CHAPTER II

VALUE ADDED TAX AND CENTRAL SALES TAX

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2.1 Tax Administration

Value Added Tax and Central Sales Tax Act and Rules framed thereunder are administered at the Government level by the Special Chief Secretary, Revenue Department of Andhra Pradesh. The Commissioner of Commercial Taxes (CCT) is the Head of the Commercial Tax wing of the Revenue Department assisted by three Additional Commissioners and two Joint Commissioners in Commissionerate. In field, the CCT is assisted by 21 Deputy Commissioners (DCs), 31 Assistant Commissioners (ACs) and other staff. There are 13 Large Tax Payer Units (LTUs) and 104 circles in the State, functioning under the administrative control of DCs. They administer the relevant tax laws and rules under Andhra Pradesh Value Added Tax Act, 2005 (VAT Act) and Central Sales Tax Act 1956 (CST Act). Besides, there is an Inter-State Investigation Wing within the Enforcement Wing for checking tax evasion and interstate transactions.

2.2 Internal Audit

The Department did not have a dedicated Internal Audit Wing that would conduct audit in accordance with a scheduled audit plan. Each LTU/circle is audited by five members headed by either Commercial Tax Officers (CTO) s or Deputy CTOs. Commissioner intimated that 377 audit observations were included in Internal Audit Report during the year 2016-17. A total of 975 audit observations were outstanding at the end of March 2017, after clearing 29 audit observations.

2.3 Results of Audit

In 2016-17, test-check of the records in 102 offices of the Department showed under-assessment of VAT, CST and other irregularities involving ₹ 269.87 crore in 919 cases as shown in **Table 2.1**.

Table 2.1: Results of Audit

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
1.	Recovery of Sales Tax Deferment sanctioned to Industrial Units in Andhra Pradesh State	1	18.21
2.	Excess/ Incorrect claim of Input Tax Credit	139	16.10
3.	Non-levy/Short levy of Interest and Penalty	168	38.63
4.	Non-levy/Short levy of tax on works contracts	38	21.07
5.	Non-levy/Short levy of tax under CST Act	177	114.62
6.	Non-levy/Short levy of VAT	180	31.21
7.	Other irregularities	216	30.03
	Total	**919**	**269.87**

During the year, the Department accepted under-assessments and other deficiencies in 423 cases involving ₹ 59.66 crore. Of these, ₹ 40.22 crore involving 214 cases were pointed out by Audit during the year 2016-17 and the rest in earlier years. An amount of ₹ 83.51 lakh in 86 cases was realised during the year 2016-17.

A few illustrative cases involving revenue of ₹ 52.72 crore are discussed in the succeeding paragraphs.

Audit observations

During scrutiny of records of Commercial Taxes Department, Audit observed cases of non-observance of provisions of Acts/Rules, which are discussed in succeeding paragraphs. These cases are illustrative and are based on test-checks carried out by Audit. Audit points out similar omissions by Assessing Authorities every year. However many of the irregularities persisted and remained undetected until an audit was conducted. The Government needs to improve the internal control system including strengthening of internal audit to avoid occurrence of such cases.

2.4 Recovery of sales tax deferment sanctioned to industrial units in Andhra Pradesh State

2.4.1 Introduction

With a view to accelerate the growth of Industries in the State, Industries Department had notified[6] a scheme 'Target-2000' for providing sales tax incentives in the form of Sales Tax Holiday (Exemption)[7] and Sales Tax Deferment[8] to Industrial Units. The Scheme was operative during the period from 15 November 1995 to 31 March 2000. Government extended the benefit under the scheme to those units, which were in existence on December 1999 and had commenced commercial production before 31 March 2002[9]. Commissioner of Industries issues a Final Eligibility Certificate (FEC) indicating the monetary limit and period of sales tax incentives for assessing availment and recovery of deferred tax by the Commercial Taxes Department.

2.4.2 Objectives, criteria and scope of Audit

Audit was conducted to ensure that

- the demands relating to deferment of sales tax availed were taken to Debt Management Unit (DMU) and collected on the due dates.
- the interest due was levied for belated payments of deferred tax.

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6 G.O.Ms.No.108 (Ind. &Com. Dept.) dated.20 May 1996, under the new industrial policy, 1995.

7 Sales tax holiday (exemption) –Units availing sales tax exemption for seven years or less, do not collect tax from the customers; therefore they need not pay tax to the department.

8 Sales tax deferment – Units availing sales tax deferment for 14 years, collect sales tax during the availment period and repay the amount availed in a year at the end of 14th year.

9 G.O.Ms.No.588 Industries and Commerce (IP) Department dated 20 November 2000.

Audit objectives were bench marked against APVAT Act 2005, APVAT Rules 2005 and Sales tax incentive scheme guidelines, Government orders/ circulars and clarifications issued in this regard.

Audit was conducted for the period from 2013-14 to 2015-16 between November 2016 and March 2017. A sample of 14 offices[10] were selected[11] for the audit. Audit observations of similar nature noticed in offices not selected in the sample were also included in the Report.

During the period from 1996 to 2002, an amount of ₹ 3,642.45 crore was sanctioned as Sales Tax Incentive (STI) to 331 Industrial Units in the State. In the 14 selected offices, ₹ 564.08 crore was sanctioned as Sales Tax Incentive covering 113 units.

2.4.3 Audit findings

The Audit findings are summarised below:

2.4.3.1 Sales Tax Deferment - Deferred sales tax not recovered

According to Target-2000 scheme guidelines, the industrial units availing Sales Tax Deferment, can avail deferment to the extent of eligibility fixed by Industries Department, for a period of 14 years or less. The deferment allowed to a unit in the first year should be paid at the end of 14th year without interest. Similarly deferment allowed in second year should be paid at the end of 15th year and likewise for subsequent years.

- During test check of records of three[12] LTUs and three[13] circles Audit observed that 11 (out of 32) industrial units (cases), had availed[14] deferred tax of ₹ 12.18 crore between 1998-99 to 2002-03. The units, however, had not paid the deferred tax by the due dates. Assessing Authorities (AAs) had not initiated action to recover the deferred tax though they were due for recovery since 2012.

In response to Audit observation, Government replied (January 2018) that in five cases ₹ 11.53 crore was collected. In two cases, partial amount of ₹ 0.02 crore was collected leaving a balance of ₹ 0.10 crore. In four cases involving ₹ 0.53 crore, it was replied that notices were issued (June 2017). The recoveries were made at the instance of Audit.

[10] 3 AC(CT)LTUs (Nellore, Vijayawada and Visakhapatnam), 11 CTOs (Alcot gardens, Chinawaltair, Gajuwaka, Hindupur, Ibrahimpatnam, Jagannaikpur, Kurnool-III, Nandigama, Ongole-II, Steel plant and Tirupati-II).

