

CHAPTER-II : TAXES/VAT ON SALES, TRADE, etc.

2.1 Tax administration

Sales Tax/Value Added Tax laws and rules framed thereunder are administered at the Government level by the Principal Secretary (Finance). The Commissioner is the head of the Commercial Taxes Department (Department) and is assisted by 26 Additional Commissioners, 47 Deputy Commissioners (DC), 91 Assistant Commissioners (AC), 136 Commercial Taxes Officers (CTO), 402 Assistant Commercial Taxes Officers (ACTO) and a Financial Adviser (FA). They are assisted by Junior Commercial Taxes Officers and other allied staff for administering the relevant Tax laws and rules.

The Rajasthan Value Added Tax (RVAT) Act, Rajasthan Tax on Entry of Goods into Local Areas (RET) Act, Rules framed thereunder and notifications issued from time to time govern the levy and collection of value added tax and entry tax.

2.2 Internal audit conducted by the Department

The Department has an Internal Audit Wing under the charge of Financial Adviser. The Wing has to conduct test check of cases of assessment as per the approved action plan and in accordance with the criteria decided by the Steering Committee so as to ensure adherence to the provisions of the Act and Rules as well as Departmental instructions issued from time to time.

The position of units audited by the Internal Audit Wing during the last five years is as under:

Year	Pending units for audit	Units due for audit during the year	Total units due for audit	Units audited during the year	Units remaining unaudited	Shortfall in per cent
2011-12	93	384	477	411	66	14
2012-13	66	384	450	267	183	41
2013-14	183	414	597	287	310	52
2014-15	310	413	723	471	252	35
2015-16	252	413	665	181	484	73

There was a shortfall in conducting internal audit ranging between 14 and 73 per cent during the years 2011-12 to 2015-16.

It was further noticed that 17,903 paragraphs of internal audit were outstanding at the end of the year 2015-16. The year-wise break up of outstanding paragraphs is as under:

Year	Upto 2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	Total
No. of paras	10,933	1,431	1,364	1,237	1,080	1,858	17,903

Non-settlement of large number of outstanding paragraphs indicates lack of monitoring and effective follow up action by the Department on the observations raised by its own Internal Audit Wing.

2.3 Results of audit

In 2015-16, test check of records of 71 units relating to VAT/Sales Tax assessment and other records showed underassessment of tax and other irregularities involving ₹ 214.14 crore in 1,570 cases, which fall under the following categories as given below:

(₹ in crore)

Sl. No.	Category	Number of cases	Amount
1	Paragraph on 'Assessment and Collection of Tax under the Rajasthan Tax on Entry of Goods into Local Areas Act, 1999'	1	13.51
2	Underassessment of tax	326	142.42
3	Acceptance of defective statutory forms	49	5.65
4	Evasion of tax due to suppression of sales/ purchase	106	30.36
5	Irregular/incorrect/excess allowance of Input Tax Credit	424	16.60
6	Other irregularities relating to		
	(i) Revenue	559	5.40
	(ii) Expenditure	105	0.20
Total		1,570	214.14

During the year 2015-16, the Department accepted underassessment and other deficiencies of ₹ 21.97 crore in 636 cases, of which 31 cases involving ₹ 1.20 crore were pointed out in audit during the year 2015-16 and the rest in the earlier years. During the year 2015-16, the Department recovered/adjusted ₹ 2.72 crore in 105 cases, of which 7 cases involving ₹ 0.21 crore pertained to the year 2015-16 and the rest to earlier years.

The Department accepted and recovered the entire amount of ₹ 18.24 lakh pointed out by audit after issue of draft paragraph to the Government. This has not been discussed in the Report.

A paragraph on 'Assessment and Collection of Tax under the Rajasthan Tax on Entry of Goods into Local Areas Act, 1999' involving ₹ 13.51 crore and a few illustrative cases involving ₹ 12.70 crore are discussed in the succeeding paragraphs.

2.4 Assessment and Collection of Tax under the Rajasthan Tax on Entry of Goods into Local Areas Act, 1999

2.4.1 Introduction

The levy and collection of entry tax is governed by the Rajasthan Tax on Entry of Goods into Local Areas Act, 1999 (RET Act) and Rajasthan Tax on Entry of Goods into Local Areas Rules, 1999 (RET Rules) and notifications issued thereunder. Entry tax is leviable on entry of notified goods into a local area for consumption, use or sale therein, at such rates as prescribed from time to time by the State Government. Further, the State Government issued notifications under Section 9 of the Act from time to time and provided exemption from tax payable under the Act in respect of goods specified on the condition that the tax leviable under the RVAT Act in respect of these goods had been paid. The RET Act is administered by the Commercial Taxes Department (Department) of the Government of Rajasthan. The RET Act provides for registration of eligible dealers¹, filing of periodical returns and self-assessment by the dealers.

An audit on ‘Assessment and Collection of Tax under the Rajasthan Tax on Entry of Goods into Local Areas Act, 1999’ covering the period 2012-13 to 2014-15 (*i.e.*, assessments for the financial years 2010-11 to 2012-13) was conducted to examine compliance of the purchasing dealers regarding payment of entry tax on notified goods. Information from six manufacturers/sellers of selected notified goods² of other States³ were also collected and cross checked with the assessment records of the purchasing dealers of Rajasthan. Information regarding purchases and sales of goods available on departmental website *RajVISTA*⁴ was also collected and cross checked with the assessment records of the purchasing dealers of notified goods. The findings are discussed in the succeeding paragraphs:

2.4.2 Registration and Returns

Section 11 of the RET Act stipulates that a dealer who brings the notified goods into a local area is liable to get himself registered under this Act.

