

CHAPTER-II

CHAPTER II

VALUE ADDED TAX

2.1 Tax administration

Value Added Tax (VAT) laws and rules framed thereunder are administered at the Government level by the Principal Secretary, Finance (Revenue) 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 for administering the relevant Tax laws and rules.

2.2 Internal audit

The Department has an Internal Audit wing (IAW) under the charge of the CCT. This wing was to conduct scrutiny and detect irregularities in the assessments of VAT cases as well as to check different records and registers to ascertain whether internal control system as envisaged in the Acts and Rules made thereunder were properly followed. In conducting the activities of IAW during 2014-15, CCT was assisted by one Additional Commissioner of Commercial Taxes (Addl. CCT), one Sr. Joint Commissioner (Sr. JCCT) and one Commercial Tax Officer (CTO).

The wing planned to audit three Charge offices only out of 76 auditable units (i.e. 67 Charge offices and nine ranges) during the year 2014-15. However, it audited none. IAW stated that the plan for audit of three Charge offices could not be executed due to acute shortage of manpower. Therefore, manpower of IAW needs to be strengthened.

2.3 Results of audit

In 2014-15, test check of the records of 42 units relating to VAT assessments and other records showed underassessment of tax and other irregularities involving ₹ 897.97 crore in 696 cases, which fall under the following categories as given in Table 2.1.

Table 2.1

(₹ in crore)

Sl. No.	Categories	Number of cases	Amount
1.	Non/short levy of purchase tax/ penalty / interest	245	441.93
2.	Incorrect determination of Contractual Transfer Price / turnover of sales	101	34.47
3.	Irregular allowance of transfer of goods/ Input Tax Credit /remission	57	26.05
4.	Application of incorrect rate of tax/ mistake in computation	151	17.95
5.	Irregular allowance of compounded/ concessional rate of tax	5	0.15
6.	Others	137	377.42
Total		696	897.97

During the course of the year, the Department accepted underassessment and other deficiencies of ₹ 28.40 crore in 152 cases, of which in 139 cases involving ₹ 27.65 crore were pointed out in audit during the year 2014-15 and the rest in the earlier years. An amount of ₹ 27.68 lakh was realised in 13 cases during the year 2014-15.

A Performance Audit on “**System of Assessment under Value Added Tax**” having money value of ₹ 148.86 crore, a few illustrative cases involving ₹ 118.96 crore and a follow up audit on the Performance Audit on “e-Services in the Directorate of Commercial Taxes” are discussed in the following paragraphs.

2.4 Performance Audit on “System of Assessment under Value Added Tax”

Highlights

- Failure on the part of Directorate of Commercial Taxes (DCT) to utilise information available in the returns of dealers registered under DCT to identify and bring in potential assesseees into tax net resulted in non-levy of tax of ₹ 1.35 crore from 113 unregistered dealers.
(Paragraph 2.4.7)
- Absence of a system for pooling of information available with DCT regarding Sales Tax Deducted at Source (STDS), way bills and dealers registration profile during assessment of 63 dealers resulted in non/short levy of tax of ₹ 12.78 crore in 68 assessment cases.
(Paragraph 2.4.8)
- Deficiency at serial number 30 in the format of VAT return in Form-14 resulted in allowance of irregular claims of exempt sales in deemed assessment cases of 28 dealers with consequent short levy of ₹ 4.54 crore.
(Paragraph 2.4.9.1)
- Absence of proper provisions in the IT system of scrutiny of returns, like calculation of interest on delayed payment of tax, cross checking of brought forward Input Tax Credit (ITC) from previous years and cross checking of applicable rates of tax with commodities resulted in non/short levy of interest and tax and irregular carry forward of ITC of ₹ 1.67 crore in assessment cases of 73 dealers.
(Paragraphs 2.4.10.1, 2.4.10.2 and 2.4.10.4)
- In assessing 33 cases of 28 dealers for the assessment periods between 2007-08 and 2011-12, the Assessing Authorities (AAs) incorrectly determined turnover of sales (TOS) at ₹ 12,286.51 crore instead of at ₹ 14,520.79 crore resulting in short determination of TOS by ₹ 2,234.28 crore and consequent short levy of tax of ₹ 90.93 crore.
(Paragraph 2.4.14)

2.4.1 Introduction

Value Added Tax (VAT) is a multi-stage tax levied at each stage of the value addition chain, with a provision to allow Input Tax Credit (ITC) on tax paid at an earlier stage, which can be appropriated against the VAT liability on subsequent sale. Assessment of VAT is governed under the West Bengal Value Added Tax (WBVAT) Act, 2003 and Rules made thereunder. The West Bengal Sales Tax Act, 1994 administers levy of tax on some specified commodities¹⁰. Besides, Central Sales Tax (CST) Act, 1956 and Rules made thereunder are in operation for interstate sales. Tax, interest and penalty are assessed and recovered under the provisions of the Acts.

Assessment of VAT is done by the Assessing Authorities (AAs) on the basis of returns filed by dealers and on verification of books of accounts etc. under the provisions of VAT Act of the State. In case where the dealer fails to appear with books of accounts, assessment may be completed *ex-parte* to the best of judgment of the AA after giving the dealer a reasonable opportunity of being heard. Typically, the system encourages voluntary compliance and is based on dealers submitting their tax returns, which are largely based on self assessment. Provisions have been made in the VAT Act for making deemed assessments and summary assessments by accepting the returns as correct as filed by the dealers, without calling for the production of books of accounts.

The WBVAT Act, 2003 prescribes for the following types of assessments:

- Audit of accounts and assessments in certain cases (Section 43)
- Provisional assessment (Section 45)
- Assessment after giving notice to the registered dealer (Section 46)
- Assessment as per return (Section 47)
- Special Provision for deemed assessment (Section 47 A)
- Summary assessment of return (Section 47 AA)
- Assessment of tax payable by dealers other than registered dealers (Section 48).

¹⁰ Foreign liquor, country liquor, petrol, diesel and motor spirit.

2.4.2 Trend of revenue

Actual receipts from VAT¹¹ in the State during the years from 2009-10 to 2013-14 along with the total tax receipts during the same period are exhibited in the following table :

Table 2.2: Receipts from Value Added Tax

(₹ in crore)

Year	Actual receipts	Total receipts of the state	Percentage of actual VAT receipts vis-à-vis total tax receipts
2009-10	10,509.64	16,899.98	62.19
2010-11	13,275.77	21,128.74	62.83
2011-12	15,888.41	24,938.16	63.71
2012-13	18,554.76	32,808.49	56.55
2013-14	21,931.09	35,830.56	61.21

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

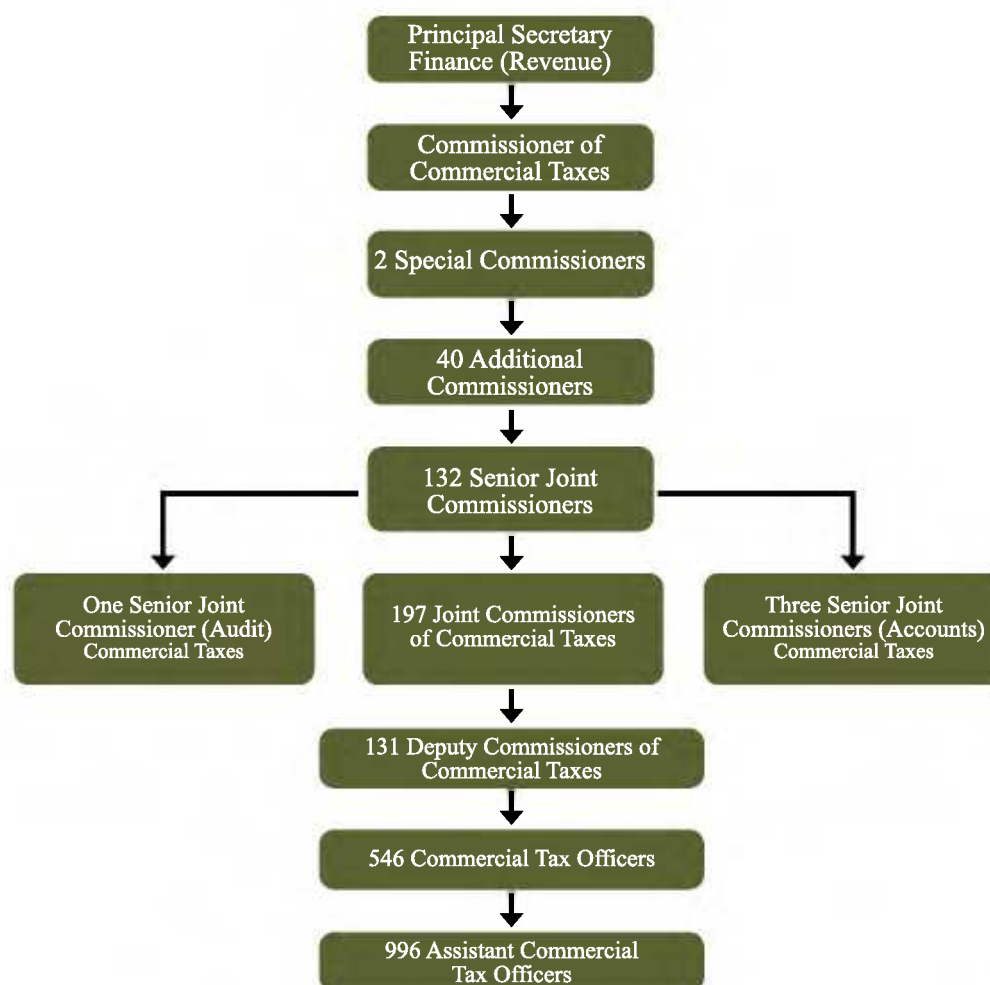
The above table indicates that the receipts under VAT increased consistently during the period from 2009-10 to 2013-14, and their contribution to the total tax receipts of the State remained above 60 *per cent* for all the years except 2012-13, when the total receipts of the State increased because the stamp duty and registration fees had increased by more than 30 *per cent* due to full operationalisation of the CORD software and revaluation of market values of properties by the Government of West Bengal.

2.4.3 Organisational structure

The WBVAT Act, 2003 and the CST Act, 1956 are administered by the Directorate of Commercial Taxes (DCT), West Bengal which is under the administrative control of the Principal Secretary, Finance (Revenue) Department, Government of West Bengal. The overall control and superintendence of the Directorate is vested with the Commissioner of Commercial Taxes (CCT), West Bengal who is assisted¹² by two special commissioners and other officers, as depicted in the following organogram. Information Systems Division (ISD) of the Directorate is headed by one Additional CCT and other sub-ordinate officers.

