

CHAPTER-IV

REVENUE SECTOR

4.1 General

4.1.1 Trend of revenue receipts

The tax and non-tax revenue raised by the Government of Nagaland during year 2016-17, the State's share of net proceeds of divisible Union taxes and duties assigned to the State and Grant-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are given below:

Table-4.1.1

(₹ in crore)

Sl. No	Particulars	2012-13	2013-14	2014-15	2015-16	2016-17
1.	Revenue raised by the State Government					
	• Tax revenue	339.95	333.39	388.60	427.10	510.75
	• Non-tax revenue	207.17	216.57	270.61	256.39	345.52
	Total	547.12	549.96	659.21	683.49	856.27
2.	Receipts from the Government of India					
	• Share of net proceeds of divisible Union taxes and duties	917.14	1001.27	1062.69	2540.72	3032.63
	• Grants-in-aid	4740.03	4946.67	5929.04	4819.36	5553.38
	Total	5657.17	5947.94	6991.73	7360.08	8586.01
3.	Total revenue receipts of the State Government (1 and 2)	6204.29	6497.90	7650.94	8043.57	9442.28
4.	Percentage of 1 to 3	9	8	9	8	9

(Source: Finance Accounts)

The above table indicates that during the year 2016-17, the revenue raised by the State Government (₹ 856.27crore) was nine *per cent* of its total revenue receipts. The balance 91 *per cent* of the receipts during 2016-17 was from the Government of India.

4.1.2 The details of the tax revenue raised against the Budget Estimate (BE) during the period 2012-13 to 2016-17 are given in **Table 4.1.2**.

Table-4.1.2

(₹ in crore)

Sl. No	Head of revenue	2012-13		2013-14		2014-15		2015-16		2016-17		Percentage of increase/decrease in 2016-17 over 2015-16
		BE	Actual	BE	Actual	BE	Actual	BE	Actual	BE	Actual	
1	Police	3.66	7.34	4.02	3.37	4.3	1.45	4.73	1.68	5.11	31.54	1,777
2	Miscellaneous General Services	11.88	6.6	10	6.57	10	13.08	10	13.43	11	13.64	2
3	Education, Sports, Art and Culture	0.38	45.57	0.42	67.83	0.46	103.56	40.21	76.52	44.23	119.4	56
4	Power	120	102.83	110	88.31	125	98.91	100	111.1	125	114.58	3
5	Civil Aviation	9.11	1.03	8	0.99	8.8	1.43	9.68	1.04	10.64	20.77	1897
6	Road Transport	15.64	11.37	14.26	12.17	15.69	12.97	17.26	10.81	18.12	9	(-17)
7	Other Non-tax receipts	41.02	32.43	39.32	37.33	41.57	39.21	48.72	41.8	47.49	36.59	(-12)
Total		201.69	207.17	186.02	216.57	205.82	270.61	230.6	256.38	261.59	345.52	35

(Source: Budget documents and Finance Accounts of the State)

The Departments did not furnish the reasons for variations in receipts from that of the previous year (2015-16).

4.1.3 The details of the Non-tax revenue against the Budget Estimate (BE) raised during the period 2012-13 to 2016-17 are indicated in **Table 4.1.3**:

Table-4.1.3

Sl. No	Head of revenue	2012-13		2013-14		2014-15		2015-16		2016-17		Percentage of increase/decrease in 2016-17 over 2015-16
		BE	Actuals	BE	Actuals	BE	Actuals	BE	Actuals	BE	Actuals	
1	Sales Tax/VAT	220.6	257.21	252.61	250.20	294.36	294.29	332.78	328.58	400.00	400.12	(+) 22
2	Taxes on vehicle	29.95	41.59	36.23	36.15	46.00	46.46	46.00	53.09	57.63	57.39	(+) 8
3	Stamps and Registration Fees	1.39	1.58	1.52	1.77	1.67	1.93	1.98	2.04	2.14	2.05	0
4	State Excise	4.3	3.73	4.06	4.86	4.47	4.70	4.90	5.12	5.40	4.63	(-) 10
5	Taxes on Goods and Passengers	3.01	6.71	5.01	10.79	7.50	9.73	12.10	5.88	13.31	14.76	(+)151
6	Land Revenue	0.96	0.72	0.74	0.70	0.81	0.74	0.89	0.75	0.98	0.82	(+) 9
7	Others	31.95	28.41	31.97	28.92	31.97	30.76	35.81	31.64	35.85	30.98	(-) 2
Total		292.1	339.95	332.14	333.39	386.78	388.61	434.46	427.10	515.31	510.75	20

The Department did not furnish the reasons for variation in receipts from that of the previous year (2015-16).

