
- fails to make payment of the tax demanded after assessment by the date specified in the demand notice; shall be liable to pay interest at the rate of one *per cent* per month.

1. Audit found in Corporate Division, Kolkata that in nine cases assessed between June 2007 and February 2011, under the WBST Act for the assessment period 2004-05, the AAs short levied interest of ₹ 19.47 lakh in four cases and did not levy interest of ₹ 6.18 lakh in five cases though the dealers failed to pay tax within prescribed dates. This resulted in non/short levy of interest of ₹ 25.65 lakh.

After audit pointed out the cases, the department admitted audit observations in eight cases involving ₹ 24.89 lakh and realised ₹ 0.84 lakh in one case but did not furnish report on realisation in the other cases. In the remaining one case involving ₹ 0.76 lakh, the department did not furnish any reply (November 2013).

The Government accepted (September 2013) the audit observation, but did not furnish any report on further action taken (November 2013).

2. Audit found in 18⁸¹ charge offices that in 87 cases assessed between September 2008 and June 2012 under the WB VAT Act for assessment periods between 2005-06 and 2009-10, AAs short levied interest of ₹ 1.62 crore in 17 cases and did not levy interest of ₹ 19.90 crore in 70 cases though the dealers did not pay tax by prescribed/specified dates or did not deduct the inadmissible ITC. This resulted in non/short levy of interest of ₹ 21.52 crore.

After audit had pointed out the cases, the department admitted (between August 2011 and April 2013) audit observations in 50 cases involving ₹ 5.57 crore but did not furnish any report on realisation.

In other five cases involving ₹ 12.14 crore, the department stated (between November 2011 and August 2012) that interest was not leviable as the tax was not admitted by the dealers or the ITC was rejected during assessment. The reply is not tenable since in two cases the dealers had availed ITC on fuel, lubricant oil etc which fall under the Negative List appended to section 22 of the WB VAT Act on which dealers are not eligible for ITC. In other three cases, the AAs disallowed the ITC due to non-maintenance of true and up-to-date accounts by the dealers availing ITC as required under section 63 of the WB VAT Act. In the remaining 32 cases involving ₹ 3.81 crore, the department did not furnish any reply/specific reply (November 2013).

The Government accepted (September 2013) the audit observation, but did not furnish any report on further action taken (November 2013).

2.14 Non-levy of penalty on evaded tax

Section 76(1) of the WBST Act and Section 96(1) of the WB VAT Act prescribe penalty if a dealer has concealed any turnover or furnished incorrect particulars thereof or claimed excess amount of Input Tax Credit (ITC)/Rebate, but has not reversed the same to the extent of his disentitlement. Under the WBST Act, the AA in addition to tax, may impose penalty which shall not be less than one and a half times and not more than thrice the amount of tax that would have been avoided by him. Under the WB VAT Act, the quantum of penalty should not exceed twice the amount of tax which would have been avoided if such concealment was not detected.

1. Audit found in Corporate Division, Kolkata that in two cases assessed in June 2007 under the WBST Act for the assessment period 2004-05, the AAs detected one case of submission of false 'F' forms in support of consignment sales of ₹ 7.27 crore and another case of suppression of intra-state sales of ₹ 63.34 lakh by the dealers. Though the dealers intended to evade tax of ₹ 75.65 lakh, the AAs did not levy penalty under section 76(1) of the WBST Act to the extent of ₹ 1.13 crore.

⁸¹ Asansol, Ballygunge, Bankura, Bhowanipore, Corporate Division, Durgapur, Esplanade, Jorabagan, Kadamtala, Lyons Range, Monoharkatra, NS Road, Park Street, Postabazar, Salt Lake, Shibpur, Shyambazar and Siliguri.

After audit pointed out the cases, the department admitted (February 2012) the audit observation in one case involving ₹ 4.36 lakh, but did not furnish report on levy/realisation of penalty. In another case involving ₹ 1.09 crore, the department did not furnish any reply (November 2013).

The Government accepted (September 2013) the audit observation, but did not furnish any report on further action taken (November 2013).

2. Audit found in two⁸² charge offices that in five cases assessed between January 2009 and June 2011 under the WBVAT Act for assessment periods between 2005-06 and 2008-09, the AAs noticed evasion of tax of ₹ 2.56 crore by dealers by means of claims of ITC not supported by purchase details, understatement of gross sales by suppression/concealment of purchases/imports and filing of nil returns despite running business. However, AAs did not levy any penalty under section 96(1) of the WBVAT Act amounting to ₹ 5.12 crore.

