

CHAPTER-II

**TAXES ON SALES,
TRADE ETC.**

CHAPTER-II: TAXES ON SALES, TRADE ETC.

2.1 Results of audit

During 2016-17, Audit test checked the records of 27¹ out of 44 auditable units (61 *per cent*) of the Commercial Taxes Department. The Department collected ₹ 8,998.95 crore revenue during 2015-16 of which the audited units collected ₹ 8,829.90 crore (98 *per cent*). Audit identified irregularities amounting to ₹ 1,780.30 crore in 750 cases (of which ₹ 452.77 crore involving 67 cases relates to three commercial taxes circles²) as detailed in **Table –2.1**.

Table – 2.1

Sl. No.	Categories	No. of cases	Amount (₹ in crore)	Share in <i>per cent</i> to the total objected amount
1	Implementation of Value Added Tax and preparedness of the Department for Goods and Services Tax	1	1,020.95	57.35
2	Non/ short levy of tax due to suppression of turnover	239	258.30	14.51
3	Non/ short levy of interest	189	68.30	3.83
4	Short levy of tax due to incorrect determination of turnover	53	146.65	8.24
5	Irregular allowance of exemption from tax	72	33.43	1.88
6	Irregular/ incorrect allowance of input tax credit	72	12.51	0.70
7	Application of incorrect rate of tax	51	127.06	7.14
8	Other cases	73	113.10	6.35
Total		750	1,780.30	

The Department accepted under assessment and other deficiencies of ₹ 1,096.27 crore in 120 cases pointed out by Audit and recovered ₹ 17 lakh in 14 cases.

This chapter discusses 113 cases worth ₹ 1,105 crore including an audit on **“Implementation of Value Added Tax and preparedness of the Department for Goods and Services Tax”** having financial implication of ₹ 1,020.95 crore. Some of these irregularities continue to persist, despite similar cases having been repeatedly reported during the last five years as detailed in **Table – 2.2**.

¹ Offices of Deputy Commissioner of Commercial Taxes/ Assistant Commissioner of Commercial Taxes, Adityapur, Bokaro, Chaibasa, Chirkunda, Deoghar, Dhanbad, Dhanbad Urban, Dumka, Giridih, Godda, Hazaribag, Jamshedpur, Jamshedpur Urban, Jharia, Katras, Koderma, Pakur, Palamu, Ramgarh, Ranchi East, Ranchi South, Ranchi Special, Ranchi West, Sahibganj, Singhbhum and Tenughat and Commissioner, Commercial Taxes, Ranchi.

² Offices of Deputy Commissioner of Commercial Taxes, Adityapur, Jamshedpur and Ramgarh.

Table – 2.2

(₹ in crore)

Nature of observations	2011-12		2012-13		2013-14		2014-15		2015-16		Total	
	Cases	Amount	Cases	Amount	Cases	Amount	Cases	Amount	Cases	Amount	Cases	Amount
Non registration of dealers	-	-	21	1.13	21	12.57	70	4.84	277	37.65	389	56.19
Concealment of sale/purchase turnover	22	72.64	28	245.11	44	222.28	69	169.03	18	284.10	181	993.16
Incorrect determination of gross turnover	1	0.19	6	13.51	9	30.95	24	11.43	18	10.22	58	66.30
Incorrect allowance of exemption	1	0.06	1	0.59	74	30.00	33	44.72	14	11.57	123	86.94
Excess allowance of input tax credit	6	1.04	5	27.71	16	2.35	28	6.05	11	4.47	66	41.62
Application of incorrect rate of tax	19	24.17	5	1.11	51	37.76	22	6.96	22	15.44	119	85.44
Non-levy of purchase tax	-	-	-	-	-	-	2	0.96	2	0.44	4	1.40
Non-levy of penalty for excess collection of tax	-	-	-	-	-	-	4	33.80	-	-	4	33.80
Mistakes in computation	3	2.71	2	0.06	8	0.53	3	0.62	-	-	16	3.92
Non-levy of interest on disallowed exemption/concessions	-	-	13	5.64	46	60.02	52	72.58	19	119.92	130	258.16
Results of cross verification	-	-	6	11.72	175	257.87	33	47.28	131	1,173.11	345	1,489.98

The repetitive nature of irregularities makes it evident that the State Government and the Commercial Taxes Department have taken no measures to address the persistent irregularities pointed out year after year by Audit.

Recommendation:

The State Government may initiate measures to address the irregularities to avoid their repetition year after year.

2.2 Implementation of Value Added Tax and preparedness of the Department for Goods and Services Tax

2.2.1 Introduction

The Government of Jharkhand repealed the Jharkhand Finance Act 2001 and enacted the Jharkhand Value Added Tax (JVAT) Act effective from 1 April 2006. The Value Added Tax system is a destination/ consumption based tax, with provisions to set-off tax paid on the previous purchases, and seeks to address the problems of double taxation, multiplicity of taxes, surcharge, additional sales tax, etc., in the sales tax structure that had cascading tax burden. Under the JVAT Act, the goods were categorised ‘vatable’ and ‘non-vatable’. Vatable goods were mentioned in Schedule II (Part –A, B, C, D & F), and were taxable at different rates. Non-vatable goods were enumerated in Schedule II (Part –E) of the Act.

The Jharkhand Goods and Services Tax (JGST) Act has been implemented with effect from 1 July 2017 after repealing of the JVAT Act 2005. It is also a tax on goods and services with value addition at each stage having comprehensive and continuous chain of set-off mechanisms from the producer’s/ service provider’s point to the retailer’s level where only the final consumer should bear the tax. Under the Goods and Services Tax (compensation to States) Act 2017, the base year revenue for a State shall be the sum of the revenue collected by the State and the local bodies during the base year, on account of the taxes levied by the State and net of refunds, with

respect to the taxes, imposed by the State, which are subsumed into Goods and Services Tax. The compensation under this Act shall be payable to any State during the transition period.

2.2.2 Organisational set up

The levy and collection of Value Added Tax (VAT) and Central Sales Tax are governed by the Jharkhand Value Added Tax (JVAT) Act 2005, the Central Sales Tax (CST) Act 1956 and Rules made thereunder. The Secretary-cum-Commissioner of Commercial Taxes (CCT) is responsible for administration of these Acts and Rules in the Commercial Taxes Department (CTD) and is assisted by an Additional Commissioner and Joint Commissioners of Commercial Taxes (JCCT), Joint Commissioners of Commercial Taxes of Bureau of Investigation (IB), Vigilance and Monitoring, along with other Deputy/ Assistant Commissioners of Commercial Taxes.

The State is divided into five commercial taxes divisions³, each under the charge of a Joint Commissioner (Administration) and 28 circles⁴, each under the charge of a Deputy/ Assistant Commissioner of Commercial Taxes (DCCT/ACCT). The DCCT/ ACCT of the circle, who is responsible for levy and collection of tax due to the Government, besides survey, is assisted by Commercial Taxes Officers. A Deputy Commissioner of IB is posted in each division to assist the JCCT (Administration) and a DCCT (Vigilance and Monitoring) is posted under the control of headquarters in each division.

Under the Goods and Services Tax (GST) regime, there is no change in the organisational set-up, except change in designations from Commercial Taxes to State Tax.

