CHAPTER-II
Taxes/VAT on Sales and Trade

2.1 Tax administration

The Financial Commissioner Taxation and Principal Secretary to the Government of Punjab is overall in-charge of the Excise and Taxation Department. Subject to overall control and superintendence of the Excise and Taxation Commissioner (ETC), the administration of the Punjab Value Added Tax Act (PVAT Act)/Central Sales Tax Act (CST Act) is carried out with the help of Additional Excise and Taxation Commissioner (Addl. ETC), Joint Excise and Taxation Commissioners at the headquarters (JETCs), Deputy Excise and Taxation Commissioners (DETCs) at the divisional level and Assistant Excise and Taxation Commissioners (AETCs), Excise and Taxation Officers (ETOs) and other allied staff at the district level. The authorities performing duties within jurisdictions as specified by the Government under the PVAT Act are called as Designated Officers (DOs).

2.2 Results of audit

Test check of the records of 46 units relating to Sales Tax/VAT during 2015-16 revealed under-assessment of tax and other irregularities involving ₹ 65.92 crore in 263 cases as categorized in **Table 2.1** below.

Table 2.1: Results of Audit

Sl. No.	Categories	No. of cases	Amount (₹ in crore)
1	Excess/Inadmissible allowance of refund	27	8.16
2	Non/Short levy of output tax	66	9.66
3	Excess/Inadmissible allowance of ITC	52	14.35
4	Non/Short levy of interest/penalty	23	9.86
5	Short debit to exemption	08	1.45
6	Other irregularities	86	18.86
7	***Thematic Audit titled "Utilisation of statutory declaration forms"***	1	3.58
Total		**263**	**65.92**

The Department accepted and recovered ₹ 9.36 lakh in 12 cases in 2015-16 out of which ₹ 0.11 lakh involved in one case was pointed out during 2015-16 and rest in earlier years.

Significant cases involving ₹ 20.96 crore are discussed in the succeeding paragraphs.

2.3 Utilisation of statutory declaration forms

System of electronic generation of declaration forms was not made operational even though Rules in this regard were framed in July 2012. Concessions/exemptions were allowed on the basis of false, defective, duplicate, tampered and short declaration forms even when Public Accounts Committee recommended not to accept incomplete/duplicate/tampered declaration forms resulted in short levy of tax of ₹ 3.15 crore while concessions allowed without obtaining statutory declarations led to excess refund of ₹ 42.91 lakh.

The Central Sales Tax (CST) Act 1956, Punjab Value Added Tax (PVAT) Act 2005, and Rules made thereunder provide certain concessions and exemptions from tax to registered dealers on submission of prescribed declaration Form-C (for concessional rate of tax of two *per cent* on inter-state sale made to registered dealer), E-I, E-II (for transit sale), F (for branch transfer and consignment sale), H (for indirect export), and I (for sale to Special Economic Zones (SEZs)).

Audit examined records covering the period 2012-13 to 2014-15 of seven[1] out of 26 AETCs selected by random sampling using probability proportionate to size (PPS) method. Instances relating to the period subsequent to 2014-15 have also been included, wherever considered necessary. Our examination revealed non-generation of electronic declaration forms and instances of allowance of concessions/exemptions to selling dealers on the basis of false, defective, duplicate, tampered and short declaration forms as discussed in the following paragraphs.

Systemic Issues

2.3.1 Non-generation of electronic declaration forms

Government of Punjab amended (July 2012) Rule 7 of Central Sales Tax (Punjab) Rules, 1957 to state that forms shall be generated electronically by the department of Excise and Taxation in a designated branch and be downloaded within 60 days of the filing of monthly or quarterly returns and the copies of these statutory forms duly attested by an Excise and Taxation Officer shall be dispatched to the concerned dealer within a period of 30 days after electronically downloading these forms.

Audit scrutiny revealed that the declaration forms were not generated electronically for issue to the dealers in any of the seven selected AETCs during the period 2012-13 to 2014-15. Printed declaration forms were issued

[1] Amritsar-I, Jalandhar-I, Jalandhar-II, Ludhiana-I, Ludhiana-III, Mohali and Sangrur.

to the dealers which made it difficult for the department to obtain and upload the utilization details of the forms for online verification. Generation and issue of electronic declarations would facilitate the department in maintenance of records of issue and utilization of declaration forms and uploading the same to a common platform like TINXSYS[2] for verification online.