After audit pointed out the cases, the department admitted (between June 2012 and April 2013) the audit observations and stated that proceedings for levy of penalty of ₹ 2.99 crore had been initiated in four cases, but did not furnish any report on levy/realisation (November 2013).

The Government accepted (September 2013) the audit observation, but did not furnish any report on further action taken (November 2013).

2.15 Non/short levy of purchase tax

Section 12 of the WBVAT Act provides for payment of purchase tax at prescribed rates on unregistered purchases of goods by a dealer which are not directly related to his business or fall in the Negative List of the Act.

Audit found in Corporate Division, Kolkata that in two cases assessed between November 2008 and January 2010 for the assessment period 2005-06, the AAs under-assessed the unregistered purchases and short levied the purchase tax amounting to ₹ 44.44 lakh. In one case, the AA assessed the purchase tax as ₹ 54.13 lakh on the purchases of ₹ 4.50 crore from the unregistered dealers and deducted the ITC of ₹ 22.62 lakh from this amount. Erroneously, an identical amount was again deducted as ITC from the total tax liability of the dealer (including VAT and purchase tax payable). In the other case, purchase tax of ₹ 21.82 lakh was not levied on unregistered purchases of ₹ 5.46 crore. This had resulted in short/non levy of purchase tax of ₹ 44.44 lakh.

The department is yet to furnish any reply/specific reply (November 2013).

The Government accepted (September 2013) the audit observation, but did not furnish any report on further action taken (November 2013).

⁸² Burdwan and Corporate Division.

2.16 Short levy of tax on contractual transfer price

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

Audit found in 10⁸³ charge offices that in 26 cases assessed between August 2008 and February 2012 for the assessment periods between 2005-06 and 2008-09, the AAs determined short CTP which resulted in short levy of tax of ₹ 9.41 crore as detailed in the following table:

Table 2.11 – Short levy of tax on Contractual Transfer Price

(₹ in lakh)

Sl.No	Nature of irregularity	No. of cases	Taxable CTP assessable	Taxable CTP assessed	Under assessment of taxable CTP	Short levy of tax
1.	Short levy of tax due to non-application of prescribed rates under Rule 30(2) of the WB VAT Rules	6	988.37	447.89	540.48	54.94
2.	Incorrect deductions of payments to sub-contractors, salary, security deposit, installation charges, labour charges and TDS etc	9	35,363.54	33,355.95	2,007.59	266.85
3.	CTP assessed short than disclosed by the dealers in their returns/books of accounts/statements etc	10	16,748.44	6,496.90	10,251.54	608.01
4.	Tax not levied on contractual receipts of pre-registration period	1	156.36	60.26	96.10	11.50
Total		26	53,256.71	40,361	12,895.71	941.30

After audit pointed out the cases, the department admitted (between February 2012 and June 2013) the audit observations in 23 cases involving ₹ 5.85 crore; but did not furnish any report on levy and realisation of tax. In the remaining three cases involving ₹ 3.56 crore, the department did not furnish any reply/specific reply (November 2013).

The Government accepted (September 2013) the audit observation, but did not furnish any report on further action taken (November 2013).

⁸³ Ballygunge, Barasat, Behala, Corporate Division, Jorabagan, Malda, Salt Lake, Sealdah, Shyambazar and Tamluk.

2.17 Application of incorrect rate of tax

Section 16(2) of the WB VAT Act prescribes the rate of tax on the goods sold/purchased depending upon classification of the goods. Section 8(2) of the Central Sales Tax (CST) Act, 1956 provides that in case of inter-state sales of goods made to unregistered dealers, tax is leviable at the rate applicable to the sale/ purchase of such goods inside the State.

Audit found in 12 charge offices⁸⁴ that in 21 cases assessed between September 2008 and June 2011 for the assessment periods from 2005-06 to 2008-09, the AAs in 19 cases levied tax on sales/purchases of ₹ 33.80 crore at the rate of four *per cent*/10 *per cent* instead of 12.5 *per cent* under the WB VAT Act. In the remaining two cases under the CST Act, the AAs levied tax at the rate of four *per cent* /10 *per cent* instead of 12.5 *per cent* on inter-state sales of ₹ 5.14 crore to unregistered dealers. Thus, application of incorrect rate of tax resulted in short levy of tax of ₹ 3.01 crore.