¹¹ Includes Sales Tax and Central Sales Tax.

¹² Men in position during 2013-14 as per Administrative Report of DCT.



2.4.4 Audit objectives

The Performance Audit aimed to ascertain whether:

- provisions of the WBVAT Act/Rules were adequate to safeguard the interests of revenue of the State;
- existing provisions on scrutiny and assessment procedures under the WBVAT Act/Rules were being followed by the Department; and
- sufficient internal controls existed in the Department for detecting irregularities in the assessments.

2.4.5 Scope, methodology and audit criteria

Audit selected 23¹³ Charge offices out of 68 Charge offices under the DCT. Selection of units was done through stratified sampling method. All

¹³ Alipore, Asansol, Bankura, Barasat, Barrackpore, Behala, Beliaghata, Bhawanipore, Burtola, Corporate Division, Cossipore, Durgapur, Jalpaiguri, Lyons Range, Medinipur, N.D. Sarani, Park Street, Radhabazar, Sealdah, Siliguri, Srirampur, Suri and Tamluk.

68 Commercial Tax Charge offices were stratified under three strata¹⁴ based on their average revenue collections during the last five years. Four Charge offices from the first stratum (100 per cent), six from the second stratum (50 per cent) and 13 from third stratum (25 per cent) were selected by simple random sampling for the purpose of Performance Audit.

In addition, other sub-ordinate offices like Internal Audit Wing, Bureau of Investigation, Central Audit Unit and Information Systems Division were also audited for the purpose of this Performance Audit. During the Performance Audit, records of the Directorate and sub-ordinate offices were scrutinised.

Provisions of the WBVAT Act, 2003 and the WBVAT Rules, 2005 were used as source of audit criteria for the Performance Audit. The Performance Audit was conducted during March 2015 to August 2015 covering the assessments conducted during the period from 2009-10 to 2013-14. However, cases which were noticed during the earlier years and communicated to the Department, but were not included in earlier reports for want of departmental replies have also been covered in this Performance Audit.

2.4.6 Acknowledgement

Audit acknowledges the co-operation of DCT in providing necessary records and information. The objectives of the audit, scope, criteria and methodology etc. were discussed at an Entry Conference with the CCT and other representatives of the Directorate in April 2015. Findings of the Performance Audit were forwarded to the Directorate in August 2015. The Exit Conference was held on 29 September 2015 and views of the Directorate have suitably been incorporated in the relevant paragraphs.

Audit findings

Adequacy of the provisions of the WBVAT Act/Rules to safeguard the revenue of the State

During the course of Performance Audit, a number of inadequacies in the provisions of various Sections of the WBVAT Act, 2003 were observed. This resulted in non/short levy of tax and leakage of revenue as discussed in the following paragraphs:

2.4.7 Absence of a system to utilise information available with DCT to identify and bring in potential assesseees into tax net

Section 10 of the WBVAT Act, 2003 prescribes that if gross turnover of sales (TOS) of a dealer, calculated from the commencement of any accounting year, exceeds the taxable quantum of ₹ five lakh at any time within such year, he becomes liable to pay tax on all his gross TOS from the day immediately following the day on which such sale first exceeds ₹ five lakh. The Act provides for registration of such a dealer within 30 days from the date of accrual of such liability and a penalty for failure to apply for registration.

¹⁴ First stratum: Charge offices having average revenue collection more than or equal to ₹ 300 crore. Second stratum: Charge offices having average revenue collection more than and equal to ₹ 100 crore and less than ₹ 300 crore. Third stratum: Charge offices having average revenue collection less than ₹ 100 crore.

Information in respect of purchases made by 18 registered dealers from 113 sellers in five¹⁵ Charge offices was analysed by audit. Audit observed that these 113 sellers in 116 cases¹⁶ during the period between 2010-11 and 2013-14 made sales exceeding ₹ five lakh in each financial year but none was found registered with the DCT. Once a dealer's turnover exceeds ₹ five lakh, he is to be compulsorily registered as explained *ibid*. Sales of ₹ 33.82 crore, therefore, remained out of tax net with consequent non-levy of tax of ₹ 1.35 crore (calculated at minimum rate of tax of four *per cent*). Returns submitted by the 18 dealers also confirmed that none of these 113 sellers had any registration number, for which there was a column in those returns.

Audit observed that DCT did not put in place any system to utilise the information available in the returns of dealers registered under the DCT. This resulted in non-detection of dealers who had exceeded the threshold for registration. Further, note below Section 23 of the Act provides a penalty of minimum ₹ 500 that 'can be imposed' for each month of default, the maximum penalty not exceeding ₹ 1,000, which may not be sufficient to act as a deterrent. Besides, the imposition of penalty is also not mandatory and these provisions may not be effective to act as a deterrent against non-registration by the dealers.

On being pointed out (July and August 2015), three¹⁷ Charge offices accepted (July and August 2015) the audit observations in 96 cases. In the remaining cases, the Charge offices did not furnish any reply.

The CCT in the Exit Conference (September 2015) stated that the VAT system itself ensured registration of new dealers due to ITC advantage. The reply was not tenable as the ITC advantage comes with liabilities towards payment of output tax. However, non-registration of eligible dealers was in violation of the provisions of the Act.

2.4.8 Lack of a system of pooling of information regarding Sales Tax Deducted at Source (STDS), way bills and dealers registration profile during assessments

IMPACT (Information Management for Promotion of Administration in Commercial Taxes) is a web based application software developed for DCT for the purpose of better tax administration. IMPACT is the user interface for hosting information regarding STDS details of works contractors, way bill utilisation by dealers and dealer registration profiles, etc. Information available in IMPACT is accessible to AAs.

In course of audit, deemed, summary and provisional assessment cases were examined. On such examination, cases of leakages of revenue were noticed which could have been prevented by pooling of information available with DCT as discussed in the following sub-paragraphs:

¹⁵ Barrackpore, Cossipore, Jalpaiguri, Siliguri and Tamluk.

¹⁶ One case = assessment for one year.

¹⁷ Barrackpore, Cossipore and Tamluk.

2.4.8.1 Non-utilisation of information of STDS available with the DCT during provisional assessments

Section 45 of WBVAT Act, 2003 prescribes that those dealers who fail to furnish return or fail to pay the net tax, late fee and interest within the stipulated period are to be assessed provisionally. In making a provisional assessment under this Section, the AA shall, where the dealer has failed to furnish return, assess the net tax of the dealer for the relevant return period on the basis of past returns or past records. Where no such returns or records are available, assessment is to be done on the basis of information received (from other sources) by the Commissioner or such other authority, and determine the interest payable by the dealer for the relevant return period.

Audit observed from the assessment details available in electronic records of the DCT that 10 works contractors under three¹⁸ Charge offices did not furnish quarterly returns with the respective charges for the periods between October 2013 and March 2014. Audit found that the DCT assessed these defaulters provisionally under Section 45 of the Act on the basis of best judgement and assessed the Contractual Transfer Price (CTP)¹⁹ of these dealers as only ₹ 23.45 lakh. However, as per the information available in IMPACT, these 10 works contractors received payment of ₹ 2.87 crore during the period between October 2013 and March 2014. While provisionally assessing these dealers, the Data Analysis Wing (DAW) of the DCT did not access and utilise this information and hence short assessed the CTP by ₹ 2.64 crore with consequent short levy of tax of ₹ 30.32 lakh. In the absence of any mechanism in the extant rules and procedures for consideration of relevant information from IMPACT, DCT failed to correctly assess the CTP of the dealers.

On this being pointed out (July and August 2015), Barrackpore Charge office accepted (August 2015) the audit observation in three cases. In the remaining cases, the Charge offices did not furnish any/specific reply.

The CCT in the Exit Conference (September 2015) stated that STDS data were not given importance during provisional assessments for the purpose as the demands were anyway inflated. The reply is not tenable as the demands have to be realistic and not inflated, STDS data would have provided useful inputs for this purpose.

2.4.8.2 Deficiency in system to verify the claims of sales of goods exempted from tax in returns

Rule 12(6) of the WBVAT Rules, 2005 prescribes that if any registered dealer changes the class or classes of goods which have been included in his certificate of registration, he shall make an application to amend the certificate of registration issued to him. Section 21 of the Act prescribes that no tax shall be payable on sale of goods specified in column (2) of Schedule-A.

During the course of audit, scrutiny of deemed/ summary assessment case records in nine²⁰ Charge offices for the assessment periods between 2009-10

¹⁸ Barrackpore, Jalpaiguri and Tamluk.

¹⁹ Taxable turnover of works contractor dealers.

²⁰ Barasat, Cossipore, Durgapur, Medinipur, N.D. Sarani, Sealdah, Siliguri, Srirampur and Tamluk.

and 2011-12 revealed that 22 dealers in 27 cases claimed to have made sales of goods exempted from tax under Section 21 for ₹ 121.91 crore in their returns. Scrutiny of registration data of these dealers revealed that these dealers were registered²¹ for business of taxable goods only. Claims of the dealers for exempted sales were allowed during deemed and summary assessments.

Audit observed that the DCT had not checked the commodities as reflected in the dealer's registration profile with the commodities declared in their returns. The electronic system of scrutiny was also unable to detect any discrepancy in this regard or verify the claims of sales of goods exempted from the tax. As a result, dealers who had registration only for sale of taxable goods, claimed deduction of sales of tax-exempted goods on which tax amounting to ₹ 4.88 crore (calculated at the minimum rate of tax) should have been levied and collected.

On being pointed out (between April and July 2015), three²² Charge offices accepted (between April and July 2015) the audit observations in five cases. In the remaining cases, the Charge offices did not furnish any/specific reply.

The CCT in the Exit Conference (September 2015) stated that the list of commodities under the VAT Act was huge and cross-checking of applicable rates with commodities was a cumbersome work. This raises doubts about the efficacy and lack of assurance of their own systems of cross-verification or scrutiny, which needs to be properly addressed.

2.4.8.3 Non-existence of a system to cross verify the claims of imports of goods in returns with way bill utilisation information

As per Rules 100, 103, 104 and 110B of the WBVAT Rules, when a dealer or any person imports taxable goods or raw jute from any place outside West Bengal, he is required to take out a way bill in Form-50 or e-way bill in Form-50A, in respect of transport of such goods. Provisions have been made for obtaining way bills in Form-50A electronically by registered dealers who submit their returns in Form-14 or Form-14D. Within 40 days from the date of generation of printout of way bill in Form-50A, the dealer is to record electronically, utilisation of this way bill.

