

CHAPTER III

REVENUE SECTOR

3.1 Trend of revenue receipts

3.1.1 The tax and non-tax revenue raised by the Government of Manipur during the year 2016-17, the State's share of net proceeds of divisible Union taxes and duties assigned to States and Grants-in-aid received from Government of India during the year and the corresponding figures for the preceding four years are given in **Table No. 3.1.1**.

Table No. 3.1.1 Trends of revenue receipts

(₹ in crore)						
Sl. No.	Particulars	2012-13	2013-14	2014-15	2015-16	2016-17
1	Revenue raised by the State Government					
	• Tax revenue	332.83	472.73	516.83	550.44	586.67
	• Non-tax revenue	231.78	260.67	183.73	149.48	164.80
	Total	564.61	733.40	700.56	699.92	751.47
2	Receipts from the Government of India					
	• State's share of net proceeds of divisible Union taxes and duties ⁷³	1,317.83	1,438.79	1,526.89	3,142.42	3,757.13
	• Grants-in-aid	4,937.32	5,110.60	5,770.82	4,437.76	4,620.52
	Total	6,255.15	6,549.39	7,297.71	7,580.18	8,377.65
3	Total receipts of State Government (1 & 2)	6,819.76	7,282.79	7,998.27	8,280.10	9,129.12
Percentage of 1 to 3		8	10	9	8	8

Source: Finance Accounts

The above table indicates that during the year 2016-17, the revenue raised by the State Government (₹ 751.47 crore) was eight *per cent* of its total revenue receipts of ₹ 9,129.12 crore. The balance 92 *per cent* of receipts of ₹ 8,377.65 crore during 2016-17 was from the Government of India.

3.1.2 The details of Budget Estimates (BE) and actuals realisation of tax revenue raised during the period 2012-13 to 2016-17 are given in **Table No. 3.1.2**.

⁷³ Includes only the amount booked under the Minor Head 901 - share of net proceeds assigned to the State, booked under the Major Heads 0020 - Corporation tax, 0021-Taxes on income other than corporation tax, 0032 - Taxes on wealth, 0037 - Customs, 0038- Union excise duty, 0044 - Service tax.

Table No. 3.1.2 Details of Tax Revenue raised

(₹ in crore)

Sl. No.	Head of revenue	2012-13		2013-14		2014-15		2015-16		2016-17		Percentage of increase (+) or decrease (-) in 2016-17 over 2015-16
		BE [#]	Actual	BE	Actual	BE	Actual	BE	Actual	BE	Actual	
1	Taxes on sales, trade etc.	250.80	258.52	385.88	395.74	500.00	433.33	570.00	466.51	570.00	499.65	(+) 7.10
2	Motor Vehicles Tax	17.17	15.83	19.57	18.73	22.31	20.77	25.43	23.29	27.00	25.04	(+) 7.51
3	Stamps and Registration Fees	6.64	5.99	6.26	7.90	7.14	7.76	10.27	10.45	11.00	10.03	(-) 4.02
4	State Excise	8.59	9.93	12.74	9.20	14.52	9.32	11.96	8.78	12.00	9.32	(+) 6.15
5	Land Revenue	1.68	1.24	1.09	1.12	1.24	1.42	1.45	2.59	2.50	1.90	(-) 26.64
6	Taxes on duties on electricity	-	0.04	0.44	0.05	0.50	-	0.06	0.00 [@]	0.06	0.01 [*]	-
7	Others	47.95	41.28	65.89	39.99	75.12	44.25	51.98	38.82	44.64	40.72	(+) 4.89
	Total	325.51	332.83	491.87	472.73	620.83	516.85	671.15	550.44	667.20	586.67	(+) 6.58

Source: Annual Financial Statement and Finance Accounts

[#] BE : Budget Estimate

[@] ₹35,000 only

^{*} ₹57,000 only

In spite of being requested (May and August 2017), the departments did not furnish reasons for variation in receipts from that of the previous year (February 2018).

3.1.3 The details of Budget estimates and actual realisation of Non-tax revenue raised during the period 2012-13 to 2016-17 are indicated in **Table No. 3.1.3**.

Table No. 3.1.3 Details of Non-tax Revenue raised

(₹ in crore)

Sl. No.	Head of revenue	2012-13		2013-14		2014-15		2015-16		2016-17		Percentage of increase(+) / decrease (-) in 2016-17 over 2015-16
		BE [#]	Actual	BE	Actual	BE	Actual	BE	Actual	BE	Actual	
1	Miscellaneous General Services	93.01	75.29	167.38	110.83	184.12	132.48	129.27	106.09	129.27	118.61	(+) 11.80
2	Interest receipts	54.03	20.66	30.47	33.10	33.52	30.60	38.61	27.43	38.61	19.73	(-) 28.07
3	Forestry and Wild Life	2.54	2.94	4.18	3.71	4.18	4.62	4.33	3.65	4.33	6.46	(+) 76.99
4	Major and Medium Irrigation	12.69	3.75	10.42	2.42	11.46	2.04	12.38	0.64	2.00	1.58	(+) 146.88
5	Public Works	20.43	6.01	18.31	1.81	20.14	2.90	2.11	1.26	2.11	0.90	(-) 28.57
6	Other Administrative Services	1.30	1.39	3.49	1.18	3.84	1.01	1.38	0.99	1.38	6.43	(+) 549.49
7	Police	1.07	0.99	1.08	1.03	1.19	0.79	1.20	0.72	1.2	1.38	(+) 91.67

(₹ in crore)

Sl. No.	Head of revenue	2012-13		2013-14		2014-15		2015-16		2016-17		Percentage of increase(+)/ decrease (-) in 2016-17 over 2015-16
		BE#	Actual	BE	Actual	BE	Actual	BE	Actual	BE	Actual	
8	Medical and Public Health	0.15	0.15	0.12	0.29	0.13	0.34	0.33	0.25	0.33	0.50	(+) 100
9	Co-operation	0.22	0.33	0.31	0.22	0.34	0.49	0.26	0.37	0.26	0.14	(-) 62.16
10	Other non-tax receipts	200.40	120.27	194.01	106.08	25.14	8.46	29.55	8.06	11.73	9.07	(+)12.53
Total		385.84	231.78	429.77	260.67	284.06	183.73	219.42	149.48	191.21	164.80	(+) 10.25

Source: Annual Financial Statement and Finance Accounts

BE: Budget Estimate

Forest Department stated that the increase in revenue was due to revision of Schedule Rate of Royalty during 2016-17.

Public Works Department attributed the decrease in revenue to less realization of rent.

Tourism Department (included in Other non-tax receipts) attributed increase in revenue of ₹ 0.55 crore during 2016-17 was due to increase in monthly receipt from Hotel Imphal and Sendra Tourist Home as well as receipt of fortified amount of ₹ 50.00 lakh for Technical Bid for passenger Ropeway at Loktak Lake during 2016-17.

Fisheries Department (included in Other non-tax receipts) stated that the decrease of revenue of ₹ 0.13 crore during 2016-17 was due to cancellation of 10 numbers of leased fisheries covering a total area of 498.66 ha in February 2013.

The other departments despite being requested (May and August 2017) did not furnish the reasons for variation in receipts from that of the previous year (February 2018).

3.2 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2017 on one principal head of revenue was ₹ 6.64 lakh. The whole amount of ₹ 6.64 lakh was outstanding for more than five years, as detailed in **Table No. 3.2.1**. The arrears of revenue in respect of other heads of revenue (*viz.* Taxes on Land Revenue, State Excise, Stamp and Registration Fees, *etc.*) were not furnished.

Table No. 3.2.1 Arrears of revenue

(₹ in lakh)

Sl. No.	Head of revenue	Total amount outstanding as on 31 March 2017	Amount outstanding for more than 5 years as on 31 March 2017	Replies of Department
1	Other Taxes on Income and Expenditure	6.64	6.64	Not furnished.
Total		6.64	6.64	

Source: Departmental records

It can be seen from the table that recovery of ₹ 6.64 lakh was pending for more than five years and no efforts were being made to recover the amount.

3.3 Arrears in assessments

Information in respect of Sales Tax/VAT, Taxes on Works Contract assessment cases pending at the beginning of the year 2016-17, cases which became due for assessment during the year, cases disposed during the year and number of cases pending at the end of the year 2016-17 was not furnished by the Commissioner of Taxes though called for (May 2017) and subsequent reminder (August 2017).

3.4 Evasion of tax detected by Department

Details in respect of cases of evasion of tax during the year 2016-17 detected by the Taxation Department, cases finalized and the demands for additional tax raised was not furnished by the Department though information was called for (May 2017) and subsequent reminder (August 2017).

3.5 Pendency of Refund Cases

Information in respect of pendency of refund cases was not furnished by Taxation Department though called for (May 2017) and subsequent reminder (August 2017).

3.6 Response of the Departments/Government towards Audit

The Accountant General (Audit), Manipur {AG (Audit)} conducts periodical audit of the government departments to test check the transactions and verify the maintenance of important accounts and other records as prescribed in the Rules and procedures. These inspections are followed up with the Inspection Reports (IRs) incorporating irregularities detected during the inspection and not settled on the spot, which are issued to the heads of the offices inspected with copies to the next higher authorities for taking prompt corrective action. The heads of the offices/ Governments are required to promptly comply with the observations contained in the IRs, rectify the defects and omissions and report compliance through initial reply to the AG (Audit) within one month from the date of issue of IRs. Serious financial irregularities are reported to the heads of the Department and the Government.

Inspection Reports issued up to March 2017 disclosed that 858 paragraphs involving ₹ 181.00 crore relating to 273 IRs remained outstanding at the end of June 2017 as mentioned in **Table No. 3.6.1** along with the corresponding figures for the preceding two years.

Table No. 3.6.1 Details of pending Inspection Reports

	June 2015	June 2016	June 2017
Number of pending IRs	256	255	273
Number of outstanding audit observations	755	770	858
Amount involved (₹ in crore)	97.39	143.90	181.00

Source: Records of the Accountant General (Audit), Manipur

3.6.1 The Department-wise details of the IRs and audit observations outstanding as on 30 June 2017 and the amounts involved are given in **Table No. 3.6.2**.

Table No. 3.6.2 Department wise details of Inspection Reports

(₹ in crore)

Sl. No.	Name of Department	Nature of receipts	No. of outstanding IRs	No. of outstanding audit observations	Money value involved
1	Finance	Other Taxes & Duties on commodities and services (OTD)	Nil	Nil	Nil
		Taxes on sales, trade <i>etc.</i>	56	212	100.01
		Passenger & Goods Tax (PGT)	Nil	Nil	Nil
		Entertainment & luxury tax <i>etc.</i>	Nil	Nil	Nil
2	Excise	State Excise	11	36	5.78
3	Revenue	Land revenue	119	337	30.81
4	Transport	Taxes on Motor Vehicles	73	220	41.40
5	Stamp and Registration	Stamp & Registration Fees	14	53	3.00
Total			273	858	181.00

Source: Records of the Accountant General (Audit), Manipur

In respect of 13 IRs issued during 2016-17, Audit did not receive first replies from the head of the offices within one month from the date of issue of the IRs. This large pendency of 273 IRs due to non-receipt of the replies is indicative of the fact that the head of offices / departments did not initiate action to rectify the defects, omissions and irregularities pointed out by the AG (Audit) in the IRs.

The Government may consider having an effective system for providing prompt and appropriate response to audit observations.

3.6.2 Departmental Audit Committee Meetings

The Government set up Audit Committees to monitor and expedite the progress of the settlement of the IRs and paragraphs in the IRs. No Departmental Audit Committee meeting was held during 2016-17.