2.2.3 Audit objectives

Audit was conducted with a view to ascertain and evaluate:

- compliance to the provisions of the JVAT Act and Rules made thereunder in safeguarding the revenue of the State;
- adequacy and effectiveness of the system and procedure in place to ensure the correctness of the assessment, levy and collection of VAT in implementation of value added scheme;
- adequacy and effectiveness of internal control mechanism in preventing any leakage of revenue; and
- preparedness of the State for GST.

2.2.4 Audit criteria

- Jharkhand Value Added Tax Act 2005;
- Jharkhand Value Added Tax Rules 2006;
- Notifications/ instructions issued by CCT from time to time; and

³ Dhanbad, Hazaribag, Jamshedpur, Ranchi and Santhal Pargana.

⁴ Adityapur, Bokaro, Chaibasa, Chirkunda, Deoghar, Dhanbad, Dhanbad Urban, Dumka, Giridih, Godda, Gumla, Hazaribag, Jamshedpur, Jamshedpur Urban, Jharia, Katras, Koderma, Lohardaga, Pakur, Palamu, Ramgarh, Ranchi East, Ranchi South, Ranchi Special, Ranchi West, Sahibganj, Singhbhum and Tenughat.

- Records related to GST and Goods and Services Tax Network (GSTN) at CCT office.

2.2.5 Audit scope and coverage

The audit, covered the assessments/ scrutiny of returns/ records done during the period 2012-13 to 2016-17 and was conducted between November 2016 and July 2017. Fifteen commercial taxes circles⁵ covering 85.94 per cent of total revenue of the State were selected, out of 28 circles, using simple random sampling without replacement method on the basis of revenue generated during the period 2011-12 to 2015-16 by each circle categorizing them into high⁶, medium⁷ and low⁸ risks. Besides, similar observations noticed during compliance audit in other commercial taxes circles were also included.

2.2.6 Audit methodology

- Entry and Exit conferences were held, on 29 March and 26 September 2017 respectively, with the Principal Secretary-cum-Commissioner of Commercial Taxes Department, Jharkhand in which the audit objectives, scope and methodology, findings, conclusion and recommendations were discussed in detail. The response of the Government/ Department has been suitably incorporated in the Report.
- Scrutiny of top 200 assessed records of each circle were selected on the basis of turnover/ tax payments maintained in the selected commercial taxes circles for verifying compliance under JVAT Act/ Rules.
- Scrutiny of periodical returns, VAT Audit Report in Form JVAT-409, utilisation certificates of declarations in Form 'C' and 'F' utilisation of road permits in JVAT-504G and 504B, declarations in Form JVAT-404 for input tax credit, Form-JVAT-506 for intra-State branch transfer and Form JVAT-400 for tax deducted at source.
- Analysis of role of Bureau of Investigation (IB) in levy and collection of VAT.
- Data collected from the following departments/ offices was cross verified with the records of CTD:

Sl. No.	Names of the Departments	Data/ Information procured for cross-verification
1	Directorate of Systems, Central Excise and Customs, New Delhi	CIF ⁹ value of goods imported by the dealers of Jharkhand from outside the country.
2	Director General, Central Excise Intelligence, Jamshedpur	Demand notice issued for concealed central excise duty to the manufacturers detected during raids.

⁵ Adityapur, Bokaro, Chaibasa, Dhanbad, Dhanbad Urban, Giridih, Jamshedpur, Jamshedpur Urban, Palamu, Ramgarh, Ranchi East, Ranchi South, Ranchi West, Singhbhum and Tenughat.

⁶ ₹ 2,000 crore and above.

⁷ Between ₹ 400 crore and ₹ 2,000 crore.

⁸ Below ₹ 400 crore.

⁹ Cost, insurance and freight charges.

Sl. No.	Names of the Departments	Data/ Information procured for cross-verification
3	Women, Child Development and Social Security Department, Government of Jharkhand	Amount received by the suppliers against supply of 'ready to eat' supplementary foods to <i>aanganwadis</i> .
4	Central Excise and Service Tax Department	Half yearly service tax return in Form ST-3 and annual financial statement in Form ER-4 filed in Bokaro Commissionerate.

2.2.7 Acknowledgement

The co-operation of the Commercial Taxes Department in providing necessary information and records for audit is acknowledged.

2.2.8 Human resources

Overall position of officers and other supporting staff of the CTD as on June 2017 is depicted in **Table – 2.3**.

Table -2.3

Nature of the post	Sanctioned strength ¹⁰ (SS)	Additional strength ¹¹ assessed by the department	Required strength	Working strength	Shortage (against SS)	Shortage against required strength
Officers	387	135	522	223	164	299
Officials	966	464	1,430	435	531	995
Total	1,353	599	1,952	658	695	1,294

The acute shortage of officers (42.37 per cent) and supporting staff (54.97 per cent) severely affected the performance of the CTD, resulting in 31,187 assessments pending finalisation as on 31 March 2017. The chronic shortage of officers and staff had been pointed out in previous Audit Reports also.

The Finance Department had approved (June 2017) the proposal of CTD (April 2017) for an additional 599 officers and staff for implementation of GST, better tax administration, recovery of arrears and to prevent tax evasion. The proposal is pending with the *prasashi padvarg samiti*¹² (March 2018).

The CTD requisitioned (September 2016) Jharkhand Public Service Commission (JPSC) to recruit 104 CTOs against existing vacancies. The CTD also requisitioned (between January and June 2017) the Department of Personnel, Administrative Reforms & Rajbhasa (DOPAR) for recruitment of 126 LDCs. The DOPAR, in turn, requisitioned (between March and June 2017) Jharkhand Staff Selection Commission (JSSC) for 52 posts of LDC and returned to CTD the request for filling the remaining 74 vacancies, citing the criteria of filling one third of existing vacancies at a time. The matter is pending with JPSC and JSSC.

¹⁰ For implementation of VAT, CST, Entry Tax, Electricity Duty, Luxury Tax, Entertainment Tax and Professional Tax Acts.

¹¹ For implementation of GST/ Electricity Duty and Professional Tax Acts.

¹² The committee authorized to create posts of different category under the chairmanship of Chief Secretary with Development Commissioner, Jharkhand, Additional Chief Secretary, Planning cum Finance Department, Jharkhand, Principal Secretary, Personnel, Administrative Reforms and Rajbhasa Department, Jharkhand as members.

Recommendation:

1. The *prasashi padvarg samiti* may expedite decision on the proposal for the additional 599 posts, duly examining the extent to which introduction of GST would affect the work of the CTD.
2. The JPSC and JSSC may expedite recruitment.

2.2.9 Internal control mechanism

The Finance (Audit) Department (FAD) is the internal auditor of the CTD and is required (order of May 1960) to conduct 100 *per cent* audit of all assessments finalised, examining *inter-alia* assessment orders, issue of demand notices, amount of tax collected and verification of deposit of amount in treasury. Audit observed, however, that no internal audit had either been planned for, or conducted, in any of the offices or circles of the CTD over the past five years, primarily because of acute shortage of audit staff (137 vacancies) in the FAD. The FAD had belatedly (November 2017) requisitioned DOPAR for recruitment of 110 senior auditors, which is pending with JSSC (March 2018). Failure to perform internal audit adversely impacts the performance of the CTD through under assessments and under recoveries of tax and may result in failure to check instances of corruption, fraud and misappropriation in the CTD.