The department admitted (between September 2011 and January 2013) the audit observations in 16 cases involving ₹ 1.94 crore; but did not furnish report on levy and realisation of tax. In the remaining five cases involving ₹ 1.07 crore, the department did not furnish any specific reply (November 2013).

The Government accepted (September 2013) the audit observation, but did not furnish any report on further action taken (November 2013).

2.18 Irregular allowance of input tax credit

Section 22 of the WB VAT Act prescribes that a registered dealer can avail the benefit of Input Tax Credit (ITC) to the extent of tax paid or payable by him in respect of purchases of taxable goods from registered dealers of West Bengal. Any amount of ITC which remains excess at the end of a year shall be carried over to the next year. However, no ITC shall be allowed for purchase made from a registered dealer enjoying payment of tax at compounded rate. In addition, ITC availed is required to be reversed at the prescribed rate in case of stock transfer outside the state. Further, if sale price of any good is less than the purchase price of such good, ITC is restricted to the amount of output tax payable on sale of such good. Also, ITC is permissible on transitional stock held by a registered dealer subject to certain conditions and restrictions.

Audit found in 16⁸⁵ charge offices that in 39 cases assessed between July 2008 and June 2012 for the assessment periods between 2005-06 and 2009-10, the AAs allowed ITC of ₹ 9.35 crore instead of ₹ 7.55 crore. This resulted in irregular allowance of ITC of ₹ 1.80 crore as detailed in the following table:

⁸⁴ Barasat, Behala, Corporate Division, Chandney Chowk, Durgapur, Howrah, Lyons Range, Monoharkatra, Maniktala, Saltlake, Sealdah and Shyambazar.

⁸⁵ Bally, Ballygunge, Barasat, Beadon Street, Behala, College street, Corporate Division, Durgapur, Malda, Maniktala, Manoharkatra, Park Street, Postabazar, Salkia, Shibpur and Tamluk.

Table 2.12 – Irregular allowance of Input Tax Credit

(₹ in lakh)

Sl. No.	Nature of irregularity	No. of cases	ITC allowed	ITC allowable	Irregular allowance of ITC
1.	ITC allowed on purchases made from dealers whose registrations were cancelled	9	162.24	149.79	12.45
2.	ITC allowed on purchases made from dealers who filed 'nil' returns and sales-purchases mismatch between purchaser and seller	4	6.81	00.00	6.81
3.	ITC allowed on purchases made from unregistered/non-existent dealers/dealers enjoying composition scheme	3	6.04	00.00	6.04
4.	ITC allowed on tax free items/consumable items/capital goods not capitalised	3	459.48	443.26	16.22
5.	ITC brought forward from previous year in excess of available ITC and allowed in assessment	3	14.61	3.45	11.16
6.	ITC allowed on non-submission of statement of transitional stock ⁸⁶ or without verification of purchase documents etc	9	100.95	31.55	69.40
7.	Other cases of excess allowance of ITC	8	184.77	126.67	58.10
Total		39	934.90	754.72	180.18

It is evident from the table above that the AAs allowed ITC to the dealers without thorough scrutiny of the accounts and without cross checking the status/accounts of the selling dealers.

The department admitted (between August 2011 and May 2013) the audit observations in 27 cases involving ₹ 1.11 crore; but did not furnish any report on levy and realisation of tax. In the remaining 12 cases involving ₹ 0.69 crore, the department did not furnish any reply/specific reply (November 2013).

The Government accepted (September 2013) the audit observation, but did not furnish any report on further action taken (November 2013).

2.19 Irregular allowance of stock transfer

Section 6A of the CST Act prescribes that a dealer seeking exemption for transfer of goods to his agents/branches has to furnish declaration in form 'F'. Transfer of goods effected during a calendar month is to be covered by a single 'F' form. Otherwise, such transfer of goods is liable to be treated as inter-state sale and taxed accordingly. Production of 'F' form in support of transfer of goods has been made mandatory from June 2002.