In view of the large pendency of IRs as shown in **Paragraph 3.6.1**, the Government may ensure holding of regular Audit Committees meetings to expedite clearance and settlement of outstanding audit observations.

3.6.3 Records not produced for audit scrutiny

The programme of local audit of Tax revenue/Non-tax revenue offices is drawn up sufficiently in advance and intimations are issued, usually one month before the commencement of audit, to the departments to enable them to keep the relevant records ready for audit scrutiny.

During the year 2016-17, as many as eighteen cases were noticed where records such as receipt books, order sheets, registers, challans *etc.* were not made available to audit. Tax amount involved on the records not produced could not be ascertained. Break up of these cases are given in **Table No. 3.6.3**.

Table No. 3.6.3 Details of non-production of records

Name of the office/Department	Year in which it was to be audited	Number of cases not audited	Tax amount
Transport	2016-17	4	Not Available
Revenue	2016-17	14	Not Available

Source: Records of the Accountant General (Audit), Manipur

3.6.4 Response of the Departments to the draft audit paragraphs

The draft audit paragraphs proposed for inclusion in the Report of the Comptroller and Auditor General of India are forwarded by the AG (Audit) to the Principal Secretary/Secretaries of the concerned Department, drawing their attention to audit findings and requesting them to send their response within six weeks. The fact of non-receipt of the replies from the Departments/Government is invariably indicated at the end of such paragraphs included in the Audit Report.

13 Draft paragraphs including one Performance Audit were sent to the Principal Secretaries of the respective departments by name between June 2017 to October 2017. The Principal Secretaries/Secretaries of the departments did not send replies to two draft paragraphs despite issue of reminders (September to December 2017) and the same have been included in this Report without the response of the departments.

3.6.5 Follow up on Audit Reports

The internal working system of the Public Accounts Committee (PAC), notified in December 2002 laid down that after the presentation of the Report of the Comptroller and Auditor General of India in the Legislative Assembly, the departments shall *suo moto* initiate action on the audit paragraphs and the action taken explanatory notes thereon should be submitted by the Government within three months of tabling the Report, for consideration of the Committee. In spite of these provisions, the explanatory notes on Audit Paragraphs of the Reports were being delayed inordinately. 57 paragraphs (including four Performance Audits) included in the Reports of the Comptroller and Auditor General of India on the Revenue Sector of the Government of Manipur for the years ended 31 March 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015 and 2016 were placed before the State Legislature Assembly between 19 March 2009 and 21 July 2017. Action taken explanatory notes in respect of 35 paragraphs/reviews from four Departments under the Revenue Sector (Revenue, Taxation, Transport and Home) had not been received for the Audit Reports for the years ended 31 March 2011, 2012, 2013, 2014, 2015 and 2016 till date (February 2018).

The PAC discussed 24 selected paragraphs/reviews pertaining to the Audit Reports on the Revenue Sector for the years 2011, 2012, 2013 and 2014 and its recommendations on 19 paragraphs were incorporated in their 38th, 40th, 45th and 47th Reports. However, Action taken Notes (ATNs) have not been received in respect of 19 recommendations of the PAC from the Departments concerned as mentioned in **Table No. 3.6.4**.

Table No. 3.6.4 Position of Outstanding ATNs

Year	Name of Department	No. of Recommendations
2011	Transport	3
2012	Transport	1
	Taxation	4
2013	Taxation	3
	Tourism	1
	Transport	1
2014	Revenue	1
	Taxation	4
	Transport	1
Total		19

Source: Records of the Accountant General (Audit), Manipur

3.7 Analysis of the mechanism for dealing with the issues raised by Audit

To analyse the system of addressing the issues highlighted in the Inspection Reports/ Audit Reports by the departments/ government, the action taken on the paragraphs and Performance Audits included in the Audit Reports of the last 10 years for one Department was evaluated and included in this Audit Report.

The succeeding *Paragraphs 3.7.1* and *3.7.2* discuss the performance of Land Revenue Department under revenue Major Head 0029. Cases detected in the course of local audit during the last ten years and also the cases included in the Audit Reports for the years 2006-07 to 2015-16 are discussed.

3.7.1 Position of Inspection Reports

The summarised position of the Inspection Reports (IRs) issued during the last 10 years, paragraphs included in these reports and their status as on 31 March 2017 are shown in **Table No. 3.7.1**.

Table No. 3.7.1 Position of Inspection Reports

Sl. No.	Year	Opening Balance			Addition during the year			Clearance during the year			Closing Balance during the year		
		IRs	Paras	Money Value (₹ in crore)	IRs	Paras	Money Value (₹ in crore)	IRs	Paras	Money Value (₹ in crore)	IRs	Paras	Money Value (₹ in crore)
1	2007-08	33	86	5.14	17	40	3.62	4	11	0.60	46	115	8.16
2	2008-09	46	115	8.16	7	24	1.81	0	9	0.12	53	130	9.85
3	2009-10	53	130	9.85	14	50	5.91	1	6	0.03	66	174	15.73
4	2010-11	66	174	15.73	10	24	2.90	1	8	0.01	75	190	18.62
5	2011-12	75	190	18.62	12	21	2.04	7	14	1.14	80	197	19.52
6	2012-13	80	197	19.52	8	23	3.04	1	4	0.05	87	216	22.51
7	2013-14	87	216	22.51	6	28	3.07	1	6	0.02	92	238	25.56
8	2014-15	92	238	25.56	16	99	11.04	0	7	0.14	108	330	36.46
9	2015-16	108	330	36.46	9	69	55.06	1	14	2.14	116	385	89.38
10	2016-17	116	385	89.38	20	111	50.93	0	2	0.01	136	494	140.30

Source: Records of the Accountant General (Audit), Manipur

The Government arranges *ad hoc* Committee meetings between the department and AG (Audit) to settle the old paragraphs. As would be evident from the above table, against 33 outstanding IRs with 86 paragraphs at the start of 2007-

08, the number of outstanding IRs increased to 136 with 494 paragraphs at the end of 2016-17. This indicated that adequate steps were not taken by the department in this regard to reduce the number of outstanding IRs and paragraphs resulting in accumulation of the outstanding IRs and paragraphs.

3.7.2 Recovery of accepted cases

The position of paragraphs of Land Revenue Department included in the Audit Reports of the last 10 years, those accepted by the Department and the amount recovered are mentioned in **Table No. 3.7.2**.

Table No. 3.7.2 Position of Paragraphs Accepted by the Departments

(₹ in crore)

Year of Audit Report	No. of paragraphs included	Money value of the paragraphs	No. of paragraphs accepted	Money value of accepted paragraphs	Amount recovered during the year	Cumulative position of recovery of accepted cases
2006-07	1	0.04	1	0.04	Nil	Nil
2007-08	Nil	Nil	Nil	Nil	Nil	Nil
2008-09	Nil	Nil	Nil	Nil	Nil	Nil
2009-10	1	0.06	1	0.06	Nil	Nil
2010-11	Nil	Nil	Nil	Nil	Nil	Nil
2011-12	1	0.03	1	0.03	Nil	Nil
2012-13	Nil	Nil	Nil	Nil	Nil	Nil
2013-14	1	0.32	Nil	Nil	Nil	Nil
2014-15	Nil	Nil	Nil	Nil	Nil	Nil
2015-16	Nil	Nil	Nil	Nil	Nil	Nil
Total	4	0.45	3	0.13	Nil	Nil

Source: Records of the Accountant General (Audit), Manipur

From the above table, it is observed that the progress of recovery even in accepted cases was very slow during the last ten years. The recovery of accepted cases was to be pursued as arrears recoverable from the concerned parties. No mechanism for pursuance of the accepted cases had been put in place by the Department/Government. Further, the arrear cases including accepted audit observations were not available with the office of the Sub-Registrar, Land Revenue Department. In the absence of a suitable mechanism, the Department could not monitor the recovery of accepted cases.

The Department may take immediate action to pursue and monitor prompt recovery of the dues involved in accepted cases.

3.7.3 Action taken on the recommendations accepted by the Departments/Government

The draft of Performance Audits conducted by the office of the AG (Audit), Manipur are forwarded to the concerned departments/government with a request to furnish their replies. These Performance Audits are also discussed in an exit conference and the department's/government's views are included while finalizing the Audit Reports.

The following Performance Audits on the Taxation and Transport Departments were featured in the Audit Reports of the last five years. The details of recommendations and their status are given in **Table No. 3.7.3**.

Table No. 3.7.3 Status of Recommendations of Performance Audits

Year of Audit Report	Name of the Performance Audit	No. of recommendations	Details of the recommendations	Status
2014-2015	Performance Audit on "Admissibility of Input Tax Credit"	4	<p>For effective implementation of Input Tax Credit,</p> <ul style="list-style-type: none"> • The Department should bring automation in assessment and encourage online filing of returns, grievance redressal <i>etc.</i>; • The deficiencies of the Input Tax Credit system pointed out with respect to record maintenance, filing and scrutiny of returns, enforcement, <i>etc.</i>, be addressed through appropriate Notifications; • The Department should place a system of cross verification of tax invoices in support of Input Tax Credit claims with details available with selling dealers and • System for selection of dealers and planning for Tax Audit and Audit Assessment should be evolved and implemented at an early date. 	Compliance to audit observations and recommendations have not been intimated to audit. (February 2018)
2014-2015	Implementation of Smart Card Project for Driving License and Registration Certificate	4	<p>The Government may consider the following to ensure effective implementation of the Smart Card project:</p> <ul style="list-style-type: none"> • Prepare a plan indicating target dates of completion of the project in all districts of the State for timely issue of Registration Certificates and Driving Licenses, and vigorously monitor implementation; • Instructions may be issued to ensure that no Registration Certificates or Driving Licenses are issued in manual form; • Prepare an action plan to convert all backlog Registration Certificates and Driving Licenses into smart card within a specific time frame and declare them invalid after a prescribed time limit and • Involve dealers and driving schools in the process of issuing of certificates and make it incumbent upon them to obtain only Smart Cards as is the practice in some States. 	Compliance to audit observations and recommendations have not been intimated to audit. (February 2018)

Source: Records of the Accountant General (Audit), Manipur

3.8 Audit Planning

The offices under various Departments are, for the purpose of audit categorized into high, medium and low risk units according to their revenue position, past trends of audit observations and other parameters. The annual audit plan is prepared on the basis of risk analysis which *inter alia* include critical issues in government revenues and tax administration *i.e.* budget speech, White Paper on State Finances, reports of the Finance Commission (State and Central), recommendations of the Taxation Reforms Committee, statistical analysis of the revenue earnings during the past five years, features of the tax administration, audit coverage and its impact during past five years *etc.*

During 2016-17, there were 60 auditable units, of which 20 units were planned for audit and 21 units were audited, which was 35 *per cent* of the total auditable units.

3.9 Results of Audit

Position of local audit conducted during the year

Test check of the records of Taxation Department, Transport Department and Revenue Department conducted during the year 2016-17 showed under assessment/short levy/loss of revenue aggregating to ₹ 48.57 crore in 38 cases. During the course of the year, no reply was furnished by the Departments regarding under assessment and other deficiencies which were pointed out in audit during 2016-17. The Departments had not recovered any money during 2016-17 pertaining to the audit findings of the previous year.

3.10 Coverage of this Report

This Report contains nine Compliance Audit paragraphs and a Performance Audit on 'System of Assessment under Value Added Tax' involving financial effect of ₹ 53.46 crore.

The Departments/ Government have accepted audit observations involving ₹ 39.36 crore and recovered ₹ 4.30 crore. In respect of other cases, the Government did not furnish any specific replies (February 2018). These are discussed in succeeding paragraphs.

