

PART 'A'
Revenue Sector

Chapter-I
Revenue Sector

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Revenue Sector

1.1 Introduction

1.1.1 Trend of revenue receipts

1.1.1.1 The tax and non-tax revenue raised by the Government of National Capital Territory of Delhi (GNCTD) during the year 2016-17 and Grants-in-aid received from the Government of India (GoI) during the year and the corresponding figures for the preceding four years are depicted in **Table-1.1**.

Table-1.1: Trend 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	23,431.52	25,918.69	26,603.90	30,225.16	31,139.89
	Non-tax revenue	626.93	659.14	632.55	515.40	380.69
	Total	24,058.45	26,577.83	27,236.45	30,740.56	31,520.58
2	Receipts from the Government of India					
	Grants-in-aid	1,502.52	1,402.86	2,348.14	4,258.29	2,825.16
3	Total revenue receipts of the State Government (1 and 2)	25,560.97	27,980.69	29,584.59	34,998.85	34,345.74
4	Percentage of 1 to 3	94	95	92	88	92

Source: Finance Accounts

The revenue raised by the NCT of Delhi (₹ 31,520.58 crore) during the year 2016-17 was 92 per cent of the total revenue receipts. The balance eight per cent of the receipts during 2016-17 was Grants-in-aid from the GoI.

1.1.1.2 The details of tax revenue raised during the period 2012-13 to 2016-17 are given in **Table-1.2**.

Table-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 Actual of 2016-17 over 2015-16
		BE	Actual	BE	Actual	BE	Actual	BE	Actual	BE	Actual	
1	Taxes on sales, trade etc.	16,500.00	15,803.68	18,200.00	17,925.71	19,000.00	18,289.31	21,000.00	20,245.82	22,000.00	21,144.24	4.44
2	State Excise	3,000.00	2,869.74	3,200.00	3,151.63	3,550.00	3,422.39	4,500.00	4,237.69	4,700.00	4,251.40	0.32
3	Stamp Duty	3,799.97	3,098.06	3,799.98	2,969.07	2,938.15	2,779.88	3,449.98	3,433.60	3,098.00	3,143.93	-8.44
4	Motor Vehicles Tax	1,370.00	1,240.18	1,400.00	1,409.27	1,600.00	1,558.83	1,700.00	1,607.01	1,750.00	1,808.78	12.56
5	Other taxes and duties on commodities and services	487.00	419.84	475.00	463.00	520.00	491.70	720.00	700.53	880.00	789.53	12.70
6	Land Revenue	0.03	0.01	0.02	0.01	61.85	61.79	0.02	0.51	2.00	2.01	294.12
	Total	25,157.00	23,431.51	27,075.00	25,918.69	27,670.00	26,603.90	31,370.00	30,225.16	32,430.00	31,139.89	

Source: Finance Accounts

It is observed that the actual tax receipt of the state shows an increasing trend which increased to ₹ 31,139.89 crore in 2016-17 from ₹ 23,431.51 crore in 2012-13. The actual receipts for the year 2016-17 under the heads ‘Motor Vehicles Tax’ and ‘Taxes on Sales, Trade etc.’ increased by 12.56 per cent and 4.44 per cent respectively while receipt under the head ‘Stamp Duty’ decreased by 8.44 per cent from ₹ 3,433.60 crore to ₹ 3,143.93 crore over the previous year.

The departments had not provided any reasons for increase/decrease in revenue.

1.1.1.3 The details of the non-tax revenue raised during the period 2012-13 to 2016-17 are indicated in **Table-1.3**.

Table-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 (+) or decrease (-) in Actual of 2016-17 over 2015-16
		BE	Actual	BE	Actual	BE	Actual	BE	Actual	BE	Actual	
1	Interest receipts	473.54	340.03	754.50	379.35	604.00	350.52	173.16	82.53	120.00	81.39	-1.38
2	Medical and Public Health	44.24	54.32	65.00	63.05	73.00	58.20	129.23	125.88	82.10	60.13	-52.23
3	Public Works	23.10	25.55	20.00	18.59	17.50	14.74	19.00	18.47	18.00	22.23	20.36
4	Power	14.00	9.93	22.01	18.46	24.01	16.38	32.01	42.06	25.00	21.40	-49.12
5	Other administrative services	91.00	95.60	115.00	91.04	112.17	98.91	106.18	89.43	122.71	111.33	24.49
6	Other ¹ Non-tax receipts	123.66	101.50	111.42	88.65	133.32	93.79	109.42	157.03	88.19	84.21	-46.37
Total		769.54	626.93	1087.93	659.14	964.00	632.54	569.00	515.40	456.00	380.69	

Source: Finance Accounts

It is evident from above that the non-tax receipts of the State shows decreasing trend from ₹ 626.93 crore in 2012-13 to ₹ 380.69 crore in 2016-17. The actual receipts under the heads of ‘Medical and Public Health’ and ‘Power’ for the year 2016-17 decreased by 52.23 per cent and 49.12 per cent respectively while the head of ‘Other Administrative Services’ increased by 24.49 per cent over the previous year.

Receipts under the heads ‘Civil Supplies’, ‘Public Service Commission’ and ‘Jails’ for the year 2016-17 decreased by 98.58 per cent, 97.50 per cent and 70.35 per cent respectively over the previous year.

¹ Dividends and Profits, Public Service Commission, Police, Jails, Education, Village and Small Industries, Non-ferrous mining and metallurgical industries, Tourism, Civil Supplies, Other general economic services, Housing etc.

The Government stated that decrease in non-tax receipts under the head 'Interest Receipts' during 2015-16 and 2016-17 was due to less collection from Local Bodies on account of interest of loans while decrease in 'Medical and Public Health', 'Power', and 'Other Non-tax receipts' in 2016-17 was due to less collection. The Government should analyse the significant decrease in revenue receipts under heads for taking appropriate action.

1.1.2 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2017 under some principal heads of revenue amounted to ₹ 26,958.44 crore of which ₹ 10,043.20 crore was outstanding for more than five years as depicted in the **Table-1.4**.

Table-1.4: Arrears of revenue

(₹ in crore)

Sl. No.	Head of revenue	Total Amount outstanding as on 31 March 2017	Amount outstanding for more than five years as on 31 March 2017	Remarks
1.	Taxes on sales, trade etc.	7,069.14	7,069.14	Amount pertains to Delhi Sales Tax and Central Sales Tax regime. (DST and CST)
2.	Value Added Tax	19,626.00*	2,971.00	DVAT regime
3.	State Excise, Entertainment and Luxury Tax	263.30	3.06	Revised license fee, Court cases.
Total		26,958.44	10,043.20	

Source: Department of Trade and Taxes, State Excise, Entertainment and Luxury Tax.

* includes ₹ 9,278 crore as penalty.

₹ 7,069.14 crore pertaining to DST and CST regime remained recoverable for more than five years means that Department did not take effective steps to recover these arrears. Arrears of VAT increased from ₹ 17,175.75 crore on 31 March 2016 to ₹ 19,626.00 crore on 31 March 2017. Department stated that the multiplicity of avenues for filing of objections/appeals available to the tax payers led to protracted and wide spread litigation. Department should analyse, review and prepare roadmap and take effective steps to recover these arrears which adds up to more than their annual revenues from VAT.