[11] Considering the geographical jurisdiction of offices containing potential industrial units as their assessees in Andhra Pradesh State.

[12] AC(CT)(LTU)s-Ananthapuram, Kurnool and Nellore.

[13] CTOs - Ibrahimpatnam, Srikakulam and Steel plant.

[14] Between 1997-98 and 2002-03.

2.4.3.2 Tax holiday converted into deferment- deferred sales tax not recovered

With the introduction of AP VAT Act from 1 April 2005, all sales tax Holiday/Exemptions sanctioned prior to the enactment of APVAT Act were converted[15] as sales tax deferment cases. The period leftover for availing tax deferment was doubled without any change in monetary limit of the amount sanctioned.

As per Rule 67(5) of AP VAT Rules, 2005 (VAT Rules), the amount availed in the first year, in which the unit is converted from Tax holiday Scheme to Deferment Scheme, shall be paid in the month succeeding the month in which the period for which the Unit is eligible for availment of the incentives is completed and the amount availed in the second year, shall be paid in the year, subsequent to the year in which the amount, availed in the first year is paid or payable and so on.

During test check of records[16] of four[17] circles, Audit observed that 31 (out of 53) industrial units had availed sales tax deferment between 2005-06 and 2009-10. However, the assessees had not paid the deferred sales tax as per the due dates. Assessing Authorities had not initiated any action to recover the deferred tax of ₹ 1.07 crore due for recovery from 2006 onwards. Nineteen (out of 31) industrial units pertaining to three[18] circles, which availed tax deferment of ₹ 73.27 lakh had closed their business. Department did not initiate any action for recovery by attaching their assets although 11 years had elapsed.

In response to Audit observation, Government replied (January 2018) that in one case an amount of ₹ 0.03 crore was collected. Notices were issued (June 2017) in 30 cases involving ₹ 1.04 crore.

2.4.3.3 Non-levy of interest on belated payments of deferred tax

As per the conditions stipulated in FEC[19], the deferment allowed to a unit in the first year should be paid at the end of 14th year without any interest. In case of failure to remit the tax on due date, an interest at the rate 21.5 *per cent* per annum was liable to be charged from the due date till the date of payment. Commissioner of Commercial Taxes had clarified in December 2012[20] the due date for repayment. The due date for sales tax deferment availed in the year 1996-97 was 31 March 2010 and in the year 1997-98 was 31 March 2011 and likewise for subsequent years.

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15 Section 69 of AP VAT Act, 2005.
16 Between November 2016 and March 2017.
17 CTOs-Ibrahimpatnam, Kurnool-III, Ongole-II and Srikakulam.
18 CTOs-Ibrahimpatnam, Kurnool-III and Ongole-II.
19 Final Eligibility Certificate
20 CCT's reference No.AII (3)/373/2012 dated. 19 December 2012.

i. Based on test check of records of five LTUs[21] and ten circles[22], Audit observed[23] that 28 (out of 49) industrial units had availed tax deferment during 1997-98 to 2002-03. The units had repaid the deferred tax of ₹ 123.85 crore belatedly with delay ranging from 10 to 1,398 days. The AAs had not levied the interest as per rules on the belated payment. The interest leviable on the belated payment worked out to ₹ 16.99 crore.

In response to Audit observation, Government replied (January 2018) that demands were raised in 14 cases[24] out of which an amount of ₹ 2.32 lakh had been recovered in three cases[25]. Notices were issued in 11 cases[26]. In three cases[27] it was contended that the tax was paid by due dates. Audit, however, observed that due date for payment of tax was not correctly reckoned by the department. Interest was thus leviable in these cases, as there was delay in payment of tax.

ii. During test check of records of AC (LTU) Kurnool and six[28] circles, Audit observed[29] that 11 industrial units (out of 69) availed tax deferment during the period from 2005-06 to 2008-09. The units had repaid the deferred tax of ₹ 2.00 crore belatedly with delay ranging from 8 to 2,342 days. The AAs had not levied the interest on the belated payments. The interest leviable on the belated payment worked out to ₹ 34.23 lakh**.**

In response to Audit observation, Government replied (January 2018) that an amount of ₹ 3.67 lakh had been recovered in two cases (CTO, Benz Circle). In six cases[30] demands were raised and in four cases[31] notices were issued (May 2017 to October 2017). In remaining one case[32], the amount was repayable at the end of the 14th year. The reply is not correct as the industrial unit was converted from tax holiday scheme to deferment scheme and hence, repayment would commence in the month succeeding the month of completion of availment.

2.4.3.4 Short collection of deferred sales tax due to excess discount

Rule 67(6) of VAT Rules prescribes that an industrial unit that availed the tax deferment may be allowed to pay the Net Present Value (NPV) of tax deferment. Net Present Value is to be calculated at a discounted rate

[21] AC(CT)LTUs-Ananthapuram, Kadapa, Kurnool, Nellore and Visakhapatnam.
[22] CTOs-Alcot gardens, Ananthapuram-I, Bhimavaram, Guntakal, Hindupur, Ibrahimpatnam, Kadapa-I, Srikakulam, Steel plant, and Tirupati-II.
[23] Between July 2016 and March 2017.
[24] DCs – Ananthapuram, Kadapa, Kurnool and Visakhapatnam and CTOs - Alcot Gardens, Ananthapuram-I, Ibrahimpatnam, Kadapa-I, Guntakal, Steel Plant and Tirupati-II.
[25] CTOs – Hindupur, Ibrahimpatnam and Kadapa-I.
[26] CTOs – Bhimavaram, Ibrahimpatnam, Kadapa-I and Srikakulam.
[27] Involving ₹ 9.39 crore.
[28] CTOs- Benz circle, Chinawaltair, Gudur, Hindupur, Kurnool-III, and Nandyal-I.
[29] Between June 2016 and March 2017.
[30] Involving ₹ 17.16 lakh.
[31] Involving ₹ 16.52 lakh.
[32] Involving ₹ 0.55 lakh.

prescribed by the Government in the notification. Government of Andhra Pradesh notified[33] the rate as 6.75 *per cent* for calculating the discount and repaying the balance at NPV of the deferred tax. The validity of the notification was one year from the date of its issue.

During test check of records of AC (LTU), Visakhapatnam, Audit observed (March 2017) that an industrial unit was sanctioned sales tax deferment for ₹ 17.15 crore. The unit availed the amount fully during the period from 1999-2000 to 2010-11. The unit opted (July 2016) to repay the outstanding deferred sales tax in one lumpsum under one time settlement scheme. An amount of ₹ 5.53 crore availed by the unit during 1999-2000 to 2001-02 had been repaid. The balance outstanding amount of deferred sales tax for the period from 2002-03 to 2010-11 was ₹ 11.62 crore. Commissioner accorded permission (September 2016) for payment of deferred sales tax at the discounted rate. Accordingly, the AC (LTU), Visakhapatnam allowed discount of ₹ 2.90 crore for the amount availed from 2002-03 to 2010-11.