PERFORMANCE AUDIT
TAXATION DEPARTMENT
3.11 Performance Audit on System of Assessment under Value Added Tax
Highlights

Performance Audit on the system of assessment under Manipur Value Added Tax (MVAT) Act, 2004 by State Taxation Department revealed the following irregularities:

- *Scrutiny of returns was not done in a systematic manner. This resulted in non-detection of outstanding tax of ₹91.34 lakh and suspected evasion of tax of ₹45.41 lakh by suppression of purchase turnover.*

(Paragraph 3.11.9.1)
- *Absence of system of Tax Audit and Audit Assessment resulted in suspected evasion of tax to the tune of ₹1.14 crore by nine dealers.*

(Paragraph 3.11.9.2)
- *30 dealers did not file returns even though they made purchase of ₹50.62 crore while another 44 dealers also did not file returns inspite of accumulating stock of goods worth ₹292.08 crore. However, provisional assessment of dealers was not made as provided in the MVAT Act 2004.*

(Paragraph 3.11.9.4)
- *System for deposit of Tax Deducted at Source (TDS) and filing of return by persons authorised to deduct tax at source was neither defined nor monitored. As a result, TDS of ₹13.76 crore claimed by 25 dealers in their returns was not verifiable. Moreover, three Drawing and Disbursing Officers did not remit TDS of ₹16.56 lakh into Government account.*

(Paragraph 3.11.9.8)
- *There was no system for periodic submission of assessment and reports for review by higher authorities. The functions of the Enforcement Wing in the Department was not properly monitored.*

(Paragraph 3.11.10)
- *There was overall shortage of staff of 48 per cent vis-à-vis sanctioned strength in the Department.*

(Paragraph 3.11.11)

3.11.1 Introduction

The Value Added Tax (VAT) is a multi-stage tax levied at each stage of the value addition chain, with a provision to allow Input Tax Credit (ITC) on tax paid at an earlier stage, which can be appropriated against the VAT liability on subsequent sales.

Assessment of tax has a direct bearing on determination of tax liability, tax collection and quality of tax administration. Assessments of returns are done by the Assessing Authorities (AAs) of Taxation Department under the provisions of applicable Acts and Rules and Orders issued thereunder. The Performance Audit was taken up to study efficiency and effectiveness of system of assessment by State Taxation Department under the VAT system.

The Taxation Department started using a software for VAT implementation viz. VATsoft in May 2011. VATsoft had nine software modules⁷⁴ out of which six modules relating to registration, filing of returns, generation of e-way bills, and generation of 'C' forms (e-CST), payments and refunds were operational. The remaining three modules related with tax deduction at source, filing of invoices and audit were non-operational up to the time of audit (August 2017).

3.11.2 Organisation setup

The Department of Taxation is headed by the Commissioner for Taxes and is under the administrative control of Finance Department. For administrative convenience, the whole State is divided into 13 Assessment Zones. Each zone was headed by an Assistant Commissioner of Tax or Superintendent of Taxes. The dealers were required to file their tax returns with the jurisdictional Zonal AAs, who were responsible for monitoring filing of returns and tax payments; make assessment of tax, issue demand notices and realisation of tax, penalties and arrears. Further, an Enforcement Wing headed by one Assistant Commissioner of Taxes was constituted in January 2016.

3.11.3 Scope of Audit

The Performance Audit covers assessments made during 2014-15 to 2016-17. In Manipur, there were 5,971 registered dealers during the period of audit (April 2017) spread across all the 13 Assessment Zones. Out of 5,971 number of registered dealers in the state audit scrutinized the assessment records of 1,089 dealers (18 *per cent*). These 1,089 dealers were selected through stratified random sampling, with due weightage on high value cases.

3.11.4 Audit Objectives

The Performance Audit was conducted to ascertain whether:

- (i) The Assessments were done according to provisions of the MVAT Act and the Rules and Orders issued thereunder; and

⁷⁴ The nine software modules of VATsoft are e-registration, e-return filing, e-CST, e-payment, e-refund, e-waybill, e-TDS, e-filing of invoices and e-audit.

- (ii) There exists an adequate system of control and monitoring in the Department.

3.11.5 Audit Criteria

The audit criteria for the Performance Audit were drawn from the following sources:

- MVAT Act, 2004 and Rules, 2005 and Notifications;
- Notification/Circulars issued by the State Governments under MVAT Act and Rules;
- Orders issued by the Department/Government regarding criteria for selection of cases;
- White Paper on State-Level Value Added Tax (January 2005) by the Empowered Committee of State Finance Ministers constituted by the Ministry of Finance; and,
- Judgements of Courts.

3.11.6 Audit Methodology

The scope, objective and criteria of the Performance Audit were explained to the Commissioner of Taxes and officers of the Department in an Entry Conference held in April 2017. Thereafter, the Audit Team issued audit requisitions and questionnaires to elicit data and information on assessments and related issues. Assessment records, documents in support of purchase, other records relating to assessment and VATsoft database were test checked in the office of the Commissioner of Taxes and the Zonal Offices where assessment was made. Information available in the Tax Information Exchange System (TINXSYS)⁷⁵ was used for verification of details of inter-state purchases made by dealers.

The draft Performance Audit report was sent to the Department in October 2017. The audit observations were discussed with the Commissioner of Taxes and officers of the Department in an Exit Conference held in October 2017. The Department's reply furnished in November 2017 have been incorporated in the report at appropriate places.

3.11.7 Acknowledgement

Indian Audit and Accounts Department (IA&AD) acknowledges the cooperation extended by the State Government in providing necessary information and records during the course of the Performance Audit.

⁷⁵ TINXSYS is a centralized exchange of all dealers spread across the various States and Union Territories of India. It can be used for verification of Central Statutory forms such as C-Forms, F-Forms, H-Forms *etc.* issued by State Commercial Tax Department.

Audit findings

The deficiencies in the system of assessment under MVAT Act and Rules are discussed in the following paragraphs.

3.11.8 Revenue Target and Achievement

The revenue target and achievement for the last four years are shown in **Table No. 3.11.1**.

Table No. 3.11.1 Revenue target and achievement

(₹ in crore)

Year	Target	Achievement	Shortfall (-) / Excess (+) <i>(per cent)</i>
2013-14	385.88	395.74	(+) 2.56
2014-15	500.00	433.33	(-) 13.33
2015-16	570.00	466.51	(-) 18.16
2016-17	570.00	499.65	(-) 12.34

Source: Finance Accounts and Budget documents of the State

From the above table, it is evident that the targets for three years 2014-15 to 2016-17 were not achieved. The shortfall against the target were in the range of 12.34 *per cent* to 18.16 *per cent*. There were inadequacies in efforts for collection of tax, such as not utilising provisions of audit assessment or tax audit and other types of assessment other than self-assessment. These are discussed in the succeeding paragraphs.

The Department did not offer any comments on shortfall in target (November 2017).

Provisions for furnishing of returns levy of interest, penalty and tax audit under Manipur Value Added Tax, 2004

Section 28(1) of the Manipur Value Added Tax (MVAT) Act, 2004 provides that every registered dealer shall furnish return in such form for such period by such dates and to such authority, as may be prescribed.

Section 29(1) of the MVAT Act provides that a dealer who fails without sufficient cause to pay the amount of tax due as per the return or fails to furnish return for any tax period shall be liable to pay interest in respect of the tax payable at the rate of two *per cent* per month from the date the tax payable had become due to the date of its payment or to the date of order of assessment whichever is earlier.

Section 29(3) of the MVAT Act provides that if a register dealer without sufficient cause, fails to pay the amount of tax due and interest along with the return or revised return in accordance with the provision of the **sub-section 29(1)**, the Commissioner may, after giving the dealer reasonable opportunity of being heard, direct him to pay in addition to the tax and the interest payable by him a penalty, at the rate of 2 *per cent* per month on the tax and interest so payable from the date it had become due to the date of its payment or to the date of order of assessment, whichever is earlier.

Section 32 of MVAT Act provides that each and every return in relation to any tax period furnished by a registered dealer shall be subject to scrutiny by the AA to verify the correctness of calculation, application of correct rate of tax and interest and input tax credit claimed therein, and full payment of tax and interest payable by the dealer during such period. If any mistake is detected as a result of such scrutiny, the AA shall serve a notice on the dealer to make payment of the extra amount of tax along with the interest under provision of **Section 29(3)**.

Section 33 of MVAT provides that the Commissioner or any other tax officer as directed by him shall undertake tax audit of the records, stock in trade and the related documents of the dealer, who are selected by the Commissioner in the manner as may be prescribed for the purpose, in the office, business premises or warehouse of the dealer. For this purpose, the Commissioner or any other Tax Officer directed by him shall examine the correctness of return or returns filed and admissibility of various claims including input tax credit.

Section 34(3) of the MVAT Act also provides that if a registered dealer has filed the return in respect of any tax period within the prescribed time and the return so filed is found to be in order, it shall be accepted as self-assessment subject to adjustment of any arithmetical error apparent on the face of the said return.

As per **Section 35(1)** of the MVAT Act where a registered dealer fails to furnish the return in respect of any tax period within the prescribed time, the Commissioner shall, notwithstanding anything contained in section 36, proceed to assess the dealer provisionally for the period for such default.

As per **Section 36(i)** and **36(5)** of MVAT Act, where (a) a registered dealer has failed to furnish any return; or (b) a registered dealer is selected by the Commissioner on the basis of any criteria or on random basis; or (c) the Commissioner is not satisfied with the correctness of any return filed, or bona fides of any claim of exemption, deduction, concession, input tax credit or genuineness of any declaration; or (d) the Commissioner has reasons to believe that detailed scrutiny of the case is necessary; the Commissioner may require a dealer to produce or cause to be produced the books of account and all evidence on which the dealer relies in support of his returns after giving opportunity of being heard. The Commissioner, after considering all the evidence produced in course of the proceedings or collected by him shall (a) confirm the order of assessment passed under **Section 34**; or (b) re-assess the amount of tax due from the dealer; or (c) assess the amount of tax due from the dealer, if no assessment has been made under **Section 35**.

Section 36(7) of the MVAT Act states that if a dealer, in order to evade or avoid payment of tax has failed, without any reasonable cause, to furnish returns in respect of any period by the prescribed date or has furnished incomplete or incorrect returns for any period, he shall be liable to pay by way of penalty as sum equal to twice the amount of additional tax assessed.

Section 37(1) of MVAT Act provides that if the Commissioner, upon information which has come into his possession, is satisfied that any dealer who has been liable to pay tax under this Act, in respect of any period, has failed to get himself registered, the Commissioner shall proceed in such manner

as may be prescribed to assess to the best of his judgement the amount of tax due from the dealer in respect of such period and all subsequent periods and in making such assessment he shall give the dealer reasonable opportunity of being heard.

Failure to put in place the systems envisaged in the provisions *ibid* are discussed in the following paragraphs

3.11.9 Lapses noticed in various types of assessments under MVAT Act

3.11.9.1 Lack of operating procedure/ instructions for scrutiny of returns and self-assessments

Para 2.11 of the White Paper on State-Level Value Added Tax (January 2005) envisaged that every return furnished by dealers would be scrutinised expeditiously within prescribed time limit from the date of filing the return. Such scrutiny would help raising of additional demands, if any.

Audit noticed that under VAT system of Manipur, there was neither checklist for scrutiny of returns nor general guidelines for scrutiny of tax returns. There was no sorting out or classification of dealers for further detailed scrutiny and informing higher authorities of any deviations or suspected evasion. There was no prescribed time limit for scrutiny of returns also. Audit did not find any instances of call of any documents from dealers for further detailed scrutiny during 2014-17 as a result of such routine scrutiny. The returns⁷⁶ do not have any column for stock positions of goods in trade and item-wise purchases, though there were different rates of taxes for different classes of goods in trade. There were no instances of the Zonal Authorities calling for sales details and stock position of dealers while making assessment.