1.1.3 Arrears in assessments

The details of cases pending at the beginning of the year, cases becoming due for assessment, cases disposed of during the year and number of cases pending for finalisation at the end of the year as furnished by Department of Trade and Taxes (DTT) and Department of State Excise, Entertainment and Luxury Tax are depicted in **Table-1.5**.

Table-1.5: Arrears in assessments

Head of revenue	Opening balance	New cases due for assessment during 2016-17	Total assessments due	Cases disposed of during 2016-17	Balance at the end of the year	Percentage of disposal (col. 5 to 4)
1	2	3	4	5	6	7
Taxes on sales, trade etc.	nil	2,29,097	2,29,097	2,29,097	0	100
State Excise, Entertainment and Luxury Tax	1,841	674	2,515	1,291	1,224	51.33

Source: Department of Trade and Taxes, State Excise, Entertainment and Luxury Tax

The percentage of disposal of assessment cases was 51.33 per cent in respect of Department of State Excise, Entertainment and Luxury Tax, whereas no assessment was pending in respect of DTT.

1.1.4 Evasion of tax detected by the department

During 2016-17, the Enforcement Branch (DTT) detected 154 cases on search and raised a demand of ₹ 15.74 crore and the same was realised.

1.1.5 Details of pendency of refund cases

The number of refund cases pending at the beginning of the year 2016-17, claims received during the year, refunds allowed during the year and the cases pending at the end of 2016-17 as reported by Departments are depicted in Table 1.6.

Table-1.6: Details of pendency of refund cases

(₹ in crore)

Sl. no.	Particulars	Sales Tax/VAT		Entertainment Tax		Stamp and Registration		Transport	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
1	Claims outstanding at the beginning of the year	93,410	2,623.57	111	7.81	Nil	Nil	Nil	Nil
2	Claims received during the year	16,345	851.26	140	2.09	650	24.32	38	0.13
3	Total claims	1,09,755	3,474.83	251	9.90	650	24.32	38	0.13
4	Refunds made during the year	26,197	827.18	35	1.65	393	12.90	38	0.13
5	Percentage of refunds to the total claims	23.87	23.80	13.94	16.67	60.46	53.04	100	100
6	Balance outstanding at the end of year	83,558	2,647.65	216	8.25	257	11.42	Nil	Nil

Section 42 of Delhi Value Added Tax Act (DVAT Act), provides for payment of interest at an annual rate notified by the Government, if the excess amount

is not refunded to the dealer within 60 days from the date of the order. Not refunding the claims within the stipulated period may attract the payment of interest. However, the interest paid on refund was not provided by the department and informed that no such data has been maintained in the Department.

1.1.6 Response of the Government/Departments to Audit

The Accountant General (Audit), Delhi (AG) conducts periodical inspection of the Government departments to test check transactions and verify maintenance of accounts and other records as prescribed in the rules and procedures. These inspections are followed up through 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/Government are required to promptly comply with the observations contained in the IRs, rectify the defects and omissions and report compliance to the AG within four weeks from the date of receipt of the IRs. Serious financial irregularities are reported to the heads of the Departments and the Government.

The summarised position of the IRs issued during the last 10 years, paragraphs included in these reports and their status as on 31 March 2017 is depicted in **Table-1.7**.

Table-1.7: Position of Inspection Reports

(₹ in crore)

Sl. No.	Year	Opening Balance			Addition during the year			Clearance during the year			Closing Balance during the year		
		IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value
1.	2007-08	223	2,582	1,030.98	62	1,329	1,077.42	79	1,266	349.89	206	2,645	1,758.51
2.	2008-09	206	2,645	1,758.51	89	2,265	1,748.24	6	429	413.39	289	4,481	3,093.36
3.	2009-10	289	4,481	3,093.36	108	2,972	2,900.71	11	301	218.47	386	7,152	5,775.60
4.	2010-11	386	7,152	5,775.60	54	2,009	1,831.89	85	564	434.09	355	8,597	7,173.40
5.	2011-12	355	8,597	7,173.40	96	2,204	3,079.27	24	657	394.02	427	10,144	9,858.65
6.	2012-13	427	10,144	9,858.65	104	1,610	1,209.64	62	520	571.99	469	11,234	10,496.31
7.	2013-14	469	11,234	10,496.31	92	790	1,099.45	3	83	-	558	11,941	11,595.76
8.	2014-15	558	11,941	11,595.76	76	506	159.57	15	159	7.40	619	12,288	11,747.93
9.	2015-16	619	12,288	11,747.93	80	458	52.23	09	129	4.12	690	12,617	11,796.04
10.	2016-17	690	12,617	11,796.04	111	650	169.04	11	357	484.30	790	12,910	11,480.78

The number of pending paras increased from 2,582 involving an amount of ₹1,030.98 crore in 2007-08 to 12,910 involving money value of ₹ 11,480.78 crore at the end of the year 2016-17 which indicates that the Department did not take adequate steps to settle the outstanding paragraphs.

1.1.6.1 Departmental Audit Committee Meetings

The Government set up Audit Committees to monitor and expedite the progress of settlement of audit paragraphs in the IRs. A meeting was held in March 2017 with the members of Audit Committee constituted by the DTT. In the meeting, the Additional Commissioner was asked to provide replies of outstanding paras for their early settlement. The Additional Commissioner assured to take necessary action in this matter. However, no audit committee meeting was held by the Departments of Transport, State Excise and Revenue.

1.1.6.2 Non-production of records to Audit for scrutiny

The programme of local audit of 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.

DTT did not provide 9,822 assessment files/cases (89 *per cent*) out of 11,053 files/cases, requisitioned during the year 2016-17. Consequently, the revenue involved in these cases could not be ascertained.

1.1.6.3 Follow up on Audit Reports – summarised position

The Public Accounts Committee (PAC) stipulates that after presentation of the Report of the CAG of India in the Legislative Assembly, Departments shall initiate action on the audit paragraphs and the Action Taken Notes (ATNs) thereon should be submitted by the Government within three months of tabling the Report, for consideration of the Committee. However, ATNs on the Reports were delayed in respect of 25 paragraphs and three Performance Audits (PAs) included in the Reports of the CAG of India on the Revenue Sector of the GNCTD for the years ended 31 March 2012, 2013, 2014, 2015 and 2016, placed before the State Legislative Assembly between March 2013 and June 2017. The ATNs from the concerned Departments were received late with an average delay of six months in respect of each of these Audit Reports. ATNs in respect of 12 paragraphs and two PAs from the departments had not been received in respect of the Audit Reports for the year ended 31 March 2012, 2013, 2014, 2015 and 2016 as depicted in the **Table-1.8**.

Table-1.8: Details of paragraphs, performance audits and the ATNs

Sl. No.	Year of Report ending 31 March	Number of Paragraphs and Performance Audits printed in Report	Number of Paragraphs and Performance Audits for which ATNs were awaited
1	2012	16+1 (PA)	3+0(PA)
2	2013	2+1 (PA)	2+1(PA)
3	2014	3+0 (PA)	3+0(PA)
4	2015	0+1 (PA)	0+1(PA)
5	2016	4+0 (PA)	4+0 (PA)
Total		25+3 (PA)	12+2(PA)

PAC did not discuss paragraphs/PAs pertaining to the Audit Reports (Revenue Sector) for the period 2011-12 to 2015-16.