2.2.10 Trend of revenue

Details of budget estimates (BEs) and actual receipts of the Commercial Taxes Department in respect of VAT/ CST during the period 2012-13 to 2016-17 are given in **Table – 2.4**.

Table- 2.4

Year	BEs proposed by CTD (₹ in crore)	BEs fixed by Finance Department (₹ in crore)	Actual receipts (₹ in crore)	Shortfall (-) (₹ in crore)	Percentage of variation
2012-13	6,650.00	6,650.00	6,421.61	(-) 228.39	(-) 3.43
2013-14	7,762.00	7,874.50	7,305.08	(-) 569.42	(-) 7.23
2014-15	8,753.00	9,267.95	8,069.72	(-) 1,198.23	(-) 12.93
2015-16	9,674.00	11,180.02	8,998.95	(-) 2,181.07	(-) 19.51
2016-17	11,647.00	12,702.99	10,549.25	(-) 2,153.74	(-) 16.95

Source: Finance Accounts and the revised estimates as per the statement of revenue and receipts of Government of Jharkhand.

Audit noted the differences between the BEs proposed by the CTD and fixed by the Finance Department, and observed that the estimates of the CTD tended to be more accurate than the estimates of the Finance Department. The Bihar Finance Rules, Vol. I (adopted by the Government of Jharkhand) stipulate that, the Finance Department is responsible for preparing BEs of revenue receipts, based on inputs from the Administrative Departments, who are responsible for the correctness of the material.

Audit examination of the BEs preparation files of the CTD and Finance Department revealed that while the CTD prepared estimates in terms of the procedure contained in the Finance Rules, the basis on which the Finance Department decided to vary from the CTD estimates was not on record.

The CTD attributed (November 2017) the shortfall for the period 2014-15 to 2016-17 to negative growth rate in iron and steel, iron ore, coal, motor parts and low growth rate in petroleum products, tobacco, coal, electronic items and medicines, along with no collection of revenue under entry tax which was declared *ultra vires* by the Apex court; no reasons for shortfall in 2012-13 and 2013-14 were furnished. Audit examination of records found non-implementation of additional resource measures like levy of taxes on sugar, textiles and food grains etc., also contributed to the shortfalls in 2014-15 and 2015-16.

Recommendation:

1. **The Finance Department may prepare more realistic estimates, and record on file the reasons for decisions to vary from the estimates of the concerned Administrative Department.**
2. **Finance Department may examine the feasibility of additional resource measures including widening of tax base by bringing new dealers into the tax net.**

2.2.11 Cost of collection

Details of gross collection from taxes on sales, trade etc., by the State and cost of collection by the State and in comparison to neighbouring States, during 2012-13 to 2016-17, are given in **Table-2.5**.

Table-2.5

Year	Collection (₹ in crore)	Expenditure on collection of revenue (₹ in crore)	Percentage of expenditure on collection				All-India average percentage of the preceding year
			Jharkhand	Bihar	Chhattisgarh	Odisha	
2012-13	6,421.61	36.50	0.57	0.70	0.54	0.67	0.83
2013-14	7,305.08	47.29	0.65	0.53	0.47	0.73	0.73
2014-15	8,069.72	47.29	0.59	0.70	0.58	0.70	0.88
2015-16	8,998.95	47.39	0.53	0.57	0.57	0.65	0.91
2016-17	10,549.25	49.20	0.47	0.64	0.57	0.75	0.66

Source: Finance Accounts of the Government of Jharkhand, Bihar, Chhattisgarh and Odisha.

The efficiency of tax collection is the highest in Jharkhand for the years 2015-16 and 2016-17 when compared to neighbouring States and the all India average.

2.2.12 Arrears of revenue

During the period 2012-13 to 2016-17, arrears of revenue increased by over 169 *per cent*, whereas recoveries stagnated. This adverse situation can be attributed to the acute shortage of over 42 *per cent* of the officers and of nearly 55 *per cent* supporting staff in the CTD. Details of arrears of revenue are depicted in **Table – 2.6**.

Table – 2.6

(₹ in crore)

Period	Opening balance	Addition during the year	Total	Recoveries during the year	Closing balance	Percentage of recovery
2012-13	1,250.72	268.58	1,519.30	402.07	1,117.23	26.46
2013-14	1,117.23	348.41	1,465.64	376.45	1,089.19	25.69
2014-15	1,089.19	589.80	1,678.99	315.99	1,363.00	18.82
2015-16	1,363.00	1,359.27	2,722.27	337.86	2,384.41	12.41
2016-17	2,384.41	1,383.13	3,767.54	406.13	3,361.41 ¹³	10.78

Source: Information furnished by Commercial Taxes Department.

Stage wise details of arrears of revenue as on 31 March 2017 as intimated by the department are given in **Table-2.7**.

Table -2.7

Sl. No.	Stages of action	Amount (₹ in crore)
1	Demands covered by recovery certificates	292.97
2	Recoveries stayed by high courts and other judicial authorities	916.06
3	Recoveries stayed at Government level	615.35
4	Recoveries held up due to rectification/review of applications	70.44
5	Recoveries held up due to dealer/party becoming insolvent	16.44
6	Amount likely to be written off	41.90
7	Other cases	2,201.54 ¹⁴
Total		4,154.70

The CTD attributed (September 2017) the accumulation of arrears to disallowance of input tax credit under section 18(4) (iii) by assessing authorities with effect from 1 April 2015 in the light of the notification dated 23 September 2015, which revised the effective date to 23 September 2015.

As intimated above, the CTD furnished two different figures for arrears of revenue (₹ 3,361.41 crore and ₹ 4,154.70 crore). The difference has not been reconciled. Audit further test checked the arrears of revenue of ₹ 919.71 crore out of ₹ 2,201.54 crore involved in other cases in respect of three commercial taxes circles¹⁵, and noticed that the accumulation of arrears of revenue was due to cases pending at the level of different appellate authorities for the period 2006-07 to 2013-14 i.e., prior to the period of issue of the aforesaid notification regarding disallowance of input tax credit. This indicates that the department did not effectively monitor realisation of those arrears that had not been stayed by the judicial authorities.

¹³ Figures of closing balance for the year 2016-17 differ from total arrears of revenue (₹ 4,154.70 crore) as on 31 March 2017 by ₹ 793.29 crore as reported by CTD.

¹⁴ Out of ₹ 2,201.54 crore involved in other cases; some illustrative cases are as follows:

Sl. No.	Name of the dealer (M/s)/TIN	Period	Amount involved (₹ in crore)	Remarks
1	Abhijeet Project Ltd/ 20720306092	2010-11 to 2012-13	758.86	Pending with Board for Industrial and Financial Reconstruction (BIFR)
2	Monte Carlo Ltd./ 20370106410	2011-12	34.54	Demand notice have been issued
3	Essar Projects Co. Ltd/ 20820206683	2010-11 to 2012-13	17.73	Recovery under process of hearing.

¹⁵ Ranchi East, Ranchi South and Ranchi West.

2.2.13 Arrears in assessments

The acute shortage of officers and staff also increased the arrears in assessments as depicted in **Table-2.8**.