Commercial Taxes Department also administered other indirect taxes such as Value Added Tax (VAT) and Central Sales Tax (CST). The dealers registered for these taxes provide information to the Department regarding purchases of goods using declaration forms VAT-47⁵ and CST forms ‘C’⁶. All the information was available in Departmental records and website *RajVISTA* and accessible to all Assessing Authorities (AAs) of the Department. However, the Departmental information system was not designed to cross link purchases

¹ Every dealer who brought or received goods liable to tax under RET Act, aggregate value of which is not less than ₹ one lakh in a year, was liable to get himself registered under this Act.

² Generator Sets, Hydraulic Excavators, Cranes, Motor Vehicles, Dyes & Chemicals, and Explosive.

³ Andhra Pradesh, Gujarat, Jammu & Kashmir, Karnataka and Uttar Pradesh.

⁴ *RajVISTA*: It is a website for official use by the Department.

⁵ VAT-47 form: declaration form necessary for import of specified goods by registered dealers in the course of inter-State trade.

⁶ ‘C’ form: CST declaration form for purchase of goods to avail concessional rate of tax in the course of inter-State purchase.

from other States as shown by the dealers in their form 'C' and VAT 47 (as discussed in detail in paragraph 2.4.4). In absence of these, the AAs were not able to identify and register the eligible dealers under RET Act who were evading entry tax.

Analysis of information available with the departmental record and website *RajVISTA* disclosed that 143 dealers out of 231 dealers who had evaded tax were not registered under the RET Act. Further, information regarding the import of notified goods collected from selling dealers of five States disclosed that 151 out of 238 dealers who had evaded tax were not registered under this Act. Thus, it was found that 62 *per cent* (294 dealers) of test checked dealers (469 dealers⁷) who had evaded entry tax were not registered under the RET Act.

The Government replied (September 2016) that detailed directions had been issued in April 2014. However, the facts remained that these were general instructions and specific instructions were not issued to utilise the information for registration of dealers liable under RET Act (October 2016).

Lacuna in the return form

There were separate return forms under RVAT Act and RET Act upto June 2015. Thereafter, both the return forms were merged and revised forms VAT-10 and VAT 10-A had been prescribed (July 2015) for showing turnover under these Acts. Scrutiny of revised return forms revealed that no column had been prescribed for showing registration number under RET Act. In absence of this, it could not be ensured whether the dealers were registered under RET Act.

2.4.3 Short/non-levy of Entry tax

By issue of notifications dated 8 March 2006 and 9 March 2011 under Section 3(1) of the RET Act, the State Government specified the tax payable by a dealer in respect of notified goods brought into any local area for consumption or use or sale therein, at such rates as shown in the notifications. Besides, interest at 12 *per cent* per annum was also payable for delayed payment as per Section 34A of the Act.

2.4.4 Non-levy of Entry tax due to non-utilisation of information available with Department

The *RajVISTA* did not indicate the name/TIN of the dealers who were liable to pay entry tax on the notified goods. AAs had also not utilised the system to ascertain the dealers liable to pay entry tax. In this regard, few evasion prone commodities were selected by audit for test check. Information regarding these commodities was collected from *RajVISTA*/departmental records and cross checked with the assessment records of the concerned dealers.

Analysis of purchases/sale details available on *RajVISTA* and VAT assessment records disclosed that 231 dealers had imported goods like air

⁷ Total 469 dealers: information available with the Department; 231 dealers and information collected from other States; 238 dealers.

conditioners, ammonium nitrate, explosives, furnace oil, pet coke, high speed diesel, computers and their accessories, electrical and electronic goods, transformers, lubricant oil, DG sets, weigh bridges, hydraulic excavators, cranes (mining equipment), PP/HDPE bags and fabrics, motor vehicles and HDPE valuing ₹ 203.05 crore during the years 2010-11 to 2012-13. These goods were not sold by the purchasing dealers. The dealers had neither paid VAT nor entry tax on these goods. Therefore, the dealers were liable to pay entry tax amounting to ₹ 5.91 crore on these goods. However, the AAs had not utilised the information for assessment and registration of the dealers for entry tax.

This resulted in non-levy of entry tax of ₹ 7.87 crore including interest of ₹ 1.96 crore.

The Government replied (September 2016) that demand of ₹ 25 lakh had been raised in 11 cases. The replies for the remaining cases were either not received or not supported with necessary documents (October 2016).

2.4.5 Absence of mechanism for sharing information with other States

Scrutiny of information available with the Departmental website disclosed that the Department had not made efforts to collect the information from the Commercial Taxes Departments of other States to plug the revenue leakage. To examine revenue leakage, details of sales for the period 2010-11 to 2012-13 from six selling dealers⁸ of diesel generating sets, hydraulic excavators, cranes (mining equipment) and motor vehicles, *etc.* of other States were collected by audit and cross checked with the returns and assessment records of the purchasing dealers of Rajasthan State.