Audit noticed the following irregularities which shows that scrutiny of returns was not done in a systematic manner:

- (i) Four dealers submitted returns for the quarters ended March 2014 to December 2016 to the AAs of Assessment Zones - I and IX without payment of full amount of taxes as per the returns thereby leaving an outstanding tax of ₹ 91.34 lakh. The AAs failed to detect this as they did not scrutinise the returns.

On this being pointed out (October 2017), the Department submitted documents (November 2017) for recovery of ₹ 62.77 lakh from three dealers leaving a balance of ₹ 28.58 lakh. Under Section 29(1), the dealers were liable to pay interest of ₹ 20.12 lakh and a further interest of ₹ 19.39 lakh under section 29 (3) on the balance tax as on 31 January 2018. Details are shown in **Appendix 3.1**. The balance tax of ₹ 28.58 lakh and interest of ₹ 39.52 lakh had not been recovered from the dealers (February 2018).

- (ii) Six dealers submitted returns to the AAs of Assessment Zones - III and IX for the quarter ended June 2015 to March 2017 with total tax effect of ₹ 10.72 crore. The tax due were paid after delay ranging from 16 to 275

⁷⁶ Form 10 under MVAT Rules.

days. Under Section 29(1), interest of ₹ 37.10 lakh was leviable on these dealers for the delay payment. Details are shown in **Appendix 3.2**. However, the AAs failed to detect the delay as no scrutiny was made of the dealers. As a result, neither notices were served on these dealers nor were interests recovered.

On this being pointed out (October 2017), the Department stated (November 2017) that interest of ₹ 25.55 lakh was recovered from three dealers leaving a balance of ₹ 11.56 lakh while notices were served to the other two dealers.

- (iii) Three dealers filed returns to the AAs of Assessment Zones - VII and VIII for the quarter ending March 2016 to March 2017 in which the turnover of purchases from outside the State was shown as ₹ 1.72 crore. However, as per 'C' forms and e-way bills, the actual purchase turnover of these dealers during the period was ₹ 8.16 crore taxable at 5 *per cent* and 13.5 *per cent*. Thus, the dealers concealed inter-state purchases of goods worth ₹ 6.44 crore and evaded tax of ₹ 45.41 lakh. A penalty of ₹ 90.82 lakh was also leviable under Section 36(7) for such concealment. The evasion of tax remained undetected by the AAs as returns were not cross checked with the 'C' forms and e-way bills.

On this being pointed out (October 2017), the Department stated (November 2017) that ₹ 1.31 lakh was recovered from one dealer while notices have been served on the other two dealers leaving a balance of ₹ 44.10 lakh as tax and ₹ 90.82 lakh as penalty. Details are shown in **Appendix 3.3**.

The status of recovery of the balance amount had not been intimated (February 2018).

3.11.9.2 Lapses in system of Tax Audit and Audit Assessment

VAT system placed much reliance on self-assessment by dealers. Para 2.13 of the White Paper on State-Level Value Added Tax (January 2005) envisaged that correctness of self-assessment will be checked through a system of Departmental Audit on a certain percentage of the dealers to be taken up every year on a scientific basis.

MVAT Act provides tax audit (Section 33) and audit assessment (Section 36) for checking self-assessments of selected dealers.

a) *Non-existence of system of tax audit*

There was no established system where the Commissioner may select certain number of registered dealers on random basis or on the basis of risk analysis or on the basis of any other objective criteria at such intervals as may be prescribed for tax audit. There were no prescribed parameters for selection of dealers for tax audit during the period of audit. Thus, there was no system of tax audit in the Department, the following irregularities remained undetected in the sampled cases selected for audit scrutiny at the cost of revenue interest of the State:

- (i) The AAs of Assessment Zones - I, III, V, IX, X and XII assessed nine dealers with a sales turnover of ₹ 16.70 crore at 5 per cent for the quarter ending December 2011 to March 2017. Audit analysis of purchase as reflected in the 'C' form revealed that these dealers had, during the period covered in their returns, purchased from outside the State items taxable at 13.5 per cent amounting to ₹ 47.07 crore and items taxable at 5 per cent amounting to ₹ 3.27 crore. This shows that the sales turnover declared as taxable at 5 per cent in the returns exceeds the purchase of items taxable at 5 per cent by ₹ 13.43 crore. The dealers did not disclose stock positions at the end of each period and suppressed tax by application of lower rate of 5 per cent on a sale of ₹ 13.43 crore leviable at 13.5 per cent. The total suppressed tax work out to ₹ 1.14 crore. In addition, penalty of ₹ 2.28 crore was leviable under Section 36(7) for filing of incorrect returns. Details are shown in **Appendix 3.4**.

On this being pointed out (October 2017), the Department stated (November 2017) that ₹ 20.18 lakh was recovered from three dealers and notices have been issued to two other dealers.

In the case of two dealers⁷⁷, the Department stated that the product was chargeable with VAT at the rate of five per cent. The Department's reply is not acceptable as the product⁷⁸ is included under the schedule for products attracting VAT at the rate of 13.5 per cent.

In the case of one dealer⁷⁹, the Department submitted statement amounting to ₹ 50.03 lakh showing goods purchased by the dealer at the rate of five per cent. However, in the absence of supporting C-Form invoices, the Department's reply is not acceptable.

The Department was silent on the remaining one dealer⁸⁰. Thus, a balance of ₹ 93.95 lakh was not recovered from the dealers (February 2018).

- (ii) One dealer⁸¹ made a purchase of ₹ 8.40 lakh attracting 13.5 per cent tax during the period September 2016 to March 2017. However, the dealer was assessed at 5 per cent tax only during the period. Thus, the dealer evaded tax amounting to ₹ 0.71 lakh⁸².

The Department did not furnish any comments (February 2018).

⁷⁷ M/S Jainco Hardware Store (TIN-14410017175) under Zone - I and M/S Amit Hardware (TIN-14110012141) under Zone - III

⁷⁸ Putty

⁷⁹ M/S Gunit Ply Centre (TIN-14110085192) under Zone - III

⁸⁰ M/S Khumi Dunlop Shop (TIN-14910021156) under Zone - X

⁸¹ M/S ASM Enterprises (TIN-14923303183) under Zone - V

⁸² (13.5-5) per cent of ₹ 8.40 lakh

b) Non-existence of system of audit assessment

The Department stated (August 2017) that there was an audit wing entrusted with the task of audit assessment. Audit noticed that no cases were selected for audit assessment during audit coverage period. There were no prescribed criteria for selection of any dealers for such audit. As there were no written instructions to the AAs, none of Zones had conducted such audit. Thus, system of audit assessment was non-existent because of which the following irregularity were not detected in the sampled cases selected by audit at the cost of revenue interest of the State.

Scrutiny of assessment records of dealers revealed that 63 dealers showed sales turnover of ₹ 1,234.47 crore against the total purchases of ₹ 1,956.58 crore during 2014-15 to 2016-17. Thus, there was difference of ₹ 722.11 crore between total purchases and sales figure. Details are shown in **Appendix 3.5**. Such cases warrant thorough and detailed audit scrutiny of purchases and sales, details of statutory forms such as waybills, 'C' forms, details of closing stock and physical verification by the tax authorities. However, detailed scrutiny of these dealers was not done due to absence of proper system of audit assessment.

On this being pointed out (October 2017), the Department stated (November 2017) that purchases/ stock and sales are continuous process. The reply was not acceptable as audit observation was about huge differences in sales and purchases which needs detailed checking by invoking Section 36 of MVAT Act.

The VAT system is based on self-assessment and credit availment of tax inputs by registered persons. Therefore, without a system of random detailed checks through audit, the system is fraught with the risk of evasion by suppression of sales and irregular claims of input tax credits. Proper scrutiny should be done of stock of the registered dealers in the light of huge differences between sales values and purchase values as stated above.

3.11.9.3 Lapses in assessment of Escaped Turnover

Para 2.13 of the White Paper on State-Level Value Added Tax (January 2005) envisaged that computerised system should be worked out on the basis of coordination between the tax authorities of the State Governments and the authorities of Central Excise and Income Tax to cross check and compare constantly the tax returns and set-off documents of VAT system of the States and those of Central Excise and Income Tax. This comprehensive cross-checking system will help reduce tax evasion and also lead to significant growth of tax revenue.

As per Section 39 of the MVAT Act regarding turnover escaping assessment, if after assessment of the dealer, the AA, on the basis of any information in his possession, is of the opinion that the whole or any part of the turnover of the dealer in respect of any tax period has escaped assessment or been under assessed or been assessed at a rate lower than that leviable, he may, after giving the dealer a reasonable opportunity of being heard, proceed to assess the escaped turnover. Further, if the AA is satisfied that the escapement is without

any reasonable cause, as per Section 36(7), he may direct the dealer to pay, by way of penalty, a sum equal to twice the amount of tax additionally assessed.

Audit noticed that there was no system for cross-checking to compare on a regular basis the tax returns and set-off documents of VAT system of the State and those of Central Excise and Income Tax. There was also no system for calling of information from other departments and financial institutions. There was no data analysis wing or section for collection of information from VATsoft, Tax Information Exchange System (TINXSYS), other departments and other sources for providing reports or any input or information that can be utilized by the AAs during assessment.

The Department had not implemented the module for e-filing of invoices which would have enabled sellers and purchasers to upload details of invoices generated by them. This would help in tracking transactions in the VAT chain and detect turnover escapement of any dealer. Due to non-implementation of the module, the details of sales of the dealers could not be made available to AAs. Moreover, there was no system of submission of sales details along with the returns or periodical call of such information from the dealers.

Thus, the tax authority did not have any mechanism to detect turnover of dealers that has escape assessment. On cross checking with information collected from other departments and sources, audit noticed that there were cases which revealed turnover escaping assessment as explained in the following paragraphs:

a) Evasion of tax by suppression of purchase turnover

The AAs of Assessment Zones – VII and VIII finalized self-assessments of four dealers under Section 34(3) of the MVAT Act for the quarter ending September 2014 to March, 2017 taking into account the purchases of ₹ 74.07 crore from outside the State as declared by the dealers in their returns. However, scrutiny of ‘C’ forms and e-way bills revealed that the actual purchase turnover was ₹ 80.30 crore. The dealers had not declared closing stock in their returns. This led to suppression of ₹ 6.23 crore purchase turnover with a tax effect of ₹ 44.66 lakh⁸³ which was not detected by the AAs at the time of finalizing the assessment. Penalty of ₹ 89.31 lakh is also leviable on the dealers under Section 36(7) for the suppressed purchase turnover.

On this being pointed out (October 2017), the Department stated (November 2017) that ₹ 22.62 lakh was recovered from two dealers leaving a balance of ₹ 1.11 crore and notices to two other dealers were served. Details are shown in ***Appendix 3.6.***

The status of recovery of tax along with the penalty had not been intimated (February 2018).

3.11.9.4 Lapses in assessment of dealers who failed to file returns

As per Section 35 of the MVAT Act, where a registered dealer fails to furnish the return in respect of any tax period within the prescribed time, the Commissioner shall proceed to assess the dealer provisionally for the period for

⁸³ Tax of ₹ 23.19 lakh @5% on ₹ 4.64 crore and ₹ 21.47 lakh @13.5% on ₹ 1.59 crore

such default. Such provisional assessment shall be made on the basis of past return, or past records where no such returns are available, or on the basis of information received by the Commissioner and the Commissioner shall direct the dealer to pay the amount of tax assessed in such manner and by such date as may be prescribed.