Table -2.8

Year	Opening balance	New cases due for assessment	Total assessments due	Cases assessed during the year	Balance at the end of the year	Percentage of column 6 to 4
1	2	3	4	5	6	7
2012-13	31,244	58,087	89,331	53,385	35,946	40.24
2013-14	33,505	63,903	97,408	63,519	33,889	34.79
2014-15	37,983	68,303	1,06,286	65,464	40,822	38.41
2015-16	39,652	72,761	1,12,413	64,999	47,414	42.18
2016-17	33,051 ¹⁶	69,075	1,02,126	70,939	31,187	30.54

Source: Commercial Taxes Department, Government of Jharkhand.

The CTD stated (September 2017) that as per notification dated 4 November 2016 the assessment cases of the dealer whose gross turnover is upto ₹ two crore shall be deemed to be assessed. Efforts would be made to segregate high gross turnover cases for early finalization of assessment. However, the department did not furnish any plan to assess the cases having gross turnover above ₹ two crore.

Recommendation:

CTD may focus on legacy issues relating to the VAT regime to ensure that pending assessments and recovery of arrears do not become time barred.

Audit findings

Audit evaluated the system of implementation of VAT and preparedness for GST and noticed deficiencies in compliance to provisions prescribed in the JVAT Act/Rules that resulted in non-registration of dealers, suppression of turnover, incorrect determination of gross turnover, application of incorrect rate of tax, incorrect allowance of input tax credit (ITC) and non-levy of interest on disallowed exemptions/ concessions having financial implication of ₹ 1,104.65 crore in 432 cases including observation noticed in other circles of CTD. Primary reasons for these irregularities were inherent flaws in the system of finalisation of assessment which were inadvertently utilised by the assessing officers. Audit findings, system lapses and remedial measures are discussed in the following paragraphs.

2.2.14 Registration of dealers

The JVAT Act empowers the circles in-charge to conduct surveys of dealers to assess eligible dealers to tax, and levy penalty equivalent to the amount of tax assessed or ₹ 10,000 whichever is greater.

¹⁶ The CTD had previously reported 47,114 cases as closing balance for the year ending 31 March 2016.

2.2.14.1 Survey of unregistered dealers

The status of survey and registration of dealers along with additional revenue generated in selected commercial taxes circles during 2012-13 to 2016-17 is given in **Table -2.9**.

Table- 2.9

Period	No. of surveys conducted	No. of dealers registered	Additional revenue generated (₹ in lakh)
2012-13	424	194	Nil
2013-14	997	335	Nil
2014-15	1,625	533	3.65
2015-16	727	187	205.77
2016-17	438	142	19.17
Total	4,211	1,391	228.59

Source: Information furnished by the Commercial Taxes Department.

The 1,421 surveys and registration of 529 dealers in 2012-13 and 2013-14, were entirely unfruitful, while the 1,625 surveys and registration of 533 dealers in 2014-15 realised only marginal revenue. Such surveys unnecessarily waste departmental resources, and violate the JVAT Act which stipulates that only dealers who are liable to pay tax should be surveyed.

Recommendation:

CTD may issue suitable instructions to ensure that the survey exercise complies with the provisions of the JVAT Act.

2.2.14.2 Works contractors/ dealers not registered

Non-execution of mechanism of inter/ intra-departmental exchange of data by the assessing authorities resulted in non-levy of tax of ₹ 3.20 crore including penalty in the case of 14 unregistered dealers/ contractors in four commercial taxes circles.

The JVAT Act prescribes that dealers/ contractors are liable to get themselves registered when their turnover exceeds ₹ 25,000 during twelve consecutive months.

The Audit Reports for the years 2012-13 to 2015-16 had highlighted non-observance of these provisions by dealers and pointed out non-levy of tax of ₹ 56.19 crore on 389 dealers. Consequently, the CTD had directed (May 2015) assessing authorities (AAs) to collect data from treasury, mines and labour departments, banks etc., and cross verify them with the records of the dealers. To evaluate the action taken by the AAs, Audit test checked the assessment records of selected units and noticed that three works contractors in three commercial taxes circles¹⁷ had made payments of ₹ 5.11 crore during 2012-13 to nine sub-contractors. However, as seen from the CTD database, these sub-contractors were not registered by the CTD, even though their turnovers had crossed the threshold limit. Thus, the CTD failed to implement its orders on cross-verification of records resulting in non-levy of tax including penalty of ₹ 1.43 crore on the contractors/ sub-contractors in the test cases selected in audit.

¹⁷ Bokaro, Jamshedpur and Ranchi South.

Similarly, Audit cross-verification of records of the District Mining Office, Hazaribag with those of Hazaribag commercial taxes circle revealed that five lessees who had dispatched/ sold 2.43 lakh m³ of stone chips valued at ₹ 6.33 crore during the period 2011-12 to 2013-14 were not registered with the CTD resulting in evasion of tax including penalty of ₹ 1.77 crore.

The reply (September 2017) of the State government and CTD did not clarify on why the concerned AAs did not comply with orders to cross-verify records.

Recommendation:

CTD may reiterate its orders to AAs to cross-verify records, including checking tax deducted at source (TDS) details¹⁸ available in CTD's own assessment records.

2.2.15 Non-observance/ compliance of the provisions of Acts/ Rules

The JVAT Act stipulates *cent per cent* scrutiny of returns by the AA. Audit verification of assessment records of Value Added Tax (VAT) revealed several instances of non-scrutiny by AAs, resulting in non-levy of tax amounting to ₹ 625.98 crore from 297 dealers, are discussed in the succeeding paragraphs. It is further observed that the CTD has taken no steps to enforce the provisions of the Act relating to *cent per cent* scrutiny by AAs, despite such irregularities being routinely pointed out by Audit every year.

Under assessment of tax

2.2.15.1 Concealment of purchase/ sales turnover

The Department did not formulate a comprehensive checklist for finalisation of assessments, leading to concealment of actual turnover and consequential under assessment of tax and penalty of ₹ 405.37 crore.

The JVAT Act empowers AAs to impose penalty equivalent to twice (increased to thrice, from July 2014) the amount of the tax assessed on the turnover concealed by the dealer.

Consequent to successive Audit Reports for the years 2011-12 to 2015-16 highlighting the failure of AAs to effectively scrutinize dealers' returns leading to short levy of tax of ₹ 993.16 crore on 181 dealers, the CTD ordered (May 2015) AAs to ensure non-recurrence of similar type of audit observations. Further, the Chief Secretary also instructed (July and September 2016) the CTD to ascertain the reasons of tax evasion by dealers, and to prepare and issue a checklist to all the circles in order to reduce audit observations. In order to evaluate the action taken by the department, Audit test checked the assessment records of 3,000 dealers out of 54,791 dealers

¹⁸ A certificate in Form JVAT 400, issued by the person to the contractor, evidencing deduction of advance tax from the contractor for execution of works contract during a particular period.

registered in 15 commercial taxes circles¹⁹. It was noticed that 91 dealers, dealing in various goods²⁰ had filed their returns for gross purchases/ sales of ₹ 17,075.99 crore for the period from 2011-12 to 2014-15. However, documents available with the department indicated that these dealers had actually purchased/ sold goods valued at ₹ 18,247.02 crore, resulting in non-detection of concealment of turnover of ₹ 1,171.03 crore and consequential under assessment of tax of ₹ 368.73 crore including penalty of ₹ 245.84 crore. It was observed that at the time of assessment (between December 2014 and November 2016), AAs failed to scrutinize the returns with reference to records already available with the CTD, and merely accepted the returns furnished by the dealers owing to the Department not preparing a comprehensive checklist as instructed by the Chief Secretary.