Cross verification of statement of purchases collected from other States with the record available in the Department disclosed that 238 dealers purchased notified goods valuing ₹ 87.95 crore without payment of entry tax. These goods were not sold by the purchasers. The dealers had neither paid VAT nor entry tax on these goods. The dealers were, therefore, liable to pay entry tax amounting to ₹ 3.42 crore on these goods. Since the information was not available with the Department, the AAs could not detect the tax evaded by these dealers.

This resulted in non-levy of entry tax of ₹ 4.78 crore including interest of ₹ 1.36 crore.

The Government replied (September 2016) that demand of ₹ 88 lakh had been raised in 35 cases, out of which ₹ 13 lakh had been recovered. The reply in the remaining cases had not been received (October 2016).

⁸ M/s. Sudhir Genset, Jammu (Jammu & Kashmir); M/s. Volvo India Private Limited, Bengaluru (Karnataka); M/s. Tata Motors Limited, Lucknow (Uttar Pradesh); M/s. Industrial Trade Link, Ahmedabad (Gujrat); M/s Solar Industries Limited, Visakhapatnam (Andhra Pradesh) and M/s. Cranex Limited, Ghaziabad (Uttar Pradesh).

2.4.6 Exemption under RET Act

As per Section 9 of the RET Act, the State Government may exempt dealers from tax payable under the Act fully or partially by issuing a notification. It was observed that the State Government had issued several notifications for allowing exemptions to dealers. Scrutiny of some notifications disclosed that while allowing the exemption, the State Government had not prescribed any return or format to monitor the terms and conditions specified in the notifications. Further, the AAs had also not monitored to ensure that the dealers had observed the terms and conditions prescribed in notifications. A few cases are discussed as under:

2.4.6.1 Irregular allowance of exemption

Notifications available on *RajVISTA* disclosed that 14 units had been granted exemption from payment of entry tax upto a certain limit fixed by the Government. Out of these, three units were test checked.

During test check of records of Circle Special-II, Kota, it was noticed that the State Government *vide* notification dated 8 April 2011 had allowed exemption to a dealer (M/s Adani Power Rajasthan Limited, Kota, RET/2001/N-01064) from payment of entry tax on purchase of capital goods, plant and machinery and parts thereof for setting up a power project. Analysis of information available on *RajVISTA* regarding 'C' forms used by the dealer disclosed that the dealer had imported high speed diesel and furnace oil valuing ₹ 20.88 crore during the year 2012-13. These goods were not exempted under the above notification. However, the dealer neither paid entry tax nor showed these purchases in returns.

The AA while finalising (March 2015) the entry tax assessment of the dealer did not levy entry tax on these goods and erroneously considered these to be covered under the above notification. This resulted in non-levy of entry tax of ₹ 82 lakh including interest of ₹ 19 lakh.

The Government replied (September 2016) that demand of ₹ 75 lakh including interest of ₹ 23 lakh had been raised (July 2016). The position of recovery is awaited (October 2016).

2.4.6.2 Non-monitoring of exemption allowed to the dealers

The State Government *vide* notification dated 3 August 2009 exempted M/s Rajwest Power Limited, Bhadresh (Barmer) from payment of tax payable on the entry of notified goods to be used only for setting up of power plant at Bhadresh (Barmer). The exemption was allowed for a specific quantity and monetary value of goods. The prescribed limit was further increased *vide* notification dated 6 January 2012.

Similarly, State Government *vide* notification dated 13 March 2012 exempted M/s Regen Powertech Private Limited, Udaipur from payment of tax on the entry of notified goods for use as plant and machinery in its project for manufacture of wind electric generators and towers near Udaipur. This exemption was also allowed for a specific quantity and monetary value of goods for a period of five years.

During audit (February and May 2016) of records of Circle Special-II, Udaipur and Barmer, it was noticed that neither any records were manually maintained nor was any IT system put in place to monitor the quantum of exemption availed by the dealers. In case of M/s Regen Powertech Private Limited, the AA issued a notice to provide details of goods imported and exemption availed by the dealer. However, the required information was not provided by the dealer. In absence of the required records, the correctness of the exemption availed, therefore, could not be ensured.

After this was pointed out, the Government replied (September 2016) that M/s Regen Powertech Private Limited had furnished a summary of assets capitalised and M/s Rajwest Power Limited had furnished the details of purchases of DG Sets. The reply of the Government was not tenable as the dealers had furnished the details after being pointed out by audit. There is a need for the Department to evolve a system to monitor the quantum of exemption availed by the dealers.

2.4.7 Demand recovered at the instance of audit

During test check of records of three CTOs,⁹ it was noticed that five dealers evaded entry tax amounting to ₹ 4 lakh. On being pointed out (August 2016), the Government intimated (September 2016) that recovery of tax and interest amounting to ₹ 4 lakh had been made.

2.4.8 Conclusion and Recommendations

Any leakage of entry tax has an adverse impact on the Government's revenue. Although the Department had necessary information but no system was introduced to bring the eligible dealers under RET regime. While allowing exemptions to dealers, no return or format was prescribed to monitor the terms and conditions specified in the notifications. No column for showing registration number under RET Act was prescribed in the revised return form. In absence of registration number in return form, it could not be ensured that the dealers were registered under RET Act.

The Government may evolve a system to bring the eligible dealers under RET Act using information available on Departmental website. Further, the Government may evolve a mechanism to share or exchange information with other States regarding purchases/sales of specified or evasion prone commodities to plug the revenue leakage. A specific proforma may be prescribed in returns to disclose the quantum of exemption availed by a dealer. Further, a new column may be inserted in the format of return to mention RET registration number.