The department informed audit that the data till 10 February 2016 had been uploaded. However, test check of 1,234 declaration forms ('C'/'F'/'H') revealed that 473 forms were not found uploaded while details of selling dealers to whom the forms were issued were not available in 691 forms. Only 70 (5.67 *per cent*) declaration forms were found duly uploaded. Thus, reasonable assurance could not be obtained as to the uploading of utilization details of declarations.

Audit further found that dealers in Haryana used 11 false statutory forms for availing concessional rate of tax on inter-state purchases from dealers in Punjab falling under AETC, Fatehgarh Sahib and Ludhiana-II. Had the department issued electronic declarations and uploaded the utilization on TINXSYS, such misutilisation of forms could have been avoided.

2.3.2 Branch transfers disguised as inter-state sales

Section 6A of the Central Sales Tax Act 1956 provides for exemption from CST on production of Form 'F' if goods are sent from one State to another by reason of transfer of such goods by a dealer to any other place of his business or to his agent or principal as the case may be and not by reason of sale. Section 2(g) (i) of the CST Act defines sale as transfer of property in goods by one person to another and Section 2(t) of PVAT Act states that the term 'person' includes sole proprietor, a partnership, a company and a society.

Section 8 of the CST Act provides that every dealer, who in the course of inter-state trade or commerce sells goods to registered dealer shall be liable to pay tax under this Act at the rate of two *per cent* of his turnover subject to production of Form 'C'. Further, Section 13(2) of PVAT Act 2005 provides for reversal of input tax credit (ITC) at the rate of five *per cent* (December 2012) in case goods are sent outside state other than by way of sale.

Audit scrutiny of the records of AETC, Ludhiana-I, revealed that four dealers sent goods worth ₹ 54.58 crore to dealers outside the State in the course of inter-state trade. The Permanent Account Numbers (PANs) of the consignee

[2] Tax Information Exchange System (**TINXSYS**) is a centralized exchange of all interstate dealers spread across the various States and Union territories of India.

dealers were the same as those of the consignor dealers of Punjab. Thus, the dealers were same persons either as sole proprietor, partners or company and the movements of goods between them were not sales under Section 2(g) (i) *ibid* but were branch transfers. However, the movements of goods were disguised as inter-state sales to avoid reversal of ITC at the rate of five *per cent* and claim refund. This non-reversal of ITC, resulted in short levy of tax of ₹ 76.12 lakh.

On this being pointed out (May 2016), AETC, Ludhiana-I, stated that the onus to prove that goods had been sent on stock transfer basis was upon the dealer and for this purpose he might furnish form 'F' to the assessing authority alongwith evidence of dispatch of such goods and if the dealer failed to furnish such declaration, the movement of such goods was to be deemed to have been occasioned as a result of sale. In the instant cases, as the dealer did not furnish such declaration, he treated movement of such goods as sales and CST was charged accordingly on production of forms 'C'.

The reply is not tenable as a person cannot show sale to himself in view of provisions contained in Section 2(g) (i) of the CST Act *ibid*. The Assessing Authorities failed to examine this aspect during finalizing refund cases. The dealers not only showed sale to self but also managed to obtain 'C' form in place of 'F' and claimed refund against the provisions of the Act and Rules *ibid*. Thus, it is apparent that the application of the current provisions needs to be clarified to distinguish between genuine branch transfers and those disguised as inter-state sales to avoid reversal of ITC and to claim refund.

2.3.3 Allowance of concessions/exemptions on the basis of duplicate, tampered and defective forms

Sections 6-A, 6(2), 8(4) and 8(8) of the CST Act require a dealer to produce declarations in forms C (for concessional rate of tax of two *per cent* on inter-state sale made to registered dealer), E-I, E-II (for transit sale), F (for branch transfer and consignment sale), H (for indirect export), and I (for sale to Special Economic Zones (SEZs)). Further, the form marked 'Original' is to be furnished to the prescribed authority while form marked 'Duplicate' is to be retained by the selling dealer.