Rule 27(3) of MVAT Rules 2005 provides that the appropriate AA shall serve a notice of demand upon the dealer in Form 8 fixing a date not less than 30 days from the date of service of such notice, to make the payment of the amount of tax assessed on provisional assessment and penalty imposed, if any, under Section 36(7).

Audit noticed that none of the AAs maintained a register to watch filing of returns by dealers. Varying instances of failure to monitor the filing of returns and also failure to initiate action against defaulter dealers are discussed in the following paragraphs.

- Scrutiny of assessment records revealed that 30 dealers under Assessment Zones – I to X had not filed returns for one to six quarters upto quarter ending March 2017. Analysis of data generated⁸⁴ from the VATsoft revealed that these dealers made purchases of ₹ 50.62 crore during the period, with a minimum tax effect of ₹ 2.53 crore (calculated at minimum tax rate of 5 per cent). Details are shown in **Appendix 3.7**. Provisional assessment of these dealers under Section 35 was not done.

On this being pointed out (October 2017), the Department stated (November 2017) that 27 dealers have filed return while notices were served to the remaining three dealers. However, the Department was silent about the quantum of tax recovered from the 27 dealers and the penalty imposed/contemplated under Section 36(7) for defaulting on filing of returns.

- 44 dealers under Assessment Zones – I to II and V to XI had stopped filing returns for period ranging from one to 15 quarters upto quarter ending March 2017. These dealers had huge stock balances of ₹ 180.69 crore as per the last returns submitted to the AAs. Of these, 30 dealers made purchase of ₹ 111.39 crore after the last filing of returns. Thus, these dealers had accumulated stock of goods worth ₹ 292.08 crore⁸⁵ with a minimum tax effect of ₹ 14.60 crore calculated at a minimum tax rate of 5 per cent. Details are shown in **Appendix 3.8**. The AAs had not assessed the dealers provisionally under Section 35 and no notices were served to dealers as per the Act (August 2017).

On this being pointed out (October 2017), the Department stated (November 2017) that 23 dealers have filed return, notices were served to 12 dealers, Provisional assessments for four dealers were under process, recovery certificate for two dealers have been issued and cancellation of registration of one dealer was under process. Action taken up against three dealers were not intimated to Audit (February 2018).

⁸⁴ 'C' forms and e-way bills (Road Permit)

⁸⁵ Previous stock of ₹ 180.69 crore + purchase made after last return of ₹ 111.39 crore

3.11.9.5 Lapses in assessment of unregistered dealers

Section 37(1) of MVAT Act provides that if the Commissioner, upon information which has come into his possession, is satisfied that any dealer who has been liable to pay tax under this Act, in respect of any period, has failed to get himself registered, the Commissioner shall proceed in such manner as may be prescribed to assess to the best of his judgement the amount of tax due from the dealer in respect of such period and all subsequent periods and in making such assessment he shall give the dealer reasonable opportunity of being heard.

Further as per Section 37(2) of MVAT Act, the Commissioner may, if he is satisfied that the default was without reasonable cause, direct that the dealer shall pay, by way of penalty, in addition to the amount of tax so assessed, a sum equal to the amount of tax assessed or a sum of ₹ 10,000, whichever is more. Section 65 stipulates periodic survey to identify unregistered dealers from time to time.

Rule 30(3) of MVAT Rules provides that the appropriate AA shall serve a notice of demand upon the dealer in Form 8 fixing a date not less than thirty days from the date of service of such notice to make the payment of the amount of tax assessed and penalty imposed, if any, under Section 37(2) of the MVAT Act.

Audit noticed that during the period under audit, none of the AAs conducted survey to identify unregistered dealers. There was no system in place for collection of information and periodic sale data of dealers from other departments or sources.

Scrutiny of records of other departments revealed that 16 dealers had sold items worth ₹ 2.66 crore to different departments during 2012-13 to 2016-17 with tax effect of ₹ 22.27 lakh. These dealers were not registered under MVAT Act. However, in the absence of a systematic plan of survey and assessment thereof, these dealers remained unregistered and un-assessed though they were liable to pay tax⁸⁶. Thus, these dealers evaded tax of ₹ 22.27 lakh on which a penalty of ₹ 22.27 lakh was also leviable. Details are shown in **Appendix 3.9**.

On this being pointed out (October 2017), the Department stated (November 2017) that it had set up three survey teams to identify unregistered dealers and necessary follow up action was taken up. Status of action taken up had not been intimated (February 2018).

3.11.9.6 Lapses in follow-up of Assessments

As per the provisions of Section 42(5) of the MVAT Act, where a registered dealer fails to make payment of the tax assessed, interest levied or penalty imposed or any other amount due from him under the Act within 30 days of the date of service of the notice of demand, the AA shall, after giving the dealer a reasonable opportunity of being heard, direct that such dealer shall pay, in addition to the amount due for payment, by way of penalty, a sum equal to two

⁸⁶ Under Section 8 of MVAT Act, a dealer is liable to pay tax if the turnover during period of twelve consecutive month crosses ₹6 lakh

per cent of such amount of tax, interest, penalty or any other amount due, for every month for which payment has been delayed by him after the date on which such amount was due to be paid.

During scrutiny of assessment files of sampled dealers for the years 2014-15 to 2016-17, Audit noticed that till the date of audit (August 2017), 76 dealers had not paid ₹ 2.89 crore tax assessed after demand notices were served under the above provisions of the Act. However, no follow up action was taken up to recover the outstanding amount.

On this being pointed out (October 2017), the Department stated (November 2017) that it had recovered ₹ 1.28 crore leaving a balance of ₹ 1.61 crore. Details are shown in **Appendix 3.10**. The status of recovery of the balance amount had not been intimated (February 2018)

3.11.9.7 Erroneous assessments

a) The AAs made assessment of two dealers⁸⁷ by allowing deduction of price drops and breakages of ₹ 28.59 crore from the gross turnover of sales. Details are shown in **Appendix 3.11**. The MVAT Act and Rules does not have provisions for deduction of price drop and breakages from the sales. Thus, the above stated deduction from the gross turnover of sales with a minimum tax effect of ₹ 1.43 crore⁸⁸ was not permissible and amounts to giving undue benefit to the dealers.

On this being pointed out (October 2017), the Department stated (November 2017) that two dealers were under tax audit. Result thereof has not been intimated (February 2018).

b) As per Finance Department Notification⁸⁹ (June 2016), Industrial Units certified by the Green Channel Committee constituted under Industrial and Investment Policy of Manipur, 2013 will be entitled to exemption of 99 *per cent* of tax payable under the Manipur Value Added Tax, 2004 *w.e.f.* 1 April 2013. The AA finalised the assessment on sales turnover of ₹ 2.63 crore in respect of one dealer⁹⁰ for the quarters ending June-2015 to June-2017. The total tax effect on the sales turnover was ₹ 13.16 lakh at the rate of 5 *per cent*. However, the AA assessed tax of ₹ 0.13 lakh after allowing the dealer to claim 99 *per cent* tax exemption on the total tax payable despite the dealer not being cleared for exemption by Green Channel Committee. This led to under-assessment of payable tax of ₹ 13.03 lakh. Details are shown in **Appendix 3.12**.

On this being pointed out (October 2017), the Department stated (November 2017) that re-assessment notice had been served to the dealer. Result thereof had not been intimated (February 2018).

⁸⁷ M/S Mozaic Media & Communication Pvt. Ltd. (TIN-14410267153) and M/S R. K. Telecommunication (TIN-14510347107)

⁸⁸ 5 *per cent* of ₹ 28.59 crore

⁸⁹ Finance Department Notification No. 5/6/2002-FD(TAX)Pt. I dated 8 June 2016

⁹⁰ M/S SHIL Industries (TIN-14922240126) under Zone-XII

3.11.9.8 Absence of system of filing of returns of Tax Deducted at Source

As per Rule 31C of MVAT Rules, every person responsible for deduction of tax while making payment should apply for Tax Deduction Account Number (TAN). Such persons are required to deposit tax deducted and file return within prescribed time. Rule also provides that every person/official who is required to deduct tax under this Rule shall, within 10 days from the expiry of the month, deposit tax deducted in Government Account by an appropriate challan or e-challan. The person shall forward two copies of the challan or e-challan to the dealer, who shall submit one copy to the appropriate Tax Authority along with return filed by the dealer under Section 28 of the MVAT Act.

The Department had not implemented e-TDS, an important VATsoft module. This would provide Tax Deduction Account Number (TAN) to tax deducting departments and allow generation of Tax Deducted at Source (TDS) certificates and e-payment of deducted tax⁹¹. During audit, it was observed that there was no mechanism in the Department to issue TAN either manually or through online methods. There was no record of any direction from the Department to the Drawing and Disbursing Officers (DDOs) to submit TDS returns. Thus, there was no system to watch tax deduction at source. This led to the following irregularities:

a) No proof for deposit of Tax Deducted at Source - ₹13.76 crore

- i) Nineteen dealers submitted returns pertaining to period 2013-14 to 2016-17 with TDS certificates of ₹ 8.34 crore, issued by various Departments and Authorities. Details are shown in ***Appendix 3.13***. However, as there was no copy of challan for deposit made available to audit, the actual deposit could not be verified in audit.
- ii) Six dealers filed returns for periods pertaining to 2013-14 to 2015-16 with TDS certificates of ₹ 5.42 crore issued by one Central office⁹² wherein it was mentioned that the TDS was adjusted through Accountant General (A&E) Manipur. However, no TAN was furnished. In the absence of TAN, the genuineness of the TDS could not be ascertained. Details are shown in ***Appendix 3.14***.

As such, there was no system to watch tax deduction at source, and the Taxation Department was not in a position to ensure that the corresponding tax amount shown as deducted at source were actually deposited in the Government accounts.

b) Tax Deducted at Source not remitted

Information collected from other departments and offices revealed cases where the tax deducted at source was not remitted. In respect of three offices, tax of ₹ 16.56 lakh was deducted during the period from 2012-13 to 2016-17. However, the amount was not remitted into Government account. Details are

⁹¹ TDS is to be paid when the transaction amount/supply is more than 2.5 lakh @ 2 per cent.

⁹² HQ, Director General Assam Rifle (DGAR), Shillong

shown in **Appendix 3.15**. This remained undetected by the Department as there was no system of filing of TDS returns by tax deductors.

On this being pointed out (October 2017), the Department stated (November 2017) that the audit findings will be taken care of in the GST regime which has provisions for registration of tax deduction [Section 24] and their filing of returns [Section 39(3)]. However, status of recovery from DDOs had not been intimated to Audit (February 2018).

3.11.10 System of Control and Monitoring in the Department

Internal controls are intended to provide reasonable assurance of proper implementation of laws, rules and departmental instructions and safeguarding resources against loss, fraud and irregularities. Control, communication and monitoring are key components of internal control system. Existence of continuous and effective monitoring system is essential to secure the effectiveness of internal control system.

A tax manual maps the processes and provides a reference point to navigate the tax regime as well as for organising trainings. It also lays down a framework of internal controls for effective monitoring. For instance, Department of Commercial Taxes in the states of Meghalaya and Mizoram have VAT Audit Manual which outlines policy, general rules and procedures of VAT Audit for guidance of tax officials.

Section 3(2) of MVAT Act provides that the Commissioner may make and issue general rules for regulating the practice and proceedings of tax officials. However, the Department had not prepared any tax manual for standardising assessment and other processes connected with tax administration.

Other deficiencies in internal control are discussed in the following paragraphs.

3.11.10.1 Non-maintenance of records

As per Rule 56 of MVAT Rules, the Commissioner may issue general instructions and prescribe forms for matters connected with the administration of the Act consistent with the provision of the Act.