As per information collected from IMPACT regarding way bill utilisation for imports by dealers, Audit noticed that 31 dealers in 31 cases registered under 10²³ Charge offices imported goods worth ₹ 1,147.83 crore during the period between 2009-10 and 2011-12. Audit found that the dealers, in their returns furnished to the respective charges, disclosed imports through way bills at only ₹ 984.89 crore. Their returns were accepted as correct and deemed/summarily assessed. This resulted in short disclosure of imports of

²¹ Electronic application for registration in the Form-1 has been made compulsory and the manner of making e-application has been prescribed in Rule 5A of the WBVAT Rules, 2005. Serial No. 22 of the Form-1 provides for the names of the commodities to be purchased and sold, both taxable and non-taxable.

²² Durgapur, Sealdah and Siliguri.

²³ Asansol, Barasat, Beliaghata, Cossipore, Durgapur, N.D. Sarani, Sealdah, Siliguri, Srirampur and Suri.

₹ 162.94 crore with consequent evasion of tax of ₹ 7.60 crore. Cross verification of the way bill utilisation details by the dealers available in IMPACT with those reflected in the returns filed by these dealers would have prevented the evasion of tax.

Thus, AAs failed to detect the evasion in the absence of a system for cross verification of the way bill utilisation information available in the IMPACT with the returns filed by these dealers.

On being pointed out (between April and July 2015), four²⁴ Charge offices accepted (between April 2015 and July 2015) the audit observations in 15 cases. In the remaining cases, the Charge offices did not furnish any/specific reply.

The CCT in the Exit Conference (September 2015) stated that such a validation check was not in the file-format used (JAR files), in which case appropriate formats should have been adopted to improve tax administration.

2.4.9 Deficiencies in format of return

The system of assessment under Section 47 depends on voluntary disclosure of business transactions in the returns submitted by the dealer. It is, therefore, essential to put in place, proper checks for all the fields in the returns to avoid leakage of revenue.

It was observed that VAT return in Form-14 was deficient in some respects, and therefore, scrutiny and consequent deemed/summary assessments could not be carried out effectively, as discussed in the following sub-paragraphs:

2.4.9.1 Irregular claims of exempt sales due to deficiency in serial number 30 in return format

Return format in Form-14 provides for entering different types of turnover of sales separately, viz. sales taxable at various rates, sales exempt from tax under Section 21, inter-state sales and sales on Maximum Retail price (MRP). At serial number 30, the electronic return format allows the dealer to enter the taxable sales and the applicable tax rates for calculation of output tax.

During the course of audit, scrutiny of assessment case records in eight²⁵ Charge offices revealed that 28 dealers in 28 cases while filing their returns for the years 2007-08 to 2011-12, declared sales of taxable goods for ₹ 113.49 crore at serial number 30. However, they did not enter any tax rate and the output tax was calculated at zero. Since the dealers had not declared the sales as exempted under Section 21 or taxable at zero rate, tax was leviable at applicable rates. Deemed/summary assessments of these dealers resulted in short levy of tax of ₹ 4.54 crore (calculated at the minimum rate of tax).

Audit observed that due to the deficiency in the electronic format of returns, the system accepted the blank field and calculated tax at the rate of zero *per cent*. In the absence of any validation checks, irregular claims of zero tax on taxable sales was allowed during deemed and summary assessments.

²⁴ Asansol, Cossipore, N.D. Sarani and Sealdah.

²⁵ Asansol, Barasat, Behala, Beliaghata, Durgapur, Medinipur, Park Street and Srirampur.

On being pointed out (between April and June 2015), Durgapur Charge office accepted (June 2015) the audit observation in one case. In the remaining cases, the Charge offices did not furnish any/specific reply.

The CCT in the Exit Conference (September 2015) accepted the audit observation. He, however, opined that filing correct returns was the dealer's responsibility. However, the detection of incorrect information in returns submitted by the dealers is very much the Department's responsibility.

2.4.9.2 Absence of proper fields in annexure for sales returns

Part-I of Chapter VI of the WBVAT Act deals with scrutiny and verification of returns furnished by a dealer. Section 2(55)(b) of the Act prescribes that a dealer is eligible for claiming sales return only when goods were returned or rejected by purchaser within six months from the date of such sale.

During the course of Performance Audit, scrutiny of deemed/summary assessment case records in 11²⁶ Charge offices revealed that 26 dealers in 30 cases between the years 2009-10 and 2011-12, claimed sales returns in the Annexure for Sales Return (ASR) in their returns for ₹ 53.30 crore and adjusted output tax of ₹ 4.64 crore on account of such sales returns.

In the format of returns, there is no provision to indicate that the goods were returned within six months of sale. Further there was neither any provision to indicate any other details like names/registration certificate numbers of dealers, payment details etc., by which it could be verified that the goods have actually been returned. Absence of these details in the ASR resulted in allowance of sales returns and corresponding output tax adjustment without any verification of genuineness of the claims during assessments.

On this being pointed out (between May and July 2015), five²⁷ Charge offices accepted (between May and July 2015) the audit observations in 12 cases. In the remaining cases, the Charge offices did not furnish any/specific reply.

The CCT in the Exit Conference (September 2015) stated that there was a separate annexure for capturing sales returns. The reply does not address the deficiencies pointed out by audit.

2.4.9.3 Lack of a provision to verify the genuineness of claim of deduction for MRP purchase of goods

Section 2 (55) (a) of WBVAT Act prescribes that the sale prices in respect of sales of goods purchased by a dealer in West Bengal, upon payment of tax on the maximum retail price (MRP) of such goods or where tax on MRP of such goods were paid in West Bengal on any earlier occasion, is allowed as deduction from his gross total turnover of sales.

During the course of audit, scrutiny of assessment case records in five²⁸ Charge offices revealed that in eight cases of eight dealers, deduction as MRP

²⁶ Asansol, Barasat, Behala, Beliaghata, Cossipore, Durgapur, Medinipur, Park Street, Siliguri, Srirampur and Suri.

²⁷ Asansol, Behala, Durgapur, Medinipur and Siliguri.

²⁸ Barasat, Burtola, Cossipore, Siliguri and Suri.

sales of goods was allowed for ₹ 43.34 crore between the periods 2009-10 and 2011-12 during deemed and summary assessments.

Audit observed that there was no provision in the relevant return in Form-14 to reflect the verifiable information about the dealer from whom goods were purchased, MRP on such goods and tax paid thereon. In absence of any such particulars in the return, deductions were allowed without any verification of the claims.

After this being pointed out, Barasat Charge office stated in two cases that claims of deductions would be verified, Siliguri Charge office stated that the format of returns would be attempted to be revised. In the remaining cases, the Charge offices did not furnish any/specific reply.

The CCT in the Exit Conference (September 2015) accepted the inability of the system to check the veracity of claims at the time of filing of returns.

2.4.10 Absence of provisions in the IT system for proper scrutiny of returns

The system of electronic filing of returns by the dealers was introduced from December 2007 and from April 2010, made compulsory for every registered dealer. Every return submitted was to be subjected to electronic scrutiny before it was deemed/summarily assessed.

Deemed and summary assessment cases (assessments under Section 47) form major part of the total number of assessments in the DCT. Any deficiency in the system of assessment under this Section affects Government revenue to a considerable extent.

Deemed and summary assessment cases were examined to detect any deficiency in the system of scrutiny of returns. On such examination, cases of leakages of revenue were noticed which could have been prevented by establishing a proper mechanism for scrutiny of returns as discussed in the following sub-paragraphs:

2.4.10.1 Failure to detect non-payment of interest on delayed payment of admitted tax

Under Section 33(1) of the Act, where a dealer furnishes return in respect of any period by the prescribed date or thereafter but fails to make full payment of net tax payable by the prescribed date, he shall pay a simple interest at the rate of 12 *per cent* per annum for the period, commencing on the date immediately following the prescribed date, for payment of net tax and up to the date prior to the date of payment of such net tax.

Scrutiny of deemed/summary assessment case records in 13²⁹ Charge offices for the period between 2009-10 and 2011-12 revealed that out of 247 test checked cases, in 94 cases³⁰, 25 dealers paid the admitted tax with delay up to 183 days.

²⁹ Asansol, Barasat, Behala, Beliaghata, Cossipore, Durgapur, Lyons Range, Medinipur, N.D. Sarani, Park Street, Siliguri, Srirampur and Suri.

³⁰ One case = one month of the year in which tax is to be paid.

Audit observed that the dealers, while filing returns, did not make payment of any interest though the total amount of interest payable was ₹ 36.99 lakh. It was observed that the electronic system of scrutiny of returns could not detect non-payment of interest on late payment of admitted tax during scrutiny of returns and the returns of the dealers were accepted as correct and deemed/summarily assessed. This resulted in non-levy of interest of ₹ 36.99 lakh.

On being pointed out (between March and July 2015), six³¹ Charge offices accepted (between April and July 2015) the audit observations in 33 cases and realised ₹ 25,842 in 13 cases. In the remaining cases, the Charge offices did not furnish any/specific reply.

The CCT in the Exit Conference (September 2015) stated that putting such validation checks in the system to calculate interest during filing of returns was being considered. It was also intimated that MIS report for interest for the period 2014-15 has been generated in August 2015 to monitor the recovery.

2.4.10.2 Non-detection of excess claim of brought forward Input Tax Credit in returns

As per Section 22(6) of the Act, if the Input Tax Credit (ITC) or Input Tax Rebate (ITR) available to a registered dealer for a year exceeds the output tax for that year, the excess ITC or ITR shall be carried forward to the next year, as prescribed under Rule 19(7) of the WBVAT Rules, 2005.

During the course of audit, analysis of the data relating to quarterly returns and scrutiny of deemed/summary assessment case records in 14³² Charge offices revealed that in 36 cases, ITC amounting to ₹ 48.68 lakh was brought forward from the previous year's returns during the years 2010-11 and 2011-12. However, a cross-check of earlier year's returns revealed that in these cases, only ₹ 10.69 lakh was available to be carried forward. This resulted in excess claim of ITC amounting to ₹ 37.99 lakh without any verification of amounts from the earlier year's returns.

This irregular claim of excess ITC could not be detected during electronic scrutiny by the DCT as no mechanism to verify the amount of ITC eligible to be brought forward from the previous years was in place.

On being pointed out (between April and August 2015), seven³³ Charge offices accepted (between May and August 2015) the audit observations in 12 cases and realised ₹ 25,000 in one case. In the remaining cases, the Charge offices did not furnish any/specific reply.

The CCT in the Exit Conference (September 2015) stated that the validation was in place at the server level. The reply was not tenable as Audit came across such cases pertaining to the period 2014-15, which was indicative of failure of any such validation check, if existent.