The matter of incomplete/duplicate/tampered declaration form was previously raised through Para 2.12.12(a) of the Audit Report of the Comptroller and Auditor General of India for the period ended 31 march 2011. The Public Accounts Committee (PAC) had recommended (May 2015) not to accept incomplete/duplicate/tampered declaration forms in future.

Audit scrutiny revealed that six AETCs[3] granted (between April 2014 and March 2016) concessions/ exemptions from payment of tax on transactions of ₹ 106.56 crore on the basis of 437 duplicate, tampered and defective declarations. Out of these, 112 duplicate/tampered/incomplete 'C' forms for ₹ 22.78 crore were accepted after the directions of PAC in May 2015.

In one case under AETC Jalandhar-II, exemption from tax of ₹ 2.90 lakh on transaction of ₹ 52.67 lakh was allowed for the period July-September 2013 on the basis of Form 'H', which was valid till March 2013 only. Such grant of concessions/exemptions on basis of duplicate/tampered/incomplete declaration forms resulted in short levy of tax of ₹ 2.16 crore[4].

Compliance Issues

2.3.4 Concession allowed against false, defective, duplicate, tampered and short declaration forms

Section 8(4) of the CST Act 1956 read with Rule 12(1) of CST (R&T) Rules 1957 provides that the concessional rate of tax of two *per cent* shall not be admissible unless the dealer selling the goods furnishes a declaration in Form 'C' duly filled in and signed by the registered dealer to whom the goods are sold, in a prescribed form obtained from the prescribed authority. Further, Section 9(2) and Rule 2(cc) provide that the prescribed authority in this case is the sales tax authority of the appropriate State.

(a) Concessions allowed against false forms

Audit scrutiny of the records of AETC Ludhiana-I and Mohali revealed that in six cases, the AETCs allowed concessional rate of CST of two *per cent* on 14 'C' forms for ₹ 73.13 lakh. On cross verification, it was found that these forms were not issued by the prescribed authority of the concerned State. Further, concessions were allowed against four 'C' forms for ₹ 13.63 lakh even when the details of prescribed authority which issued the forms were not legible and the forms were not verifiable. The DO allowed the concession without ensuring that the forms were issued by valid prescribed authorities. The omissions resulted in short levy of tax of ₹ 3.07 lakh.

[3] Amritsar-I, Jalandhar-II, Ludhiana-I, Ludhiana-III, Mohali and Sangrur.
[4] Calculated @ 2 *per cent* on ₹106.56 crore and 5.50 *per cent* on ₹ 52.67 lakh.

(b) Concessions allowed without obtaining complete statutory declarations

Audit scrutiny of AETC Ludhiana-I revealed that in a refund case for the period July-September 2014, the DO allowed concession from tax on inter-state sale of ₹ 61.98 crore against 199 'C' forms whereas the total value of transactions covered under these 199 forms was ₹ 56.19 crore excluding tax element. Hence, concession from tax on inter-state sale of ₹ 5.79 crore was allowed without obtaining 'C' forms at the time of refund. This resulted in excess refund of ₹ 23.45 lakh (4.05 *per cent* of ₹ 5.79 crore).

Similarly, in an assessment case for the year 2010-11 assessed in September 2014 under AETC Sangrur, the DO allowed exemption/ concession from payment of tax on indirect export of ₹ 3.01 crore and inter-state sale of ₹ 33.43 lakh whereas 'H' forms for ₹ 2.57 crore and 'C' forms for ₹ 27.55 lakh were pending to be deposited by the dealer and a list showing such pendency was also placed in the assessment file. This resulted in short levy of output tax of ₹ 10.72 lakh.

(c) Exemption allowed without obtaining any declaration

In an assessment case for the year 2013-14 under AETC Ludhiana-III assessed in February 2015, the DO allowed exemption from payment of tax on ₹ 1.46 crore without obtaining any declaration forms and by merely mentioning in the assessment order that the sales were made under Section 3(a) of the CST Act whereas Section 3(a) does not provide any concession/ exemption from payment of tax. Instead, it only defines inter-state sale. This resulted in short levy of output tax of ₹ 8.82 lakh.