⁹ CTO: Alwar- Special, Dausa and Makarana.

2.5 Irregular allowance of partial exemption from tax

As per Section 4 of RVAT Act, 2003, sale of goods is taxable at the rates specified in the Schedules appended to the Act. Further, Section 8(3) and 8(5) of RVAT Act provides that the State Government, by issue of notification, may exempt from tax the sale or purchase by any person or class of persons as mentioned in Schedule-II without any condition or with such condition as may be specified in the notification. Every notification issued under this Section shall be laid, as soon as after it is so issued, before the House of the State Legislature while it is in session for a period of not less than thirty days, which may be comprised in one session or in two successive sessions.

As per Schedule-VI appended to the RVAT Act, rate of tax on High Speed Diesel (HSD) was 18 *per cent* during the year 2012-13. However, the State Government *vide* notification dated 18 August 2008 exempted North-Western Zone, Jaipur of Indian Railways (NWR) from tax on HSD to the extent the rate of tax exceeded 10 *per cent* on the conditions specified therein. One of the conditions was that the benefit would be available subject to the condition that the aforesaid zone shall fully source its HSD requirement from the State of Rajasthan only. Subsequently, the Finance Department, Government of Rajasthan issued a clarification (10 December 2008) that NWR will fully source its requirements from Rajasthan which would not in any case be less than 90 *per cent* of the total purchase of HSD by NWR.

As per information collected (January 2016) from the Department, three dealers¹⁰ had sold HSD to NWR amounting to ₹ 1,045.60 crore during the year 2012-13 at the tax rate of 10 *per cent*. Scrutiny of the information submitted by the NWR to AC, Circle Special Rajasthan, Jaipur for the year 2012-13 disclosed that NWR purchased 7.22 to 9.23 *per cent* HSD from other States during the year. The AA allowed partial exemption of ₹ 83.65 crore to NWR.

It was observed that the condition which governed the rate of tax on HSD had been changed *vide* clarification issued by the Finance Department. Any such change required issuance of notification as per Section 8(3) of the Rajasthan VAT Act, 2003. The partial tax exemption of ₹ 83.65 crore to NWR was, therefore not covered by the notification.

The omission was pointed out to the Department (February 2016) and reported to Government (February 2016). The Government replied (September 2016) that the clarification (10 December 2008) had been issued in continuation of the notification. It further stated that the form of notification was being examined by the Finance Department and decision taken after examination would be intimated (October 2016).

¹⁰ M/s Bharat Petroleum Corporation Ltd., M/s Hindustan Petroleum Corporation Ltd. and M/s Indian Oil Corporation Ltd.

2.6 Short levy of tax due to application of incorrect rate of tax

2.6.1 As per Schedule-VI appended to the RVAT Act, 2003, tax was payable on sale of all types of motor vehicles including their parts and accessories at the rate of 15 *per cent*. Besides, as per Section 55 of the Act, interest at the rate of 12 *per cent* per annum was also payable for delayed payment of tax.

During test check of assessment records of CTO, Circle-H Jaipur, it was noticed (June 2015) that a dealer had shown taxable sale of goods *i.e.* Leaf Spring amounting to ₹ 4.55 crore during the year 2011-12 at the rate of five *per cent*. Leaf Spring is a motor vehicle part and taxable at the rate of 15 *per cent*. However, the AA, while finalising the assessment of the dealer, assessed tax at the rate of 5 *per cent* instead of 15 *per cent*. This resulted in short levy of tax amounting to ₹ 45.47 lakh besides interest of ₹ 19.09 lakh (calculated upto March 2015).

The omission was pointed out to the Department (July 2015) and reported to the Government (July 2015). Government replied (August 2016) that demand of ₹ 65.47 lakh (tax ₹ 45.47 lakh; interest ₹ 20.00 lakh) had been raised and ₹ 2.27 lakh had been recovered. The reply on recovery of the remaining amount is awaited (October 2016).

2.6.2 As per Schedule-V appended to the RVAT Act, 2003, the goods not covered in other Schedules appended to the Act were taxable at the rate of 14 *per cent*. ‘Branded Potato Chips’ were not covered under any entry mentioned in the Schedules and, therefore, taxable at the rate of 14 *per cent*.

During test check of assessment records of AC, Circle Special-IV, Jaipur, it was noticed (November 2015) that a dealer had sold ‘Branded Potato Chips’ amounting to ₹ 1.59 crore and ₹ 5.66 crore during the years 2011-12 and 2012-13 respectively at the rate of five *per cent* instead of correct rate of 14 *per cent*. However, the AA, while finalising (January and November 2014) the assessments of the dealer, assessed tax at the rate of 5 *per cent*. This resulted in short levy of tax amounting to ₹ 65.27 lakh besides interest of ₹ 21.30 lakh (calculated upto March 2015).

The omission was pointed out to the Department (December 2015) and reported to the Government (December 2015). The Government replied (September 2016) that a demand of ₹ 94.40 lakh (tax ₹ 65.27 lakh; interest ₹ 29.13 lakh) had been raised and ₹ 10.21 lakh had been recovered. The reply on recovery of the remaining amount is awaited (October 2016).