³¹ Asansol, Cossipore, Durgapur, Lyons Range, N.D. Sarani and Siliguri.

³² Asansol, Bankura, Barasat, Barrackpore, Behala, Beliaghata, Burtola, Durgapur, Medinipur, Park Street, Siliguri, Srirampur, Suri and Tamluk.

³³ Asansol, Bankura, Barrackpore, Burtola, Durgapur, Siliguri and Tamluk.

2.4.10.3 Deficiency in detecting irregular carrying over of excess payment of tax in next accounting year

As per Rule 40(2A) of WBVAT Rules, 2005, where the amount of tax paid is in excess of net tax payable according to any return submitted by a dealer for a return period and if no claim for refund for such excess payment of tax is made in respect of such return period, the amount of excess payment of tax according to such return may be carried over to the next return period for adjustment, subject to a condition that such next return period also falls within the same accounting year.

Scrutiny of the deemed/summary assessment case records in 15³⁴ Charge offices revealed that 43 dealers in 44 cases, carried over ₹ 1.74 crore of tax paid in excess during the accounting years 2008-09 to 2010-11 to their subsequent returns in periods which were falling in the next accounting years and hence violated the Rule provisions. The dealers were thus assessed for their respective assessment periods i.e. from 2009-10 to 2011-12, and amount of ₹ 1.74 crore carried over irregularly was available for adjustment against their output tax liabilities.

There was no provision in the IT system to prevent such carrying over of excess payment of tax to subsequent returns that fall in the next accounting year.

On being pointed out (between March and August 2015), nine³⁵ Charge offices accepted (between April and July 2015) the audit observations in 23 cases and realised ₹ 2,324 in one case. In the remaining cases, the Charge offices did not furnish any/specific reply.

The CCT in the Exit Conference (September 2015) informed that such a check was in place in the system since April 2013. However, audit observed that no such checks were introduced in returns Form-14D and the amount irregularly carried forward was also yet to be recovered.

2.4.10.4 Failure to detect application of incorrect rate of tax in returns

For the purpose of levy of tax at proper rates, commodities are classified into various schedules under the Act. In deemed assessment cases, proper levy of tax depends upon cross-checking of rates of tax with the commodities specified in the schedules. Complete mapping of commodities taxable under the schedules ensures the application of correct rate of tax.

Audit observed in four³⁶ Charge offices for the assessment periods 2010-11 and 2011-12, that in 12 deemed assessment cases, dealers claimed sales of taxable goods for ₹ 11.41 crore paying output tax at rates lower than the applicable rates by indicating those lower rates in their returns. These were accepted by the electronic return system without any validation checks being exercised by it. Application of incorrect rate of tax resulted in short levy of output tax of ₹ 91.90 lakh.

³⁴ Asansol, Bankura, Barasat, Barrackpore, Behala, Beliaghata, Cossipore, Durgapur, Lyons Range, Medinipur, N.D. Sarani, Park street, Siliguri, Srirampur and Suri.

³⁵ Bankura, Barasat, Burtola, Durgapur, Jalpaiguri, Lyons Range, Medinipur, N. D. Sarani and Radhabazar.

³⁶ Asansol, Burtola, N.D. Sarani and Suri.

On it being pointed out (between April and July 2015), two³⁷ Charge offices accepted (between April and July 2015) the audit observations in four cases. In the remaining cases, the Charge offices did not furnish any/specific reply.

The CCT in the Exit Conference (September 2015) stated that cross checking of applicable rates with commodities was a difficult work due to limitations in the size of JAR files. The reply was not tenable as absence of such essential validation checks had resulted in acceptance of lower rates and subsequent short payment of tax by dealers.

2.4.11 Rush of assessments

Section 49 of the WBVAT Act prescribes that assessment of a registered dealer shall be completed by the 30th day of June next following the expiry of two years from the end of the year, in respect of which or part of which the assessment is made. No assessment under Section 46 or Section 47 shall be made after the 30th day of June next following the expiry of two years from the end of the year in respect of which or part of which the assessment is made.

Status on assessments under Section 46 for the periods of assessments 2007-08 to 2011-12 in Charge offices was as follows:

Table 2.3- Rush of assessments

Period of assessment	Number of Charge offices which furnished specific information	Total number of assessments under Section 46	Total number of assessments carried out in April ³⁸	Total number of assessments carried out in May ³⁹	Total number of assessments carried out in June ⁴⁰	Percentage of assessments made in June ⁴¹
2007-08	08	10,338	548	1,210	7,754	75.00
2008-09	09	19,550	686	1,395	16,598	84.90
2009-10	12	24,627	859	2,120	20,663	83.90
2010-11	13	19,613	722	1,036	17,020	86.78
2011-12	13	7,324	575	912	5,354	73.10

(Source: Information furnished by the Charge offices)

Audit observed that for periods of assessments 2007-08 to 2011-12, 73.10 per cent to 86.78 per cent of total assessments under Section 46 were done in the last month stipulated for assessment. Audit further observed that norms/targets had not been fixed for monthly or phase-wise assessment of cases by the AAs to avoid rush of assessments.

The CCT in the Exit Conference (September 2015) stated that the DCT had consciously tried to complete the assessments early. DCT accepted the audit observation and intimated that administrative steps had been taken to monitor the progress through monthly meetings.

³⁷ Asansol and Burtola.

³⁸ April month of the last year of prescribed time limit.

³⁹ May month of the last year of prescribed time limit.

⁴⁰ June month of the last year of prescribed time limit.

⁴¹ Percentage of assessments done in last month (June) to total assessments.

2.4.12 Effectiveness of system of survey of unregistered dealers

With a view to identify dealers who are liable to pay tax under the Act but have remained unregistered, survey of unregistered dealers is an important tool to bring in potential tax assesseees into tax net. Those dealers who are eligible to be registered⁴², but are yet to be registered under the Act, can be brought into the tax net through periodical surveys.

During the course of Performance Audit, information on survey conducted to detect unregistered dealers during 2009-10 to 2013-14 in Charge offices was obtained. The status of such surveys was as follows:

Table 2.4- Survey of unregistered dealers

Year	No. of Charge offices in which survey was conducted	No. of survey conducted	No. of unregistered dealers detected during survey
2009-10	6	164	513
2010-11	6	131	509
2011-12	6	178	569
2012-13	11	352	1,064
2013-14	15	501	1,789
Total		1,326	4,444

(Source: Information furnished by the Charge offices)

The table indicates that 1,326 surveys were conducted in six to 15 Charge offices during 2009-10 to 2013-14, in which 4,444 dealers were found eligible for registration. It was therefore evident that the survey process in the DCT had been fruitful in bringing potential assesses into tax net, even though it was not prescribed in the extant Rules and procedures. Considering the achievements through this effort, formalisation of such provisions in the extant Rules may enable the DCT to monitor and identify unregistered dealers more effectively to increase the tax base. Some states, like Bihar, have incorporated such provisions in their respective VAT Acts.

The CCT in the Exit Conference (September 2015) stated that the VAT system itself ensured registration of new dealers due to ITC advantage. However, the data above proves the utility of surveys as well.

2.4.13 Selection of dealers for audit of accounts and assessment

Sections 43 and 43A of the WBVAT Act prescribe that selection of dealers respectively for audit or special audit of accounts and subsequent assessment is to be done on random basis or upon receipt of specific information under Section 46.

Summary of assessments under different Sections of the Act during the years 2007-08 to 2012-13 was as follows:

⁴² Dealers whose turnover of sales exceeds taxable quantum of ₹ five lakh in an accounting year or part thereof.

Table 2.5 - Assessment of dealers under various sections of the Act

Financial year	Total number of registered dealers	Selection under Section 43	Selection under Section 43A	Selection under Section 46	Percentage ⁴³ of selection
2007-08	2,12,603	Not furnished by the Department	0	43,211	20.32
2008-09	2,17,731		0	56,359	25.88
2009-10	2,13,465		57	73,803	34.60
2010-11	2,17,595		43	55,251	25.41
2011-12	2,27,351	7,556	9,083	20,330	16.26
2012-13	2,44,434	3,177	Not furnished by the Department		

(Source: Information furnished by the DCT)

In 2010-11 and 2011-12, though the number of registered dealers had increased, number of assessments under Section 46 had decreased substantially. This decrease in number of assessments under Section 46 resulted in increased number of cases of deemed/summary assessments. Audit scrutiny on the selection of dealers for detailed audit and assessment revealed the following deficiencies:

- Only 36,969 dealers (16.26 per cent) for the year 2011-12 as compared to 73,860 dealers (34.60 per cent) for the year 2009-10 were selected for detailed audit and assessment. Such reduction may go against complete assurance against leakage of Government revenues.
- DCT informed that the selection of dealers for VAT Audit was done on a centralised basis and was segregated charge-wise. Cases of the dealers where major discrepancies were detected in the past were not considered nor was such information sought from the Charge offices for the purpose of selection. Dealers, against whom the preventive wings of the Directorate had adverse findings, were also not compulsorily considered for future selection.
- The centralised selection process was also flawed as Audit noticed that there was no uniformity in the number of cases selected from different Charge offices while prescribing criteria for selection of dealers. Audit observation is based on the fact that no dealer out of 5,519 dealers in Baharampur Charge office was selected for audit for the year 2011-12. Further, Diamond Harbour Charge office (2,193 dealers) did not find any representation for the year 2012-13 whereas numbers of dealers selected from Balurghat Charge office (1,575 dealers), Darjeeling Charge office (1,203 dealers) and Malda Charge office (4,563 dealers) were in single digits.
- The Department had not formulated any manual for VAT audit even after lapse of ten years from the implementation of VAT to prescribe control mechanisms incorporating various procedural and

⁴³ Percentage of total number of dealers selected for audit and assessment to total number of registered dealers.

methodological aspects of audit to streamline the audit process and make it effective.

The CCT in the Exit Conference (September 2015) accepted the audit observation and stated that geographical representation in selection, increasing the number of dealers for VAT audit and compulsory selection of habitual defaulters would be considered.

Compliance to the existing provisions on scrutiny and assessment procedures under the WBVAT Act/Rules by the Assessing Authorities (AAs)

Compliance with extant Rules and Regulations by AAs while carrying out assessments was examined and findings were as follows:

2.4.14 Short determination of gross turnover of sales

Sections 2(55) and 16 of the WBVAT Act prescribe that turnover of sales (TOS) in relation to any period means the aggregate of sale prices or parts of sale prices received or receivable by a dealer. A dealer is liable to pay tax at prescribed rates on the amount of such turnover after allowing permissible deductions.