2.3.5 Refund allowed without ensuring receipt of statutory declaration forms

Rule 52A (1) provides that where a refund is being allowed provisionally under Sub-Section (1-A) of Section 39 on account of excess ITC, the provision of Sub-Rule 4 of Rule 52 (regarding production of statutory declarations) shall not apply till 31st March following the close of the financial year for which refund is issued or till the time provisional refund exceeds one crore whichever is earlier. The Rule further provides that only those taxable persons shall be eligible to apply for provisional refund who have deposited the statutory declaration forms for all the previous financial years or have deposited the tax due on account of his failure to submit the said forms for the said previous years.

Audit scrutiny of the records of AETC Jalandhar-II revealed that the DO allowed provisional refund of ₹ 19.46 lakh for the period January-March 2012. The refund was due to excess ITC of ₹ 29.64 lakh brought forward from previous periods. Out of this, ₹ 23.10 lakh was brought forward from the year 2010-11. The accrual of excess ITC was due to export of ₹ 7.27 crore and

inter-state sale of ₹ 4.66 crore shown by the dealer in his annual returns for the period from 2006-07 to 2008-09. The provisional refund for the year 2008-09 was admissible up to 31 March 2010 only. After this, refund was to be issued on actual basis after obtaining documentary evidence in respect of export and inter-state sale but no evidence was obtained at the time of allowance of refund. The omission resulted in irregular refund of ₹ 19.46 lakh.

On this being pointed out, AETC stated (February 2016) that assessment for the years 2009-10 and 2010-11 had been made. However, the output tax liabilities in these assessment orders were more than ITC on purchases during the period. The excess ITC during this period was due to ITC of ₹ 28.81 lakh brought forward to the year 2009-10 from previous years. Audit noted that the DO did not obtain documentary evidence in support of export and inter-state sales made from 2006-07 to 2008-09 and issued provisional refund in respect of excess ITC for this period in September 2013.

2.3.6 Irregular issue of Form 'C'

Section 8 of the Central Sales Tax Act, 1956, provides that inter-state purchase at concessional rate of two *per cent* is admissible if the goods are of the class or classes specified in the certificate of registration of the registered dealer purchasing the goods as being intended for resale by him or subject to any rules made by the Central Government in this behalf, for use by him in the manufacture/processing of goods for sale or in telecommunications network or in mining or in generation/distribution of electricity or any other form of power.

Audit scrutiny of the records of AETC, Jalandhar II revealed that the dealer made inter-state purchases of machineries worth ₹ 9.89 crore during the years 2007-08, 2008-09 and 2009-10. Though machinery was not covered in the registration certificate of the dealer, the department issued 'C' forms to avail concessional rate of CST on inter-state purchases of these goods.

On being pointed out, ETC Punjab stated (February 2016) that the firm had not then started production and purchased only machinery for manufacturing and production of paper. Hence no loss of tax was involved in the case. The reply is not tenable as the dealer was not eligible to obtain 'C' form in respect of purchases of those goods which were not mentioned in his certificate of registration.

Conclusion

Thus, lack of clarity in the rules and allowance of concessions/exemptions on basis of incorrect/duplicate or false declaration forms led to short levy of tax of ₹ 3.15 crore while concessions allowed without obtaining statutory declarations led to excess refund of ₹ 42.91 lakh. Much of this could have

been avoided if electronic generation of declaration forms had been implemented.

The above points were reported to the Government in June 2016; its reply was awaited (October 2016).

2.4 Short levy of purchase tax

Incorrect computation of purchase tax in one case resulted in short levy of ₹ 1.97 crore.

Section 19(1) of Punjab Value Added Tax Act, 2005, provides for levy of VAT (Purchase tax) on the taxable turnover of purchase of goods specified in Schedule-H[5] at a rate of VAT applicable to such goods as per the Schedules.

Audit scrutiny of records of AETC, Moga, revealed that in one case for the year 2010-11 (assessed in AETC Jalandhar-II), the DO assessed purchases of ₹ 76.10 crore liable to purchase tax. Accordingly, purchase tax of ₹ 3.04 crore at the rate of four *per cent* was required to be levied under section *ibid* whereas purchase tax of only ₹ 1.07 crore was levied in the assessment order. This resulted in short levy of purchase tax of ₹ 1.97 crore.

The matter was reported to the Government in July 2016; its replies was awaited (October 2016).

2.5 Inadmissible allowance of deduction to works contractors

Inadmissible deduction of soil as tax free in works contracts resulted in short levy of tax of ₹ 40.62 lakh.