2.7 Short levy of exemption fee

The State Government *vide* notification dated 11 August 2006 exempted a registered dealer engaged in the execution of works contract from payment of tax leviable on the transfer of property in the goods involved in the execution of works contract subject to the condition that AA shall issue Exemption

Certificate (EC) and such dealers pay exemption fee at the rate specified as under:

Sl. No.	Description of work contract	Rate of Exemption fee (per cent of the total value of the contract)
1	Works contract where the cost of material does not exceed five <i>per cent</i> of the total contract amount. (w.e.f. 9 March 2010)	0.25
2	Works contracts relating to building, roads, bridges, dams, canals, sewerage system.	1.50
3	Works contracts relating to installation of plants and machinery including pspo, water treatment plant, laying of pipe line with material.	2.25
4	Any other kind of works contract not covered by above items.	3.00

A works contract order awarded for different nature of works (composite work contract) is not covered under serial number one to three of the above notification and, therefore, the rate of exemption fee leviable on the composite works was three *per cent*.

Further, the Additional Commissioner (VAT and IT), Commercial Taxes Department determined under Section 36¹¹ of RVAT Act, 2003 that 'civil finishing work' was covered under entry number 4 of the notification and EC should be issued at the rate of three *per cent*.

2.7.1 During test check of assessment records of AC, Works Contract and Leasing Tax Circle, Alwar, it was noticed (January 2016) that two dealers had applied for two ECs, one for 'construction of raw water reservoir' and another for 'civil finishing work' for contracts value of ₹ 36.50 crore. Scrutiny of the work orders disclosed that 'construction of raw water reservoir' and 'civil finishing work' were not covered under entry number 1 to 3 of the notification and, therefore, ECs should have been issued at the rate of three *per cent* under entry number 4 of the notification. However, the AA incorrectly issued ECs at the rate of 1.50 *per cent* for these works instead of correct rate of 3 *per cent*. This resulted in short levy of exemption fee of ₹ 54.75 lakh.

The omission was pointed out to the Department (February 2016) and reported to the Government (February 2016). The Government replied (August 2016) that a demand of ₹ 22.77 lakh for tax and ₹ 15.52 lakh for interest had been raised for the works executed during the years 2011-12 and 2012-13. The reply on remaining demand of exemption fee of ₹ 31.98 lakh is awaited (October 2016).

2.7.2 During test check of assessment records of AC, Circle Special, Bhilwara, it was noticed (June 2015) that four work contracts were awarded for composite works valued at ₹ 13.49 crore to a dealer. The AA issued ECs to the dealer at the rate of 2.25 *per cent* instead of correct rate of 3.00 *per cent* of

¹¹ This Section empowers the Commissioner, Commercial Taxes to make an order determining the disputed question, on filing of the application in prescribed manner.

the total value of these composite works. This resulted in short levy of exemption fee amounting to ₹ 10.12 lakh.

The omission was pointed out to the Department (July 2015) and reported to the Government (July 2015). The Government replied (August 2016) that a demand of ₹ 10.12 lakh for tax and ₹ 5.66 lakh for interest had been raised and ₹ 1.01 lakh had been recovered. The reply on recovery of the remaining amount is awaited (October 2016).

2.8 Non-recovery of deferred tax

As per notification dated 31 March 2006, the industrial units availing benefits of exemption from tax under the Rajasthan Sales Tax/Central Sales Tax Exemption Scheme for Industries, 1998 (Exemption Scheme), were allowed to defer the payment of tax payable by them for the period specified therein. As per paragraph 7 of the notification, the deferred tax of a quarter was payable within a period of fifteen days from the end of the corresponding quarter after seven years without interest. Further, as per paragraph 8 of the notification, in case any payment of deferred tax is not made in time, the total deferred amount as on the date of such default shall be recoverable immediately along with interest from the first day of default of such payment.

During test check of records of CTO, Circle-B, Hanumangarh, it was noticed (July 2015) that a dealer who had availed the benefit of the Exemption Scheme, opted to defer the payment of tax under the notification and deferred the tax amounting to ₹ 20.20 lakh during the years 2006-07 to 2011-12. As per the notification, the dealer was liable to pay the deferred tax on quarterly basis starting from July 2013. The dealer did not pay the deferred tax in the specified period. However, the AA did not take any action to recover the deferred tax along with the interest. This resulted in non-recovery of deferred tax of ₹ 20.20 lakh and interest of ₹ 4.14 lakh (calculated upto March 2015).

The omission was pointed out to the Department (August 2015) and reported to the Government (August 2015). The Government replied (August 2016) that during the period 2006-07 to 2012-13, incorrect deferment of tax of ₹ 20.20 lakh was allowed to the dealer which was reduced to ₹ 14.52 lakh. The dealer had deposited the deferred tax amounting to ₹ 7.34 lakh (August 2016). However, the Department did not intimate whether the disallowed deferment amounting to ₹ 5.68 lakh was recovered. Further, the position of recovery of the remaining deferred tax amounting to ₹ 7.18 lakh and interest thereon is awaited (October 2016).

2.9 Excess allowance of subsidy under Rajasthan Investment Promotion Scheme, 2003

As per para 7(i)(b) read with proviso of the Rajasthan Investment Promotion Scheme, 2003 (Scheme), in case of investment made for modernisation/expansion/diversification, the amount of subsidy was to be a maximum of 75 per cent of the additional amount of tax¹² payable or deposited by the unit over and above the highest tax payable or deposited, whichever is higher, in

¹² Rajasthan Sales Tax/Central Sales Tax or VAT.

any of the three immediately preceding years. Further, as per para 10 of the Scheme, breach of any condition shall make the subsidy amount liable to be recovered along with interest at the rate of 18 *per cent* per annum from the date from which subsidy was allowed.