Similar irregularities were also noticed in other nine commercial taxes circles²¹, where 17 dealers had concealed turnover of ₹ 135.31 crore on sale/ purchase of goods for the period 2011-12 to 2013-14 (assessed between March 2015 and July 2016), which resulted in under assessment of tax of ₹ 36.64 crore including penalty of ₹ 24.42 crore.

The CTD accepted (September 2017) the audit observations.

Recommendation:

CTD may comply with the orders of the Chief Secretary, prepare a comprehensive checklist for scrutiny of returns applicable in both, VAT and GST regimes, and enforce their use by AAs in the scrutiny of returns.

2.2.15.2 Incorrect determination of gross turnover

Non-formulation of norms for scrutiny of records led to incorrect determination of gross turnover by the AAs and resulted in under assessment of tax of ₹ 41.71 crore.

The JVAT Act defines gross turnover (GTO) as the aggregate of all amounts received and receivable by a selling dealer during any given period, and requires AAs to assess the tax by determining the correct value of GTO on the basis of returns and documents on record.

The Audit Reports for the years 2011-12 to 2015-16 had highlighted the non-observance of the above provisions by the AAs, resulting in under assessment of tax of ₹ 66.30 crore in case of 58 dealers. Consequent to this, the CTD had instructed (May 2015) the AAs to prevent evasion of tax by taking into account the method adopted by Audit. However, the department did not formulate norms for scrutiny of records, resulting in continuation of irregularities, as discussed below.

¹⁹ Adityapur, Bokaro, Chaibasa, Dhanbad, Dhanbad Urban, Giridih, Jamshedpur, Jamshedpur Urban, Palamu, Ramgarh, Ranchi East, Ranchi South, Ranchi West, Singhbhum and Tenughat.

²⁰ Aurvedic medicines, biscuits, cement, chemicals, coal and coke, computer and computer parts etc.

²¹ Chirkunda, Deoghar, Godda, Hazaribag, Katras, Koderma, Pakur, Ranchi Special and Sahibganj.

Test check of assessment records of 1,800 dealers out of 25,944 dealers registered in nine commercial taxes circles²² indicated that the GTO of 24 dealers was determined (between April 2015 and January 2017) as ₹ 3,003.57 crore for the period 2012-13. Audit observed that the AAs had limited their examination to the annual returns filed by the dealers and did not scrutinize other relevant records²³ available with CTD to arrive at the correct value of GTO. Based on cross-verification with these records, Audit estimated that the correct GTO of these 24 dealers was ₹ 3,418.68 crore, resulting in under estimation of GTO by ₹ 415.11 crore, and under assessment of tax of ₹ 41.20 crore by the AAs.

Similarly, Audit scrutiny of records in other three commercial taxes circles²⁴ revealed that the AAs had determined (between March 2014 and May 2015) the taxable turnover (TTO), of three contractors, for the period 2010-11 and 2012-13, at ₹ 2.57 crore instead of the correct TTO of ₹ 5.57 crore resulting in short determination of TTO by ₹ three crore and consequential under assessment of tax of ₹ 51.44 lakh.

The CTD accepted (September 2017) the audit observations.

Recommendation:

CTD may direct AAs not to rely merely on the returns filed by dealers when determining GTO/ TTO, but to cross verify the returns using all relevant documents and records available with them/ furnished to them. The CTD may also issue norms for verification of records in this regard.

2.2.15.3 Incorrect allowance of exemption

Failure of CTD to evolve a mechanism to check allowance of incorrect exemption by AAs resulted in under assessment of tax of ₹ 15.43 crore.

The JVAT Act stipulates that any trade discount or incentive, whether in terms of quantity in goods or otherwise allowed by dealer, shall be deemed to be a taxable sale. Further, labour costs are to be deducted before determining taxable turnover for works contracts.

The Audit Reports for the years 2011-12 to 2015-16 had highlighted failure of AAs in complying with the above mentioned provisions and consequential grant of incorrect exemptions to 123 dealers, resulting in short levy of tax of ₹ 86.94 crore. The CTD, however, failed to take remedial measures, resulting in continuance of similar lapses/ irregularities as described in the following paragraphs.

Test check of assessment records of 1,400 dealers out of 28,308 dealers registered in seven commercial taxes circles²⁵, revealed that the AAs irregularly granted (between July 2014 and May 2016) 16 registered dealers exemption from tax on incentive, trade discount, price difference and subsidy,

²² Adityapur, Dhanbad, Dhanbad Urban, Giridih, Jamshedpur, Ranchi East, Ranchi South, Singhbhum and Tenughat.

²³ JVAT 409, road permits in Form 504 B, 504 P, annual report of the company.

²⁴ Chirkunda, Hazaribag and Sahibganj.

²⁵ Giridih, Jamshedpur, Palamu, Ranchi East, Ranchi South, Ranchi West and Singhbhum.

rebate, service charge, loss etc., amounting to ₹ 35 crore resulting in under assessment of tax of ₹ 5.53 crore for the period 2011-12 to 2013-14.

Replying (September 2017) to the audit observation, the CTD tried to justify these exemptions, which however, cannot be accepted since these are contrary to the provisions of the Act.

Test check of assessment records of 1,800 dealers out of 31,552 dealers registered in nine commercial taxes circles²⁶ revealed that the AAs irregularly allowed (between February 2015 and April 2016) excess exemption on labour charges for the period 2012-13 to 2013-14 to 14 contractors, resulting in under assessment of tax of ₹ 5.75 crore. Similar test check of assessment records in six commercial taxes circles²⁷ revealed that the AAs had irregularly allowed (between October 2013 and March 2016) exemption of ₹ 35.01 crore during 2010-11 to 2013-14 to 34 assesseees when the allowable exemption for labour charges was ₹ 5.27 crore. This resulted in allowance of excess exemption of ₹ 29.74 crore and consequential under assessment of tax of ₹ 4.15 crore.

The CTD accepted (September 2017) the audit observations.

Recommendation:

CTD may formulate a mechanism to prevent large scale irregular allowance of exemptions that are contrary to the Act.

2.2.15.4 Application of incorrect rate of tax

The AAs levied tax at incorrect rate on sale of bus/ tipper bodies, soap, paints, auto parts, excavator parts, extra neutral alcohol, biscuits etc., resulting in short levy of tax of ₹ 14.71 crore.

The JVAT Act 2005 and schedules appended thereunder, prescribes levy of tax on bus/ truck bodies, soap, paints, excavator parts, biscuits etc., at the rate of 14 *per cent* and motor parts at the rate of 10 *per cent*. It has been judicially held²⁸ that the bus/ tipper body forms an integral part of a motor vehicle.

The Audit Reports for the year 2011-12 to 2015-16 had highlighted application of incorrect rates of tax by the AAs resulting in under assessment of tax of ₹ 85.44 crore in case of 119 dealers. Consequent to this the CTD had instructed (August 2015) the AAs to furnish action taken reports. However, the department did not take specific action to prevent recurrence of incorrect application of rates resulting in continuation of irregularities as discussed below.