Rule 15(4) of the Punjab Value Added Tax Rules (Rule) provides that value of goods involved in the execution of works contracts shall be determined by taking into account the value of the entire works contract by deducting therefrom the components of payment made towards labour and services including labour charges, amount paid to a sub-contractor, charges for planning, designing and architect's fees, hire charges of machinery and tools and cost of consumables such as water, electricity and fuel used in execution. Further, goods not mentioned in any other schedules of the Punjab Value Added Tax Act 2005 (Act), are taxable under Schedule-F.

Audit scrutiny of the records of AETC Amritsar-I revealed that in two assessment cases, the contractors purchased soil for ₹ 2.35 crore during 2012-13 and used it in the execution of earthwork. Soil was required to be taxed at the rate of 13.75 *per cent* as it was not mentioned in any of the schedules of the Act. The deduction of ₹ 2.35 crore was not admissible under

[5] Paddy, Wheat, Cotton, Sugarcane and Milk

the Rule *ibid* as the expenses were not on account of labour and services. However, the DOs allowed the value of soil as deduction from gross turnover and did not levy tax of ₹ 32.24 lakh on it.

Similarly, AETC Kapurthala had not levied tax of ₹ 13.96 lakh on value of soil of ₹ 1.02 crore in assessment case assessed in March 2013. On being pointed out in audit, the AETC re-assessed (August 2015) the case but levied and recovered tax of ₹ 5.58 lakh at the rate of 5.5 *per cent* on the value of soil treating it to be covered under Entry 19 of Schedule-B of PVAT Act (clay). However, the Department had clarified (27 October 2012) that soil was an unclassified item and was taxable at the rate of 13.75 *per cent*. Thus, tax of ₹ 8.38 lakh was short levied.

The above omissions resulted in short levy of tax of ₹ 40.62 lakh.

The matter was reported to the Government in March 2016; its reply was awaited (October 2016).

2.6 Excess allowance of notional input tax credit

Non-reversal of notional input tax credit on export and inter-state sale at concessional rate of tax resulted in short levy of tax of ₹ 28.33 lakh.

Condition 5(6) of New Conditions for availing concessions under Punjab Value Added Tax Act 2005 provides that a taxable person purchasing goods from an exempted unit shall utilize the permissible Notional Input Tax Credit (NITC) against the output tax liability arising out of sale of such goods. However, he shall be allowed to carry forward the NITC as available to him if it remains unutilized due to non-disposal of exempted goods for any subsequent period and if all the exempted goods are disposed of, NITC shall stand utilized.

Further, Condition 5(4) provides that if goods purchased from exempted unit are exported out of India, no NITC shall be admissible. Similarly, Condition 5(5) (ii) provides that if goods are sold by way of inter-state sale, the NITC shall be available only to the extent of the CST chargeable.

Audit scrutiny of the records of two AETCs[6] for the period 2009-10 to 2011-12 revealed that rice purchased from exempted units was exported and sold in the course of inter-state trade at concessional rate of tax. In case of AETC Tarn Taran, the DO had carried forward whole NITC to the next year (2010-11) even when no rice purchased from exempted units was available in

[6] Amritsar-II and Tarn Taran.

closing stock on 31 March 2010. On this being pointed out, AETC Tarn Taran re-assessed (April 2014) the case, adjusted NITC of ₹ 23.52 lakh from output tax liability and carried forward ₹ 16.46 lakh to next year but did not reverse NITC of ₹ 19.74 lakh under the provisions of Condition 5(4) and 5(5)(ii) mentioned *ibid*. Similarly, NITC of ₹ 8.59 lakh was not reversed on proportionate basis in case of AETC Amritsar-II also. The omissions resulted in short levy of tax of ₹ 28.33 lakh.

The matter was reported to the Government in June 2016; its reply was awaited (October 2016).

2.7 Short reversal of input tax credit

Incorrect reversal/non-reversal of input tax credit resulted in short levy of tax of ₹77.23 lakh in four cases.