Finance Department, Government of Rajasthan clarified (10 October 2008) that under Incentive Schemes of 1987, 1989 and 1998, the goods manufactured by the units were not exempted but the units were exempted from payment of tax under the Rajasthan Sales Tax Act. As such, 'tax payable' by such units was the amount of tax leviable on the taxable turnover. It was also clarified (10 October 2008) that in case of a unit availing benefit of deferment of tax, if the unit deposited a part of tax payable, then the proportionate amount of subsidy shall only be allowed.

During test check of assessment records of AC, Circle Special, Bhilwara, it was noticed (June 2015) that a dealer was granted (January 2010) entitlement certificate with effect from 9 March 2007 for interest subsidy under the expansion cum modernisation and diversification category of the Scheme. During the period 2003-04 to 2005-06 (three immediately preceding years), the dealer had availed benefits of partial exemption/deferment of tax under Incentive Schemes (1987, 1989 and 1998) and notification dated 6 May 1986¹³. During this period, the dealer had deposited tax after deducting the partial exemption/deferment amount from the 'tax payable'.

The dealer claimed interest subsidy of ₹ 12.87 crore for the period 2010-11 to 2013-14 which was sanctioned during 2011-12 to 2013-14. Scrutiny of the subsidy record revealed that:

- The AA while calculating the tax payable for the three preceding years *i.e.* 2003-04 to 2005-06 deducted the amount of partial exemption availed by the dealer from the tax leviable on the turnover despite the clarification issued (10 October 2008) by the Government. Therefore, the AA had incorrectly calculated the highest tax payable among the three preceding years amounting to ₹ 6.81 crore instead of ₹ 8.09 crore.
- Further, the dealer had availed benefit of deferment and exemption of tax under incentive schemes amounting to ₹ 41.60 lakh¹⁴ during the years 2010-11 and 2011-12. However, while granting subsidy, the AA irregularly considered the deferment/exemption of tax availed by the dealer as tax deposited.

The AA, therefore, irregularly granted subsidy of ₹ 12.87 crore instead of allowable subsidy of ₹ 9.92 crore¹⁵. This resulted in excess grant of subsidy of ₹ 2.95 crore besides recoverable interest of ₹ 1.33 crore (calculated upto March 2015).

¹³ The State Government *vide* notification dated 6 May 1986 allowed the dealers to claim partial exemption from tax payable in respect of goods in the course of inter-State trade or commerce by way of reduction at the rate of 50/75 *per cent* of the tax so payable on increased sales made over and above and subject to the conditions mentioned therein.

¹⁴ Exemption of tax of ₹ 9.99 lakh during the period 1.1.2011 to 31.3.2011 and deferment of tax of ₹ 31.61 lakh during the period 1.1.2011 to 30.6.2011.

¹⁵ Bases on actual calculations as per provisions of RIPS subsidy allowable was calculated by Audit.

The omission was pointed out to the Department (March 2016) and reported to the Government (March 2016). The Government replied (August 2016) that a demand of ₹ 4.89 crore (tax ₹ 2.95 crore; interest ₹ 1.94 crore) had been raised and ₹ 29.48 lakh had been recovered. The reply on recovery of the remaining amount is awaited (October 2016).

2.10 Irregular allowance of exemption from tax under VAT

As per Rule 21(1) of RVAT Rules, 2006, a dealer who claims partial or full exemption from payment of tax on sale of goods to another dealer in the State or in the course of export of goods out of the territory of India, shall furnish declaration form/certificate prior to the date of filing of annual return. Provided that the CCT on being satisfied and after recording reasons for doing so, may by notification in the Official Gazette, extend the period of furnishing such declaration form/certificate for a period not exceeding one year. Provided further that for the assessments completed upto 30 September 2014, the dealers were required to furnish declaration forms/certificates upto 30 June 2015.

During test check of assessment records of AC, Circle-E, Jaipur, it was noticed (October 2015) that five dealers did not submit prescribed declaration forms/certificates for partial/full exemption from payment of tax on sale of goods for the year 2012-13. The AA, while finalising (November 2014 to March 2015) the assessments of these dealers, raised demand for non-submission of declaration forms/certificates. Thereafter, the dealers submitted (December 2014 to March 2015) the prescribed declaration forms/certificates. As the assessments of the dealers were made after 30 September 2014, these declaration forms were not acceptable. However, the AA accepted (January to March 2015) these declaration forms in-contravention of rules and reduced the demand of ₹ 25.34 lakh during the year 2014-15 through rectification orders. This resulted in irregular reduction of demand of ₹ 25.34 lakh.

The omission was pointed out to the Department (November 2015) and reported to the Government (November 2015). The Government replied (August 2016) that a demand of ₹ 20.37 lakh for tax and ₹ 7.68 lakh for interest had been raised. The reply on recovery is awaited (October 2016).

2.11 Non-levy of tax due to filing returns with nil turnovers

As per Rule 19(5) of the RVAT Rules, 2006, quarterly return shall be submitted by the dealers along with statement of purchases in Form VAT-07A and statement of sales in Form VAT-08A. Further, as per Section 61(1) of the RVAT Act, 2003, where any dealer has concealed any particulars from any return furnished by him or has deliberately furnished inaccurate particulars therein, the AA may direct that such dealer shall pay by way of penalty, in addition to the tax payable by him under this Act, a sum equal to two times of the amount of tax evaded.