1.1.7 Recovery of accepted cases

The position of paragraphs included in the Audit Reports of the last 10 years, those accepted by the Departments and the amount recovered are depicted in Table-1.9.

Table-1.9: Position of paragraphs included, accepted and amount recovered

(₹ in crore)

Year of Audit Report	Number of Paragraphs included	Money value of the Paragraphs	Number of Paragraphs accepted	Money value accepted	Amount recovered during the year 2016-17	Cumulative position of recovery of accepted cases as of 31 March 2017	Percentage of recovery
2006-07	16	254.93	13	209.06	-	0.27	0.13
2007-08	11	945.52	7	28.17	-	0.18	0.64
2008-09	15	1,729.62	7	109.00	-	0.14	0.13
2009-10	18	1,764.20	5	49.36	-	0.39	0.79
2010-11	15	1,479.98	4	58.00	-	0.06	0.10
2011-12	17	2,363.11	1	19.14	-	1.23	6.43
2012-13	3	536.00	3	70.16	-	00	0.00
2013-14	3	98.39	3	20.83	-	00	0.00
2014-15	1	1.34	1	1.34	-	0.02	1.49
2015-16	4	122.13	4	7.02	0.01	0.01	0.14
Total	103	9,295.22	48	572.08	0.01	2.30	0.40

It was observed that the progress of recovery, even in accepted cases was negligible. The reports for the year 2006-07 to 2015-16 contained audit findings involving ₹ 9,295.22 crore, out of which the observations involving money value of ₹ 572.08 crore were accepted by the Department. However, only an amount of ₹ 2.30 crore (0.40 per cent) was recovered by the Department.

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

1.1.8 Audit Planning

The unit offices under various Departments are categorised into high, medium and low risk units according to their revenue position, past trends of the audit observations and other parameters. The annual audit plan is prepared on the basis of a risk analysis which takes into account matters highlighted in the 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, factors of the tax administration, audit coverage and its impact during the past five years.

During the year 2016-17, there were 153 auditable units of which 80 units were planned and audited. 8 units were additionally covered due to availability of mandays.

1.1.9 Results of audit

1.1.9.1 Position of local audits conducted during the year

Test check of the records of 88 units of the Department of Trade and Taxes, State Excise, Transport and Revenue conducted during the year 2016-17 revealed under assessment/short levy/loss of revenue and other irregularities involving ₹ 416.94 crore in 650 paragraphs as categorised in **Table-1.10**.

Table-1.10: Category wise Audit observations

Sl. No.	Categories	No. of paras/cases	Amount (₹ in crore)
Sales Tax/Value Added Tax			
1	'Issue of Statutory Forms'	1	248.08
2	Loss of revenue due to irregular claim of concessional rate of tax by the dealers	1	0.53
3	Irregular claim of Input Tax Credit	3	0.48
4	Non-recovery of demand and consequential loss of interest	3	3.90
5	Loss of revenue due to non-payment of tax	1	0.26
6	Excess allowance of concessional rate of tax due to non-submission of details of Forms 'C'	1	1.01
7	Other irregularities	337	156.09
Total		347	410.35
Motor Vehicle Tax			
1	Loss of interest due to delay in deposit of receipts to the Government Accounts	1	0.20
2	Miscellaneous Irregularities	119	0.98
Total		120	1.18
Stamp Duty and Registration Fee and State Excise, Entertainment and luxury tax			
1	Other Irregularities	183	5.41
Total		183	5.41
Grand Total		650	416.94

During the course of the year, audit pointed out instances of short/non levy of revenue amounting to ₹ 416.94 crore out of which the concerned Departments accepted under assessment and other deficiencies of ₹ 7.04 crore.

1.1.10 Coverage of the Revenue Chapter

This chapter on Revenue Sector contains six paragraphs involving financial effect of ₹ 6.38 crore. In addition, the system of 'Issue of statutory forms' was also analysed and it was noticed that there were irregular issue of statutory forms of the value of ₹ 1,892.78 crore involving tax effect of ₹ 248.08 crore. The Departments have accepted audit observations involving ₹ 7.04 crore. These are discussed in the succeeding paragraphs. The paragraphs were forwarded to the Government; their reply was awaited (January 2018).

Department of Trade and Taxes

1.2 Issue of Statutory Forms

There was inadequate due diligence and oversight of the Ward Officers over issue of the Statutory Forms coupled with failure to strengthen/address the obvious deficiencies in DVAT system. As a result, there was irregular issue of Statutory Forms of ₹ 1,892.78 crore. This also resulted in escape of levy of tax/penalty in some cases amounting to ₹ 248.08 crore.

1.2.1 Introduction

1.2.1.1 The Department of Trade and Taxes (DTT), GNCTD is entrusted with implementing the Delhi Value Added Tax (DVAT) Act, 2004, Central Sales Tax (CST) Act, 1956 and Rules made thereunder. To encourage interstate trade and commerce between the registered dealers, the CST Act provides concessional rate of tax or exemption of tax against the transactions made by the dealers of different states in the course of interstate trade and commerce. To avail such concession or exemption of tax, different types of Statutory Forms² are issued to the purchasing dealers by the concerned State VAT/Commercial Tax Department where they are registered. The selling dealers can claim payment of concessional rate of tax or exemption of tax on production of such Statutory Forms. The total amount of Statutory Forms 'C' and 'F' issued by DTT during 2013-14 to 2015-16 are as follows: -

(₹ in crore)

Year	Form 'C'		Form 'F'	
	Number of Forms issued	Amount	Number of Forms issued	Amount
2013-14	6,24,264	1,14,513.91	1,54,131	1,39,629.77
2014-15	6,15,918	1,22,204.01	1,40,029	1,42,819.41
2015-16	5,80,429	1,26,596.75	1,21,173	1,34,775.94

1.2.1.2 The main types of Statutory Forms issued by the DTT are:

(i) **Form 'C'**- A registered dealer who purchases goods from another dealer registered in some other State shall issue Form 'C' to the selling dealer. The selling dealer charges CST at a concessional rate of two *per cent* on the value of goods sold and submit the Form 'C' to his assessing authority as proof of sale under CST and pays concessional rate of tax for such sale.

² C- Concessional Form used in inter-state sale, F- Form used for transfer of goods to its branch/ agent in other state, E-I/II Form used for transit sale, H- Form used in export of goods

(ii) **Form ‘F’**- Transfer of goods not by reason of sales by a registered dealer to any other place of his business outside the state or to his agent or principal in other state is exempt from payment of tax on production of declaration in Form ‘F’. The transferor of goods can claim exemption from CST on submitting Form ‘F’ to the Department.

1.2.1.3 The main audit objective was to assess the compliance of relevant Acts, Rules and instructions issued by DTT for issuing of Statutory Forms. Audit test-checked the cases which were assessed and/or Statutory Forms (‘C’ and ‘F’) were issued during 2013-14 to 2015-16. We reviewed data and case files of the selected assesseees available in the DVAT system. This audit was conducted during April-July 2017 and replies of the DTT received in September 2017 to our audit observations have been suitably incorporated.