Section 13 of the PVAT Act provides that a taxable person shall be entitled to ITC in such manner and subject to such conditions as may be prescribed in respect of input tax on taxable goods, including capital goods, purchased by him from a taxable person within the State during the tax period. Section 13(1) of Punjab Value Added Tax (PVAT) Act provides that purchase tax paid or payable by a taxable person under Section 19 shall be admissible as input tax credit. Further, Section 13(2) provides that input tax credit shall be allowed only to the extent by which the amount of tax paid in the State exceeds four *per cent* on purchase of goods used in manufacture or in packing of taxable goods sent outside the State other than by way of sale (branch transfer/consignment sale) in the course of inter-state trade or commerce or in the course of export out of territory of India.

(a) Audit scrutiny of records revealed that in two AETCs (Fatehgarh Sahib and Sangrur), the Designated Officer reversed ITC of ₹ 2.18 lakh instead of ₹ 31.11 lakh on tax free sale/consignment transfer and allowed excess ITC of ₹ 28.93 lakh. This resulted in short levy of tax of ₹ 28.93 lakh.

(b) Audit scrutiny of the records of AETC Gurdaspur revealed that a dealer, during 2007-08 and 2008-09, used milk (Schedule-H good) worth ₹ 22.12 crore and other eligible purchases of ₹ 0.64 crore in manufacture of taxable goods of ₹ 36.80 crore (taxable sale - ₹ 13.28 crore, Stock transfer - ₹ 19.73 crore, increase in closing stock - ₹ 3.79 crore). As the dealer made branch transfer/consignment sale of ₹ 19.73 crore, input tax credit (ITC) of ₹ 48.82 lakh was required to be reversed under Section 13(2) *ibid.* However, ITC of only ₹ 21.78 lakh was reversed in the assessment orders. The short reversal of ITC resulted in short levy of tax of ₹ 27.04 lakh.

(c) Audit scrutiny of the records of AETC Moga revealed that a dealer, in his self-assessment (VAT-20) for the year 2011-12, reversed ITC of ₹ 21.26 lakh on account of branch transfer. However, the DO neither reversed

the ITC on account of branch transfer which was reversed by the assessee himself nor mentioned any reason about this in the assessment order. This non-reversal of ITC resulted in short levy of tax of ₹ 21.26 lakh on branch transfer.

The matter was reported to the Government (June, January and July 2016); its reply was awaited (October 2016).

2.8 Excess benefit of exemption

The Assessing Authority did not reduce its exemption for sale of paddy on account of purchase tax resulting in excess benefit of exemption by ₹2.87 crore in four cases.

Section 92 (3) of PVAT Act adopted the provisions of the Punjab General Sales Tax (Deferment and Exemption) Rules 1991 (D&E Rules). Rule 2(xii) of the D&E Rules defines the exemption certificate as a certificate granted for availing exemption from payment of sale tax or purchase tax or both as the case may be. Further, Section 2(xxi) provides *inter-alia* that notional sales tax liability shall mean the amount of tax payable on estimated sales of finished products and estimated purchase of raw material otherwise liable to purchase tax for the purpose of determining or exemption from tax. Thus, purchase tax is also required to be taken in to account and reduced from the available exemption.

Audit scrutiny of the records of five AETCs[7] revealed that nine dealers, availing benefit of exemption from payment of tax, purchased paddy worth ₹ 203.39 crore and sold the paddy of ₹ 75.41 crore. The DO allowed carry forward of exemption of ₹ 17.91 crore without reducing it by ₹ 2.87 crore on account of purchase tax. The DO was required to reduce the exemption by ₹ 2.87 crore. This short debit to exemption by ₹ 2.87 crore, resulted in excess benefit of exemption of tax of ₹ 2.87 crore.

The matter was reported to the Government in December 2015; its reply was awaited (October 2016).

[7] Faridkot, Fazilka, Ferozepur, Muktsar and Tarn Taran.

2.9 Non reversal of purchase tax on interstate sale

Purchase tax was not reversed where product manufactured from schedule-H goods was sold in the course of interstate trade at concessional rate of tax, resulting in short levy of tax of ₹6.86 lakh.

Section 19(5) of PVAT Act provides that ITC on goods specified in Schedule-H (paddy, wheat, cotton, sugarcane and milk) or products manufactured therefrom, when sold in the course of inter-state trade or commerce, shall be available only to the extent of central sales tax chargeable under the Central Sales Tax Act, 1956.