During test check of assessment records of AC, Circle-A, Jaipur, it was noticed (January 2016) that two dealers had submitted their returns with nil turnovers for the year 2012-13. Scrutiny of the report generated through a

module available on departmental website 'RajVISTA' disclosed that these dealers sold goods valued ₹ 2.60 crore to six registered dealers and collected tax of ₹ 12.99 lakh. However, the AA while finalising (September 2014 and March 2015) the assessments of the dealers assessed nil turnovers without using the information available on 'RajVISTA' and did not raise any demand against these dealers. This resulted in non-levy of tax amounting to ₹ 12.99 lakh besides penalty of ₹ 25.98 lakh and interest of ₹ 3.90 lakh (calculated upto March 2015).

The omission was pointed out to the Department (February 2016) and reported to the Government (February 2016). The Government replied (September 2016) that notices had been issued to the dealers. Further progress is awaited (October 2016).

2.12 Non-imposition of penalty for non-filing of return

As per Section 21 of RVAT Act, 2003 read with Rule 19(2) of RVAT Rules, 2006, every dealer shall submit return electronically through the official website within such time and with such late fee for delayed furnishing of returns, as may be prescribed. Failure to do so shall be deemed to be a case of non-filing of return(s). Further, Section 24(4) of RVAT Act provides that where a dealer fails to furnish return in accordance with the provisions of Section 21, the AA shall assess the dealer to the best of his judgment on the basis of the material available on record and shall impose a penalty for the non-filing of returns of an amount equal to 20 *per cent* of the net tax payable subject to a minimum of five thousand rupees.

During test check of assessment records of AC, Circle Special-I, Jaipur, it was noticed (September 2015) that a dealer had not submitted his returns electronically through the official website for the year 2012-13. On being enquired by the AA, the dealer submitted hard copy of the returns instead of submitting these electronically through the official website and declared turnover of ₹ 31.75 crore and tax payable of ₹ 1.32 crore. A penalty for non-filing of returns of an amount equal to 20 *per cent* of the net tax payable was, therefore, to be imposed. However, the AA, while finalising (February 2015) the assessment of the dealer levied late fee of ₹ 3.09 lakh for delayed submission of returns instead of imposing penalty of ₹ 26.49 lakh for non-filing of returns. This resulted in non-imposition of penalty of ₹ 26.49 lakh.

The omission was pointed out to the Department (October 2015) and reported to the Government (October 2015). The Government replied (September 2016) that a demand of ₹ 26.49 lakh had been raised and ₹ 0.14 lakh had been recovered. The reply on recovery of the remaining amount is awaited (October 2016).

2.13 Non-imposition of penalty for wrong availment of input tax credit

As per Section 18(1) of the RVAT Act, 2003, Input Tax Credit (ITC) shall be allowed to registered dealers in respect of purchases of any taxable goods made within the State from a registered dealer for the purposes specified

therein. Further, as per Section 61(2)(b) of RVAT Act, where any dealer has availed ITC wrongly, the AA shall reverse such credit of input tax and shall impose on such dealer penalty equal to double the amount of such wrong credit.

During test check of assessment records of AC, Circle Special Rajasthan, Jaipur, it was noticed (January 2016) that a dealer availed ITC of ₹ 12.00 lakh wrongly during the year 2011-12. The AA, while finalising (December 2013) the assessment of the dealer, reversed the credit of input tax. However, AA did not impose penalty equal to double the amount of wrong credit. This resulted in non-imposition of penalty of ₹ 24.01 lakh.

The omission was pointed out to the Department (February 2016) and reported to the Government (February 2016). The Government replied (September 2016) that a demand for penalty of ₹ 24.01 lakh had been raised. The reply on recovery is awaited (October 2016).

2.14 Non-imposition of penalty for misuse of declaration forms

As per Section 10A read with Section 10(d) of CST Act, 1956, if any person, after purchasing any goods for any of the purposes specified in Section 8(3)(b)¹⁶ fails to make use of the goods for any such purpose specified, the authority, who granted to him a certificate for registration under this Act, may impose upon him by way of penalty a sum not exceeding one and half times the tax leviable in respect of sale of goods under Section 8(2) of the Act.

2.14.1 During test check of assessment records of ACs, Circle Special Rajasthan, Jaipur, and Circle A, Jaipur, it was noticed (January 2016) that two dealers purchased goods *i.e.* machinery, tools, weigh bridge, furniture, kitchen items and CCTV camera, *etc.* valued at ₹ 79.90 lakh and ₹ 95.17 lakh respectively from other States against declaration forms 'C' during the year 2012-13. There was nothing on record to indicate that these purchased goods were used by the dealers for the purposes as specified in Section 8(3)(b). The dealers were, therefore, liable for a penalty of ₹ 35.29 lakh *i.e.* one and half time of tax leviable at the rate of 5 or 14 *per cent as applicable*. The AAs, while finalising (November and December 2014) the assessments of the dealers, did not take any action for imposition of penalty. This resulted in non-imposition of penalty of ₹ 35.29 lakh.