Audit noticed that the discount allowed was irregular, as the due date for repayment of deferred sales tax availed during the year 2002-03 was 31 March 2016. As the permission was accorded in September 2016, the scheme was applicable for the payments that become due after this date. While computing discount for the period from 2003-04 to 2010-11 discount was reckoned for the full year instead of proportionately restricting it. Thus, incorrect allowance of discount for the year 2002-03 and incorrect computation of discount led to excess discount of ₹ 87.05 lakh.

In response to Audit observation, Government replied (January 2018) that notice was issued (November 2017) for payment of excess discount allowed.

2.4.3.5 Conclusion

Audit observed that no action was initiated by the Department for effecting the recovery from the industrial units. Assessing Authorities had not initiated action to recover the deferred tax of ₹ 13.25 crore though payments were due since 2006. Of this, an amount of ₹ 11.58 crore had been collected at the instance of Audit. Interest of ₹ 17.33 crore was not levied on belated payments of deferred tax.

[33] G.O.Rt.No.965 Revenue (CT-II) Department dated 07 October 2015.

2.5 Input tax credit

2.5.1 Inadmissible input tax credit on purchases relating to exempt sales

As per Section 13(1) of the VAT Act, Input Tax Credit (ITC) shall be allowed to the VAT dealer for the tax charged in respect of all purchases of taxable goods, made during the tax period, if such goods are for use in the business. Further, as per Section 13(5)(d) of the Act, no ITC shall be allowed in case of exempt sale. As per Rule 9 of VAT Rules, dealers intending to set up a business in 'taxable goods' may claim ITC under start-up of business. Rule 9(4) stipulates that the ITC claimed in respect of tax paid on inputs must relate to the prospective taxable business activities.

The commodity "Power or Electrical Energy" is listed under Schedule-I of the Act and hence the sale of power is exempted from levy of tax.

During the test-check of records of Peddapuram circle, Audit observed (July 2016) in one case that the AA had allowed ITC of ₹ 3.69 crore, on the purchases[34] utilised for generation and sale of "Power". ITC was inadmissible on sale of Power under provisions of the Act, as "Power" is exempt commodity. In addition, Assessing Authority also did not restrict the inadmissible ITC of ₹ 1.34 crore, on the proportionate purchases related to generation of 'Power', claimed by the dealer upto September 2012. The total inadmissible ITC relating to the exempt sales amounted to ₹ 5.03 crore.

On this being pointed out, the Government replied (January 2018) that file was sent (February 2017) for revision.

2.5.2 Excess claim of input tax credit due to incorrect restriction

As per Section 13(5) of the VAT Act, no ITC shall be allowed to any VAT dealer on sale of exempted goods (except in the course of export) and exempt sales. As per Section 13(6) of VAT Act, ITC for transfer of taxable goods outside the State (otherwise than by way of sale) shall be allowed for the amount of tax in excess of four/five *per cent*[35]. Further, as per sub rules (7) and (8) of Rule 20 of the VAT Rules, a VAT dealer making taxable sales, exempt sales and exempt transactions of taxable goods shall restrict his ITC as per the prescribed formula[36]. As per Rule 20(10) of VAT Rules, where a dealer also makes sale of exempt goods, ITC which was fully claimed initially, shall be restricted at the end of March by applying formula. Exempt transactions shall be included in taxable turnover during such restriction.

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[34] Relating to the period from October 2012 to March 2014.
[35] Four *per cent* up to 13 September 2011, five *per cent* from 14 September 2011.
[36] AxB/C, where A is the ITC for common inputs for each tax rate, B is the taxable turnover and C is the total turnover.

During the test check of records of five circles[37], Audit observed[38] that ITC was not correctly restricted[39] in respect of six dealers who effected exempt sales and branch transfer[40] of taxable goods. Total excess claim of ITC was ₹ 92.18 lakh.

On this being pointed out, the Government replied (January 2018) that, in respect of CTO, Chittoor-II, an amount of ₹ 0.77 lakh was collected. In respect of CTO, Benz Circle, it was replied that show cause notice was issued (September 2017). In three other cases[41], it was replied that file was sent (between April 2017 and August 2017) for revision. In respect of CTO, Kurupam Market, final reply was not received.

2.5.3 Incorrect claim of ITC and non-forfeiture of excess tax collected

As per Section 4(9)(b) and (d) of the VAT Act, every dealer, running a hotel with status lower than three star or running an eating establishment whose gross annual turnover is more than ₹ 7.50 lakh and less than ₹ 1.50 crore, shall pay tax at the rate of five *per cent* of the taxable turnover of the sale or supply of goods. As per Section 13(5)(h) of the Act, such dealers are not entitled to claim ITC. Further, as per Section 57(2) and (4) of the Act, no dealer shall collect tax exceeding the rate at which tax was liable to be paid under the provisions of the Act. Any such excess amount collected shall be forfeited to the Government.

During the test check of VAT records of three Circles[42], Audit observed[43] in five cases[44] that ITC was claimed incorrectly and excess collected tax of ₹ 15.09 lakh was not forfeited. In CTO Chinawaltair, a hotel dealer with lower than three star category, liable to pay tax at the rate of five *per cent*, had collected tax at the rate of 14.5 *per cent*. The dealer also claimed ITC of ₹ 2.26 lakh in contravention to the provisions of Section 13(5) (h) of the Act. Four other dealers with annual turnover between ₹ 7.5 lakh and ₹ 1.50 crore, collected tax at the rate of 14.5 *per cent* instead of at five *per cent* besides incorrect claim of ITC of ₹ 7.43 lakh. This had resulted in incorrect claim of ITC of ₹ 9.69 lakh and non-forfeiture of excess tax collection of ₹ 15.09 lakh, in all the five cases.

On this being pointed out, the Government replied (January 2018) that, in one case (CTO, Benz circle), show cause notice was issued (November 2017). In remaining four cases[45], it was replied that file was sent (between November 2016 and February 2017) for revision.

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37 Benz Circle, Chittoor-II, Kurupam Market, Patnam Bazar and Steel Plant.
38 Between October 2016 and February 2017.
39 For the period from 2011-12 to 2014-15.
40 Branch transfers to other states are "exempt transactions".
41 CTOs: Patnam bazar and Steel Plant.
42 Anakapalle, Benz Circle and Chinawaltair.
43 Between July and November 2016.
44 For the assessment period from 2011-12 to 2015-16.
45 CTOs: Anakapalle, Benz Circle and Chinawaltair.