4.1.4 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2017 on some principal heads of revenue amounted to ₹ 11.71 crore out of which ₹ 4.56 crore was outstanding for more than five years, as detailed in the **Table 4.1.4**.

Table-4.1.4

(₹ in crore)

Sl. No.	Head of revenue	Total Amount outstanding as on 31 March 2017	Amount outstanding for more than 5 years as on 31 March 2017	Replies of Department
1	Nagaland Value Added Tax	6.62	1.08	Reply not furnished
2	Petroleum Tax	2.02	0.55	
3	Central Sales Tax	1.68	0.62	
5	Purchase Tax	0.47	0.00	
6	Professional Tax	0.16	0.02	
Total		10.95	2.27	

(Source: Departmental figure)

It would be seen from the table that recovery of ₹ 2.27 crore was pending for more than five years and no efforts were being made to recover them. The entire arrears of ₹10.95 crore were pending with the departmental authorities.

4.1.5 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 the Sales Tax Department in respect of Sales Tax/VAT on Sales, Trades etc. was as below in **Table 4.1.5**:

Table-4.1.5

(₹ in crore)

Head of Revenue	Opening Balance as on 1st April 2016	New cases due for assessment during 2016-17	Total assessment due	Cases disposed off during 2016-17	Balance at the end of the 31st March 2017	Percentage of cases disposed to the total assessment due
1	2	3	4	5	6	7 (5 to 4)
Taxes /VAT on Sales, Trades, etc.	5,881 ⁶²	10,861	16,742	12,384	4,358	74

(Source: Departmental figure)

The arrears in assessment decreased from 5881 to 4358 cases with the addition of 10,861 cases which became due for assessment during 2016-17 and 12,384 cases disposed off during the year. The percentage (74 per cent) of cases disposed during 2016-17 was encouraging and the pace needs to be maintained.

⁶² Opening balance taken as per the revised figure furnished by the Department.

4.1.6 Evasion of tax detected by the Department

The details of cases of evasion of tax detected by the Department, cases finalised and the demands for additional tax raised were not furnished by the Commissioner Taxes Dimapur despite a request (February 2018) in this regard.

4.1.7 Pendency of Refund Cases

A request (February 2018) was made to the Commissioner of Taxes, Dimapur on 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 close of the year 2016-17. This information was not furnished by the Department.

4.1.8 Response of the Government/Departments towards audit

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

IRs issued upto June 2017 disclosed that 261 Paragraphs involving ₹ 107.89 crore relating to 85 IRs remained outstanding as mentioned in the following table along with the corresponding figures for the preceding two years in **Table 4.1.6**:

Table-4.1.6

	June 2015	June 2016	June 2017
Number of outstanding IRs	74	76	85
Number of outstanding audit observations	226	228	261
Amount involved (₹ in crore)	50.62	73.37	107.89

4.1.8.1. Outstanding Inspection Reports and Audit Observations

The Department-wise details of the IRs and audit observations outstanding as on 30 June 2017 and the amount involved are given in **Table 4.1.7**:

Table-4.1.7

Sl. No.	Name of Department	Name of Receipts	No. of outstanding IRs	No. of Outstanding Audit Observations	Money Value involved (₹ in crore)
1.	Finance	Taxes/VAT on Sales, Trade, etc	33	160	92.59
2.	Finance	Miscellaneous General Services/Lottery	3	16	2.59
3.	Transport	Taxes on Vehicles/ Taxes on Goods & Passengers	30	53	6.57
4.	Forest & Environment	Forest & Wildlife	19	32	6.14
Total			85	261	107.89

In respect of seven IRs, even the first reply was not received which was required to be received within one month from the date of issue of the IRs. This large pendency of IRs due to non-receipt of replies is indicative of the fact that the Heads of offices/departments failed to initiate action to rectify the defects, omissions and irregularities pointed out by the Accountant General in the IRs.