Test check of assessment records of 2,000 dealers out of 30,641 dealers registered in 10 commercial taxes circles²⁹ indicated that the AAs levied tax (between January 2015 and March 2016) of ₹ 15.10 crore in case of 21 dealers

²⁶ Adityapur, Giridih, Jamshedpur, Jamshedpur Urban, Palamu, Ramgarh, Ranchi East, Ranchi South and Ranchi West.

²⁷ Deoghar, Dumka, Godda, Pakur, Ranchi Special and Sahibganj.

²⁸ Apex court judgment in case of Annpurna Carbon Industries Co. vs. State of Andhra Pradesh [1976] 37 STC 378(SC) & Ambala Coach Builders vs. State of Haryana & others [1977] 39 STC 44 PH.

²⁹ Adityapur, Chaibasa, Dhanbad, Dhanbad Urban, Giridih, Jamshedpur, Jamshedpur Urban, Palamu, Ranchi South and Tenughat.

instead of correct amount of ₹ 26.17 crore for the period between 2011-12 and 2013-14 due to application of incorrect rate of tax. Details are given in **Table-2.10**.

Table- 2.10

(₹ in crore)

Sl. No.	Names of the circles No. of dealers	Commodities	Value of commodities	Rate of tax leviable levied (in percentage)	Short levy of tax
1	<u>Adityapur</u> Three	Tipper/ bus body	94.77	$\frac{14}{10}$	3.79
2	<u>Jamshedpur</u> Three	Motor/ auto parts	60.38	$\frac{10}{5}$	3.02
3	<u>Jamshedpur</u> One	Excavator parts	3.53	$\frac{14}{10}$	0.14
4	Adityapur, Dhanbad Urban, Jamshedpur, Palamu, Ranchi <u>South and Tenughat</u> Nine	Works contract	41.32	$\frac{14}{5}$	3.72
5	Chaibasa, Giridih, <u>Jamshedpur</u> Three	Biscuits, explosives, paints	3.74	$\frac{14}{5}$	0.34
6	<u>Jamshedpur Urban</u> One	Platinum	0.08	$\frac{14}{1}$	0.01
7	<u>Dhanbad</u> One	Biscuits, soap, snacks etc.	0.48	$\frac{14}{0}$	0.05
Total			204.30		11.07

The leakage of revenue occurred due to incorrect classification of goods falling under Schedule-II Part-D (taxable at the rate of 14 *per cent*) to Part- B (taxable at the rate of five *per cent*). This resulted in under assessment of tax of ₹ 11.07 crore.

Audit further noticed similar irregularities in four other commercial taxes circles³⁰ where the AAs levied (between January 2015 and March 2016) tax of ₹ 2.76 crore, in the case of six dealers, at the rate of five and 14 *per cent* on sale of motor cycle, extra neutral alcohol or disallowed turnover of labour charges instead of ₹ 6.40 crore at the rate of 14 and 20 *per cent* as per the schedule of rates. This resulted in under assessment of tax of ₹ 3.64 crore.

The CTD accepted (September 2017) the audit observations.

Recommendation:

CTD may correctly classify commodities in the schedules appended to the Act.

³⁰ Chirkunda, Dumka, Koderma and Ranchi Special.

2.2.15.5 Irregularities in grant of input tax credit

The AAs allowed dealers to wrongly claim input tax credit of ₹ 4.51 crore.

The JVAT Act 2005 and the JVAT Rules 2006 provides for allowing input tax credit (ITC) to a registered purchasing dealer on tax paid by him in the State on production of Form JVAT-404³¹ issued by the preceding selling dealer. ITC is proportionately allowed in case of stock transfer of goods outside the State. However, no ITC is admissible on inter-State sale to unregistered dealers, goods disposed otherwise than by way of sale or where the value of taxable sale is less than five *per cent* of GTO.

The Audit Reports for the years 2011-12 to 2015-16 had highlighted the short levy of tax of ₹ 41.62 crore in case of 66 dealers, due to failure of the AAs to observe the above provisions. Though, the State Government has assured (August 2015) that remedial measures would be taken, the CTD did not take any appropriate action, resulting in continuance of similar lapses/ irregularities as described below.

Audit test checked the assessment records of 2,200 dealers out of 35,895 dealers registered in 11 commercial taxes circles³² and noted that, the AAs had allowed (between September 2015 and July 2016) 26 dealers to adjust ITC of ₹ 43.12 crore for the period between 2012-13 and 2014-15. Audit observed, however, that the AAs had irregularly allowed ITC for ineligible categories like sale to unregistered dealers, inter/ intra State stock transfer, job work, loss and where taxable sale is less than five *per cent* of the turnover etc., resulting in allowance of excess ITC of ₹ 3.36 crore.

Audit further noticed similar irregularities in four other commercial taxes circles³³, where the AAs had allowed (between March 2015 and March 2016), eight dealers to adjust ITC of ₹ 9.32 crore for the period between 2012-13 and 2013-14. However, these dealers were actually entitled to ITC amounting to ₹ 8.17 crore only. This resulted in allowance of excess ITC of ₹ 1.15 crore.

The CTD accepted (September 2017) the audit observations.

Recommendation:

CTD may take effective steps to ensure that AAs are educated about the different categories eligible and ineligible for ITC.

2.2.15.6 Mistakes in computation of tax

The AAs levied tax of ₹ 128.49 crore instead of ₹ 130.74 crore due to arithmetical mistakes which resulted in short levy of tax of ₹ 2.25 crore.

The Audit Reports for the years 2011-12 to 2014-15 had highlighted the short levy of tax of ₹ 3.92 crore on 16 dealers due to mistakes in computation.

³¹ Form of declarations required to prove tax paid within the State on purchase point for availing ITC.

³² Bokaro, Chaibasa, Dhanbad, Dhanbad Urban, Giridih, Jamshedpur, Jamshedpur Urban, Ramgarh, Ranchi South, Ranchi West and Singhbhum.

³³ Godda, Hazaribag, Katras and Pakur.

Consequent to this, the CTD assured (August 2015) corrective action. The CTD, however, did not take corrective measures resulting in continuance of similar lapses/ irregularities as described below.

Test check of assessment records of 1,000 dealers out of 17,081 dealers registered in five commercial taxes circles³⁴ revealed that the AAs levied (between May 2014 and March 2016) tax of ₹ 128.49 crore, instead of correct amount of ₹ 129.86 crore in case of six dealers for the period between 2011-12 and 2012-13 due to mistakes in computation. This resulted in short levy of tax of ₹ 1.37 crore.

Audit further noticed similar irregularities in the commercial taxes circle, Ranchi Special, where, the AA did not levy (February 2016) tax at the rate of two *per cent* amounting to ₹ 87.80 lakh on inter-State sale of ₹ 43.90 crore for the period 2012-13.

The CTD accepted (September 2017) the audit observations and instructed the AAs to initiate recovery on cases where demand notice has been issued.

Recommendation:

CTD may evolve a mechanism to check the arithmetical accuracy of tax calculation at the time of finalization of assessment.

2.2.15.7 Non-levy of interest on disallowed exemptions and concessions

The Department failed to introduce a procedure to levy interest, as per the Act, on the tax assessed due to disallowance of exempted/ concessional turnover. As a result, AAs of 19 circles did not levy interest of ₹ 142 crore on 62 dealers.