2.5.4 Incorrect allowance of input tax credit

According to Sections 13(1) and 13(3)(a) of the VAT Act, ITC shall be allowed to the VAT dealer for the tax charged on all purchases of taxable goods, made by that dealer during the tax period, provided the dealer was in possession of valid tax invoice issued by another VAT dealer of Andhra Pradesh. As per Rule 27(1)(d) of the VAT Rules, tax invoice should have printed or computer generated serial numbers. As per Rule 9(4) of the VAT Rules, a dealer registered as a start-up business, may claim ITC for a maximum period of 24 months prior to making taxable sales. Further, as per Section 13(7) of the VAT Act, where any works contractor pays tax under Section 4(7)(a) of the Act, the ITC shall be limited to 75 *per cent* of the related input tax.

During the test-check of records (in seven cases[46]) of five circles[47], Audit observed[48] that in two cases (CTO Dharmavaram), ITC was incorrectly allowed on the goods purchased from the VAT dealers of other states. In two cases (CTO Kurnool-III), ITC was incorrectly allowed on invalid tax invoices which contained manual serial numbers. In respect of Chittoor-II circle, ITC was incorrectly allowed in one case though the relevant VAT return and tax records were not submitted. A works contractor in Kadapa-I circle, who paid tax on the value of goods incorporated in work, was allowed ITC in full instead of limiting it to 75 *per cent*. In another case (CTO Kakinada), ITC was allowed to a 'startup business' dealer, who did not make taxable sales even after the maximum period of 24 months. The incorrect allowance of ITC by the AAs in all the seven cases amounted to ₹ 18.35 lakh.

On this being pointed out, the Government replied (January 2018) that, assessments were rectified in four cases[49] and in one case of Dharmavaram Circle demand was taken to Debt Management Unit (DMU). In one case (Chittoor), file was sent (January 2017) for revision. In another case (Kurnool-III) show cause notice was issued (August 2017).

2.5.5 Excess allowance of ITC due to incorrect determination of purchase turnover

As per Section 13(1) of the VAT Act, ITC shall be allowed to the VAT dealer for the tax charged in respect of all purchases of taxable goods, made by the dealer within the State during the tax period, if such goods are for use in business. Para 5.12 of AP VAT Audit Manual prescribed mandatory basic checks for conducting VAT audit, which include cross check of figures reported by VAT dealers in their monthly VAT returns, with those recorded in certified annual accounts, so as to detect under-declaration of tax, if any.

[46] For the period from 2011-12 to 2015-16.
[47] Chittoor-II, Dharmavaram, Kadapa-I, Kakinada and Kurnool-III.
[48] Between October 2016 and January 2017.
[49] CTOs: Dharmavaram, Kakinada and Kadapa-I.

During the test check of records of three circles[50], Audit observed[51] that in three cases[52] the AAs had adopted excess purchase turnover of ₹ 54.08 lakh for ITC, than that reported in relevant annual accounts. This had resulted in excess allowance of ITC of ₹ 5.48 lakh over the excess purchase turnover of ₹ 54.08 lakh.

On this being pointed out, the Government replied (January 2018) that show cause notices were issued (between October 2016 and September 2017) in all the cases[53].

2.6 Levy of penalty

2.6.1 Non-levy / short levy of penalty for under-declaration of tax

As per Section 53(1) of the VAT Act, where any dealer under-declared the tax and it has not been established that fraud or wilful neglect has been committed and where the under-declared tax is less than 10 *per cent* of the tax, a penalty shall be imposed at 10 *per cent* of such under-declared tax and at 25 *per cent*, if the under-declared tax is more than 10 *per cent* of the tax due. Further, as per Rule 25(8) (a) and (b) of the VAT Rules, for the purpose of Section 53 of the Act, the tax under-declared means the excess of ITC claimed over and above the amount entitled or the difference between output tax actually chargeable and the output tax declared in the returns. As per Section 13(5)(h) of the VAT Act read with Section 4(9)(d), the dealers running any restaurants or eating establishments etc., with annual turnover of less than ₹ 1.50 crore, are not entitled to claim ITC.

During the test-check of assessment records of two divisions[54] and nine circles[55], Audit observed[56] that in 16 cases[57] output tax was under-declared and excess ITC was claimed, for reasons other than fraud or wilful neglect. In these cases, AAs have either short levied or did not levy any penalty. This had resulted in non-levy / short levy of penalty of ₹ 1.41 crore over the under-declared tax of ₹ 8.69 crore.

On this being pointed out, the Government replied (January 2018) that in seven cases[58] the assessment was rectified. In case of CTO Aryapuram show cause notice was issued (December 2016). In four cases[59] the file was sent (between November and December 2016) for revision. In remaining cases, report was not received.

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[50] Anakapalle, Benz Circle and Kurnool-I.
[51] Between June and November 2016.
[52] For the assessment years 2012-13 and 2014-15.
[53] CTOs: Anakapalle, Benz Circle and Kurnool-I
[54] Kadapa and Vizianagaram.
[55] Aryapuram, Benz Circle, Brodipet, Chinawaltair, Markapur, Steel plant, Suryabagh, Tadipatri and Vuyyuru.
[56] Between June 2016 and February 2017.
[57] For the assessment period from 2009-10 to 2015-16.
[58] DC Vizianagaram, CTOs: Benz Circle, Markapur, Steel Plant, Tadipatri and Vuyyuru.
[59] DC Kadapa, CTOs: Benz Circle, Brodipet and Suryabagh

2.6.2 Non-levy / short levy of penalty due to wilful under-declaration of tax

Under Section 53 (3) of the VAT Act, if any dealer under-declared tax and where it is established that fraud or wilful neglect has been committed, such dealer shall pay penalty equal to the tax under-declared.

During the test-check of records of ten circles[60], Audit observed[61] in 11 cases[62] that there was wilful under-declaration of tax of ₹ 1.37 crore for which an equal amount of penalty was leviable. However in four cases, the AAs did not levy any penalty for under-declared tax of ₹ 7.02 lakh. In seven other cases, penalty of only ₹ 32.45 lakh was levied against the leviable penalty of ₹ 1.30 crore. This had resulted in non-levy/short levy of penalty of ₹ 1.05 crore.

On this being pointed out, the Government replied (January 2018) that, in two cases[63], assessment was rectified. In five cases[64], show cause notice was issued (between February 2017 and November 2017) and in remaining four cases[65], file was sent (between December 2016 and April 2017) for revision.