The omission was pointed out to the Department (February 2016) and reported to the Government (February 2016). The Government replied (September 2016) that a demand of ₹ 35.29 lakh had been raised and ₹ 8.03 lakh had been recovered. The reply on recovery of the remaining amount is awaited (October 2016).

2.14.2 During test check of assessment records of three Circles¹⁷, it was noticed (November 2015 to March 2016) that three dealers¹⁸ had despatched goods valuing ₹ 2.27 crore and ₹ 24.81 crore to their consignment agents

¹⁶ Re-sale by him or use by him in the manufacture or processing of goods for sale or in the telecommunications network or in mining or in the generation or distribution of electricity or any other form of power.

¹⁷ Circles: Special-IV Jaipur, Special-I Udaipur and A-Alwar.

¹⁸ M/s Avis Lifecare Pvt. Ltd., M/s Shree Padmawati Corporation and M/s Khanna Traders.

outside the State against declaration form 'F' during the year 2011-12 and 2012-13 respectively. Scrutiny of the information available on departmental website 'RajVISTA' disclosed that the dealers had purchased these goods from outside the State against declaration forms 'C'. As these purchased goods were not used by the dealers for the purposes as specified in Section 8(3)(b), a penalty of ₹ 3.47 crore *i.e.* one and half times of tax leviable on the purchase value of ₹ 18.63 crore, should have been imposed on the dealers. However, the AAs, while finalising (February 2014 to March 2015) the assessments of the dealers, did not take any action for imposition of penalty. This resulted in non-imposition of penalty of ₹ 3.47 crore.

The omission was pointed out to the Department (March and April 2016) and reported to the Government (March and April 2016). The Government replied (September 2016) that a demand of ₹ 3.47 crore had been raised and ₹ 2.00 lakh had been recovered. The reply on recovery of the remaining amount is awaited (October 2016).

2.15 Irregular exemption from tax on goods transferred outside the State

As per Section 6A(1) of CST Act, 1956, where any dealer claims that he is not liable to pay tax under this Act in respect of any goods on the ground that the movement of such goods from one State to another was not by reason of sale, he may furnish to the AA a declaration form containing the prescribed particulars along with the evidence of despatch of such goods and if the dealer fails to furnish such declaration, then the movement of such goods shall be deemed for all purposes of this Act to have been occasioned as a result of sale.

During test check of assessment records of AC, Circle Special-III, Jaipur, it was noticed (February 2016) that a dealer who was a manufacturer and trader of bearings and its components during the year 2012-13 had shown goods received from outside the State for job work amounting to ₹ 9.28 crore and receipts (Income) from job work amounting to ₹ 94.40 lakh. Scrutiny of the information available on the record disclosed that the dealer had transferred goods outside the State of Rajasthan after job work but had not submitted the prescribed declaration forms 'F' amounting to ₹ 10.22 crore in support of these transactions. Therefore, these transactions should have been treated as sale for all purposes of the Act. However, the AA finalised (February 2015) the assessment of the dealer without levying tax on these transactions. This resulted in irregular exemption from tax amounting to ₹ 51.10 lakh and interest of ₹ 15.33 lakh (calculated upto March 2015).

The omission was pointed out to the Department (April 2016) and reported to the Government (April 2016). The Government replied (September 2016) that a demand of ₹ 51.10 lakh for tax and ₹ 24.27 lakh for interest had been raised. The reply on recovery is awaited (October 2016).

2.16 Irregular allowance of partial exemption from tax under CST

As per Section 8(1) of CST Act, 1956, every dealer who in the course of inter-State trade or commerce, sells goods to a registered dealer, shall be liable to

pay tax at the rate of two *per cent* on the turnover under this Act on fulfillment of conditions specified in Section 8 (3) and (4) of the Act.

State Government by issue of a notification dated 14 February 2008 under Section 8(5) of the CST Act directed that the tax payable under the CST Act by a registered dealer who commences purchase of plant and machinery on or after 14 February 2008 for setting up of enterprises during the period he enjoys status of micro and small enterprises in respect of the sale of goods manufactured by him from his place of business in the course of inter-State trade or commerce shall be calculated at the rate of 0.25 *per cent*.

During test check of the assessment records of AC, Circle 'E' Jaipur, it was noticed (October 2015) that a dealer had sold goods in the course of inter- State trade valued at ₹ 5.35 crore and ₹ 8.45 crore during the years 2010-11 and 2011-12 respectively at the tax rate of 0.25 *per cent*. Scrutiny of assessment records revealed that the dealer was a registered dealer since 17 October 2005 under RVAT Act and CST Act. Further, the dealer had purchased plant and machinery prior to 14 February 2008. Therefore, the dealer was not eligible to avail the benefit under the aforesaid notification. However, the AA, while finalising (January 2013 and October 2013) the assessments of the dealer could not detect the irregularity and assessed the tax at concessional rate of 0.25 *per cent* instead of correct tax rate of two *per cent*. This resulted in short levy of tax of ₹ 24.16 lakh besides interest of ₹ 11.27 lakh for the years 2010-11 and 2011-12.

The omission was pointed out to the Department (November 2015) and reported to the Government (November 2015). The Government replied (August 2016) that a demand of ₹ 86.63 lakh (tax ₹ 24.15 lakh; interest ₹ 14.17 lakh and penalty ₹ 48.31 lakh) had been raised and ₹ 24.15 lakh had been recovered. The reply on recovery of the remaining amount is awaited (October 2016).