Audit scrutiny of the records of AETC, Mansa revealed that a dealer purchased cotton worth ₹ 28.16 crore during 2012-13 on which purchase tax of ₹ 1.39 crore was levied. The cotton was used in manufacturing of cotton and binola (cotton seed). Binola was further used in manufacturing of khal binola and oil binola. Khal binola of ₹ 3.53 crore was sold in the course of interstate trade at concessional rate of two *per cent* on which ITC of ₹ 6.86 lakh was required to be reversed. The DO mentioned in the assessment order that khal binola was manufactured from binola which was not Schedule-H goods so no reversal of ITC was required. However, the contention of the DO was not tenable as binola was neither purchased separately during the period nor was it in opening stock and it was manufactured only from cotton i.e. Schedule-H goods.

Thus, interstate sale of khal binola was subject to the provision of the section *ibid* and ITC of ₹ 6.86 lakh was required to be reversed. This non-reversal of ITC resulted in short levy of tax of ₹ 6.86 lakh on interstate sale.

The matter was reported to the Government in June 2016; its reply was awaited (October 2016).

2.10 Non-reversal of input tax credit in respect of Procurement Agencies

Reversal of Input Tax Credit on disposal of by-products worth ₹20.58 crore other than by way of sale was not made by Assessing Authorities in 16 cases, resulting in short levy of tax of ₹82.31 lakh.

Rule 21(6) of the PVAT Rules provides that where ITC has already been availed of by a taxable person against the purchase of goods, a part of which is either used in manufacturing of tax free goods or disposed of other than by way of sale, the ITC so availed for such part of goods will be deducted from ITC of the relevant period.

Audit scrutiny of the records of five[8] AETCs revealed that in 16 cases, four procurement agencies got 183.61 lakh quintal paddy milled from rice millers during the period 2006-07 to 2010-11 under the Custom Milling Policies (CMPs) of Punjab for the respective years. As per the CMPs, 67 *per cent* rice and 33 *per cent* by-products[9] produced from paddy by weight and the by-products could be retained by the millers free of cost. Consequently, the millers retained 60.59 lakh quintal by-products (33 *per cent)* the realizable market value of which was ₹ 20.58 crore at the rate of ₹ 33.96[10] per quintal. Thus, by-products amounting to ₹ 20.58 crore were disposed of other than by way of sale by the agencies on which ITC of ₹ 82.31 lakh was required to be reversed under Rule 21(6) *ibid* whereas no such reversal was made during assessments (between February 2014 and March 2015). This non-reversal of ITC resulted in short levy of tax of ₹ 82.31 lakh.

AETCs Barnala and Sangrur replied (January 2016 and February 2016) that by-products were accounted for in the books of accounts of the rice millers and tax was paid by them on its sale. AETC Ferozepur replied (February 2016) that ownership and liability to pay output tax on the by-products was with the rice miller. The replies are not tenable as it did not explain the reason for non-reversal of ITC. The liability of millers to pay tax on subsequent sale of by-products did not entitle the agencies to claim ITC on goods disposed of other than by way of sale

The matter was reported to the Government in July 2016; its reply was awaited (October 2016).

2.11 Short levy of tax

Designated Officers did not reconcile sales/purchases with Information Collection Centre data and trading account which resulted in short levy of tax of ₹49.41 lakh in six cases.

Section 2 (zc) of the PVAT Act provides that return means a true and correct account of business pertaining to the return period in the prescribed form. Further, Rule 48 (1) of PVAT Rules provides that the Designated Officers, after considering the objections and documentary evidence, if any, filed by the person, shall pass an order of assessment in writing, determining the tax liability of such a person. Further, Rule 51A of the Rules *ibid* envisaged that

[8] Barnala, Ferozepur, Gurdaspur, Nawanshahar and Sangrur.

[9] Broken rice, rice kani (rice husk and rice bran etc.).

[10] This realisable market value of by-products was worked out (October 2005) while fixing the normative milling charges for raw and parboiled rice by Government of India.

data available in the Information Collection Center (ICC) will be tallied while determining assessment.

Audit scrutiny of the records of five AETCs revealed that in six cases the DOs levied short tax of ₹ 49.41 lakh in contravention of various provisions of the Act as per details given in **Table 2.2** below.