2.7 VAT on works contracts

2.7.1 Non-levy/short levy of tax due to incorrect determination of taxable turnover under works contract

Under Section 4(7)(a) of the VAT Act, every dealer executing works contract shall pay tax on the value of goods at the time of incorporation of such goods in the works executed at the rates applicable to the goods under the Act. To arrive at the value of goods at the time of incorporation, the deductions prescribed under Rule 17(1)(e) of the VAT Rules, such as expenditure towards labour charges, hire charges etc., incurred by the contractor, are to be allowed from the total consideration and on the balance of turnover, tax is levied at the same rates at which purchase of goods were made and in the same proportions. As per Rule 17(1)(d) of VAT Rules, the value of the goods at the time of incorporation, as arrived at, shall not be less than their purchase value and shall include seigniorage charges[66], transportation charges etc.

During the test-check of assessment records in four circles[67], Audit observed[68] that in four cases the AAs had incorrectly determined[69] the taxable turnover during their assessment. The AAs had allowed certain inadmissible deductions and taxable turnover was incorrectly calculated. This resulted in non/short

[60] Anakapalle, Brodipet, Gajuwaka, Kavali, Narasaraopet, Puttur, Steel Plant, Suryabagh, Suryaraopet and Tadipatri.
[61] Between June 2016 and February 2017.
[62] For the assessment period from 2010-11 to 2015-16.
[63] CTOs: Kavali and Tadipatri.
[64] CTOs: Anakapalle, Gajuwaka, Narasaraopet, Puttur and Suryaraopet.
[65] CTOs: Brodipet, Gajuwaka, Steel Plant and Suryabagh.
[66] "Seigniorage charges" are charges for the Minor Minerals used in the execution of works.
[67] Gajuwaka, Markapur, Proddatur-II and Steel Plant.
[68] Between July 2016 and February 2017.
[69] Assessment period from 2008-09 to 2014-15.

levy of tax of ₹ 1.14 crore. In one case, CTO Proddatur-II while finalising the assessment for the year 2014-15, had not assessed works contract turnover of ₹ 1.03 crore for levy of tax of ₹ 0.06 crore. The total non-levy/short levy of tax in respect of all five works contractors amounted to ₹ 1.20 crore.

On this being pointed out, the Government replied (January 2018) that, in respect of CTO, Markapur, assessment was rectified. In remaining four cases[70], file was sent (between November 2016 and April 2017) for revision.

2.7.2 Short levy of tax on works contractors who did not maintain detailed accounts

As per Section 4(7)(a) of the VAT Act, every dealer executing works contract shall pay tax on the value of goods at the time of incorporation of such goods in the works executed at the rates applicable to the goods under the Act. However, as per Rule 17(1)(g) of the VAT Rules, if any works contractor has not maintained detailed accounts to determine the correct value of the goods at the time of their incorporation, tax shall be levied at the rate of 14.5 *per cent* on the total consideration received, after allowing permissible deductions on percentage basis on the category of work executed. In such cases, the works contractor / VAT dealer shall not be eligible to claim ITC.

During the test-check of records of three circles[71], Audit observed[72] that turnover of two works contractors was assessed[73] according to the method prescribed for those who maintain detailed work accounts. However, as the dealers did not maintain detailed work accounts, tax was leviable at 14.5 *per cent* on 60/70[74] *per cent* of the turnover without allowing any ITC on purchases. In one case pertaining to CTO Tirupati-I, though detailed accounts were not maintained, works turnover was incorrectly treated as sale transaction and ITC of ₹ 1.55 lakh was allowed. This had resulted in short levy of tax of ₹ 27.44 lakh due to non-assessment of the turnover under Rule 17(1)(g).

On this being pointed out, the Government replied (January 2018) that, in two cases[75], file was sent (between December 2016 and February 2017) for revision. In one case of CTO, Kurupam Market, it was replied that file would be sent for revision (December 2017).

[70] CTOs: Gajuwaka, Proddatur-II and Steel Plant.
[71] Kurupam Market, Suryabagh and Tirupati-I.
[72] Between September 2016 and February 2017.
[73] Assessment period from 2010-11 to 2014-15.
[74] 60 *per cent* for Printing dealer and 70 *per cent* for civil contractor.
[75] CTOs: Suryabagh and Tirupati-I.

2.8 Tax on interstate sales

2.8.1 Non-levy/short levy of tax due to incorrect determination of taxable turnover under CST Act

As per Section 9(2) of the CST Act, the authorities empowered to assess tax under the general sales tax law of the State, shall also assess tax under the CST Act. As per Para 5.12 of VAT Audit Manual 2012, the audit officer is required to verify the details given by the dealer in VAT/CST returns and to reconcile with those reported in certified annual accounts for that period. According to Sub Rules (8), (9) and (10) of Rule 14-A of CST (AP) Rules, 1957, if the whole or any part of the turnover of business of a dealer escaped assessment or under-assessed in any year, the AA, may to the best of his judgment, assess the correct tax payable by the dealer within the prescribed time period. As per Sections 5, 6, 6A and 8 of the CST Act read with Rule 12 of CST (Registration and Turnover) Rules, 1957, if any dealer fails to submit necessary statutory forms in support of exports, branch transfers, transit sales etc., the relevant transactions have to be treated as interstate sales not covered by 'C' forms and tax shall be levied at the rates applicable to the sale of goods inside the appropriate State.

The commodities listed under Schedule-IV to the VAT Act are taxable at the rate of five *per cent*[76]. The commodities which are not listed in Schedules-II to IV and VI, fall under Schedule-V and are taxable at the rate of 14.5 *per cent*.

During the test-check of records of nine circles[77], Audit observed[78] in nine cases that the taxable turnover under the CST Act was not correctly determined[79]. The turnovers were not reconciled between the VAT and CST returns, ledgers, VAT and CST assessment orders, CST way bill utilisation reports and Profit and Loss accounts. This had resulted in non-levy/short levy of tax of ₹ 60.62 lakh on the under-assessed turnover of ₹ 12.55 crore.

On this being pointed out, the Government replied (January 2018) that, assessment had been rectified in one case (Ananthapuram-II circle) and demands were taken to DMU in two cases[80]. Show cause notices were issued (between November 2016 and November 2017) in three cases[81] and in one case (Steel Plant circle) file was sent for revision. In remaining two cases[82], replies were not received.

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[76] Four *per cent* up to 13 September 2011.
[77] Ananthapuram-II, Dharmavaram, Kadapa-I, Kasibugga, Kurupam Market, M.G. Road (West), Nandyal-I, Peddapuram and Steel Plant.
[78] Between June 2016 and February 2017.
[79] Assessment period from 2011-12 to 2015-16.
[80] CTOs: Dharmavaram and Kadapa-I.
[81] CTOs: Kurupam Market, Nandyal-I and Peddapuram.
[82] CTOs: Kasibugga and MG Road (West).