Audit findings

1.2.2 Issue of Forms without ensuring recovery of previous demands

Rule 5(4) of CST (Delhi) Rules, 2005 stipulates that if the applicant (the purchasing dealer) at the time of making the application for issue of Statutory Forms has defaulted in making the payment of tax assessed, re-assessed or the penalty imposed by the Commissioner under DVAT Act or under CST Act and in respect of which no orders for installment/stay have been obtained from the competent authority under the provision of law, the Commissioner shall withhold the issue of Declaration Forms to the applicant after affording him an opportunity of being heard and it was reiterated vide circular dated 28 August 2012.

Analysis and scrutiny of data available in the DVAT system revealed that demand ranging between ₹ 5 lakh and ₹ 10 lakh was raised on the basis of assessment in 514 cases during 2013-14 to 2015-16. In the system, these demands were shown as paid and subsequently Forms were issued to the dealers. We test checked 120 cases out of 514 cases and found that in 10 cases, 60 Forms of ₹ 211.73 crore (**Annexure 1.2.1**) were issued to the dealers by the DTT despite the fact that demands of ₹ 66.86 lakh were pending till 31 December 2016 but were incorrectly shown as ‘paid’ in the system.

Audit noted that the date of payment by the dealers predates the date of demand notice which is not possible. This means that there could be a possibility that it was done to enable issue of Forms and should be investigated to enforce the accountability of wrong doing. Thus, Forms of ₹ 211.73 crore to the defaulting dealers were issued without ensuring the recovery of past demands which was in violation of Rule 5(4) of CST (Delhi) Rules, 2005.

The DTT stated (September 2017) that concerned Assessing Authorities (AAs) and System Branch have been directed to take note of the observations

and take all necessary action regarding making assessment/re-assessment of the dealers for creating lawful demands as well as for recovery of pending demands. System Branch has also been directed to inquire into the matter and to strengthen the DVAT System. However, reply of the System Branch was still awaited mainly on how it was shown as paid.

1.2.3 Issue of Statutory Forms in excess of declared purchase amount

Rule 5, 7 and 8 of CST (Delhi) Rules, 2005 stipulates that the purchasing dealer shall be issued such Statutory Forms by the Commissioner on the basis of requisition made by the dealer. DTT started the process of online issue of Forms to the dealers for the year 2012-13 in August 2012. As per the circular dated 28 August 2012, 'Forms will be issued on the basis of the data regarding purchases filed in Annexure 2A³'.

Scrutiny of 86 cases (where Statutory Form of ₹ 10 crore or more were issued in each case) on the system revealed that in two cases, Statutory Forms of ₹ 43.39 crore were issued to the dealers whose registration was already cancelled while as per their returns, items of only ₹ 2.98 crore were purchased. Thus, these dealers managed to download excess Statutory Forms of ₹ 40.41 crore (**Annexure 1.2.2**) which resulted in loss of revenue of ₹ 1.30 crore (under section 23 of DVAT Act) to the DTT. Besides, the possibility of illegal sale of these goods could not be ruled out. Moreover, the online system of issuing Statutory Forms should not have enabled the dealers whose registrations were cancelled to download the Forms in excess of their declared purchase amount. Thus, deficiencies in the system design and failure of the Ward Officers to monitor resulted in issue of excess amount of Statutory Forms of ₹ 40.41 crore to the dealers with revenue implication of ₹ 1.30 crore.

DTT stated (September 2017) that necessary directions have been issued to the AAs concerned to conduct assessment/re-assessment of all cases as per law for creating lawful demands and recovery of demand amount. It was also replied that the System Branch has been directed to inquire into the matter and strengthen the DVAT system by putting necessary corrective measures.

The Department may consider reviewing the cases where Forms were downloaded *vis-à-vis* the purchase amount declared by the dealers in their return and take action against the dealers who misused the system of downloading the Forms as the possibility of fraud by the dealers could not be ruled out. The reasons for failure of the Ward Officers to find these violations on their own and possible deficiency in system design of online downloading the Statutory Forms should be analysed for corrective action.

³ Annexure 2A is a part of the periodic return which contains all the details of purchases (local as well as interstate) made by the dealer in a particular tax period.

1.2.4 Issue of Statutory Forms to the dealers without verifying the details in Certificate of Registration

Rule 5(1) of CST (Registration and Turnover) Rules, 1957 stipulates that Certificate of Registration (RC) of a dealer who is registered under CST Act, shall contain the class or classes of goods specified for the purpose of purchase and sale, principal place of business and details of additional places of business in other States from where the dealer conducts its business. Under Section 2 (dd) of CST Act, 1956, 'place of business' include the place of business of an agent through whom a dealer carried out its business.

(i) Issue of Forms to the dealers against the items not included in RC

Section 10(b) and 10(A)(1) of CST Act, 1956 *inter-alia* stipulates that if any registered dealer falsely represents when purchasing any class of goods that goods of such class are covered by his RC, the competent authority may impose upon him by way of penalty a sum not exceeding one-and-a half times the tax which would have been levied in respect of the sale to him of the goods. Section 10(A)(2) of CST Act, 1956 states that the penalty imposed shall be collected in the State in which the person purchasing the goods obtained the Form in connection with the purchase of such goods.

Scrutiny of 86 cases (where Forms of ₹ 10 crore or more were issued in each case) revealed that in seven cases, the purchasing dealers were allowed to download 'C' and 'F' Forms of ₹ 348.44 crore against the items which were not mentioned in their RCs. These dealers, thus were liable to pay penalty of ₹ 69.37 crore (**Annexure 1.2.3**) against such purchases but DTT failed to cross-check the RC prior to issuing the Forms and did not levy the penalty.

(ii) Issue of Forms 'F' without branch/consignment agent details in Registration Certificate

In cases of branch transfer/consignment sale, Section 6A (1) of CST Act provides tax exemption to the transferor provided that in support of such sale, the transferee issues Form 'F' to him.

Scrutiny of 86 cases (where Forms of ₹ 10 crore or more were issued in each case) revealed that in two cases⁴, the dealers were allowed the claim of consignment purchase/branch transfer of goods of ₹ 136.73 crore as shown in their returns and Forms 'F' were issued though the RC of these dealers did not contain the details of the branches/consignment agents from whom the purchases were made. Thus, to prevent misuse of 'F' Forms, the competent authority prior to issuing Form 'F' to the purchasing dealer should have checked the details of branch/consignment agent in his RC. In the absence of this, authenticity of purchases on branch transfer of ₹ 136.73 crore made by the dealers against Forms 'F' could not be verified in audit and there is a risk

⁴ (a) TIN – 07636895807, Ward – 24, Amount of Forms - ₹ 72,97,67,389
(b) TIN – 07756894189, Ward- 62, Amount of Forms - ₹ 63,75,43,901

that these were not branch transfer/consignment purchase and levy of tax could have escaped.

Thus, non-compliance of the provisions of CST Act and Rules by the Ward Officers led to irregular issue of Forms aggregating to ₹ 485.17 crore and non-levy of penalty of ₹ 69.37 crore.

DTT, on both the issues stated (September 2017) that an 'Add Item' link was made available on dealer portal of the DVAT System to add any item and branch/consignment agent details which was not mentioned in DVAT-04 or RC. This was done so that the dealer can add such details before downloading the Forms. It contended that in these cases, even though the items and branch/consignment agent details were not included in RC, download of the Forms was allowed as such details were added online by the dealers.