There were no forms prescribed by Commissioner or any competent Authority under the provisions *ibid* for matters connected with the tax administration. As pointed out in the preceding paragraphs, none of the AAs maintained registers to watch filing of returns by registered dealers. Management Information System (MIS) reports to watch submission of returns online also was not generated periodically. Thus, filing of returns was not properly monitored. Consequently, 15 registered dealers who did not file returns even though they made sales of ₹ 2.76 crore during 2012-17 to various departments with tax effect of ₹ 18.77 lakh as shown in **Appendix 3.16**. The dealers remained out of tax net. Further, 393 dealers out of the sampled dealers also did not file returns since registration.

On this being pointed out (October 2017), the Department stated (November 2017) that notices were served to 15 dealers. Further action taken had not been intimated to Audit (February 2018).

VATsoft had no modules for service of demand notices and uploading of assessment orders. As a result all the assessment orders as well as the demand notices were made/ served manually to the dealers. Register of Demands of tax/interest/penalty as a result of scrutiny or assessment was not maintained by the AAs. None of the Zones maintained any register to give a consolidated and holistic picture of status of returns, assessments, demands raised, payments of taxes or dues. None of the AAs maintained a ledger of dealers for watching dealer-wise status filing of returns, tax assessed, amount dues, payment of taxes etc. Without such registers, it would be difficult for the AAs to have a holistic picture and watchful eye on the dealers under his control. Moreover, control and monitoring by the higher authority could not be effected properly in the absence of such registers.

On this being pointed out (October 2017), the Department stated (November 2017) that necessary instructions have been issued to Superintendent of Taxes to maintain records for effective monitoring. Further action taken in this regard had not been intimated (February 2018).

3.11.10.2 Inadequacy of instructions and guidance to Assessing Authorities

Section 38 of MVAT Act provides that no assessment under Section 35 or 36 shall be made after the expiry of five years from the end of the tax period to which the assessment relates. However, there was no administrative order regarding time limit within which any assessment of dealers was to be completed. Moreover, there were no instructions to the AAs to conduct periodic verification or to check correctness of accounts and records maintained by the dealers as per the MVAT Rules. Without such limitation and detailed guidelines in this regard, there were delayed assessments and accumulation of tax arrears, which were at risk of being time barred as per provisions *ibid*.

The AAs had not taken action in time for periodic assessment of dealers. Assessment of dealers for the period ranging from March 2011 to March 2016 were done after elapse of two to 53 months from the corresponding tax period. This resulted in accumulation of tax arrears of ₹ 11.47 crore and penalty of ₹ 7.73 crore as furnished by the department in respect of five dealers. Details are shown in **Appendix 3.17**. For realisation of the arrears of tax, the Department issued recovery certificates⁹³ valued at ₹ 19.20 crore under provision of the Section 42(5).

On this being pointed out (October 2017), the Department stated that an amount of ₹ 55.50 lakh (November 2017) was realised thereby leaving a balance of ₹ 18.64 crore. The Department did not specify reason for delay in assessment of these dealers. The status of recovery of the balance amount had not been furnished (February 2018).

⁹³ Section 42(6) of MVAT *inter alia* provides that all amounts that remain unpaid after the due date of payment in pursuance of the notice issued under Section 42(5) of the Act shall be recoverable as arrears of land revenue.

3.11.10.3 Inadequate Monitoring

There was no system of reporting to higher authorities of assessments done by Zonal AAs. Except for system of the monthly collection statement which is submitted regularly, there was also no system of submission of any other periodic reports to the higher authority by the AAs. The Department stated (August 2017) that there was a system of preparation and submission of defaulters' list to higher authority by the AAs. However, none of the 13 Zones prepared and submitted such a list to higher authority. The AAs did not prepare any periodical report on assessment made and forwarded the same to the higher authority.

On this being pointed out (October 2017), the Department stated (November 2017) that recommendation of audit would be taken care of in the new GST regime.

Audit scrutiny of the sampled dealers revealed that 128 dealers purchased taxable goods worth ₹ 307.82 crore from outside the State and 66 works contract dealers made a purchase of ₹ 1,133.29 crore during the period from 2014-15 to 2016-17. However, the assessment files of the above dealers were not produced during audit. Hence, the status of returns payment of tax and assessment of dealers under question could not be vouched.

On this being pointed out (October 2017), the Department stated (November 2017) that the assessment files would be made available in the next audit.

The Department stated (August 2017) that there was a system where Commissioner or any official authorised by him reviewed the assessments made by Assessing officer. However, such list of cases reviewed by any higher authority could not be furnished. Thus, the various aspects of the review of cases by higher authority and suggested remedial actions and instructions as a result of the review could not be ascertained in audit.

The Department formed (March 2014) a Flying Squad. However, details of searches or raids conducted and fines or penalty imposed by the Flying Squad could not be furnished. The Enforcement wing was established only in February 2016. The Enforcement Wing collected ₹ 48.22 lakh as penalties during the period February 2016 to October 2016 from 202 cases. No records of the activity of the Enforcement Wing after October 2016 were made available to audit.

There were no prescribed procedures or forms for reporting. Proper records and documentation of searches and raids conducted, the penalties and types of offences were not available for audit scrutiny. Field visit report and tour diary was not submitted. Without such record, the number of cases which need further detailed scrutiny such as audit assessment or tax audit or any type of assessment could not be ascertained. Thus, the functioning of the Enforcement Wing was not monitored properly.

The Department did not comment on the above stated issues (February 2018).

3.11.11 Man Power Position

There was shortage of staff in the Department. The Department had not done time and motion study⁹⁴ to assess the requirement of staffs in the light of the GST implementation. The vacancies *vis-a-vis* sanctioned strength for implementation of VAT system and men-in-position of various posts in the Department of Taxes as of August 2017 were as shown in **Table No. 3.11.2**.

Table No. 3.11.2 Men-in-position and vacancies *vis-a-vis* sanctioned strength under VAT system in the Department of Taxes

Sl. No.	Name of post	Sanctioned strength	Men- in- position	Vacancies	Percentage of vacancies
1	System analyst	1	Nil	1	100
2	Inspector of Taxes	36	10	26	72
3	Lower Division Clerk	42	25	17	40
4	Data Operator- cum- Office Assistants	3	Nil	3	100
5	Drivers	3	2	1	33
6	Peon	42	29	13	31
	Total	127	66	61	48

Source: Departmental Records

From the above table it is evident that the staff shortage was in the range of 31 per cent to 100 per cent under various categories. Overall shortage of staff was 48 per cent.

The Department stated (November 2017) that proposal have been submitted to the Government for recruitment of staff.

3.11.12 Conclusion

The State suffered revenue loss due to various lapses of the Taxation Department. There was no system in place in the state for scrutiny of returns of the dealers. The Department did not make efforts to collect taxes by use of various types of assessment other than self-assessment. System for audit assessment was not made functional in the spirit of the Value Added Tax system. Provisional assessments, assessment of unregistered dealers, assessment of non-filers were also not done in a systemic and periodic manner. Further, there was no system in place for detection of delinquent dealers who are either irregular in filing of returns or negligent. The Department failed to monitor the deposit of tax deducted at source to Government Account and filing of returns by Drawing and Disbursing Officers (DDOs). There were inadequacies in monitoring as evident from lack of proper administrative circulars, instructions and orders regarding assessment, absence of reporting system and review of assessment by higher authorities. The Department did not prepare tax manual for standardising assessment and other processes connected with tax administration. The enforcement system in the Department did not function in a well organised manner. There was shortage of staff in the Department as well.

⁹⁴ Time and motion study: systematic observation, analysis and measurement of the separate steps in the performance of specific job for establishing a standard time.

3.11.13 Recommendations and lessons for transition to GST

The Department may consider the following:

- Establish a system of scrutiny with proper guidelines, checklist with in-built method of screening for further scrutiny;
- In view of lapses noticed in the Value Added Tax regime, reorganise the tax collection structure to use all types of assessments and audits as provided in the Manipur Goods and Service Tax Act for safeguarding the interest of government revenue;
- Establish monitoring system through system of control registers or Management Information System, periodic reporting, prescribed checks and review *etc*; and
- Ensure that tax manuals are prepared for standardising the entire processes with the Goods and Service Tax regime.

COMPLIANCE AUDIT

TAXATION DEPARTMENT

MANIPUR VALUE ADDED TAX ACT, 2004

Section 29(1) of the Manipur Value Added Tax (MVAT) Act, 2004 provides that a dealer who fails without sufficient cause to pay the amount of tax due as per the return or fails to furnish return for any tax period shall be liable to pay interest in respect of the tax payable at the rate of two *per cent* per month from the date the tax payable had become due to the date of its payment or to the date of order of assessment whichever is earlier.

Section 34(3) provides that if a registered dealer has filed the return in respect of any tax period within the prescribed time and the return so filed is found to be in order, it shall be accepted as self-assessment subject to adjustment of any arithmetical error apparent on the face of the said return.

Section 35 read with **Rule 27** of MVAT Rules 2005 stipulates that the Commissioner shall serve a notice in Form 15 on such registered dealer(s) who fail to furnish return in respect of any tax period within the prescribed time⁹⁵, giving the dealer an opportunity of being heard on a date specified in the notice. Thereafter the appropriate assessing authority shall assess to the best of his judgement, the amount of tax payable by the dealer in respect of that period and serve a notice of demand upon the dealer in Form 8, fixing a date not less than thirty days from the date of serving of such notice, to make the payment of the amount of tax assessed and penalty imposed⁹⁶ under Section 36(7).

Section 36(6) provides that if any dealer has either not furnished or furnished incomplete and incorrect returns in respect of any period, the Commissioner of Taxes shall assess to the best of his judgement the amount of tax due from such dealer.

Section 36(7) states that if a dealer, in order to evade or avoid payment of tax has failed, without any reasonable cause, to furnish returns in respect of any period by the prescribed date or has furnished incomplete or incorrect returns for any period, he shall be liable to pay by way of penalty as sum equal to twice the amount of additional tax assessed.

Section 39 stipulates that where after a dealer is assessed under Section 34 for any year or part thereof, the Commissioner has reasons to believe that the whole or any part of the turnover in respect of any period has escaped assessment or been under-assessed, he may proceed to assess to the best of his judgment, the tax due in respect of such turnover.

⁹⁵ Within twenty days from the end of a month of the year for all registered dealers and dealers liable to pay tax with total turnover exceeding ₹ 40 lakh [Section 28 of MVAT Act 2004 read with Rule 24 of MVAT Rules 2005 and the MVAT (First Amendment) Rules 2012]

⁹⁶ Reasons to be recorded in writing

Section 42(5) of the MVAT Act, 2004 provides that where a dealer fails to make payment of the tax assessed or interest levied or penalty imposed on him or any other amount due from him under the Act within 30 days of the date of service of the notice of demand, the Commissioner shall, after giving the dealer reasonable opportunity of being heard, direct that such dealer shall, in addition to the amount due, pay, by way of penalty, a sum equal to two *per cent* of such amount of tax, penalty, interest or any other amount due, for every month, for the period for which payment has been delayed by him after the date on which such amount was due to be paid.

Section 42(6) of the MVAT Act, 2004 read with **Rule 32** of the MVAT Rules 2005 stipulates that the amount that remains unpaid after the due date of payment in pursuance of the notice issued shall be recovered as arrears of land revenue.

Rule 24 of the MVAT (First Amendment) Rules, 2012 read with **Section 36(6)** and **Section 36(7)** of MVAT Act, 2004, if any dealer with total monthly turnover exceeding ₹ 40 lakh has not furnished returns within twenty days from the end of a month of the year, the Commissioner of Taxes shall assess to the best of his judgement the amount of tax due from such dealer and levy a penalty of twice the amount of tax assessed.