2.8.2 Short levy of tax due to application of incorrect rate of tax under CST Act

As per Section 8(1) of the CST Act read with Rule 12(1) of CST (R&T) Rules, 1957, interstate sales not supported by 'C' Forms are liable to tax at the rate applicable to sale of such goods inside the concerned State. Under Section 4(3) of the VAT Act, every VAT dealer shall pay tax on sale of taxable goods at the rates specified in the Schedules to the Act. As per Section 4(8) of VAT Act, every VAT dealer who transfers the right to use any taxable goods to any lessee or licensee for any valuable consideration in the course of business shall pay tax on the total amount received by him at the rates applicable to such goods.

'Medium Density Fibre (MDF) Boards', 'Rolling Shutters' and 'Vehicles/ Lorry' fall under Schedule-V to the VAT Act and are liable for tax at 14.5 *per cent*.

During the test-check of CST records of three circles[83], Audit observed[84] in three cases that tax was incorrectly applied on interstate sale turnover of ₹ 63.82 lakh not supported by 'C' forms. These three dealers had dealt with 'MDF Boards', 'Rolling Shutters' and hiring of 'Vehicles'. Audit noticed that AAs had levied tax[85] at incorrect rate of four/five *per cent* instead of 14.5 *per cent*. This had resulted in short levy of tax of ₹ 6.31 lakh.

On this being pointed out, the Government replied (January 2018) that, in one case of CTO, Markapur, an amount of ₹ 0.37 lakh was collected. Assessment was rectified in case of Ananthapuram-II Circle and file was sent (October 2017) for revision in respect of CTO, Chinawaltair.

2.9 Non-levy/short levy of tax on transfer of right to use goods

As per Section 4(8) of the VAT Act, every VAT dealer, who transfers the right to use any taxable goods to any lessee or licensee for any valuable consideration in the course of his business, shall pay tax on the total amount received by him at the rates applicable to such goods. "Machinery" is taxable at five *per cent* under Schedule IV to the VAT Act. "Automobiles" and "Generator" are not classified in any of the Schedules to the VAT Act and are therefore liable to tax at 14.5 *per cent*.

During the test-check of assessment records of six circles[86], Audit observed[87] in 11 cases[88] that the AAs had either not levied or short levied tax on income received towards transfer of right to use goods. The hire charges turnover of ₹ 44.17 crore of these dealers was liable for tax at the rate of 14.5 / five *per cent*. The incorrect assessments by the AAs had resulted in non-levy/short levy of tax of ₹ 6.39 crore.

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[83] Ananthapuram-II, Chinawaltair and Markapur.
[84] Between August and September 2016.
[85] For the years 2011-12 to 2013-14.
[86] Chinawaltair, Chittoor-II, Gudur, Kurupam Market, Tirupati-I and Vizianagaram (West).
[87] Between July 2016 and February 2017.
[88] For the assessment years 2011-12 and 2012-13.

On this being pointed out, the Government replied (January 2018) that, assessments were rectified in three cases[89] and show cause notices issued (between July 2017 and November 2017) in seven cases[90]. In one case of CTO, Chinawaltair, file was sent (November 2016) for revision.

2.10 Non-levy of tax due to incorrect exemption of turnover

Under Section 4(3) of the VAT Act, every VAT dealer shall pay tax on sale of taxable goods at the rates specified in the Schedules to the Act. As per the Government order[91] dated 08 July 2011, the commodity 'textiles and fabrics' was added to Schedule-IV and made taxable at five *per cent*[92]. However, as per Ordinance No. 9 of 2012 dated 05 November 2012, the dealers of 'textiles and fabrics' may opt to pay tax at the rate of one *per cent* under composition scheme. Later, Government by another order[93] included the said commodity in Schedule-I from 07 June 2013 and exempted sales thereof. Hence, tax was liable to be paid at the rate of five *per cent* from 08 July 2011 to 06 June 2013, if the dealers had not opted for composition scheme.

During the test check of records of 18 circles[94], Audit observed[95] that in 37 cases, the AAs had incorrectly exempted the sale turnover of ₹ 116.15 crore of 'textiles and fabrics' during 08 July 2011 to 06 June 2013. The exempted sale turnover was liable for tax at the rate of five *per cent* as the dealers did not opt for composition scheme. Incorrect exemption by the AAs had resulted in non-levy of tax of ₹ 5.80 crore.

On this being pointed out, the Government replied (January 2018) that, assessments were rectified in four cases[96]. Files were sent (between October 2016 and August 2017) for revision in 16 cases[97] and show cause notices issued (between October 2016 and November 2017) in 10 cases[98]. In remaining seven cases[99], replies were not received.

2.11 Short levy of VAT due to incorrect determination of taxable turnover

As per Section 21(3) of the VAT Act read with Rule 25(5) of the VAT Rules, if the AA considers the return filed by a VAT dealer as incorrect or incomplete or unsatisfactory, the AA shall assess the tax payable to the best of his judgement on Form VAT 305 within four years from the due date or date of filing the return, whichever is later. As per Section 21(4) of the Act, the

[89] CTOs: Chittoor-II, Gudur andTirupati-I.
[90] CTOs: Chittoor-II, Kurupam Market and Vizianagaram (West).
[91] G.O.Ms.No.932, Revenue (CT-II) Department dated 08 July 2011.
[92] Four *per cent* upto 13 September 2011.
[93] G.O.Ms.No.308, Revenue (CT-II) Department dated 07 June 2013.
[94] Akividu, Ananthapuram-II, Aryapuram, Brodipet, Chinawaltair, Chittoor-I, Eluru, Hindupur, Kakinada, Kurnool-I, Kurupam Market, Narasaraopet, Patnam Bazar, Puttur, Rajahmundry, Suryabagh, Tanuku-I and Tuni.
[95] Between June 2016 and February 2017.
[96] CTOs: Ananthapuram-II, Hindupur and Suryabagh.
[97] CTOs: Aryapuram, Brodipet, Kakinada, Narsaraopet, Puttur and Suryabagh.
[98] CTOs: Kurnool-I, Kurupam Market, Patnam Bazar, Rajamundry and Tuni.
[99] CTOs: Akividu, Chinawaltair, Chittoor-I, Eluru, Tanuku.

authority prescribed may conduct a detailed scrutiny of the accounts of any VAT dealer based on the available information and where any assessment becomes necessary after such scrutiny, such assessment shall be made within a period of four years from the end of the period for which the assessment is to be made. As per Rule 25(10) of the VAT Rules, all the VAT dealers have to furnish the statements of manufacturing / trading, profit and loss accounts, balance sheet and annual report for every financial year, duly certified by a Chartered Accountant, on or before 31st December of the succeeding year. As per Para 5.12 of VAT Audit Manual 2012, the audit officer is required to verify the details declared by the dealer in VAT returns and to reconcile with those reported in certified annual accounts for that period.