Audit found in three⁸⁷ charge offices that in three cases assessed between November 2008 and June 2010 for assessment periods 2005-06 and 2007-08, the AAs allowed exemption of tax on transfer of goods to the branches/agents outside the State for ₹ 227.19 crore. Of these, allowance of stock transfer of ₹ 38.89 crore was irregular as either the single 'F' form covered transactions

⁸⁶ Stock of goods held by a registered dealer as on 01.04.2005.

⁸⁷ Chandni Chowk, Corporate Division and Esplanade.

beyond one month or the transactions were not covered by 'F' forms. Consequently, there was underassessment of tax of ₹ 41.62 lakh as detailed in the following table:

Table 2.13 – Irregular allowance of stock transfer

(₹ in lakh)						
Sl. No.	Nature of irregularity	No. of cases	Stock transfer allowed	Stock transfer allowable	Excess allowance	Short levy of tax
1.	Single 'F' form covered transactions beyond one month	2	18,896.11	18,830.20	65.91	3.39
2.	Transactions not covered by 'F' forms	1	3,823.13	0	3,823.13	38.23
Total		3	22,719.24	18,830.20	3,889.04	41.62

The department admitted (October 2011 and May 2012) the audit observations in two cases involving ₹ 39.48 lakh but did not furnish report on levy and realisation of tax. In the remaining one case involving ₹ 2.14 lakh, the department did not furnish any reply (November 2013).

The Government accepted (September 2013) the audit observation, but did not furnish any report on further action taken (November 2013).

2.20 Irregular allowance of compounded rate of tax

Rules 38(4) and 39(4) of the WB VAT Rules, 2005 prescribe that a registered dealer who intends to avail the benefit of paying tax at compounded rate in lieu of normal rate shall have to exercise such option in Form 16 before the appropriate authority within 90 days from the date of commencement of the assessment year. Rule 38(9) prescribes that a registered dealer availing compounded rate of tax, whose turnover exceeds ₹ 50 lakh at any time during a year, shall continue to pay tax at the compounded rate upto the end of that month in which turnover of sales so exceeds ₹ 50 lakh, but he shall not be eligible for payment of tax at the compounded rate for the remaining part of the quarter.

Audit found in nine⁸⁸ charge offices that in four cases for assessment periods between 2005-06 and 2007-08 and in 30 deemed assessment cases for assessment periods between 2006-07 and 2008-09, the AAs levied tax of ₹ 0.08 crore at compounded rate⁸⁹ instead of ₹ 1.07 crore at normal rate on turnover of sales of ₹ 10.98 crore though the dealers were not eligible for such benefit due to non/delayed submission of Form 16 and the turnover exceeding the prescribed limit. This resulted in short levy of tax of ₹ 0.99 crore.

The department admitted (August 2011 and August 2012) the audit observations in 19 cases involving ₹ 0.59 crore; but did not furnish any report on realisation of tax. In the remaining 15 cases involving ₹ 0.40 crore, the department did not furnish any specific reply (November 2013).

⁸⁸ Asansol, Ballygunge, Howrah, Kadamtala, Malda, Postabazar, Salkia, Shibpur and Shyambazar.

⁸⁹ 0.25 per cent in case of registered dealers and two per cent in case of registered dealers making sales by way of transfer of right to use goods.

The Government accepted (September 2013) the audit observation, but did not furnish any report on further action taken (November 2013).

2.21 Short levy of tax due to mistake in computation

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

Audit found in four⁹⁰ charge offices that in nine cases assessed between June 2009 and December 2011 for assessment periods between 2006-07 and 2008-09, the AAs assessed tax of ₹ 2.48 crore instead of ₹ 3.25 crore due to levy of tax on turnovers of sales/purchases less than the turnovers of sales/purchases actually determined by them; omission of taxable receipts (as assessed by them) while determining the turnover of sales; and calculation of tax at the rates lower than the rates actually determined by them, etc. Such arithmetical mistakes/omissions resulted in short levy of tax of ₹ 68.71 lakh.

The department admitted (between November 2011 and March 2013) the audit observations in seven cases involving ₹ 27.37 lakh; but did not furnish any report on realisation of tax. In the remaining two cases involving ₹ 41.34 lakh, the department did not furnish any reply/specific reply (November 2013).

The Government accepted (September 2013) the audit observation, but did not furnish any report on further action taken (November 2013).

⁹⁰ Ballygunge, Bhawanipore, Chandni Chowk and Salt Lake.