The reply is not acceptable as amendment in RC, like addition of new items to be traded, new branch/consignment agent details etc., in respect of interstate trade is allowed under Section 7(4) of CST Act and Rule 9 of CST (Registration and Turnover) Rules. This was to be done either on the basis of the application made by the dealer or after giving due notice to the dealer by the Department and in these cases, neither was done. The creation of 'Add Item' link in the DVAT system is against the provision of CST Act and Rules.

The Department should enquire all such violations and take actions as per the provisions of the Act. Besides, the Department should also review the existing system to prevent misuse of Statutory Forms by ensuring checking of the details of items, branches/agents available in the RC prior to allowing the dealers to download the Forms.

1.2.5 Non-adherence to the instructions led to irregular issue of Statutory Forms of ₹ 499.49 crore

(i) To prevent the misuse of downloading of Statutory Forms from DVAT system without showing any corresponding sale (local/inter-state) or negligible sale, the DTT in November 2015 restricted the system and decided not to allow the dealers to download Statutory Forms whose total sale for a tax period is less than 60 *per cent* of total purchase amount. The Ward Officer concerned was required to keep a watch on high value Forms downloaded by any dealer. The limit of 60 *per cent* was reduced to 45 *per cent* in January 2016.

Audit selected 86 cases where in each case, Forms amounting to ₹ 10 crore or more were issued. In addition, 55 cases were selected where in each case, sale purchase ratio was less than 60 *per cent* and single Form was greater than ₹ one crore and was issued after 18 November 2015. Scrutiny of these cases revealed that in the following 16 cases, the said instructions were not followed by the Ward Officers which resulted in irregular downloading of Statutory

Forms by the dealers as detailed below:-

- a) In two cases, the dealers showed purchase of ₹ 51.74 crore and sale of only ₹ 12.40 crore. The sale, purchase ratio of the dealers was worked out to 23 per cent⁵ and 29 per cent⁶, which was less than threshold limit of 60 per cent fixed by the DTT to download the Statutory Forms. Audit noted that these dealers were allowed to download Forms of ₹ 41.15 crore.
- b) In 13 cases, the sales to purchase ratio of the dealers was 'Zero' and these dealers were allowed to download Statutory Forms of ₹ 154.50 crore (**Annexure 1.2.4**) from the departmental website.
- c) In one case, the registration of a dealer⁷ was cancelled by the DTT on 24 February 2014 on the basis of DVAT-11⁸, issued on 11 June 2015. As per the last revised returns filed by the dealer, its sale for the year 2014-15 was ₹ 89.96 crore and total interstate purchase was ₹ 480.49 crore. Even though the sales to purchase ratio was only 19 per cent, the dealer was allowed to download Statutory Forms of ₹ 240.37 crore after November 2015. Similarly, for the period 2015-16, the sales to purchase ratio was 'Zero', but interstate purchase of ₹ 239.52 crore against Forms was claimed by the dealer. However, the dealer was allowed to download Forms of ₹ 63.46 crore after November 2015. Hence, the dealer was irregularly allowed to download Statutory Forms of ₹ 303.83 crore for the years 2014-16.

Thus, failure of the Ward Officers to implement the instructions issued by DTT in November 2015 which prohibited online issue of Forms to the dealers who showed high interstate purchase but negligible corresponding sale led to irregular issue of Forms amounting to ₹ 499.49 crore to the ineligible dealers.

- (ii) Section 23 of DVAT Act *inter-alia* stipulates that a person whose registration has been cancelled, shall pay tax in respect of the goods held on the date of cancellation, if these were sold at their fair market value.

Audit noted that the Ward Officers failed to assess the closing stock of ₹ 823.89 crore held by these 16 dealers and did not levy tax of ₹ 46.11 crore (**Annexure 1.2.5**) stipulated under Section 23 of DVAT Act, as the RC of these dealers was cancelled.

- (iii) In three out of 16 cases, the dealers had shown ₹ 81.24 crore as interstate sale against statutory Forms. However, the Ward Officers did not assess the cases under CST Act and the possible amount of loss of revenue worked out to ₹ 4.20 crore (**Annexure 1.2.6**). The system also lacked necessary checks to block downloading of the Forms by the ineligible dealers.

⁵ TIN- 07020475664, Ward-66, 2014-15

⁶ TIN- 07816977932, Ward-24, 2015-16

⁷ TIN- 07826913211, Ward-24

⁸ DVAT-11 is issued to cancel RC of a dealer on the basis of show cause notice issued by DTT

DTT replied (September 2017) that in three cases⁹, the Forms were downloaded online, though the dealers did not fulfill the criteria of sale to purchase ratio of 60 *per cent*. It stated that in these cases, the forms might have been downloaded during the intervening period between the date of issue of circular and actual date of implementation of related software on the DVAT module.

The reply is not acceptable as Forms were allowed to be downloaded by the DTT to the ineligible dealers, in violation of the departmental guidelines. These Forms were downloaded between 20 November 2015 and 8 March 2016 while the circular was issued on 18 November 2015. The sale to purchase ratio in all these cases ranges between zero to 29 *per cent* which was far less than the threshold limit of 45 *per cent* and 60 *per cent*. The reply indicates non-synchronisation of system updation and the intent of DTT towards debarring unscrupulous dealers from misusing the facility of downloading Statutory Forms. The Department should fix the responsibility of the Ward Officers who failed to implement the departmental instructions and did not act as per the provisions of DVAT Act, CST Act.

1.2.6 Irregular issue of Statutory Forms after filing of DVAT-09, issue of DVAT-11 and non-assessment of the dealers

Under Section 22 of DVAT Act, 2004 and Rule 16 of DVAT Rules, 2005, the registration of a dealer can be cancelled either on the request of the dealer in Form DVAT-09 or by the DTT. In the cases where the RC is cancelled by the DTT, it is done by issue of Form DVAT-11 only after serving a 'show cause notice' (in Form DVAT-10) to the concerned dealer. In addition to the issue of notice, the DTT conducts verification of the dealer by deputing VAT Inspectors. Circular dated 31 October 2008 *inter-alia* stipulates that the concerned Ward Officer should conduct immediate assessment in the cases where the dealers have closed down their business and to take steps in effecting recovery of demand, if any. Analysis of database and scrutiny of 86 selected cases (where Statutory Forms amounting to ₹ 10 crore or more were issued in each case) revealed the following irregularities:-

(a) In four cases, it was observed that the RC of the dealers was cancelled on the basis of request made by the assessee (DVAT- 09) and no dealer had applied for the restoration of RC. However, these dealers were allowed to download Forms of ₹ 374.46 crore (between October 2014 and January 2016) on the basis of original/revised returns filed after submitting DVAT-09 (between August 2014 and June 2015). It was observed that the dealers made interstate sale of ₹ 389.11 crore against Forms but the Ward Officers had not

⁹ TIN- 07020475664, Ward-66, 2014-15
TIN- 07816977932, Ward-24, 2015-16
TIN- 07826913211, Ward-24

completed assessment under CST Act which resulted in non-levy of tax of ₹ 42.68 crore (**Annexure 1.2.7 (a)**) as the assessee had shown the interstate sale but the details of the Statutory Forms in Form-9 has not been submitted by them. Moreover, in two cases as per the last returns filed, the dealers had closing stock of goods of ₹ 447.97 crore but the Ward Officers did not impose tax of ₹ 72.05 crore (**Annexure 1.2.7 (a)**) under Section 23 of DVAT Act on such stocks held.