Audit found in 16⁴⁴ Charge offices that in 33 cases of 28 dealers assessed between June 2010 and June 2014 for the assessment periods between 2007-08 and 2011-12, the AAs incorrectly determined TOS at ₹ 12,286.51 crore instead of at ₹ 14,520.79 crore. This was due to the failure of Department to correctly determine the TOS by cross verification of the amounts declared by the dealers from available authentic records, viz. books of accounts / audit reports of chartered accountants / TDS certificates etc. This resulted in short determination of TOS by ₹ 2,234.28 crore and consequent short levy of tax of ₹ 90.93 crore.

The Department admitted (between November 2013 and July 2015) the audit observations in 14 cases, but did not furnish any report on levy and realisation of tax. In the remaining cases, the Department did not furnish any/specific reply (October 2015).

The CCT in the Exit Conference (September 2015) stated that concerned Charge offices were being instructed to take necessary action for early disposal of observations raised during Performance Audit.

The cases were reported to the Government between October 2013 and August 2015; their reply has not been received (October 2015).

2.4.15 Short levy of purchase tax

Section 17 of the WBVAT Act prescribes a purchase tax payable by a dealer who purchases goods unrelated to his business from an unregistered dealer on

⁴⁴ Asansol, Barasat, Beliaghata, Berhampore, Bhawanipore, Budge Budge, Corporate Division, Coochbehar, Durgapur, Malda, N.D. Sarani, Shibpur, Siliguri, Srirampur, Taltala and Tamluk.

the purchase turnover at the rate applicable to the sale of such goods under Section 16(2) on the same commodities.

Audit observed in Durgapur Charge office that the AA, while assessing one case for the assessment period 2011-12, did not consider purchases amounting to ₹ 1.63 crore which were liable to be taxed for the purpose of levy of purchase tax. In another case for the assessment period 2010-11, the AA took ₹ 9.55 lakh for this purpose in place of actual amount of ₹ 9.55 crore as reflected in books of accounts. Thus, AA assessed the turnover of purchases at ₹ 9.55 lakh instead of ₹ 11.18 crore. This resulted in short levy of purchase tax of ₹ 44.33 lakh.

After being pointed out (June 2015), the Charge office did not furnish any specific reply.

The CCT in the Exit Conference (September 2015) stated that concerned Charge offices were being instructed to take necessary action for early disposal of observations raised during Performance Audit.

2.4.16 Short levy of tax due to mistake in computation

Under the WBVAT Act, 2003, tax is to be computed at prescribed rates along with interest and penalty, if any, on the goods sold. The Act also provides for levy of purchase tax 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 eight⁴⁵ Charge offices that in 15 cases assessed between May 2012 and November 2014 for assessment period 2009-10 and 2011-12, the AAs assessed tax and interest at ₹ 1.43 crore instead of ₹ 3.21 crore on goods sold/purchased due to arithmetical mistakes in computation. This resulted in short levy of tax of ₹ 1.78 crore.

The Department admitted (between December 2013 and July 2015) the audit observations in nine cases involving ₹ 0.54 crore; but did not furnish any report on realisation of tax and interest. In the remaining cases, the Department did not furnish any specific reply (October 2015).

The CCT in the Exit Conference (September 2015) stated that concerned Charge offices were being instructed to take necessary action for early disposal of observations raised during Performance Audit.

The cases were reported to the Government between October 2013 and August 2015; their reply has not been received (October 2015).

⁴⁵ Alipore, Asansol, Barasat, Barrackpore, Durgapur, Medinipur, Park Street and Siliguri.

2.4.17 Incorrect allowance of deduction towards payment to sub-contractors

Section 18 of the Act provides for determination of Contractual Transfer Price (CTP) chargeable to tax after the allowed deductions⁴⁶. A dealer claiming deduction towards payment to sub-contractors from CTP is required to furnish evidence to prove that the sub-contractors engaged by him for execution of works contract are registered dealers, that the amount claimed for deduction are included in the returns of sub-contractors and that the tax under Section 18(1) have been paid by them. Further, where a dealer does not maintain proper books of accounts, or the accounts maintained by him are not worthy of credence and the amount actually incurred towards deductible charges are not ascertainable, taxable CTP shall be determined in accordance with Rule 30(2) of the WBVAT Rules, 2005.

During scrutiny of deemed assessment case records in two⁴⁷ Charge offices in two cases for the period of assessment 2010-11, Audit found that assesses had claimed deduction of ₹ 0.80 crore from CTP of ₹ 1.84 crore towards payment to sub-contractors without submitting the details of deductions relating to sub-contracts as required under Section 18(2). These deductions were allowed without any verification of claims of deductions, which resulted in short levy of tax of ₹ 9.94 lakh.

After this being pointed out (April and May 2015), the Charge offices did not furnish any reply/specific reply.

The CCT in the Exit Conference (September 2015) stated that concerned Charge offices were being instructed to take necessary action for early disposal of observations raised during Performance Audit.

2.4.18 Non-reversal of ITC

Section 22(4) of the Act prescribes that ITC shall be allowed to the extent of the amount of tax paid or payable by the purchasing dealer on his purchase of taxable goods made in the state from a dealer, when such goods are purchased for use as raw materials required for the purpose of manufacture of taxable goods intended for sale. A manufacturing dealer is not eligible for claiming ITC on his purchases of raw materials used for production of such finished goods which are consumed by the dealer himself for personal/internal consumption and such ITC is liable to be reversed by the dealer.

During the course of Performance Audit in Durgapur Charge office, Audit found that a dealer in two cases for the periods 2010-11 and 2011-12 had availed ITC of ₹ 0.50 crore on his purchases of raw materials of ₹ 13 crore used for the purpose of manufacture of iron and steel, which was utilised for internal consumption. This irregular ITC availed was liable to be reversed. However, the dealer did not reverse such irregular ITC. The AAs also failed to detect and disallow such irregular claim of ITC. This resulted in irregular allowance of ITC of ₹ 0.50 crore.

⁴⁶ Deductions are allowed in respect of charges towards labour, service and other like charges, payments to sub-contractors engaged by the dealer for execution of works contract etc.

⁴⁷ Sealdah and Suri.

After this being pointed out (June 2015), the Charge office did not furnish any specific reply.

The CCT in the Exit Conference (September 2015) stated that concerned Charge offices were being instructed to take necessary action for early disposal of observations raised during Performance Audit.

2.4.19 Non/short raising of demand

Rule 59 of the WBVAT Rules, 2005 prescribes that after an order of assessment is passed by an AA, such authority shall serve a demand notice in Form 27 on the dealer directing him to make payment of the amount of tax and penalty due, if any, by the date as may be specified in such notice. Rule 69 provides that if any amount due from a dealer is modified in consequence of an order passed on appeal, review or revision, the appropriate AA shall serve on the dealer a demand notice in Form 28. Further, Departmental Circular (2013) of the Directorate of Commercial Taxes instructed the AA to issue notice in Form 28 positively within 15 days from the date of receipt of such order.

Audit found in five⁴⁸ Charge offices that in nine cases assessed between May 2012 and September 2013 for the assessment period 2009-10 and 2010-11, in five cases the AAs assessed tax and penalty etc. of ₹ 293.96 lakh; however, they served demand notices for ₹ 223.81 lakh only. In the remaining four cases, the AAs did not issue demand notices for ₹ 15.20 lakh even after expiry of periods from five months to 15 months from the date of receipt of the order of confirmation/modification from the appellate authority. This resulted in non/short raising of demand of ₹ 85.35 lakh.

The Department admitted (between December 2013 and June 2015) the audit observations in eight cases, but did not furnish any report on realisation of tax (July 2015) and in the remaining one case no reply was furnished (October 2015).

The CCT in the Exit Conference (September 2015) stated that concerned Charge offices were being instructed to take necessary action for early disposal of observations raised during Performance Audit.

The cases were reported to the Government between January 2014 and August 2015; their reply has not been received (October 2015).

2.4.20 Application of incorrect rate of tax

Section 16(2) of the WBVAT Act, 2003 prescribes the rates of tax on the goods sold depending upon classification of the goods. Further, Sections 14 and 18 of the WBVAT Act, 2003 and Rule 30(2) of the WBVAT Rules, 2005 prescribe the rates of tax on contractual transfer price (CTP). Section 8 of the Central Sales Tax (CST) Act, 1956 provides rates of tax on sales in the course of inter-state trade or commerce.

⁴⁸ Asansol, Durgapur, Park Street, Siliguri and Suri.

Audit found in 15⁴⁹ Charge offices that out of 38 cases assessed between May 2012 and June 2014 for the assessment periods from 2008-09 to 2011-12, the AAs in 31 cases involving sales of ₹ 72.94 crore levied tax at the rate of four *per cent* instead of the applicable rate of 12.5/13.5 *per cent* due to misclassification of goods and levy of tax at lower rates on inter-state sales not supported by declaration forms etc. In the remaining seven cases, the AAs applied rates less than the applicable rates of tax on CTP of ₹ 233.25 crore. This resulted in overall short levy of tax of ₹ 10.19 crore in 38 cases due to application of incorrect rates of tax.

After Audit pointed out the cases, Department admitted (between September 2013 and November 2014) audit observations in 16 cases involving ₹ 7.46 crore, but did not furnish any report on levy and realisation of tax. In the remaining cases, the Department did not furnish any/specific reply (October 2015).

The CCT in the Exit Conference (September 2015) stated that concerned Charge offices were being instructed to take necessary action for early disposal of observations raised during Performance Audit.

The cases were reported to the Government between October 2013 and August 2015; their reply has not been received (October 2015).

2.4.21⁵⁰ Irregular allowance of input tax credit

Section 22 of the WB VAT Act, 2003 prescribes that a registered dealer can avail the benefits of input tax credit (ITC) to the extent of tax paid or payable by him in respect of purchases of taxable goods from the registered dealers of West Bengal. Further, ITC shall be allowed to the extent of the amount of tax paid or payable by the purchasing dealer on his purchase of taxable goods, other than such taxable goods as specified in the negative list⁵¹.

Audit found in 11⁵² Charge offices that in 16 cases assessed between June 2010 and June 2013 for the assessment periods between 2007-08 and 2010-11, the AAs allowed ITC of ₹ 29.43 crore instead of ₹ 27.51 crore resulting in irregular allowance of ITC of ₹ 1.92 crore due to the irregularities detailed in the following table:

⁴⁹ Amratala, Ballygunge, Barasat, Barrackpore, Beadon Street, Bhawanipore, Budge Budge, Chinabazar, College Street, N.D. Sarani, Park Street, Radhabazar, Sealdah, Shibpur and Siliguri.