Table 2.2: Short levy of output tax

Sl. No.	Name of unit	Period/ Date of Assessment	Short levy of tax (₹ in lakh)	Nature of Irregularities
1	Jalandhar-II	2009-10 15.05.2014	5.61	Seven bill numbers containing goods worth ₹ 1.42 crore were entered twice in ICC data on different dates. These goods were shown to have been transported on different vehicles. However, these bills were neither included in gross sale nor anything contrary was mentioned at the time of assessment.
2	Amritsar-II	2012-13 19.09.2014	14.92	Differences in inter-state purchases of ₹ 5.92 crore between those shown in assessment orders and ICC data was neither verified/reconciled nor anything contrary was mentioned at the time of assessment.
3	Jalandhar-I	2010-11 08.05.2014	6.24	
4		2011-12 29.12.2014	9.66	
5	Kapurthala	2012-13 20.03.2015	3.13	
		2013-14 20.03.2015	3.03	
6	Ludhiana-III	2011-12 26.06.2014	6.82	Taxable sale was taken less in the assessment order by ₹ 73.68 lakh than that mentioned in certified trading account. Further, reversal of ₹ 2.77 lakh of entry tax was not made on account of tax free manufacturing.
Total			**49.41**	

The matter was reported to the Government (between April and July 2016); its reply was awaited (October 2016).

2.12 Short levy of Central Sales Tax

Incorrect rate of tax was levied on inter-state sale and branch transfer without 'C' and 'F' forms which resulted in short levy of tax of ₹20.16 lakh.

Section 8(2) of the Central Sales Tax (CST) Act, 1956 provided that in case of sale of declared goods not supported by declaration in Form 'C', tax shall be calculated (before 1 April 2007) at twice the rate applicable to such goods in the State and in case of goods other than declared goods, ten *per cent* or the rate applicable in the State whichever is higher. The declared goods were taxable at the rate of four *per cent* in the State of Punjab during that period.

Further, Section 6A read with Rule 12(5) of the CST (R&T) Rules 1957 provides that if a dealer fails to furnish Form 'F,' then movement of goods by

him to any other place of his business shall be deemed for all purposes to have been occasioned as result of sale.

Audit scrutiny of the records of AETC Mansa revealed that a dealer, during 2006-07, made inter-state sale of ₹ 53.94 lakh of declared goods (cotton seed) and branch transfer of ₹ 3.00 crore of goods other than declared goods (khal sarson) but did not produce 'C' and 'F' forms at the time of assessment made on 30 October 2014. Thus, tax of ₹ 4.32 lakh (twice the rate of four *per cent)* on inter-state sale and ₹ 30 lakh (at the rate of ten *per cent of* ₹ 3.00 crore) on branch transfer was payable by the dealer whereas the DO levied tax of ₹ 2.16 lakh and ₹ 12.00 lakh at the rate of four *per cent* on inter-state sale and branch transfer respectively. This resulted in short levy of tax of ₹ 20.16 lakh.

The matter was reported to the Government in July 2016; its reply was awaited (October 2016).

2.13 Short levy of interest

Application of incorrect provision relating to levy of interest in assessment orders resulted in short levy of interest of ₹9.49 crore.

Section 32(3) of the Punjab Value Added Tax Act, 2005 (Act) provides that if a person fails to declare the amount of tax in a return, which should have been declared, such a person shall be liable to pay simple interest at the rate of one and half *per cent* per month on such amount of tax from the due date of payment till the date he actually pays such amount of tax.

Audit scrutiny (between October 2015 and February 2016) of the records of three[11] AETCs revealed that seven dealers in 23 cases during the period 2006-07 to 2011-12 failed to declare the amount of due tax, which should have been declared in their annual returns. While assessing the cases, the DOs raised additional tax demands but levied interest amounting to ₹ 4.98 crore at the rate of 0.5 *per cent* per month under section 32(1) of the Act instead of interest of ₹ 14.47 crore, at the applicable rate of interest of 1.5 *per cent* per month under section 32(3) of the Act. This resulted in short levy of interest of ₹ 9.49 crore.

The matter was reported to the Government in June 2016; its reply was awaited (October 2016).

[11] Nawanshahar, Ropar and Tarn Taran.