

CHAPTER – III: UNION TERRITORIES (REVENUE SECTOR)

Chandigarh

3.1 Assessment of Value Added Tax at lower rate

The Excise and Taxation Department failed to re-assess dealers of mobile charges at the higher rate in the light of Supreme Court judgement, resulted in short levy of ₹ 9.69 lakh.

The Hon'ble Supreme Court of India decided in December 2014¹ that mobile cell phone chargers are separate items from mobiles and therefore are to be charged Value Added Tax (VAT) at 12.5 *per cent* instead of the rate of 4 to 5 *per cent* applicable on mobiles. Union Territory Administration, Chandigarh was not a party in this case.

Test check of records of two wards under the Excise and Taxation Department (September 2015 and December 2015) of UT Chandigarh for varying periods between 2007 and 2013 revealed that the Department had failed to re-assess dealers of mobile chargers at higher rate in the light of the Supreme Court judgement. The limited audit scrutiny alone revealed a short levy of ₹ 9.69 lakh.

Following the audit observation, the Department has reassessed and raised additional demand of ₹ 16.02 lakh in respect of the two dealers identified in the audit test check. Details of similar re-assessment and demand in respect of the remaining dealers in the Union Territory of Chandigarh are awaited.

The matter was referred to the Ministry of Home Affairs, Government of India, New Delhi and Finance Secretary, Union Territory of Chandigarh in July 2016. Their replies are awaited (January 2017).

¹ Civil Appeal Nos. 11486-11487 of 2014: State of Punjab and others (Appellant) versus Nokia India Pvt. Ltd. (Respondent)

Dadra and Nagar Haveli

3.2 Non-levy of penalty on late file of VAT return

Failure of the VAT department of Dadra and Nagar Haveli to levy penalty on late filing of return, resulted in non-recovery of penalty, of which, ₹ 21.79 lakh was recovered at the instance of Audit.

In terms of sections 26 and 86 (8) of the Dadra and Nagar Haveli Value Added Tax Regulation 2005 (Regulation), any registered dealer who is liable to pay tax and fails to do so on the prescribed dates is liable to pay penalty of ₹ 100 for each day of default or ₹ 10,000 in all, whichever is less.

Test check of records for the period 2014-15 and 2015-2016 in the office of the Deputy Commissioner (VAT), Dadra and Nagar Haveli, Silvassa, revealed that 141 registered dealers had not filed returns on the prescribed dates viz., the 28th of the following month, but the department had not levied any penalty. Audit estimated that ₹ 52.18 lakh was liable to be collected from these 141 dealers alone.

Consequent to the audit observation, the department informed (April and August 2016) that notices had been issued for recovery of ₹ 52.18 lakh, following which ₹ 21.79 lakh has been recovered and the remaining penalty would be collected shortly.

In this connection it is to be mentioned that Audit had conducted test check of only two years' records relating to 250 dealers (approx.) out of 6,806 dealers. Though the department operates a computerized tax data base² it did not provide Audit with access to the database or provide hard/soft copies of records, though these were called for. The department is therefore required to verify the returns of all years covered by the Regulation and in respect of all registered dealers to estimate and collect penalty on account of delayed filing of returns, and not limit recovery to only those cases pointed out in audit.

The audit paragraph was issued to the Ministry of Home Affairs in July 2016; their reply was awaited (January 2017).

² The Commercial Tax Mission Mode Programme (CT-MMP) and modules relating to registration, e-return, e-payment etc.

Daman and Diu

3.3 Non-recovery of Land Revenue in urban areas

Failure of Administration Daman to fix land revenue for urban areas on lines adopted for rural areas has resulted in non-recovery of ₹ 3.44 crore over 15 years.

Chapter VII of the Goa, Daman and Diu (D&D) Land Revenue Code, 1968, provides for assessment and settlement of Land Revenue of lands used for non-agricultural purposes. Section 87 of the Code prescribes that the Collector shall, with the approval of the Government³, fix the standard rate of non-agricultural assessment (NAA) in an urban area. In accordance to these provisions, the Collector, Daman fixed (May 2001) for the first time, NAA in the urban area of Daman. However, faced with public protests, the Administrator stayed (November 2002) the notification and ordered the Collector to submit a revised notification in one month.

Though Audit pointed out in June 2006 that the revised notification was not issued, and the Administrator also ordered (August 2009) that a committee be constituted to re-fix the NAA and submit its report within two weeks, this has not been done till date (October 2016). Audit further observed that non-agricultural lands in rural areas of Daman are subject to NAA⁴. Audit has estimated that non-recovery of land revenue in the urban areas of Daman at the originally notified rates has resulted in loss of ₹ 3.44 crore for the period from 2002-03 till date (October 2016).

The audit paragraph was issued to the Ministry of Home Affairs in July 2016. Their reply is awaited (January 2017).

³ The Administrator of the Union Territories of Daman and Diu and Dadra and Nagar Haveli in this case

⁴ Two paise and one paise per sq.m. per year for Class I and Class II villages respectively. The rates were fixed in May 2001 and have not been revised thereafter.