The JVAT Act 2005 provides for levy of simple interest at two *per cent* per month when the AAs disallow input tax credit, exemptions, deductions and any other concessions or rebates not supported by requisite evidence.

The Audit Reports for the years 2012-13 to 2015-16, highlighted non levy of interest amounting to ₹ 258.16 crore on 130 dealers on disallowed concessions/ exemptions. Following the department's assurance (August 2015) to take corrective action, Audit test checked the assessment records of 2,400 dealers out of 36,067 dealers registered in 12 commercial taxes circles³⁵, and found that though the AAs disallowed (between March 2015 and October 2016) claims of 50 dealers for exemptions, concessions and adjustment of ITC of ₹ 1,369.08 crore for the period 2011-12 to 2013-14, the AAs failed to levy penal interest amounting to ₹ 111.17 crore on the disallowed claims. It was observed that the levy of interest on disallowed exemptions, concessions or incorrect adjustment of ITC in course of assessment was not being levied uniformly in all commercial taxes circles.

³⁴ Dhanbad Urban, Giridih, Jamshedpur Urban, Ranchi South and Ranchi West.

³⁵ Adityapur, Bokaro, Chaibasa, Dhanbad, Jamshedpur, Jamshedpur Urban, Ramgarh, Ranchi East, Ranchi South, Ranchi West, Singhbhum and Tenughat.

Similar test check of records in seven commercial taxes circles³⁶ revealed that though the AAs disallowed (between January 2015 and January 2017) claims of 12 dealers for exemptions on turnover valued at ₹ 5,911.78 crore for the periods 2012-13 and 2013-14, the AAs failed to levy penal interest amounting to ₹ 30.83 crore.

The CTD accepted (September 2017) the audit observation and assured to take appropriate action.

Recommendation:

CTD may issue instructions to levy interest on disallowed exemptions/ concessions or incorrect adjustment of ITC.

2.2.16 Working of Bureau of Investigation

The JVAT Act 2005 provides for a Bureau of Investigation (IB) to function under the control and supervision of the CCT. In terms of CCT orders (August 2009), each division of the IB is required to:

- Verify the additional place of business and their entries in the registration certificate for the dealers making inter-State stock transfers, collect data regarding purchases/ imports made by big manufacturers from State/ Central undertakings, railway godowns, transporters and commercial banks.
- Obtain the data of purchase/ receipt in respect of big manufacturers/ undertakings/ dealers and cross-verify the same with their returns in order to check the evasion/ avoidance of tax.
- Submit working plans to CCT for all inspections to be carried out on monthly basis.

Work done by the IB for the period 2012-13 to 2016-17 furnished by five divisional IBs³⁷ is depicted in **Table-2.11**.

Table-2.11

Names of the divisions	Period	No. of dealers of whom data/ information collected	No. of dealers of whom data/ information were cross verified	Additional revenue generated (₹ in lakh)	Remarks
Dhanbad	2012-13 to 2016-17	Nil	Nil	Nil	
Hazaribag	2012-13 to 2016-17	Nil	Nil	Nil	
Jamshedpur	2012-13	30	05	33.25	Cross verification of data collected by the IB was not done as these dealers were not registered in the divisions.
	2013-14	27	02	1.32	
	2014-15	68	43	0.21	
	2015-16	18	07	14.00	
	2016-17	25	07	6.53	
Ranchi	2012-13	83	83	19.98	
	2013-14	306	132	149.28	
	2014-15	434	434	87.08	

³⁶ Chirkunda, Deoghar, Hazaribag, Jharia, Katras, Koderma and Ranchi Special.

³⁷ Dhanbad, Hazaribag, Jamshedpur, Ranchi and Santhal Pargana.

Table-2.11

Names of the divisions	Period	No. of dealers of whom data/ information collected	No. of dealers of whom data/ information were cross verified	Additional revenue generated (₹ in lakh)	Remarks
	2015-16	82	82	97.08	
	2016-17	113	37	42.66	
Santhal Pargana	2012-13 to 2016-17	Nil	Nil	Nil	
Total		1,186	832	451.39	

Audit found that the officers and staff posted to the Dhanbad, Hazaribag and Santhal Pargana IBs had been diverted to check posts, resulting in non-performance of these three divisional IBs. Audit further found that none of the divisional IBs submitted working plans on inspections to the CCT as required; nor did they conduct inspections; and the CCT did not insist on these or issue instructions in this regard.

Recommendation:

1. CTD may ensure that the divisional IBs are fully manned so that these IBs can perform as per their mandate.
2. CTD may instruct the JCCTs to ensure that divisional IBs carry out regular inspections and for this purpose, submit working plans.

2.2.17 Results of cross-verification

Failure of IB to cross-verify dealer returns with other databases

The Audit Reports for the years 2012-13 to 2015-16 had highlighted non-execution of the work of data collection and their cross verification with the assessment records maintained in the circle, by the IB resulting in non-detection of actual turnover in case of 345 dealers and consequent short levy of tax of ₹ 1,489.98 crore. Following the Government/ Department assurance (August 2016) to take appropriate action, and to evaluate the efficiency of IB, Audit collected data from different Central/ State Government departments and cross-verified with the records/ returns of 234 dealers in CTD and found leakage of revenue of ₹ 474.37 crore as discussed in succeeding paragraphs:

(i) Cross verification of records of 11 commercial taxes circles,³⁸ with data/ information obtained from Central Government departments³⁹ revealed that though 44 dealers had shown turnover of ₹ 1,075.31 crore during the period between 2010-11 and 2014-15 (assessed between July 2012 and March 2017), their actual turnover as seen from related data was ₹ 1,681.05 crore, resulting in concealment of turnover of ₹ 605.74 crore and under assessment of tax and penalty of ₹ 122.23 crore.

³⁸ Adityapur, Bokaro, Giridih, Hazaribag, Jamshedpur, Jamshedpur Urban, Ranchi East, Ranchi South, Ranchi Special, Ranchi West and Singhbhum.

³⁹ Directorate of Systems, Central Excise and Customs, New Delhi, Directorate General of Goods and Service Tax Intelligence, Jamshedpur and O/o the Commissioner of Central Excise Bokaro.

(ii) Cross verification of records of nine commercial taxes circles⁴⁰ with data/information obtained from the above Central and State⁴¹ Government departments revealed that, though 19 dealers had shown purchase/ sale of ₹ 495.89 crore in 2014-15 and 2015-16, their actual turnover as seen from related data was ₹ 2,163.21 crore, resulting in concealment of turnover of ₹ 1,667.32 crore, and under assessment of tax and penalty of ₹ 343.95 crore.

(iii) Cross verification of records of two contractors registered in Bokaro commercial taxes circle for the period 2011-12 and 2013-14 (assessed between March 2015 and March 2017) with their service tax return (ST-3 form) filed with the Commissioner of Central Excise and Service tax, Bokaro revealed that though the AAs allowed exemption on account of labour and services of ₹ 39.35 crore, these dealers declared only ₹ 10.27 crore as labour and service charges in their ST-3 form, resulting in excess allowance of exemption of ₹ 29.08 crore by the AAs and consequential under assessment of ₹ 4.07 crore as tax.