⁵⁰ Observations under paragraphs 2.4.21 to 2.4.24 could not be discussed during Exit Conference of the Performance Audit as these observations were raised and communicated earlier but fall within the scope of Performance Audit.

⁵¹ Negative list (appended to Section 22 of the WB VAT Act) is the list of goods not eligible for ITC.

⁵² Alipore, Amratala, Asansol, Bhawanipore, Chandni Chawk, Coochbehar, Corporate Division, Diamond Harbour, Esplanade, New Market and Taltala.

Table 2.6 – 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 despite absence of authentic records like books of accounts, purchase documents etc.	8	2,164.37	2,073.04	91.33
2.	ITC allowed on items not covered by the WBVAT Act/goods in the negative list etc.	4	323.95	273.86	50.09
3.	ITC allowed on incorrect carry forward of ITC from previous year.	1	301.40	262.98	38.42
4.	Irregular allowance due to arithmetical error.	2	148.33	140.98	7.35
5.	ITC allowed on claim of purchase from dealer having cancelled Registration Certificate.	1	5.02	0	5.02
Total		16	2,943.07	2,750.86	192.21

The Department admitted (between November 2013 and November 2014) the audit observations in 10 cases involving ₹ 87.81 lakh; but did not furnish any report on levy and realisation of tax. In the remaining cases, the Department did not furnish any/specific reply (October 2015).

The cases were reported to the Government between January 2014 and February 2015 followed by reminders issued upto April 2015; their reply has not been received (October 2015).

2.4.22 Non /short levy of interest

Sections 33 and 34 of the WBVAT Act, 2003 prescribe that if a dealer, who fails to deduct inadmissible ITC from the amount of ITC claimed 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.

Audit found in 17⁵³ Charge offices that in 61 cases assessed between June 2010 and June 2013 for assessment periods between 2006-07 and 2010-11, the AAs short levied interest of ₹ 0.39 crore in four cases and did not levy interest of ₹ 12.47 crore in remaining 57 cases where the dealers did not pay tax by prescribed/specified dates or did not deduct the inadmissible ITC while filing their returns. Although the inadmissible ITC claimed by the dealers were disallowed by the AAs during assessment, no interest for the period from the dates of filing of returns to the dates of assessment was levied. This resulted in non/short levy of interest of ₹ 12.86 crore.

After Audit pointed out the cases, the Department admitted (between August 2013 and November 2014) audit observations in 23 cases involving ₹ 2.01 crore but did not furnish any report on realisation. In the remaining cases, the Department did not furnish any/specific reply (October 2015).

⁵³ Alipore, Asansol, Ballygunge, Beadon Street, Beliaghata, Chandni Chawk, Corporate Division, College Street, Darjeeling, Ezra Street, Jalpaiguri, N.D. Sarani, New Market, Salt Lake, Srirampur, Shibpur and Taltala.

The cases were reported to the Government between October 2013 and February 2015 followed by reminders issued upto May 2015; their reply has not been received (October 2015).

2.4.23 Non-levy of penalty on evaded tax

Section 96 of the WBVAT Act, 2003 prescribes levy of penalty if a dealer has concealed any sales/purchases/CTP or claimed excess ITC but has not reversed the same. Further, the quantum of penalty should not exceed twice the amount of tax which would have been avoided if such concealment was not detected.

Audit found in seven⁵⁴ Charge offices that in 11 cases assessed between May 2012 and June 2014 for assessment periods between 2009-10 and 2011-12, the AAs noticed evasion of tax of ₹ 3.31 crore by dealers by means of concealment of sales/purchases/CTP or by claim of excess amount of ITC of ₹ 25.89 crore. However, although the AAs identified the evasion of tax, Audit found that they did not initiate proceedings to levy penalty under Section 96 of the WBVAT Act. Penalty at its maximum would have been ₹ 6.62 crore. Neither has the evaded tax been recovered.

The Department admitted (between December 2013 and September 2014) the audit observations in eight cases involving ₹ 1.88 crore; but did not furnish any report regarding levy and realisation of penalty. In the remaining cases, the Department did not furnish any/specific reply (October 2015).

The cases were reported to the Government between January 2014 and October 2014 followed by reminders issued upto February 2015; their reply has not been received (October 2015).

2.4.24 Irregular allowance of payment of tax at compounded rate

Rules 38(11) and 39(8) of the WBVAT Rules, 2005 provide that if a registered dealer, who has exercised his option to pay tax at a compounded rate⁵⁵, fails to make payment of such tax for any two quarters of the year, such dealer shall be deemed to have withdrawn his option so exercised. Further, Rule 38(9) prescribes that during the period of applicability of tax payment at compounded rate, if the TOS of a dealer exceeds ₹ 50 lakh, he will not be eligible to pay tax at compounded rate.

Audit found in three⁵⁶ Charge offices that out of six cases where dealers had opted to pay tax at compounded rate for assessment periods between 2008-09 and 2009-10, in four cases the dealers failed to make payment of tax for two quarters of the year and in the remaining two cases, the dealers' TOS exceeded ₹ 50 lakh while paying tax at compounded rate for which they were not eligible. This resulted in short levy of tax of ₹ 11.70 lakh.

The Department admitted (March 2014) the audit observations in two cases involving ₹ 6.66 lakh but did not furnish any report on levy and realisation of

⁵⁴ Asansol, Ballygunge, Beadon Street, Berhampore, Chinabazar, Park Street and Sealdah.

⁵⁵ Two *per cent* in case of registered dealers making transfer of property in goods involved in the execution of works contract and 0.25 *per cent* in case of other registered dealers.

⁵⁶ Ballygunge, Darjeeling and Siliguri.

tax. In the remaining cases, the Department did not furnish any reply (October 2015).

The cases were reported to the Government between October 2013 and April 2014 followed by reminders issued upto February 2015; their reply has not been received (October 2015).

2.4.25 Existence of sufficient internal controls in the Department for detecting irregularities in the assessments

2.4.25.1 Effectiveness of Internal Audit Wing

Internal Audit wing (IAW) of DCT is a permanent in-house mechanism for scrutinising and detecting irregularities in the assessment of VAT cases as well as checking of different records and registers in DCT to ascertain effectiveness of the internal control system. The IAW of the Directorate was functioning since May 1991 and is headed by CCT who is assisted by an Additional CCT.

Audit observed that the manpower deployment in the IAW was inadequate as there was only one Sr. JCCT (in charge of DDO and service matters) and one CTO (August 2015) in position. IAW audited only two out of 68 Charge offices (2.94 per cent) during the year 2013-14. IAW could not provide specific information regarding the nature of irregularities detected in internal audit of assessments made in Charge offices. There was no target fixed for the IAW by CCT or the IAW itself. No audit manual was formulated on the working procedure of IAW. Further, there was no plan for conducting internal audit of dealers registered in different Charge offices during the last five years. Number of cases audited by IAW during the last five years was not intimated to audit though called for.

The CCT in the Exit Conference (September 2015) stated that internal audit of assessments was conducted by the circle offices. The reply is not correct as circle offices only audit the assessment but do not exercise any internal audit functions related to evaluation of the systems, procedures and controls within the department.

2.4.25.2 Absence of proper internal controls to monitor utilisation of MIS reports generated by DAW

The Data Analysis Wing (DAW) of DCT generates various MIS (Management Information System) reports regarding unauthorised ITC claims. Audit observed that there were no internal controls in place to monitor compliance of actions arising from the MIS reports. Failure to monitor proper compliance in this respect resulted in non-realisation of tax as discussed in the following points:

- *Inaction on reports of ITC from dealers paying tax at compounded rate:* DAW generated MIS reports for ITC claims from those dealers who were paying tax at compounded rate. As such, the ITC claims were found to be inadmissible. Audit scrutiny in three⁵⁷ Charge offices for the periods of assessment 2011-12 and 2012-13 revealed that though

⁵⁷ Jalpaiguri, Siliguri and Tamluk.

reports were sent regarding three dealers in four cases for inadmissible ITC of ₹ 12.33 lakh on purchases of ₹ 1.25 crore, no action was taken by the Charge offices to reassess or reopen the cases on basis of the MIS reports. These dealers were deemed assessed (except one case where the dealer was assessed but MIS report was not considered) for their periods of assessment which resulted in irregular allowance of ITC of ₹ 12.33 lakh.

After audit pointed out the cases (July 2015), Jalpaiguri Charge office stated (July 2015) in one case that the matter was being forwarded to higher authority. In the remaining cases, the Charge offices did not furnish any/specific reply.

- *Inaction on reports of ITC from cancelled dealers:* DAW generated MIS reports for ITC claims from those dealers whose registration certificates stood cancelled on the date of transaction. As such the ITC claims were found to be inadmissible. Audit scrutiny in three⁵⁸ Charge offices for the period of assessment 2011-12 revealed that though MIS reports were sent regarding 19 dealers in 33 cases for inadmissible ITC of ₹ 19.91 lakh on purchases of ₹ 4.17 crore, no action was taken by the Charge offices to reassess or reopen the cases on the basis of MIS reports. The dealers were deemed assessed which resulted in irregular allowance of ITC of ₹ 19.91 lakh.

After audit pointed out the cases (July and August 2015), two⁵⁹ Charge offices accepted (July and August 2015) audit observations in 27 cases whereas Burtola Charge office did not furnish any specific reply.

- *Inaction on the sale-purchase mismatch reports:* Sale-purchase mismatch reports of dealers are available at IMPACT utility of the DCT in every Charge office. Audit observed in four⁶⁰ Charge offices for the periods 2010-11 and 2011-12 that no action was taken against five dealers in five cases who did not reconcile the sale-purchase mismatches. This resulted in non-realisation of ₹ 13.88 lakh on differential amount of sale-purchase mismatch of ₹ 1.66 crore.

After audit pointed out the cases (between April and July 2015), Cossipore Charge office accepted (July 2015) the audit observation in one case. In the remaining cases, the Charge offices did not furnish any/specific reply.

The CCT in the Exit Conference (September 2015) stated that number of MIS reports generated by DAW was huge and taking up all the MIS reports for compliance was a cumbersome task. He also stated that cases having greater revenue implications were being given preference over others. The reply was not tenable as otherwise the very purpose of generating such reports loses meaning.

⁵⁸ Barrackpore, Burtola and Jalpaiguri.

⁵⁹ Barrackpore and Jalpaiguri.

⁶⁰ Barasat, Cossipore, N.D. Sarani and Suri.