(b) Test check of seven out of 86 cases revealed that the DTT cancelled the RC by issuing DVAT-11, after verification by the VAT Inspectors. The verification reports stated that these dealers were not functioning at their address registered with the DTT. However, these dealers were allowed to download Forms of ₹ 196.37 crore (**Annexure 1.2.7 (b)**) even after the issue of DVAT-11. It was also noted that these dealers claimed interstate sale of ₹ 247.38 crore against Forms but the details of the Statutory Forms were not submitted by the dealers in Form-9. The Ward Officers did not conduct assessment under CST Act prior to allowing them to download the Forms, which resulted in non-levy of tax of ₹ 12.37 crore (**Annexure 1.2.7 (b)**).

Thus, absence of system checks and non-monitoring by the Ward Officers led to irregular issue of forms of ₹ 570.83 crore to the dealers whose RCs were already cancelled on the basis of DVAT-09 and DVAT-11. There was non-compliance of the provisions of CST Act and departmental instructions by the Ward Officers which led non-assessment of interstate sale of ₹ 636.49 crore and subsequent non-levy of tax of ₹ 55.05 crore.

The matter was referred to the Department in September 2017; their reply was awaited (January 2018).

The Department should fix the accountability of the Ward Officers for their failure in conducting assessment and ascertaining tax liabilities of the dealers whose RCs were already cancelled. Besides, the Department should also review the existing system to prevent misuse of Statutory Forms.

1.2.7 Deficiency in system for issue of Statutory Forms

The DTT introduced (August 2012) online generation of Statutory Forms to its registered dealers for the financial year 2012-13 and onwards, which was later extended (August 2013) for the earlier periods. The dealers could download Forms by uploading details of interstate purchases made against Forms. As per circular issued in August 2012, each Statutory Form issued online was to bear a unique number, barcode, electronic seal and watermark. The DVAT system was to be equipped with necessary validation checks to prevent generation and issue of defective Statutory Forms to the dealers. Data analysis of 86 cases where Statutory Forms in excess of ₹ 10 crore were issued to each dealer revealed that:-

- (a) in four cases, for five transactions of purchase aggregating to ₹ 61.75 crore (**Annexure 1.2.8**), multiple Statutory Forms were issued by the DTT against each purchase amount.
- (b) in two cases, 50 Statutory Forms of ₹ 1.22 crore (**Annexure 1.2.9 (a)**) bearing same serial numbers were issued to the dealers. One dealer¹⁰ was issued four 'C' Forms and five 'F' Forms containing same serial number which indicates flaws in the system designing, as the basic requirement of issue of Statutory Forms, having unique identification number was not fulfilled.
- (c) in another case, the dealer was issued four 'F' Forms having 'nil' value but in the 'Dealer Profile' in the system, the transaction value of ₹ 22.18 crore (**Annexure 1.2.9 (b)**) was reflected.

Above discrepancies resulted in issue of multiple Forms against same transaction, generation of same serial number for different Forms and issue of 'nil' value Forms.

DTT replied (September 2017) that in two cases, the system branch is enquiring issue of multiple Statutory Forms against single transaction of purchase and necessary validation checks are being implemented. Further, it was stated that AAs have been issued instructions to make assessment/reassessment of these cases as per law for creating lawful demands and recovery of demand. In two cases, where Statutory Forms bearing same serial numbers were issued, DTT stated that it seems to be a technical anomaly and the System Branch is taking necessary action to ensure such instances are not repeated in future.

The generation of multiple Forms against single purchase value and multiple Forms having same serial number is generally not possible in automated environment and therefore the possibility of fraudulent and/or unauthorised overriding of controls should be effectively investigated.

1.2.8 Conclusion

There was inadequate due diligence and oversight of the Ward Officers over issue of the Statutory Forms coupled with failure to strengthen/address the obvious deficiencies in DVAT system. Statutory Forms were issued to the dealers without ensuring recovery of past demand and cross checking the purchase amount declared in the returns. The dealers were issued Statutory Forms without having the details of branches/consignment agents and items to be traded, in their certificate of registration. Departmental instructions to check misuse of downloading of Forms were not followed by the Ward Authorities, which led to irregular downloading of Forms by the dealers. Even after cancellation of the RC on the basis of adverse remarks, Statutory Forms

¹⁰ TIN 07310254878, Ward-64

were issued to the dealers. Flaws in the system design and absence of proper validation checks resulted in issue of multiple Forms containing same serial number and also single transaction value being used twice to download Statutory Forms. As a result of such shortcomings, there was irregular issue of Statutory Forms of ₹ 1,892.78 crore. This also resulted in escape of levy of tax/penalty in some cases amounting to ₹ 248.08 crore. The Department should enquire all such violations and take actions as per the provisions of the Act. Besides, Department should also review the existing system to prevent misuse of Statutory Forms.

Further, the observations pointed out in this report are on sample basis. However, the DTT may look into such issues on similar lines as pointed out by audit and take appropriate action for enforcing the accountability of Ward Officers and recovery of short payment of taxes, if any.

The matter was reported to the Government in August 2017; their reply was awaited (January 2018).

1.3 Loss of revenue due to irregular claim of concessional rate of tax by the dealers

Due to failure of the assessing officer to ensure eligibility of dealers for the concessional tax, there was a loss of revenue of ₹ 52.93 lakh consisting of short levy of tax of ₹ 20.91 lakh, interest of ₹ 11.11 lakh and penalty of ₹ 20.91 lakh.

Sections 8(1) and 8(4) of the CST Act, 1956 provides that every dealer who in the course of inter-state trade or commerce sells to a registered dealer shall be liable to pay tax of two *per cent* of his turnover provided the dealer selling the goods furnishes a declaration in Form 'C' duly filled and signed by the purchasing dealer. Further, Section 86(10) of the DVAT Act, 2004 stipulates that the dealer shall be liable to pay by way of penalty a sum of ten thousand rupees or the amount of the tax deficiency, whichever is the higher. Interest shall also be payable under Section 42(2) of the DVAT Act for default in making the payment of any amount.

Records of Ward-17 revealed that three dealers¹¹ filed online purchase and sales in Form 2A/2B for the assessment year 2012-13 to 2014-15. These dealers made inter-state sale of ₹ 1.99 crore against 'C' Forms and paid concessional rate of tax @ two *per cent* on such sales. Online data of Rajasthan departmental site showed that the registration of purchasing dealers was already cancelled before the transactions took place with the selling dealers. On cross-verification by audit, the Commercial Tax Department, Government of Rajasthan also confirmed that the registration of two purchasing dealers had been cancelled. The department assessed the cases

¹¹ TIN-07780109944, 07300245329, 07830376521

between March 2014 and March 2017 but could not detect this irregularity. Hence, concessional rate of tax claimed by the selling dealers was inadmissible. Therefore, the dealers are liable to pay remaining tax of ₹ 20.91 lakh (@ 10.5% of ₹ 1.99 crore) alongwith, interest of ₹ 11.11 lakh and penalty of ₹ 20.91 lakh.

Thus, due to failure of the Assessing Authority to ensure eligibility of dealers for the concessional tax, there was a loss of revenue of ₹ 52.93 lakh consisting of short levy of tax of ₹ 20.91 lakh, interest of ₹ 11.11 lakh and penalty of ₹ 20.91 lakh.