During the test-check of records of 31 dealers in two divisions[100] and 15 circles[101], Audit observed[102] that in 28 cases, the sale[103] turnover as per their annual accounts was more than the turnover declared in VAT returns. In one case, warranty claims on replacement of spares received by the dealer were not subjected to tax. In two cases, the dealers had not declared tax on sale of used machinery and computers. The incorrect determination of taxable turnover by the AAs in 31 cases had resulted in short levy of tax of ₹ 2.89 crore.

On this being pointed out, the Government replied (January 2018) that assessments were rectified in six cases[104] and show cause notices were issued (between October 2016 and November 2017) in 12 cases[105]. In six cases[106] the files were sent (between October 2016 and July 2017) for revision. In remaining cases, reply was not received.

2.12 Non-levy of interest and penalty on belated payment of tax

As per Section 22(2) of the VAT Act, if any dealer fails to pay the tax due (on the basis of the return submitted) within the time prescribed, he shall pay interest in addition to such tax or penalty or any other amount, calculated at the rate of 1.25 *per cent* per month for the period of delay. Further, under Section 51(1) of the Act, if a dealer fails to pay the tax due (on the basis of the return submitted) by the last day of the month in which it was due, he shall be liable to pay a penalty of 10 *per cent* of the amount of tax due, in addition to such tax.

During the test-check of records of four divisions[107] and nine circles[108], Audit observed[109] in 55 cases that the dealers paid tax[110] after the due dates.

[100] DCs: Ananthapuram and Vizianagaram.
[101] Anakapalle, Bapatla, Benz Circle, Chinawaltair, Eluru, Gudivada, Gudur, Jagannaikpur, Kurnool-I, Markapur, Nandyal-I, Peddapuram, Steel Plant, Tuni and Vuyyuru.
[102] Between June 2016 and February 2017.
[103] For the period from 2010-11 to 2014-15.
[104] CTOs: Gudivada, Gudur, Markapur and Vuyyuru
[105] CTOs: Benz Circle, Jagannaikpur, Kurnool-I, Nandyal-I, Peddapuram and Tuni
[106] DC Ananthapuram and Vizianagaram, CTOs: Anakapalle, Peddapuram and Steel Plant
[107] Kadapa, Kakinada, Nellore and Visakhapatnam.
[108] Akividu, Benz Circle, Bhimavaram, Chinawaltair, Gudivada, Krishnalanka, Kurupam Market, Proddatur-II and Steel Plant.
[109] Between October 2015 and February 2017.
[110] For the period from 2012-13 to 2015-16.

The delays were ranging from 1 to 463 days. However, the AAs did not levy any interest and penalty in these cases for belated payment of tax. This had resulted in non-levy of interest of ₹ 62.36 lakh and penalty of ₹ 2.22 crore.

On this being pointed out, the Government replied (January 2018) that, an amount of ₹ nine lakh had been recovered (between December 2016 and July 2017) in four cases[111]. Assessments were revised (between March 2017 and November 2017) in 31 cases[112] and in two cases (Kurupam Market) penalty notices were issued (November 2017). Replies were not received in remaining 18 cases[113].

2.13 Under-declaration of tax due to application of incorrect rate of tax

As per Section 4(9)(c) of the VAT Act, every dealer, whose annual total turnover is ₹ 1.50 crore and above, shall pay tax at the rate of 14.5 *per cent* on the taxable turnover representing sale or supply of food. Under Section 4(1) of VAT Act, VAT is leviable at the rates prescribed in Schedules II to IV and VI to the Act. The rate of tax for goods falling under Schedule-IV to the Act, was enhanced from four to five *per cent* from 14 September 2011. Commodities not specified in any of the Schedules fall under Schedule-V and are liable to VAT at 14.5 *per cent* from 15 January 2010. As per Section 20(3)(a) of the VAT Act, every monthly return submitted by a dealer shall be subjected to scrutiny to verify the correctness of calculation, application of correct rate of tax, ITC claimed and payment of tax for such tax period.

The commodities, 'Air Conditioners', 'Aluminium Doors/Windows', 'Dumper Bins', 'Furniture, Timber and sizes' and 'Physical fitness Equipment' are taxable at the rate of 14.5 *per cent*.

During the test-check of VAT records of 10 circles[114], Audit observed[115] that in five cases, correct rate of tax at 14.5 *per cent* was not applied over the taxable turnover[116]. These dealers, who dealt with 'Air Conditioners', 'Aluminium Doors/Windows', 'Dumper Bins', 'Furniture, Timber and sizes', 'Fitness Equipment', had under-declared tax at four/five *per cent*. In four cases, dealers running bar and restaurant declared their annual total turnover below ₹ 1.50 crore without including liquor sales and paid tax at five *per cent* on sale of food. These dealers were liable to pay tax at 14.5 *per cent* as their annual total turnover exceeded ₹ 1.50 crore after including liquor sales. In three cases, dealers involved in food sales declared tax at five *per cent* though their annual turnover exceeded ₹ 1.50 crore. The AAs had applied incorrect

[111] DC Nellore; CTOs: Benz circle and Gudivada.
[112] DCs(CT): Kadapa, Kakinada and Nellore; CTOs: Benz circle, Krishnalanka, Proddatur-II and Steel Plant.
[113] DC Visakhapatnam; CTOs: Akividu, Bhimavaram, Chinawaltair and Kurupam Market.
[114] Benz Circle, Bhimavaram, Daba Gardens, Eluru, Gudivada, Gudur, Kurnool-I, Kurupam Market, Tanuku-I and Tirupati-I.
[115] Between June 2016 and February 2017.
[116] For the period from 2010-11 to 2015-16.

rates of tax in all the 12 cases leading to under-declaration / short levy of tax of ₹ 2.15 crore on total turnover of ₹ 22.02 crore.

On this being pointed out, the Government replied (January 2018) that the assessments were rectified in three cases[117] and show cause notices were issued (between October 2016 and November 2017) in three cases[118]. In case of CTO Gudivada file was sent (November 2016) for revision. In remaining cases, reply was not received.

2.14 Short levy of tax / penalty due to calculation error

The levy of taxes under the VAT Act is governed by Section 4 of the Act and tax under the CST Act is levied under the provisions of Section 8 of the CST Act.

During the test-check of assessment files[119] in five circles[120], Audit observed[121] that in 12 cases, the AAs had short levied tax of ₹ 1.35 crore due to arithmetical error, on the interstate sale turnover not covered by statutory forms. In one case, CTO Kurnool-I had short levied tax of ₹ 46.88 lakh due to incorrect computation of tax for the year 2013-14. In one case, CTO Anakapalle had incorrectly calculated penalty on under-declared tax[122] leading to short levy of ₹ 1.50 lakh. The short levy of penalty/tax due to arithmetical errors in all the 14 cases amounted to ₹ 1.83 crore.