(iv) Cross verification of records of three commercial taxes circles⁴² with data/information obtained from three works divisions⁴³ and District Mining Office (DMO), Hazaribag, relating to payment of contractors and despatch of stone chips, revealed that though four mining lessees and 18 works contractors had shown turnover of ₹ 1.07 crore during the period between 2011-12 to 2013-14 in their returns (assessed between July 2013 and June 2016), their actual turnover as seen from the data furnished by the three work divisions and DMO was ₹ 10.88 crore, resulting in concealment of turnover of ₹ 9.81 crore, and under assessment of tax and penalty of ₹ 4.12 crore.

Audit further reviewed the provisions of Jharkhand Goods and Services Tax Act, 2017 and noticed that there was no specific provision for IB or Enforcement Wing as provided in section 69 of the repealed JVAT Act 2005. Section 67 of JGST Act deals with the power of inspection, search and seizure by a proper officer, corresponding to Section 70 and 72 of the repealed Act (but not section 69).

The CTD accepted (September 2017) the audit observations.

Recommendation:

- 1. CTD may consider proposing appropriate amendments to Jharkhand Goods and Services Tax (JGST) Act to constitute a Bureau of Investigation or Enforcement wing.**
- 2. CTD may evolve a mechanism for collection of data from different departments of Central/ State Government/ Public Sector Undertakings, etc., and their cross verification with the turnover of the dealers under the JGST Act.**

⁴⁰ Adityapur, Bokaro, Jamshedpur, Koderma, Ramgarh, Ranchi East, Ranchi South, Ranchi West and Singhbhum.

⁴¹ Women, Child Development and Social Security Department, Government of Jharkhand.

⁴² Hazaribag, Pakur and Sahibganj.

⁴³ Road Construction Division, Sahibganj, Rural Development Department, Works Division, Pakur and Rural Development Special Division, Pakur.

2.2.18 Response of the Department to the audit observations

The JVAT Act 2005 stipulates that where an objection or observation relating to either in fact or in law, has been made by the Comptroller and Auditor General of India, in respect to an assessment or re-assessment made or on scrutiny of any return filed under the Act, the prescribed authority shall proceed to re-assess the dealer with respect to whose assessment or re-assessment or scrutiny, as the case may be, the objection or observation has been made.

Audit had over the years highlighted significant under assessments, and the department had assured action thereon. It was observed however, that the action taken by the CTD was inadequate, as evidenced by the fact ₹ 3,116.91 crore remained to be recovered, and there is little evidence that the AAs had re-assessed the concerned dealers. The CTD had also not introduced any system to check the leakages of revenue pointed out in audit.

Recommendation:

1. **The State Government may initiate measures to monitor the re-assessment of returns of dealers found by Audit to have under reported taxes, and fix responsibility on departmental authorities who fail to carry out such re-assessments.**
2. **The CTD may introduce systems to check the leakages of revenue pointed out in audit.**

2.2.19 Preparedness for Goods and Services Tax

The Jharkhand Goods and Services Tax, Act, 2017 was notified on 19 June 2017, and implemented from 1 July 2017.

2.2.19.1 Initiative taken by the department for implementation of GST

The CTD informed (December 2017) Audit that the following steps have been taken for implementation of GST:

- (i) Training on GST Act and GST portal as below has been imparted to officers and staff:

Table -2.12

Categories	Working strength	Master trainers (trained at Chennai)	Trainees	
			Enrolled	Trained
Officers	223	25	195	195
Staff	435	0	181	181
Total	658	25	376	376

181 tax assistants were imparted GST training. The remaining 254 staff who are Grade IV/ working on contract/ external source have not been imparted any training.

- (ii) M/s. Tata Consultancy Services (TCS) is the IT implementation partner in GST regime for development of software system at a cost of ₹ 1.62 crore.
- (iii) M/s Pricewaterhouse Coopers has been engaged to facilitate transition into GST regime at a cost of ₹ 78.30 lakh.

- (iv) Connectivity of data centre with the GSTN has been completed. 220 tax officials have been nominated to access the GST system. PAN based digital signature certificate (DSC) have been procured for tax officials.
- (v) GST Advisory Committee for smooth roll out of GST has been formed at the divisional office and State levels comprising officers from the Commercial Tax, Central Excise and Service Tax Departments, trade associations including chamber of commerce, tax professionals and other stakeholders.

2.2.19.2 Migration of dealers under GST regime

Details of migration of dealers under GST regime (State jurisdiction) are given in **Table – 2.13**.

Table – 2.13

Details of migration	No. of dealers
Total provisional ID issued by GSTN to State jurisdiction	1,00,615
Total provisional ID migrated by State	71,910
Provisional IDs cancelled by GSTN	10,613
Application for new registrations with existing PAN in VAT	1,881
One PAN multiple TIN cases where dealer has already taken at least one registration with same PAN	1,144
GTO less than ₹ 20 lakh in 2016-17	1,906
Actual dealers not migrated	13,161

Detailed analysis of non-migration of aforesaid 13,161 dealers indicated that gross turnover of 12,503 dealers under state jurisdiction could not be determined due to non-filing of returns for the Financial Year 2016-17.

2.2.19.3 Incorrect computation of compensation claim under GST

The Department of Revenue (DOR), Ministry of Finance, Government of India had requested (October 2016) the concerned State Accountants General to send the audited figures of revenues being subsumed for the financial year 2015-16, after taking exclusions into account, as per Section 5 of the GST (compensation to states) Act, 2017. Accordingly, Audit obtained the revenue figures of non-GST commodities (petrol, diesel, ATF and alcoholic liquor for human consumption) of ₹ 2,617.34 crore for the period 2015-16 from the CTD, which was to be excluded for calculation of base year revenue. It was further verified from e-register VIII of the concerned dealers that the actual revenue collection was ₹ 2,618.43 crore from these non-GST commodities. This resulted in excess claim of ₹ 1.09 crore by the Department.

The Department accepted (June 2017) the audit observation. DOR also confirmed (August 2017) the audited figures of base year revenue.

2.3 Other audit observation

2.3.1 Under-assessment under CST Act

Test check of records showed failure to segregate the tax amount and taxable turnover covered by the declarations in Form 'C' resulting in grant of excess allowance of concessional rate of tax and consequent under assessment of tax.

The CST Act 1956 and the CST Rules 1957 provide that every registered dealer shall be liable to pay tax at concessional rate of two *per cent* in the course of inter-State sale of goods to a registered dealer. Such sale shall be supported by declaration in Form 'C' issued by the purchasing dealer. Where sale is not supported by declaration in Form 'C', tax is leviable at the rate applicable on sale of such goods in the seller's State.

The Audit Reports for the years 2011-12 to 2015-16 had highlighted failure of the AAs to observe the aforesaid provisions while finalizing the assessments of 18 dealers and consequent short levy of tax of ₹ 48.64 crore. The Department accepted (August 2015) the audit observations and assured appropriate action. Following the assurances, Audit test checked (February 2017) assessment records of Katras Commercial Taxes Circle. Audit found that while assessing (December 2016) the return of a dealer for the period 2013-14, the AA levied concessional rate of tax on ₹ 985.65 crore (included tax of ₹ 11.62 crore), on production of Form 'C' instead of ₹ 974.03 crore. However, concessional rate of tax was to be levied on the value of sale excluding the amount of tax. Thus, concessional rate allowed on turnover of ₹ 11.62 crore was irregular and led to under assessment of CST of ₹ 34.85 lakh.

The CTD accepted the audit observation (September 2017).