3.12 Concealment of purchase

Two dealers concealed purchase of ₹ 1.21 crore and escaped tax of ₹ 9.34 lakh for which penalty of ₹ 18.68 lakh was payable by the dealers

Scrutiny of records (November 2016) of Assessment Zones - VIII and IX revealed that the Assessing Authorities (AA) finalized the assessments of two dealers, *viz.* M/S Home Decora (TIN-14921946193) and M/S Economic Development Centre (TIN-14011204103) under Sections 34(3) of MVAT Act for the quarters ranging from September 2014 to March 2016 in which the dealers had reported taxable purchase of ₹ 2.11 crore. However, examination of the e-way bills available in the VATSoft database, it was noticed that the two dealers had purchased taxable goods worth ₹ 3.32 crore during the period covered by the returns *ibid* as shown in **Appendix 3.18**. As the purchase through e-way bills was more than the purchase declared in the returns, there was suppression of purchase to the tune of ₹ 1.21 crore as shown in **Table No. 3.12.1**.

Table No. 3.12.1 Abstract of suppressed purchase turnover

(₹ in lakh)

Name of dealer & TIN	Quarter ending	Purchase turnover			Applicable VAT	
		As per return	As per e-ways bill database	Suppressed	Rate (%)	Amount
M/S Home Decora (TIN- 14921946193)	Sep-14	76.78	90.54	13.76	13.5	1.86
	Dec-14	76.25	101.27	25.02	13.5	3.38
	Sub-total	153.03	191.81	38.78		5.24
M/S Economic Development Centre (TIN- 14011204103)	Jun-15	0.55	1.18	0.63	5.0	0.03
	Sep-15	15.12	57.97	42.85	5.0	2.14
	Dec-15	40.13	63.92	23.79	5.0	1.19
	Mar-16	2.47	17.31	14.83	5.0	0.74
	Sub-total	58.27	140.38	82.10		4.10
Grand Total		211.30	332.19	120.89		9.34

As on date of audit, the suppressed purchase⁹⁷ remained undetected resulting in escaped tax of ₹ 9.34 lakh for which penalty of ₹ 18.68 lakh was leviable on the dealers under Section 36(7).

The matter was reported to the Government (August 2017); the Government submitted (November 2017) that an amount of ₹ 1.60 lakh⁹⁸ had been recovered at the instance of Audit, which leaves an outstanding balance of ₹ 26.42 lakh⁹⁹. Further, it claimed that the proprietor of M/S Home Decora has intimated (October 2017) that he will pay the full amount by March 2018. In the case of M/S Economic Development Centre, the Department has intimated (October 2017) the Deputy Commissioner, Imphal West District to recover the outstanding amount as arrear of land revenue from the proprietor of the firm under Section 42(C) of the MVAT Act.

Further status of recovery had not been intimated to Audit (February 2018).

3.13 Evasion of tax

Failure of the Assessing Authorities to detect concealment and suppression of sales resulted in evasion of tax and penalty to the tune of ₹ 25.98 lakh

Scrutiny of records (November 2016) of the Commissioner of Taxes revealed that six dealers¹⁰⁰ registered under Assessment Zones - VIII and IX disclosed sales of ₹ 9.31 lakh in their returns for the quarters ending September 2014 to March 2016 (*Appendix 3.19*). However, while cross checking with records

⁹⁷ The Opening and Closing stock was not shown/disclosed in the returns and hence the suppressed purchased is worked out as difference of purchase shown in e-way bills and the purchase shown in the returns.

⁹⁸ Amount recovered at the instance of Audit = ₹ 1.05 lakh (from M/S Home Decora) + ₹ 0.55 lakh (from M/S Economic Development Centre) = ₹ 1.60 lakh

⁹⁹ Outstanding amount = ₹ 9.34 lakh + ₹ 18.68 lakh - ₹ 1.60 lakh = ₹ 26.42 lakh.

¹⁰⁰ M/S Capital Steel (TIN-14920286180), M/S Mahen Hardware (TIN-14921733100), M/S Thokchom Ibomcha Singh Enterprises (TIN-14921931140), M/S L. Sanjit Enterprises (TIN-14920789166), M/S A.U.Brothers (TIN-14810412159), M/S E.K. Enterprises (TIN-14920230105)

collected from three departments¹⁰¹ of the Government of Manipur, these six dealers had sold steel and cement worth ₹ 1.22 crore indicating sales of ₹ 1.13 crore (₹ 1.22 crore - ₹ 9.31 lakh) was suppressed/not declared in the returns furnished by the dealers and the same was not detected by the Assessing Authority. This has resulted in evasion of tax to the tune of ₹ 12.09 lakh assessable under Section 36(6) of MVAT Act on which penalty of ₹ 24.18 lakh was also leviable on the dealers under Section 36(7).

The matter was reported to the Department (September 2017). On this being pointed out, the Commissioner of Taxes stated (November 2017) that a sum of ₹ 10.29 lakh¹⁰² had been recovered from three dealers. The Department further stated that notices have been served (February, August, October and November 2017) to the defaulting dealers and also to the Deputy Commissioners concerned for causing recovery of the outstanding dues as arrears of land revenue as per provisions of Section 42(6) of the MVAT Act, 2004 and Rule 32 of MVAT Rules 2005

The status of recovery of the balance amount of ₹ 25.98 lakh (₹ 12.09 lakh + ₹ 24.18 lakh - ₹ 10.29 lakh) has not been intimated (February 2018).

3.14 Return not furnished

Due to non-furnishing of returns, two dealers concealed purchase of ₹ 4.39 crore for which the dealers were liable to pay tax of ₹ 21.95 lakh and penalty of ₹ 43.90 lakh

Scrutiny of e-way bill revealed that two dealers¹⁰³ purchased goods valued at ₹ 4.39 crore during May 2015 to March 2016, which were taxable at the rate of 5 per cent. The total tax payable by the dealers on these purchases was ₹ 21.95 lakh (*Appendix 3.20*). However, scrutiny of records of the Commissioner of Taxes (November 2016) revealed that the two dealers did not furnish any returns for the quarter ending June 2015 up to the quarter ending September 2016. The Commissioner of taxes also did not issue any notice under Section 35 of the MVAT Act, 2004 read with Rule 27 of MVAT Rules 2005 as the dealers failed to furnish returns of the above stated period.

Due to non-furnishing of returns, the dealers concealed purchase of ₹ 4.39 crore for which tax of ₹ 21.95 lakh was payable by the dealers under Section 36(6) of MVAT Act 2004, In addition, the dealers were also liable to pay penalty of ₹ 43.90 lakh under Section 36(7).

The matter was reported to the Department (September 2017). The Department stated (November 2017) that notices for provisional assessment were issued (August 2017) to the two firms under Section 35 of the Act *ibid*. The Department then issued (October 2017) notices of demand in Form 8 under

¹⁰¹ Public Health Engineering Department, Minor Irrigation Department and Water Resources Department.

¹⁰² ₹ 51,145 (M/S L. Sanjit Enterprises) + ₹ 1,87,185 (M/S A.U. Brothers) + ₹7,90,709 (M/S E.K. Enterprises)

¹⁰³ M/S L. I. Steel (TIN-14810428226) and M/S Marjing Commerce Private Limited (TIN-14923219119)

Rule 27 to the two dealers after giving them an opportunity of being heard. As the two dealers did not pay the outstanding taxes and penalties inspite of reminders, due process under Section 42(6) *ibid* read with Rule 32 *ibid* for recovery of tax and penalty as arrear of land revenue was initiated by issuing recovery certificates to the Deputy Commissioner, Imphal East District in respect of both the dealers.

Progress, if any, on recovery of tax and penalty has not been intimated to Audit (February 2018).

3.15 Blockage of Government revenue

Government revenue to the tune of ₹ 55.67 lakh and penalty of ₹ 1.11 crore was blocked due to failure to invoke provisions of the MVAT Act

Scrutiny of records (November 2016) of the Commissioner of Taxes revealed that M/S Nilo Motors, a dealer of motor vehicles and parts had filed returns in Form 10 for self assessed tax of ₹ 25.58 lakh for the tax periods of quarters ending September 2013, December 2013 and March 2014. The dealer claimed that tax amounting to ₹ 18.88 lakh was paid leaving a balance of ₹ 6.70 lakh as shown in **Table No. 3.15.1**.

Table No. 3.15.1 Outstanding Tax payable by the Dealer

(₹ in lakh)							
Quarter ending	Opening Stock	Purchase	Sales	Closing Stock	VAT assessed	VAT paid	Tax outstanding
Sep-13	19.89	177.14	73.87	123.16	9.97	7.95	2.02
Dec-13	123.16	145.01	60.45	207.72	8.16	6.07	2.09
Mar-14	207.72	89.37	55.22	241.87	7.45	4.86	2.59
Sub-Total		411.52	189.54		25.58	18.88	6.70
Jun-14 to Mar-16	241.87	120.87	NA ¹⁰⁴	362.75	48.97		48.97
Grand Total		532.39	189.54		74.55	18.88	55.67

Till date of audit (November 2016), the Assessing Authority had not reviewed the self assessment returns of the dealer under Section 34(3) of MVAT Act, 2004.

Though the dealer had taken e-way bills worth ₹ 1.21 crore from the Department during the quarter ended June 2014 to the quarter ended March 2016, the dealer had not submitted any return after March 2014. The total stock available with the dealer during June 2014 to March 2016 was not less than ₹ 3.63 crore for which applicable tax was ₹ 48.97 lakh as shown in **Table No. 3.15.1**.

However, the taxation authority failed to invoke the provisions under Rule 24 of the MVAT (First Amendment) Rules, 2012 read with Section 36(6) and 36(7) of MVAT Act, 2004 to assess the dealer on best judgement due to which tax to the tune of ₹ 55.67 lakh (₹ 6.70 lakh + ₹ 48.97 lakh) and penalty thereon to the tune of ₹ 1.11 crore (calculated upto November 2016) under Section 42(5) of MVAT Act, 2004 remained unrealised.

¹⁰⁴ Information was not available as there was no record of returns submitted by the dealer.

The matter was reported to the Department (June 2017). In response, the Department stated (December 2017) that notice in Form-11¹⁰⁵ was issued to the dealer (27 November 2017) to submit return for the tax period ending June 2014 to June 2017 on or before 8 December 2017.

Compliance of the dealer, if any, had not been intimated to Audit (February 2018).

3.16 Outstanding Tax and Penalty

The Department failed to collect outstanding tax and interest penalty amounting to ₹ 10.85 lakh from seven dealers

Scrutiny of records (November 2016) of Commissioner of Taxes, Government of Manipur revealed that seven dealers were served (April 2015 – October 2016) notices of demand under Section 42(5) of MVAT Act 2004 for tax and interest/penalty in Form-8¹⁰⁶ of MVAT Rules 2005 with direction to pay a sum of ₹ 2.57 crore within thirty days from the date of serving of the notices. Against the demand notice, the dealers paid ₹ 2.23 crore (upto the date of Audit *i.e.*, November 2016). The balance amount of ₹ 34.20 lakh remained outstanding, thereby attracting penalty of ₹ 8.35 lakh (calculated upto October 2016) under provisions of Section 42(5) read with Sections 29(1). Details are given in *Appendix 3.21*.

The Department not only had failed to collect government revenue to the tune of ₹ 42.55 lakh (₹ 34.20 lakh + ₹ 8.35 lakh) but also did not take action as envisaged in Sections 42(6) *ibid* read with Rule 32 of the MVAT Rules, 2005 for recovery of the outstanding revenue as arrears of land revenue.