2.4.26 Conclusion

The Performance Audit noticed various system deficiencies and non-compliance to the provisions of the Act/Rules etc. The Department has no effective system to utilise data available with it to bring unregistered dealers into the tax net. There was no correlation between the IMPACT utility and assessments made as per returns to prevent tax evasion, irregular claims of ITC and excess claims of deductions. There was lack of pooling of information available with the DCT. In determining CTP of the works contractors, payments as per TDS were not taken into account. Exempted sales, deductions on account of MRP sales and sales returns were allowed without verifying the correctness of the claims of dealers. There were weaknesses in the internal control mechanism. There was no working manual formulated for the IAW. The internal control mechanism with regard to compliance of MIS reports generated by DAW was not effective.

2.4.27 Summary of recommendations

The Government may consider following steps to detect potential assesseees and prevent leakage of revenue:

- Use IT tools to bring potential tax assesseees into tax net by utilising the information in respect of transactions of unregistered dealers available in returns.
- To avoid leakage of revenue, the department needs to introduce validation checks in its IT system for example - application of correct rates of tax in returns, payment of tax on sale of taxable goods in VAT returns in Form-14, proper fields in returns to verify claims of sales returns, calculation of interest and carry forward of ITC.
- Information available in IMPACT should be compulsorily used by AAs for cross-verification of information/data to ensure accurate assessments and due payment of tax.
- Increase number of returns/assessments audited by IAW and;
- Make the DAW of the department more effective by sharpening its controls over unauthorised ITC claims.

Other audit observations

2.5 Loss of revenue in time barred appeal / set aside cases

2.5.1 Section 84 of the WBVAT Act, 2003 prescribes that an appeal case is to be disposed of within the period specified. If the appeal cases are not 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 applicant shall be deemed to have been allowed in full.

Audit scrutinised the Appeal Receiving and Disposal Register maintained in three⁶¹ circle offices and found that out of 23,006 appeal cases received during the period from 2009-10 to 2013-14, 226 cases were barred by limitation of time and were disposed of in favour of the dealers without any hearing by the Appellate Authorities. This resulted in disposal of disputed amount of ₹ 112.92 crore in favour of the dealers in 199 cases. In 27 appeal cases, the disputed amounts were not furnished to audit though sought for.

On being pointed out, the circle officers did not furnish any /specific reply. The cases were reported to the Government in July 2015; their reply has not been received (October 2015).

A similar audit observation featured under paragraph no. 2.10.23 of the Audit Report (Revenue Sector), Government of West Bengal for the year ended 31 March 2013 which was accepted by the Commissioner of Commercial Taxes (CCT). The CCT subsequently issued a circular in August 2014 directing the appellate authorities to timely dispose the appeal cases so that automatic disposal could be avoided. However, the instructions of the CCT were not adhered to as evident from the above audit observation.

2.5.2 Section 48(4) of the WBST Act, 1994 prescribes that when a fresh assessment is required to be made in pursuance of an order under Section 79, 80, 81 or 82, such fresh assessment may be made at any time within two years from the date of such order.

Cross verification of revisional orders of the Appellate and Revisional Board (ARB) with the assessment case records in two⁶² Charge offices under Chowringhee circle office revealed that in three cases, for the period of assessments between 2003-04 and 2004-05, the ARB had set aside the assessment orders between February 2011 and January 2013 and directed the assessing authorities to make fresh assessment. The disputed amount in these cases was ₹ 43.05 lakh. Fresh assessments could not be made within the specified time limit and the cases became barred by limitation of time. This resulted in allowance of all claims of the dealers without hearing and the Government lost the opportunity of collecting the appropriate revenue.

On being pointed out, the Charge officers and the Circle officers did not furnish any reply. The cases were reported to the Government in July 2015; their reply had not been received (October 2015).

⁶¹ Chowringhee, Kolkata South and 24 Parganas.

⁶² Esplanade and Lalbazar.

2.6 Non-compliance of revisional orders and departmental circular

No time limit has been prescribed under the Act and Rules within which the demand notices would be issued by the assessing authorities in the cases where the assessment orders are confirmed/modified under Section 84/85/86/87/87A. The CCT instructed⁶³ the assessing authorities to issue a demand notice in Form-28 or intimation notice within 15 days from the date of receipt of the order of revision.

Cross verification of revisional orders of the ARB with the assessment case records in 11⁶⁴ Charge offices under six⁶⁵ circle offices revealed that in 16 cases for the period of assessments between 1998-99 and 2006-07, the ARB dismissed the revision petitions or confirmed/modified the assessment orders between February 2010 and July 2014 and directed the assessing authorities to do the needful. The amount involved under the instant cases was ₹ 5.61 crore. But no action had been taken by the assessing authorities for realisation of Government revenue even after a lapse of period ranging from eight to 62 months from the date of revisional order. This resulted in non-realisation of Government revenue of ₹ 5.61 crore.

On being pointed out, JCCTs, Jorasanko and Jorabagan stated that demand notices had been issued in respect of two cases involving ₹ 2.30 crore and JCCT, Bowbazar intimated that action was being taken to ensure realisation of dues as per ARB verdict. In the remaining cases, the Charge offices did not furnish any/specific reply. The cases were reported to the Government in July 2015; their reply has not been received.

2.7 Report of follow up audit on the Performance Audit on “e-Services in the Directorate of Commercial Taxes”

2.7.1 Introduction

The Performance Audit (PA) on “e-Services in the Directorate of Commercial Taxes (DCT)” featured as Paragraph no. 2.10 of Chapter II of the Report of the Comptroller and Auditor General of India on Revenue Sector (Report no.2 of the year 2013) of the Government of West Bengal. The PA was conducted between November 2011 and March 2012 covering five modules of IMPACT⁶⁶ viz. Registration, Return, Central Declaration Forms, Waybill and Transit Declaration as only these modules were related to e-services and open to the dealers. Centralised Data provided by DCT was analysed and various deficiencies in the system were pointed out in the PA.

⁶³ Vide Department Circular no. 801 dated 03.10.2013.

⁶⁴ Beliaghata, Bowbazar, Corporate Division, Jorabagan, Jorasanko, Lyons Range, New Market, Park Street, Radhabazar, Salt Lake and Taltala.

⁶⁵ Chowringhee, Corporate Division, Dharmatala, Kolkata North, Kolkata South and 24 Parganas.

⁶⁶ A web based application software “Information Management for Promotion of Administration in Commercial Taxes” (IMPACT) developed by the National Informatics Centre (NIC).

2.7.2 Objective, scope and methodology of audit

The follow up audit was conducted to ascertain the action taken by DCT on audit recommendations accepted by them. The Performance Audit Report contained 32 audit observations. Out of these, 23 were accepted by the department. A follow up audit was conducted during the period from May to July 2015 and data of the DCT was analysed to verify action taken by them in respect of accepted audit observations. Audit issued queries to the DCT and verified their replies with documentary evidence produced by them and also through data-analysis.

2.7.3 Acknowledgement

We acknowledge the co-operation of the DCT in providing necessary records and information to audit. The draft follow up audit report was forwarded to the Finance Department with a copy to the DCT for their comments on 31 August 2015. Comments of the Sr. Joint Commissioner of Commercial Taxes (Sr JCCT), Information Systems Division (ISD) received in June and October 2015 are incorporated in the report.

2.7.4 Audit findings

The status of implementation of the 23 audit observations accepted by the department has been arranged in three categories:

A Insignificant or No progress

Paragraph No. and caption of the PA	Gist of the audit observation/ Follow up audit observation	Replies/Comments of Directorate	Audit comments
2.10.19 <i>(Part-3)</i> Submission of Central Sales Tax(CST) returns without submitting Value Added Tax (VAT) returns	<i>Due to lack of validation control the system allowed submission of CST return without filing VAT return.</i> Audit noticed through data analysis that the dealers were still submitting CST return without filing VAT return.	The Sr JCCT, (ISD) stated (October 2015) that there is no provision in the Acts that VAT return is to be submitted prior to submission of CST return. The dealers are at liberty to submit any return first and then to furnish the return under other Act.	Reply is not tenable as under Rule 8(4) of the CST (West Bengal) Rules, 1958, every dealer, who is required to furnish CST return, shall furnish such return only after furnishing the VAT return for the relevant period under the West Bengal VAT Act.
2.10.20 <i>(Part 3)</i> Mismatch between tax paid amount and payment details	<i>Due to lack of validation control the system accepted VAT e-returns having mismatched data.</i> Audit noticed through data analysis that the system was accepting e-returns having mismatched data between tax paid amount and payment details in the VAT e-returns.	The Sr JCCT, (ISD) stated (October 2015) that there is no mismatch between tax paid amount and payment details in the return module.	Reply is not tenable as in VAT returns, the challan amount shown in payment details was found to be less than the tax paid amount as returns module was not capturing the full payment details although that was reflected in the e-challan data. So mismatched data in the return module could not be detected by the system automatically.

B Partial implementation

Paragraph No. and caption of the PA	Gist of the audit observation/ Follow up audit observation	Replies/Comments of Directorate	Audit comments
2.10.8 Organisational and management controls	<i>DCT did not prepare User Requirement Specification (URS) and thus, did not spell out the basic objectives of designing and development of IMPACT to National Informatics Centre (NIC). Audit found that no written down URS was prepared by the Directorate.</i>	The Sr JCCT, (ISD) stated (October 2015) that the sample System Requirement Specification (SRS) on e-Appeal/Revision/Review, provided to the audit team was for illustrative purpose only. Before launch of a module, SRS preparation by NIC is mandatory.	Reply is not tenable as the URS is written prior to the SRS, as the SRS is largely based on the user's expectations. Without written URS, deficiencies in SRS and consequent defects in functionality and usability of system could not be ruled out.
2.10.9.1 Inadequate physical and environmental controls	<i>Physical and environmental controls of server room and UPS room were inadequate to prevent IT assets from unauthorised access and damages. Audit noticed that the Directorate was dependent upon vendor for the physical and environmental controls of server which was located at the vendor's premises.</i>	The Sr JCCT, (ISD) stated (October 2015) that security policy had been implemented. The servers are located at West Bengal State Data Centre (WBSDC) at Salt Lake, Kolkata and are maintained by the vendor with adequate physical and environmental controls as per Government Security policy.	Directorate had not furnished any evidence about supervision for adequate maintenance of physical and environmental controls for the security of server and data contained therein.
2.10.9.2 Inadequate logical controls	<i>In the absence of adequate logical access controls, the system was prone to risk of intrusion and data corruption. Further, the system did not prompt the users to change passwords after periodical intervals. Audit noticed that there was no evidence of review of system logs to detect attempts of unauthorised access or unexpected events.</i>	The Sr JCCT, (ISD) stated (October 2015) that different function area of users are earmarked as specific roles, which are assigned to them by their controlling officers. Individual user ID is used only for a single individual who is responsible for every action performed under that account. System keeps log of individual's account so that unauthorised use may be detected.	Directorate could not furnish any evidence about generation of separate report by the system for attempts of unauthorised access to the system.
2.10.11 Lack of business continuity and disaster recovery controls	<i>Non-utilisation of the Disaster Recovery Server (DRS) for taking the real time back up of data was fraught with the risk of loss of data in case of a system crash. Audit noticed that DCT did not furnish information about DRS for taking real time backup of data.</i>	The Sr JCCT, (ISD) stated (June 2015) that DRS are installed at National Data Centre at New Delhi as per government guidelines and the installation process is in progress.	The DCT was yet to have DRS for taking real time back up of data.
2.10.12 Incomplete/invalid/duplicate data	<i>Due to lack of input control, the system accepted incomplete, invalid and duplicate entries in the data base. Audit found from the analysis of data that deficiencies existed.</i>	The Sr JCCT, (ISD) stated (October 2015) that corrective measures are being taken.	Out of ten types of data input errors pointed out, input controls in respect of seven types of errors had been introduced. The DCT was yet to introduce input control to prevent incomplete, invalid and duplicate entries in the data base in respect of the remaining three.