The Department (September 2017) stated that demand of ₹ 24.75 lakh against two dealers¹² have been created alongwith interest by making default assessment for the year 2013-14 and 2014-15. In other two cases the Department stated that demand had already been created. Reply is not tenable as the demand pointed out by audit is for different 'C' forms for which no demand has been created by the Department. Reply also did not cover the aspect of failure of AA.

The matter was referred to the Government in August 2017; their reply was awaited (January 2018).

1.4 Irregular claim of Input Tax Credit

The Assessing Authorities allowed Input Tax Credit of ₹ 18.80 lakh to the assessee without verifying the details of tax deposited by the selling dealers, resulting in short levy of tax of ₹ 18.80 lakh, besides interest of ₹ 10.80 lakh and penalty of ₹ 18.80 lakh were also leviable.

Section 9 (2) (a) of the Delhi Value Added Tax (DVAT) Act, 2004 stipulates that no tax credit shall be allowed to assessee for goods purchased from a person who is not a registered dealer. Section 9 (2) (g) stipulates that no tax credit shall be allowed to the dealers or class of dealers unless the tax paid by the purchasing dealer has actually been deposited by the selling dealer with the Government or has been lawfully adjusted against output tax liability and correctly reflected in the return filed for the respective tax period. Section 86 (10) of the DVAT Act stipulates that any person who furnishes a return under this Act which is false, misleading or deceptive in a material particular shall be liable to pay by way of penalty a sum of ten thousand rupees or the amount of tax deficiency, whichever is the greater. Interest shall also be liable under the Section 42 (2) of the DVAT Act for default in making the payment of any amount. DTT, however did not adhere to these provisions of the DVAT Act

¹² TIN-07780109944,07300245329

in the following cases:

1. The records of two Wards¹³ revealed that two assessees¹⁴ filed quarterly return alongwith summary of purchases and sales for the assessment years 2011-12 and 2014-15. As per purchase summary (Annexure 2A) of these assessees available on the server of the DTT for the assessment years 2011-12 and 2014-15, the assessees claimed Input Tax Credit (ITC) of ₹ 14.71 lakh on local purchases of ₹ 2.94 crore. However, on cross verification, it was found that the selling dealers had not shown the sales to the assessees for the respective tax periods.

2. Similarly, three assessees¹⁵ under Ward 70, had purchased goods of ₹ 0.82 crore and availed benefit of ITC of ₹ 4.09 lakh for the assessment year 2010-11. Audit verified purchase summary (Form DVAT 30/Annexure 2A) of these assessees and found that the claim of ITC was irregular as the selling dealers were not registered with the DTT and did not have Taxpayer Identification Number.

Thus, failure of the Assessing Authority in verifying the details of tax deposited by the selling dealers resulted in short levy of tax of ₹ 18.80 lakh (₹ 14.71 lakh + ₹ 4.09 lakh), besides interest of ₹ 10.80 lakh and penalty of ₹ 18.80 lakh were also leviable.

The Department accepted (September 2017) the facts in cases of two assessees¹⁶ and created an additional demand of ₹ 33.44 lakh. In remaining cases of three assessees¹⁷, the department stated that dealers had already been assessed and created demands. Department's reply is not acceptable, as in these cases the assessments were done only for pending statutory forms and sale of assets. The reply is silent as why AA allowed ITC without verification of deposit of tax by selling dealer.

The matter was referred to the Government in August 2017; their reply was awaited (January 2018).

1.5 Non-recovery of demand and consequential loss of interest

The Department failed to recover demand of ₹ 3.90 crore from the dealers whose registration had been cancelled.

Sections 32(2) and 33(2) of the DVAT Act, 2004 and Section 9(2) of the CST Act, 1956 provide that the amount of additional tax and penalty assessed is due and payable within the date stipulated in the assessment order served by

¹³ Ward nos.14 and 95

¹⁴ TIN-07850108596,07760263409

¹⁵ TIN-07320165487,07340340173,07700135402

¹⁶ TIN-07850108596,07760263409

¹⁷ TIN-07320165487,07340340173,07700135402

the Commissioner. Any amount of tax, interest or penalty, composition money or other amount due under this act which remains unpaid even after the due date shall be recoverable under Section 43 of DVAT Act, 2004. Further, Section 22(9) of DVAT Act, 2004 stipulates that the cancellation of registration shall not affect the liability of any person to pay tax due for any period and unpaid as on the date of such cancellation or which is assessed thereafter notwithstanding that he is not otherwise liable to pay tax under this Act.

Scrutiny of records of three wards¹⁸ for the years 2008-09 to 2013-14 revealed that the assessment of 12 dealers was completed under Section 32 and 33 of the DVAT Act, 2004 and Section 9(2) of the CST Act between May 2013 and September 2015 creating a demand of ₹ 3.90 crore (tax ₹ 1.79 crore; interest ₹ 0.39 crore and penalty ₹ 1.72 crore) though their registration had been cancelled by the department.

As per the orders of Assessing Authority, the dealers were to deposit the demand within a period of one month from the date of issue of assessment notice. In case, the demand was not deposited within the prescribed period, the department was liable to start further proceedings for recovery of tax, interest and penalty and to issue recovery certificates under Section 43 of DVAT Act, 2004. However, audit noticed that the Department did not take any action for realising the demand against the dealers whose registration certificates had been cancelled even after lapse of 20 months to 49 months.

The department (September 2017) stated that the proceedings of recovery had already been initiated by issuing Recovery Notice/writ of demands to the dealers. Notices have been issued towards their bank account attachments to recover the demand with interest. Dealers have been instructed through field functionaries to pay the amount urgently. The reply is not tenable as the recovery notices/writ of demands under Section 43 of DVAT Act, were to be issued immediately after expiry of one month from the date of assessment notice, whereas the department issued such notices after lapse of 20 months to 49 months, when it was pointed out in Audit. Moreover, as of 31 October 2017, the assessed demand was not recovered. There is a need to enforce accountability of officials for delay in issuing recovery notices under Section 43 of DVAT Act.

The matter was reported to the Government in July 2017; their reply was awaited (January 2018).

¹⁸ Ward no.57, 62 and 86.

1.6 Loss of revenue due to non-payment of tax

Failure of Assessing Authority in ascertaining the correct tax liability of a dealer resulted in short payment of tax of ₹ 4.68 lakh. Interest of ₹ 4.75 lakh and penalty of ₹ 16.51 lakh were also due from the dealer.

Section 26 of DVAT Act, 2004 *inter-alia* provides that every registered dealer who is liable to pay tax shall furnish returns for each tax period to the Commissioner in the prescribed form. Section 42(2) of DVAT Act states that when a person is in default in making the payment of any tax, penalty or other amount due under this Act, he shall, in addition to the amount assessed, be liable to pay simple interest on such amount at the annual rate notified by the Government from time to time, computed on daily basis, from the date of such default for so long as he continues to make default in the payment of the said amount. Further, Section 86(12) of DVAT Act *inter-alia* stipulates that “where a tax deficiency arises, the dealer shall be liable to pay penalty, equal to one *per cent* of tax deficiency per week or rupees one hundred per week, whichever is higher, for the period of default”.