The matter was reported to the Department (June 2017). In response the Department submitted (August 2017) challans showing recovery of ₹ 31.70 lakh leaving an outstanding amount of ₹ 10.85 lakh.

The Department had not intimated status of recovery of the balance amount (February 2018).

3.17 Penalty not collected

The Department failed to collect penalty of ₹ 49.30 lakh from the dealers who failed to submit audited accounts

Section 58 of the MVAT Act, 2004 read with Departmental Notification dated 13 September 2010 provides that a dealer whose gross turnover in any particular year exceeds ₹ 60 lakh is required to get his accounts of that year audited by a Chartered Accountant within six months from the end of that year and furnish such audited accounts to the Tax Authorities by the end of the

¹⁰⁵ A notice issued under Rule 24 of MVAT Rules 2005 calling for submission of return from registered/unregistered dealers who had failed to submit returns due under Section 28(1) within the due date or the Tax Authority has reason to believe that turnover of sales/purchases is likely to exceed or has exceeded the taxable limit as specified in Section 8(5).

¹⁰⁶ As per Rule 27, 28, 29 and 30 of MVAT Rules 2005, Notice of demand in Form 8 is served only after the dealer had been given reasonable opportunity of being heard.

month after expiry of the period of six months. In the event of failure, the Tax Authority shall impose a penalty on the defaulter at the rate of 0.1 *per cent* of the turnover as may be determined by the Tax Authority.

Scrutiny of records (November 2016) of the Commissioner of Taxes revealed that 97 dealers whose turnover exceeded ₹ 60 lakh each during 2011-12, 2014-15 and 2015-16 were assessed for total taxable turnover of ₹ 1,157.87 crore during the said years. As per Section 58 of the MVAT Act, 2004 read with Departmental Notification dated 13 September 2010, the dealers were bound to submit their audited accounts within October 2012, October 2015 and October 2016 for the respective years.

However, as on date of audit, the dealers did not submit audited accounts nor was demand noticed served by the Department. The dealers were liable to pay penalty of ₹ 1.16 crore¹⁰⁷ as per provisions *ibid*.

The matter was reported (July 2017) to the Department. The Department stated (August 2017) that demand notices were issued (November 2016 and August 2017) and penalty of ₹ 66.49 lakh had been collected at the instance of Audit. However, there is still an outstanding penalty of ₹ 49.30 lakh as shown in *Appendix 3.22*.

3.18 Professional Tax not levied

The Department failed to levy and collect Professional Tax to the tune of ₹ 66.28 lakh from the defaulting assesseees

As per Section 7, 9 and 11 of the Manipur Professions, Trades, Callings and Employments Taxation Act, 1981 read with Rule 4 framed under this Act, every Principal Officer¹⁰⁸ or employer registered or person enrolled under this Act shall submit within each assessment year to the assessing authority a return. In the event of failure to furnish return, the Assessing Authority shall at any time within three years of the end of that year, serve on the person liable to pay tax, a notice in the prescribed form. As per the Schedule 2(E)(b) and 2(J)(iv) & (v) appended to the Eighth Amendment of the Act which came into effect from November 2012, lessees of petrol/diesel filling stations and service stations, agents and distributors including retail dealers of liquefied petroleum gas and owners of private Hospitals/Nursing Homes/Medical Clinics/Diagnostic Centres /Laboratories/ Private Institutions/ Schools/Colleges *etc.* are liable to pay Professional Tax at the rate of ₹ 2,500 per annum.

Scrutiny of records (October 2016) of the Commissioner of Taxes, Government of Manipur and further records furnished to Audit (August 2017) revealed that during the period from 2012-13 to 2015-16, the owners of recognised private schools/institutes and private hospitals/clinics/labs were liable to pay ₹ 54.54

¹⁰⁷ Calculated at 0.1 *per cent* of their turnover

¹⁰⁸ Principal Officer with reference to (i) a Department of the State Government or the Central Government is the Head of Office or the officer who is responsible for disbursement of such salary or wages; and (ii) a local authority, firm, company, corporation or other corporate body, society, club or association of persons is the Chairman, Secretary, Treasurer, Manager or Agent.

lakh as Professional Tax under provisions of the Act *ibid* as shown in **Table No. 3.18.1**.

Table No. 3.18.1 Outstanding Professional Tax from owners of private schools, clinics, hospitals and laboratories¹⁰⁹

Year	No. of assesseees being owners of			Rate (₹)	Professional Tax realisable (₹ in lakh)
	Private schools	Clinics, hospital, laboratory	Total		
2012-13	536	56	592	1,458.33 ¹¹⁰	8.63
2013-14	550	56	606	2,500	15.15
2014-15	559	56	615	2,500	15.38
2015-16	559	56	615	2,500	15.38
		Total	2,428		54.54

Further, the owners of oil agencies, gas agencies and brick fields were also liable to pay Professional Tax (PT) to the tune of ₹ 15.65 lakh during 2011-12 to 2015-16 as shown in **Table No. 3.18.2**.

Table No. 3.18.2 Outstanding Professional Tax from dealers of oil agencies, gas agencies and brickfields

(₹ in lakh)

Year	PT realisable	PT recovered at the instance of Audit	Oil Agencies		Gas Agencies		Brick Manufacturing Farms		Total	
			Nos.	PT due	Nos.	PT due	Nos.	PT due	Nos.	PT due
2011-12	3.13	0.57	48	1.20	24	0.60	31	0.76	103	2.56
2012-13	3.13	0.78	46	1.15	21	0.53	27	0.68	94	2.36
2013-14	3.13	0.84	42	1.05	22	0.55	28	0.69	92	2.29
2014-15	3.13	0.84	42	1.05	22	0.55	28	0.69	92	2.29
2015-16	3.13	0.89	38	0.95	23	0.58	29	0.71	90	2.24
Total	15.65	3.92	216	5.4	112	2.81	143	3.53	471	11.74

However, none of the above stated Professional Tax assesseees had furnished return and paid the tax due. On this being pointed out in audit, the Department served notices (April 2017) to the tax defaulting dealers of oil agencies, gas agencies and brick fields owners only and an amount of ₹ 3.92 lakh was recovered at the instance of Audit (as of August 2017), leaving an outstanding balance of ₹ 11.74 lakh as shown in **Table No. 3.18.2**. Details of the recoveries at the instance of Audit are given in **Appendix 3.23**.

Thus, the Department failed to levy and collect Professional Tax to the tune of ₹ 66.28 lakh (₹ 54.54 lakh + ₹ 11.74 lakh).

The matter was referred to the Government (July 2017). In response, the Department stated (August 2017) that the Administrative Heads of the Government under whose jurisdiction the defaulting agencies function have

¹⁰⁹ Prior to September 2012 *i.e.* prior to the coming into effect of the 8th Amendment of the Act, Professional Tax was not applicable for these category of assesseees.

¹¹⁰ Professional Tax on private schools, clinics, hospitals and laboratories became leviable only after coming into force of the 8th Amendment of the Act *w.e.f.* 01 September 2012. Therefore, Professional Tax during 2012-13 is calculated for 7 months *i.e.* from September 2012 to March 2013.

been requested to ensure payment of Professional Tax by the defaulter within the financial year and that Audit would be informed after due collection. However, collection of additional Professional Tax has not been intimated till date (February 2018).

TRANSPORT DEPARTMENT

3.19 Loss of Revenue

The Government suffered a loss of ₹ 9.88 lakh due to non-realisation of Permit Fees and Fine

Section 3(1) read with Section 5 of the Manipur Motor Vehicles Taxation (MMVT) Act, 1998 provides for levy and collection on all motor vehicles used or kept for use in Manipur, a tax (Permit Fee) at the appropriate rate payable annually or in four quarterly instalments in advance on or before the 31st day of March for the commencing financial year by owner of a motor vehicle notwithstanding that the vehicle may from time to time cease to be used. As per Section 15, whoever contravenes any provision of the Act shall be punishable with a fine of ₹ 200 in respect of light vehicles, ₹ 400 in respect of medium vehicles and ₹ 1,000 in respect of heavy vehicles. Also, as per Section 18 of the Act *ibid*, when any person without any reasonable cause fails to pay the tax, the registering authority shall proceed to recover such tax as it were an arrear of land revenue.

Scrutiny of records (June 2016) of the District Transport Officer (DTO), Thoubal revealed that road permit in respect of 110 Auto Rickshaws, 18 Tata Magics and 238 Trucks had expired during the period from 26 February 2009 to 31 December 2015. However, in contravention of the provisions of the Act *ibid*, neither the department had realised the permit fee (tax) to the tune of ₹ 8.08 lakh and fine of ₹ 1.80 lakh respectively from the defaulting owners of the vehicles nor the vehicles were ceased to be used. Thus, there was loss to government revenue to the tune of ₹ 9.88 lakh¹¹¹.

The matter was reported to the Department (November 2016). The Department replied (December 2016) that the office caught fire on 26 August 2016 and permit fees and penalty thereof would be collected after reconstruction of the office. The reply is not acceptable as the permit fee was due from March 2009 to March 2016. Had the Department taken up concrete steps to recover outstanding permit fees on time, loss of records due to the office fire would not have affected revenue inflow. Thus, failure of the Department to comply with the provisions of the Act and its failure to take up concrete steps to recover outstanding permit fees led to loss of the government revenue to the tune of ₹ 9.88 lakh.

The matter was reported to the Government (September 2017); reply was awaited (February 2018).

¹¹¹ (₹ 8.08 lakh + ₹ 1.80 lakh)

3.20 Taxes on vehicles not realised

The Department failed to realise tax amounting to ₹ 24.42 lakh from 97 goods vehicles

As per the Section 3, 5, 9 and 15 of the Manipur Motor Vehicles Taxation Act, 1998 (MMVTA) read with the Amendments dated 31 March 2011, token tax at the rates specified in the First Schedule of the Act shall be levied and collected on all motor vehicles used or kept for use in Manipur. The tax shall be payable in advance. Non-payment of taxes would attract penalty as specified in the Act. Further, as per Section 3 of the Manipur Passengers and Goods Taxation Act (MPGTA), 1977 read with Government Notification dated 9 March 2010; goods tax shall be levied, charged and paid to the State Government on all fares and freights in respect of all passengers and goods carried in taxable vehicles at the rates fixed by the Government.

Scrutiny of records (June 2016) of the District Transport Officer (DTO), Thoubal revealed that the owners of 97 goods vehicles had already paid their tax dues upto various quarters ended March 2012 to December 2015. Token tax and goods tax were due from these owners for period ranging from one quarter to 16 quarters as of March 2016 with a total tax effect of ₹ 26.33 lakh which was inclusive of penalty of ₹ 0.27 lakh

The matter was reported to the Government (August 2017); reply was yet to be received (February 2018). However, the DTO Thoubal produced records (July 2017 and November 2017) of ₹ 1.91 lakh being collected from 33 defaulting goods vehicles and demand notices were served to 24 vehicles while records for 29 trucks were missing¹¹².

However, Audit noticed that the amount paid against the 33 vehicles were only part payment of the tax dues while action taken against 11 defaulting vehicles¹¹³ was not intimated (February 2018).

¹¹² Records were burnt in the fire on 26 August 2016.

¹¹³ 97 – (33 + 24 + 29)

Thus, the Department failed to realise tax amounting to ₹ 24.42 lakh (₹ 26.33 lakh - ₹ 1.91 lakh) from 97 goods vehicles as shown in *Appendix 3.24*.



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Imphal

Dated: 28 May 2018

Countersigned



(RAJIV MEHRISHI)

Comptroller and Auditor General of India

New Delhi

Dated: 30 May 2018