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

4.1.8.2 Departmental Audit Committee meetings

In order to expedite settlement of the outstanding audit observations contained in the IRs, Departmental Audit Committees are constituted by the Government. These Committees are chaired by the Secretaries of the concerned Administrative Department and attended by the concerned officers of the State Government and officers of the Accountant General (Audit). The Audit Committees need to meet regularly in order to expedite clearance of the outstanding audit observations.

During 2016-17, no Audit Committee meeting was convened by any department to clear the outstanding audit observations.

The Government may ensure holding of regular meetings of the committees for ensuring effective remedial action on the audit observations.

4.1.8.3 Response of the departments to the draft audit paragraphs

The draft audit paragraphs proposed for inclusion in the Report of the Comptroller and Auditor General of India are forwarded by the Accountant General (Audit) to the Principal Secretaries/Secretaries of the concerned departments, drawing their attention to audit findings and requesting them to send their response within six weeks.

The fact of non-receipt of the replies from the Departments/ Government is invariably indicated at the end of such paragraphs included in the Audit Report.

Four draft paragraphs were sent to the Principal Secretaries/Secretaries of the respective departments during August 2017 to September 2017. Replies (November 2017) were furnished in respect of three draft paragraphs only.

4.1.8.4 Follow up on the Audit Reports-summarised position

The internal working system of the Public Accounts Committee (PAC), notified in December 2002, laid down that after the presentation of the Report of the Comptroller and Auditor General of India in the Legislative Assembly, the departments shall initiate action on the audit paragraphs and the action taken explanatory notes thereon should be submitted by the Government within three months of tabling the Report, for consideration of the Committee. In spite of these provisions, the explanatory notes on audit paragraphs of the Reports were being delayed inordinately. Twelve paragraphs and two Performance Audits included in the Reports of the Comptroller and Auditor General of India on the Revenue Sector of the Government of Nagaland for the years 2011-12, 2012-13, 2013-14, 2014-15 and 2015-16 were placed before the State Legislature Assembly on 18 July 2013, 25 July 2014, 17 March 2015, 19 March 2016 and 28 March 2017 respectively.

PAC discussed six paragraphs pertaining to the years 2011-12 to 2013-14. *Suo-moto* explanatory notes were not furnished to Accountant General (Audit) by the Departments and were also not received through Nagaland Legislative Assembly Secretariat in respect of paragraphs/reviews which appeared in the Audit Reports.

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

To analyse the system of addressing the issues highlighted in the Inspection Reports / Audit Reports by the departments/government, the action taken on the paragraphs and performance audits included in the Audit Reports of the last 10 years for Taxation Department was evaluated.

The succeeding paragraphs 4.1.9.1 and 4.1.9.2 discuss the performance of Taxation Department in dealing with the cases detected in the course of local audit conducted during the last ten years and also the cases included in the Audit Reports for the years 2006-07 to 2015-16.

4.1.9.1 Position of Inspection Reports

The summarised position of the IRs issued during the last 10 years, paragraphs included in these reports and their status as on 30 June 2017 are tabulated in **Table-4.1.8:**

Table-4.1.8

(₹ in crore)

Year	Opening Balance			Addition during the year			Clearance during the year			Closing Balance		
	IRs	Paras	Money Value	IRs	Paras	Money Value	IRs	Paras	Money Value	IRs	Paras	Money Value
2006-07	29	136	65.42	0	0	0	0	0	0	29	136	65.42
2007-08	29	136	65.42	0	0	0	0	1	0.03	29	135	65.39
2008-09	29	135	65.39	0	0	0	0	4	0.02	29	131	65.37
2009-10	29	131	65.37	0	0	0	0	0	0	29	131	65.37
2010-11	29	131	65.37	0	0	0	1	2	0.03	28	129	65.34
2011-12	28	129	65.34	0	0	0	0	0	0	28	129	65.34
2012-13	28	129	65.34	0	0	0	0	0	0	28	129	65.34
2013-14	28	129	65.34	0	0	0	0	0	0	28	129	65.34
2014-15	28	129	65.34	0	0	0	0	0	0	28	129	65.34
2015-16	28	129	65.34	0	0	0	0	0	0	28	129	65.34
2016-17	28	129	65.34	5	31	27.25	0	0	0	33	160	92.59

As would be evident from the above table, against 29 outstanding IRs with 136 paragraphs at the start of 2006-07, the number of outstanding IRs increased to 33 with 160 paragraphs at the end of 30 June 2017. This indicated that adequate steps were not taken by the Department in this regard resulting in accumulation of the outstanding IRs and paragraphs despite Audit reminding the Department periodically to furnish the replies.