Scrutiny of records of VATO, Ward 96 for the assessment year 2010-11 (Assessed during 2014-15), revealed that a dealer had shown total tax due as ₹ 12.90 lakh pertaining to the months of April, June and July 2010 but only ₹ 8.22 lakh was paid by the dealer. Assessing Authority (AA), however, did not scrutinise its returns to ascertain the correctness of tax paid by the dealer which resulted in short payment of tax of ₹ 4.68 lakh on which interest of ₹ 4.75 lakh and penalty of ₹ 16.51 lakh were also leviable.

Thus, failure of AA in ascertaining the correct tax liability of a dealer resulted in short payment of tax of ₹ 4.68 lakh, besides interest of ₹ 4.75 lakh and penalty of ₹ 16.51 lakh were also leviable.

The matter was referred to the Department/Government in June 2017; the Department stated (October 2017) that there has been wrong calculations of input tax, purchase return have been counted twice, due to which there is apparent difference between net tax shown in returns and actual tax due. The reply of the Department is not acceptable as input tax and amount of purchase return were correctly reflected in the returns but there was a short payment of regular tax which was not correctly detected by the AA. The Government reply was awaited (January 2018).

1.7 Excess allowance of concessional rate of tax due to non-submission of details of Forms 'C'

Excess allowance of concessional rate of tax on Form 'C' resulted in short levy of tax of ₹ 63.79 lakh. In addition, interest of ₹ 37.70 lakh was also leviable.

As per Section 8(1) of the CST Act, 1956, every dealer, who in the course of inter-state trade or commerce, sells to a registered dealer shall be liable to pay tax at the rate of two *per cent* of his turnover or at the rate applicable to the sale or purchase of such goods inside the appropriate State under the sales tax law of that State, whichever is lower. Section 8(4) of the CST Act, 1956 provided that a dealer furnishes to the prescribed authority a declaration in Forms 'C' duly filled and signed by the registered dealer to whom the goods are sold containing the prescribed particulars in the prescribed manner. Further, Rule 4(1) of CST (Delhi) Rules, 2005 states that every dealer shall furnish an electronically Reconciliation Return for a year in Form-9 relating to receipt of declarations/ certificates (statutory forms) within a period of six months from the end of the year to which it relates. The last date of filing the Form-9 details by the dealers for the year 2012-13 was 30 September 2014.

Scrutiny of records of Ward 202 revealed that a dealer¹⁹ had claimed inter-state sale of ₹ 33.91 crore against Forms 'C' for the assessment year 2012-13 but shown the details of Forms 'C' of only ₹ 12.65 crore in Form-9 between November 2015 and January 2016, which implies that dealer did not furnish details of Forms 'C' of ₹ 21.26 crore. This resulted in excess allowance of concessional sale of ₹ 21.26 crore involving tax effect of ₹ 63.79 lakh. In addition, interest of ₹ 37.70 lakh was also leviable.

The Department stated (September 2017) that execution of DVAT Act 2004 and Rules thereunder is software module based including assessment and for assessment of time barring cases (as also applicable in respect of the referred dealer and the period), said software/module generates lists of the dealer who have filed Form-9 and who have not filed Form-9. In the instant case, the said dealer appeared on both the lists and the action was taken accordingly with subsequent rectifications on reconciliation of factual position in this regard. Further, in the mean-time, audit brought out its examination report in respect of the dealer. After checking and verifying facts and figures as given in audit report, the dealer has been assessed and raised a demand of ₹ 1.01 crore for the year 2012-13. The demand raised by the department however, has not been realised as of November 2017. Moreover, there is a need to enforce the accountability of the officers of DTT who failed to assess this case correctly as revenue loss could have gone undetected had the audit not pointed out to the department.

¹⁹ TIN-07870184051

The matter was reported to the Government in July 2017; their reply was awaited (January 2018).

Department of Transport

1.8 Loss of interest due to delay in deposit of receipts to the Government Accounts

Delays in deposits of receipts in the Government accounts resulted in loss of interest of ₹ 20.20 lakh.

Rule 6(1) of the Central Government Account (Receipts and Payments) Rules, 1983 stipulates that all moneys received by or tendered to Government officers on account of revenues or receipts or dues of the Government shall, without undue delay, be paid in full into the accredited bank for inclusion in Government Account.

Records of the Transport Department (Department), Delhi for 2015-16 and 2016-17 showed that the Department receives cheques/demand drafts on monthly basis towards its share of consolidated fees deposited in the National Permit Account and Environment Compensation Charges from Pay and Accounts Office (Secretariat), Ministry of Shipping, Road Transport and Highways, New Delhi and South Delhi Municipal Corporation. Department deposited these cheques/demand drafts of ₹ 155.31 crore consisting of ₹ 123.91 crore on account of National Permit fees and ₹ 31.40 crore on account of Environment Compensation charges. Audit noted that these high value monthly receipts were not deposited timely in 22 months out of 24 months. Out of these 22 cases, there was a delay in deposit ranging between 11 days and 68 days in six cases, resulted in loss of interest²⁰ of ₹ 18.35 lakh.

Further, the Department made an agreement with the concessionaire in April 2012 for implementation of High Security Registration Plate (HSRP) project. The agreement Clause 5.17.1 stipulates that out of the total fee collected by concessionaire, an amount equal to two *per cent* of the total amount before tax shall be paid to the Department as Royalty. Audit found (July 2017) that concessionaire paid royalty cheques of ₹ 10.46 lakh to Department's Operations Branch for affixation of HSRP in the vehicles. The cheques of ₹ 10.46 lakh dated between 09 March 2015 and 04 January 2016 were sent to Accounts Office on 13 April 2016 after lapse of validity of three months. This resulted in loss of interest²¹ of ₹ 1.85 lakh.

²⁰ Interest has been calculated @ 9.5 *per cent* per annum upto 31 March 2016 and 8.8 *per cent* per annum from April 2016 to 31 July 2017 which is charged by Central Government in respect of the central loan given to States and Union Territories.

²¹ Interest has been calculated @ 9.5 *per cent* per annum upto 31 March 2016 and 8.8 *per cent* per annum from 1 April 2016 to 31 July 2017.

Department replied (July 2017) that the cheques in respect of National Permit fee and Environment Compensation Charges reaches in the accounts branch after four to five days due to marking by various officers of State Transport Authority and Accounts Branch. The time consumed on routine processing of DAK may not be termed as delay in remittance and in future Pay and Accounts Office (Secretariat), Ministry of Shipping, Road Transport and Highways would be informed that cheques and letters may be sent directly to Senior Accounts Officer, Transport Department directly. In the case of HSRP the Department while accepting the facts and figures stated (November 2017) that cheques/DDs were returned to operation branch for revalidation and has now been received after revalidation. The same had been deposited into bank on 9 November 2017 and thus there is no delay in depositing of Government receipts into the bank.

The Department's reply in both the cases is not acceptable. The cheques/demand drafts in respect of National Permit fee and Environment Compensation Charges were in its custody only and Accounts Branch is a part of it and these were to be remitted to the government account as per above said Rule. In the case of HSRP though the cheques of ₹ 10.46 lakh have been deposited into the bank but the fact remains that the Department suffered a loss of interest of ₹ 1.85 lakh on these cheques, had these been timely deposited.

The matter was referred to the Government in August 2017; their reply was awaited (January 2018).