On this being pointed out, the Government replied (January 2018) that, revision orders were passed (October/November 2017) in ten cases[123]. Show cause notice was issued (October 2016) in one case pertaining to Kurnool-I Circle. Reply was not received in remaining three cases[124].

2.15 Short payment of tax and non-levy of penalty due to non-conversion as VAT dealer

As per Section 17(3) of the VAT Act, every dealer, whose taxable turnover in the twelve preceding months exceeds ₹ 50 lakh, shall be registered as a VAT dealer and pay tax at applicable VAT rates from thereon. As per Section 17(5)(h) of the Act, every dealer engaged in sale of food items including sweets etc., whose annual turnover is more than ₹ 7.50 lakh is liable for VAT registration and has to pay tax at the rate of five *per cent* under the provisions of Section 4(9)(d) of the Act. As per Rule 11(1) of the VAT Rules, the prescribed authority may *suomotu* register a dealer, who is liable to apply for registration as VAT dealer. In terms of Section 49(2) of the VAT Act, any dealer who fails to apply for registration, shall pay a penalty of 25 *per cent* of the tax due prior to the date of registration.

[117] CTOs: Benz Circle, Daba Gardens and Gudur
[118] CTOs: Daba Gardens, Kurnool-I and Kurupam Market
[119] For the years 2011-12 to 2013-14.
[120] Akividu, Anakapalle, Kurnool-I, Mandapeta and Nellore-I.
[121] Between September 2015 and September 2016.
[122] For the period from 2011-12 to 2013-14.
[123] CTOs: Anakapalle and Nellore.
[124] CTOs: Akividu and Mandapeta.

During the test-check of Turnover Tax (TOT) records of six circles[125], Audit observed[126] that in 10 cases, the taxable turnover[127] had crossed the threshold limit[128], making dealers liable for VAT registration. The subsequent turnover liable for levy of VAT amounted to ₹ 5.05 crore on which VAT of ₹ 46.67 lakh was payable; but these dealers paid tax of only ₹ 4.80 lakh. These TOT dealers had neither applied for VAT registration nor were they registered by the respective AAs as VAT dealers. The AAs had not levied any penalty on these dealers who failed to apply for VAT registration. This had resulted in short payment of tax of ₹ 41.87 lakh and non-levy of penalty of ₹ 6.57 lakh.

On this being pointed out, the Government replied (January 2018) that, an amount of ₹ 5.94 lakh was collected in respect of CTO, Rajam. Assessments were rectified in two cases[129] and show cause notices issued (between March 2017 to November 2017) in four other cases[130]. In remaining three cases[131], reply was not received.

2.16 Non-forfeiture of excess collected tax and non-levy of penalty

As per Section 57(2) of the VAT Act, no dealer shall collect tax exceeding the rate at which tax was liable to be paid. Under Section 57(4) of the VAT Act, any excess tax so collected shall be forfeited to the Government and the dealer shall be liable to pay an equal amount of penalty.

During the test-check of records of two circles[132], Audit observed[133] that in two cases, tax of ₹ 8.17 lakh was collected[134] by the dealers in excess of their tax liability. However, the AAs did not forfeit the excess collected tax to the Government account. Further, a penalty equal to the amount of excess collected tax, i.e., ₹ 8.17 lakh, was not levied.

On this being pointed out, the Government replied (January 2018) that, assessment was rectified in one case (Nellore-III circle) and show cause notice issued (November 2017) in another case (Dwarakanagar circle).

2.17 Non-payment/short payment of VAT due to under-declaration of sales turnover of High Security Registration Plates

Government of India had issued the Motor Vehicles (New High Security Registration Plates) order, 2001 through a Gazette notification dated 22

[125] Anakapalle, Bhimavaram, Chinawaltair, Kurnool-III, Rajam and Suryabagh.
[126] Between June 2016 and February 2017.
[127] For the period from October 2012 to March 2016.
[128] Limit of ₹ 50 lakh.
[129] CTOs: Anakapalle and Bhimavaram.
[130] CTOs: Anakapalle, Kurnool-IIIand Suryabagh.
[131] CTOs: Chinawaltair and Suryabagh
[132] Dwarakanagar and Nellore-III.
[133] Between December 2015 and February 2017.
[134] For the period from 2010-11 to 2013-14.

August 2001. Accordingly, Central Motor Vehicle Rules were amended and HSRP Rules were introduced.

Government of Andhra Pradesh entrusted[135] the work of implementation of HSRP to Andhra Pradesh State Road Transport Corporation (APSRTC).

Government through order[136] of December 2013 selected a Firm[137] to sell and affix HSR plates in AP at the rates specified therein. The High Security Registration Plate includes unit made of Aluminium complying with size and specifications as per HSRP Rules.

The base price of the High Security Registration (HSR) Plate was exclusive of Excise Duty (ED) and user charges at 30 *per cent* to APSRTC and Transport Department. Excise Duty is payable at 12.36 *per cent* and VAT is payable on the gross value so arrived. As per Section 4(1) of AP VAT Act 2005, every dealer registered or liable to be registered as a VAT dealer, shall be liable to pay tax on every sale of Goods in the State at the rates specified in the schedules. Aluminium and its products are not listed in any of the Schedules from I to IV of VAT Act. HSR plates are therefore chargeable to tax at 14.5 *per cent*.

(i) Analysis of data[138] pertaining to Transport Department and APSRTC disclosed that the firm failed to declare the sale turnover of HSR Plates of ₹ 61.05 lakh for the period from June to August 2014. VAT payable on the turnover at the rate of 14.5 *per cent* worked out to ₹ 8.85 lakh.

(ii) Analysis of data of Transport Department and VAT ledgers of Commercial Taxes Department revealed that the firm under-declared the sale turnover of HSR Plates. The turnover under-declared was to the extent of ₹ 5.63 crore for the period from September 2014 to March 2017. This resulted in short payment of VAT of ₹ 81.58 lakh at the rate of 14.5 *per cent* on the under-declared turnover of ₹ 5.63 crore.

On this being pointed out, the Principal Secretary (Transport, Roads and Buildings) replied (December 2017) that the contractor was addressed for payment of VAT by APSRTC.

[135] G.O.Ms.No.148 Transport, Roads and Buildings (Tr.I) Department, dated 24 December 2011.
[136] G.O.Ms.No.110 Transport, Roads and Buildings (Tr.I) Department, dated 02 December 2013.
[137] M/s. Link Auto Tech Private Limited (TIN 37573757983).
[138] For the period from June 2014 to March 2017.