4.1.9.2 Recovery of accepted cases

The position of paragraphs included in the Audit Reports of the last five years, those accepted by the Department and the amount recovered are mentioned in **Table 4.1.9**:

Table-4.1.9

(₹ in crore)

Year of Audit Report	Number of paragraphs included	Money value of the paragraphs	Number of paragraphs accepted including money value	Money value of accepted paragraphs	Amount recovered during the year	Cumulative position of recovery of accepted cases as of 31.03.2017
2011-12	1	0.20	-	-	-	0
2012-13	2	0.53	2	0.17	0.17	0.17
2013-14	2	8.46	-	-	-	0.17
2014-15	3	1.64	3	0.25	-	0.17
2015-16	3	16.10	2	5.64	-	0.17
Total	11	26.93	7	6.06	0.17	0.17

From the above table, it is seen that during the last five years, an amount of ₹ 6.60 crore was accepted as against which only ₹ 0.17 crore was recovered by the Department. Thus, it is evident that the progress of recovery even in accepted cases was very slow throughout the last five years.

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

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

The draft Performance Audit (PAs) conducted by the Accountant General (Audit) are forwarded to the concerned departments/government with a request to furnish their replies. These PAs are also discussed in the exit conference and the department's/government's views are included while finalising the PAs for the Audit Reports.

During 2012-13 to 2016-17, two PAs in respect of Finance Department and Transport & Communication Department were included in the Audit Report. Nine recommendations were made by audit for consideration by government. The status of acceptance of these recommendations is given in the following table:

Table-4.1.10

Year of Audit Report	Name of the Performance audit	Name of Administrative Department	No. of recommendations	Details of recommendations accepted
2015-16	Nagaland State Lotteries	Finance	5	Not communicated
	Computerisation of Motor Vehicles Department.	Transport & Communication	4	Not communicated

4.1.10 Audit Planning

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

During 2016-17, there were 75 auditable offices, of which 27 offices were planned for audit during the year against which however, only 29 offices were actually audited.

4.1.11 Results of audit

4.1.11.1 Position of local audit conducted during the year

Test check of the records of the 29 offices during 2016-17 revealed under assessment/ short levy/ loss of revenue/non-realisation of outstanding revenue aggregating ₹ 98.54 crore in 55 cases.

4.1.12 Coverage of this chapter

This chapter contains three compliance audit paragraphs (selected from the audit detections made during the local audit referred to above) involving financial effect of ₹ 25.59 crore. The Department accepted the audit observation involving ₹ 11.47 crore and recovered ₹ 0.12 crore.

Compliance Audit

FINANCE (TAXATION) DEPARTMENT

NAGALAND VALUE ADDED TAX (NVAT) ACT

Section 28 of the Nagaland Value Added Tax (NVAT) Act, 2005 stipulates that every dealer registered under the Act shall furnish Annual Returns containing information in respect of gross purchases including exemption, non-taxable purchases, gross sales including export sales, inter-state sales and consignment transfers, total tax due including interest and penalty less tax credit during the assessment year and tax payable and paid.

Section 32 of the NVAT Act, 2005 provides that the Assessing Authority (AA) is required to consider all aspects during scrutiny to avoid any mistake, cross verify the items of inter-state purchase of goods through utilisation of statutory forms and the rate of taxes applicable in respect of those items submitted by the dealers.

Under Section 49 of the NVAT Rules 2005, if a dealer fails to pay the amount of tax by the due date interest at 2 *per cent* per month is payable on the balance amount of tax.

Section 78 of NVAT Act provides that the Commissioner of Taxes may, on his own motion, call for and examine the record of any proceedings under NVAT Act if he considers that any order passed therein by any officer including the first appellate authority, is erroneous in so far as it is prejudicial to the interest of the revenue, and after giving the assessee an opportunity of being heard, pass such orders as he deems fit; he may also, if necessary, stay the operation of such order for such periods as he deems fit and after giving the assessee an opportunity of being heard and after making or causing to be made such enquiry as he deems necessary, pass such order thereon as the circumstances of the case justify, including an order enhancing or modifying the assessment, or canceling the assessment or directing a fresh assessment.