<p>2.10.14 Ineffective monitoring of dealers</p>	<p><i>The system was not prompting the JCCT to force change the group code '99' which is a default group code allotted by the system to the dealers to keep an effective tracking of the dealers.</i> Audit found from the analysis of data that 3,764 cases of dealers under group '99' existed and there was no timely allotment of appropriate group code for such dealers.</p>	<p>Sr JCCT, (ISD) stated (October 2015) that on an average 2,000 dealers are granted registration per month. So, it is obvious to have such numbers of dealers under group '99' before allotment.</p>	<p>Reply is not tenable as analysis of data pertaining to period between December 2012 and April 2015 showed that 3,764 cases were lying pending for a period ranging between one and 29 months. The system did not prompt for allotment of appropriate group code of the Assessing Authority (AA) under whom those were to be assessed.</p>
<p>2.10.15 Non-cancellation of registration certificate(RC) of dormant dealers</p>	<p><i>Due to absence of an in-built system for generating report, return-defaulter dealers remained undetected and no action could be taken by the AAs against them in time.</i> Audit noticed that the defaulters were not detected and blocked by the system automatically. Data Analysis Wing (DAW) was generating notice for cancellation of RCs of return-defaulter dealers.</p>	<p>The Sr JCCT, (ISD) stated (October 2015) that Management Information System (MIS) report has been provided in the system for the AAs to take necessary action against those return-defaulter dealers.</p>	<p>Reply is not tenable as the system was still not equipped to auto-generate the report on return-defaulter dealers and the AAs were dependent upon the manually generated reports.</p>
<p>2.10.16 Delay in updating the database of the cancelled dealers</p>	<p><i>Delay in updating the details of cancelled dealers in database resulted in submission of e-returns, generation of e-way bills and central declaration forms by such dealers.</i> Audit found from the analysis of data that cancelled dealers were still filing online returns and generating 'C' forms.</p>	<p>The Sr JCCT, (ISD) stated (October 2015) that the dealers were retrospectively cancelled by the AAs at a later 'order date'. The dealers filed returns or generated 'C' forms only when they were alive in the system.</p>	<p>The system had no provision for incorporating later 'order date' and its retrospective effect resulting in continued unauthorised access/ activities by cancelled dealers.</p>
<p>2.10.17 Lack of validation control</p>	<p><i>Absence of input controls led to entry and acceptance of incorrect data in the database which made the data unreliable.</i> Audit found from the analysis of data that due to lack of validation control, unreliable data was still accepted by the system.</p>	<p>The Sr JCCT, (ISD) stated (October 2015) that as there is no direct revenue implication, mapping was not found cost effective.</p>	<p>Reply is not tenable as maintaining unreliable data would affect the overall reliability of the system.</p>
<p>2.10.21 (Part 1) Irregular Claim of Input Tax Credit (ITC) against unregistered purchases</p>	<p><i>Due to non-integration of return module with the registration module, the purchasing dealers were able to upload return showing the unregistered purchase as registered purchase and claiming inadmissible ITC thereon.</i> Audit found from the analysis of data that return module and registration module were not integrated.</p>	<p>The Sr JCCT, (ISD) stated (October 2015) that integration of modules is taken care of by the mismatch reports generated by DAW and intimated to all charges from time to time (quarterly now). For older periods the mismatch is taken care of in assessment cases by AAs.</p>	<p>Mismatch reports were not being auto-generated by the system, defeating the primary objective of computerisation.</p>

<p>2.10.27 Absence of internal control of the DCT on e-Transit Declaration (TD)</p>	<p><i>There was no system of compulsory endorsement of e-TDs at the entry and exit checkpoints.</i> Audit noticed that endorsement of e-TDs was not compulsory at the checkpoints.</p>	<p>The Sr JCCT, (ISD) stated (October 2015) that barcode facility is not available in five checkpoints, still the checkpoints can endorse e-TDs using the application by keying-in the information.</p>	<p>Provisions for compulsory endorsement of e-TDs had still not been introduced.</p>
<p>2.10.29 Non-submission of utilisation of e-TDs</p>	<p><i>No MIS report was generated by the IMPACT application to monitor cases of non-submission of utilisation statement of e-TDs.</i> Audit noticed that no MIS report was generated by the IMPACT system.</p>	<p>The Sr JCCT, (ISD) stated (October 2015) that though barcode facility is not available, the check-post can endorse e-TDs using the application by keying-in the information.</p>	<p>Reply is not relevant, however, it was checked and verified by audit that no corrective measures were taken in the IMPACT system.</p>

C Full implementation

Paragraph No. and caption of the PA	Gist of the audit observation	Replies/Comments of Directorate	Audit comments
<p>2.10.19 (Part 1) Acceptance of belated revised returns</p>	<p><i>System accepted revised return submitted by the dealers after due dates.</i></p>	<p>The Sr JCCT, (ISD) stated (June 2015) that necessary validation controls have been put in place. Now no belated returns can be filed by the dealers.</p>	<p>Audit found no cases of belated revised returns in the database for the period between December 2012 and April 2015.</p>
<p>2.10.19 (Part 5) Non-assessment of purchase tax</p>	<p><i>Due to non-mapping of business rules, the system allowed the dealers under composition scheme to file returns without payment of purchase tax on unregistered purchase.</i></p>	<p>The Sr JCCT, (ISD) stated (June 2015) that law has been amended in such a way that the dealer cannot be assessed only on the basis of Purchase Tax.</p>	<p>Audit found no cases of non-payment of purchase tax on unregistered purchase by the dealers under composition scheme in the database for the period between December 2012 and April 2015.</p>
<p>2.10.20 (Part 1) Manipulation of tax amount</p>	<p><i>Due to lack of validation control dealers manipulated automatically calculated tax amount in the e-return form which was to be uploaded online on DCT's website.</i></p>	<p>The Sr JCCT, (ISD) stated (June 2015) that DAW circulated mismatch reports to all charges from time to time for scrutiny, provisional assessment and realisation of tax.</p>	<p>Audit found no cases of manipulation of tax amount related to audit observation in the database for the period between December 2012 and April 2015.</p>
<p>2.10.20 (Part 2) Non-assessment of late fee</p>	<p><i>Due to non-mapping of business rule, the late fee payable by the dealers for delayed submission of returns was not assessed by the system and the system accepted the value inserted by the dealers.</i></p>	<p>The Sr JCCT, (ISD) stated (June 2015) that validation control has been incorporated so that the dealers cannot file return successfully without paying the late fee, if applicable.</p>	<p>Audit found that system was assessing late fee for delayed submission of returns by the dealers.</p>
<p>2.10.22 Irregular issue of H forms</p>	<p><i>Due to lack of validation control, the system allowed the dealers to file e-application for supply of H forms against inadmissible transaction.</i></p>	<p>The Sr JCCT, (ISD) stated (June 2015) that we have fully dematerialised the H form module vide circular dated 05.09.2014. Necessary validation has been put in place.</p>	<p>Audit noticed that old system of e-application for supply of manual H forms was discarded and dematerialised H forms had been introduced.</p>

<p>2.10.23 Incomplete e-application for H forms</p>	<p><i>Essential information fields were not made mandatory in the e-application for H forms and consequently, the database remained incomplete.</i></p>	<p>The Sr JCCT, (ISD) stated (June 2015) that necessary system-check and validation control have been put in place.</p>	<p>Audit found no cases of incomplete essential information fields in the e-application for H forms in the database for the period between December 2012 and April 2015.</p>
<p>2.10.26 Absence of user authentication</p>	<p><i>In absence of user authentication, e-TDs could be generated by non-existent transporters with the wilful intention to evade tax by unauthorised import of goods into the state.</i></p>	<p>The Sr JCCT, (ISD) stated (June 2015) that e-TD Registration is in place now vide Circular dated 08.04.2014.</p>	<p>Audit noticed that user authentication for generation of e-TDs had been introduced in the module.</p>
<p>2.10.28 Repeated generation of e-TDs without submitting utilisation</p>	<p><i>The system was not able to restrict repeated generation of e-TDs by the transporters defaulting in submission of utilisation of e-TDs.</i></p>	<p>The Sr JCCT, (ISD) stated (June 2015) that in the new system transporters are required to submit utilisation of e-TD giving a reference number of the document like way bill/TD etc of the next state after exit from West Bengal.</p>	<p>Audit noticed that in the new e-TD module the issue of repeated generation of e-TDs had been addressed.</p>
<p>2.10.31 Non-digitisation of endorsed way bills of six checkposts</p>	<p><i>Due to non-digitisation of the way bill the database of way bill was incomplete. At the time of assessment/scrutiny, the AAs might not be able to cross verify the import value shown in the return through the system and would have to depend on the dealers' documents.</i></p>	<p>The Sr JCCT, (ISD) stated (June 2015) that as way bills have been made an online service, along with online utilisation/endorsement, the need of manual process has ceased to exist.</p>	<p>Audit found that manual process had ceased to exist. e-way bills were generated by the dealers by furnishing all the required information which could be verified by the AAs during assessment.</p>

2.7.5 Conclusion

Thus, the extent of implementation of the recommendations by the Directorate on accepted audit observations is 39.13 per cent implemented, 52.17 per cent partially implemented and 8.70 per cent not implemented (October 2015). This shows that the Directorate is making progress in this regard but its efforts are slow.