4.2 Evasion of tax due to concealment of turnover

4.2.1 Sixteen dealers concealed inter-state purchase of ₹ 77.56 crore and evaded tax of ₹ 11.47 crore

Examination of assessment records (June 2017) of the three Superintendent of Taxes, (Assessing Authorities of Ward 'A', 'C' and 'E') under Deputy Commissioner of

Taxes, Dimapur Zone revealed that 16 dealers⁶³ declared a gross turnover of ₹ 222.79 crore⁶⁴ during the period 2013-17. The 16 dealers declared a consolidated gross purchases of ₹ 153.92 crore⁶⁵ by utilizing ‘C’ forms. The returns filed by these dealers were scrutinised and accepted by the STs under sections 32 of the NVAT Act, 2005.

Cross examination of utilisation of ‘C’ forms submitted by the dealers with the trading account and tax returns of the dealers and commodity and tax rate applicable to each purchase declared by the dealers revealed that the dealers actually purchased goods of ₹ 231.48 crore during the same period. The dealers thus concealed interstate purchases of ₹ 77.56 crore taxable at different rates as detailed in **Table 4.2.1**.

Table-4.2.1

(₹ in crore)

Particulars	Interstate purchase of goods of Taxable @						Total
	4.75%	5%	13.25%	14.50%	18%	25%	
Purchases as per ‘C’ forms	19.28	5.87	107.02	65.90	18.74	14.67	231.48
Purchases declared by the dealers	15.54	0.53	84.89	38.17	10.48	4.31	153.92
Purchases concealed by the dealers	3.74	5.34	22.13	27.73	8.26	10.36	77.56
Tax evaded	0.18	0.27	2.93	4.02	1.49	2.59	11.47

From the above table it can be seen that due to concealment of purchase, the dealers evaded tax of ₹ 11.47 crore (**details in Appendix 4.2.1**) consequent on which they were also liable to pay interest of ₹ 6.16 crore (calculated up to February 2018) for such concealment under Section 49 of the NVAT Act.

The Assessing Authorities thus failed to exercise the necessary checks as required under Section 32 of the NVAT Act, 2005 while assessing the returns filed by the dealers.

The Department stated (August 2017) that in respect of two dealers⁶⁶, revision by the Commissioner of Taxes under Section 78 of NVAT Act, had been carried out during 2016, necessary orders passed and an additional revenue of ₹ 0.12 crore realized from the dealers. In respect of a third dealer⁶⁷ it was stated that the returns of the dealer for 2014-15 and 2015-16 were recommended for revision by the Commissioner of Taxes under Section 78 of the NVAT Act. Action by the Department in respect of the other thirteen dealers was awaited (February 2018).

⁶³ M/s KG Store, M/s MS Store, M/s Ratan & Co., M/s Awomi Cements, M/s Yephthomi Speeds, M/s Kashliwal Enterprises Pvt. Limited, M/s Apex Motors, M/s Yephthomi Motors, M/s Power Cell, M/s Yephthomi Auto, M/s Nili Motors, M/s Prative Enterprises, M/s Synergy Systems, M/s Z.C. Traders, M/s Madan Sharma & Co. and M/s SM Enterprises.

⁶⁴ GTO includes taxable and non-taxable sales, warranty sales, but exclusive of closing stock, goods damaged/returned/expired etc.

⁶⁵ Gross Purchases includes non-taxable items, capital goods, goods damaged/ expired/ returned.

⁶⁶ (i) M/S KG Store for the years 2014-15 and 2015-16, (ii) M/S M.S. Store – 2015-16

⁶⁷ M/s. Ratan & Co. TIN: 13030002017

4.2.2 Three dealers concealed purchases and evaded tax of ₹ 3.61 crore

Examination of assessment records (June 2017) of the Superintendent of Taxes for Ward 'A' and 'C' under Deputy Commissioner of Taxes, Dimapur Zone revealed that the returns of three dealers were scrutinised and accepted by the AAs under Sections 32 of the NVAT Act, 2005. Audit scrutiny of returns and trading accounts of these dealers revealed that goods purchases for ₹ 19.21 crore and ₹ 42.67 crore were taxable @ 13.25 per cent and 14.50 per cent respectively as detailed below:

Table-4.2.2*(₹ in crore)*

Sl. No.	Name, TIN number and ward of the Dealer	Year (Tax Period)	Purchases taxable @ 13.25 % as per Trading Account	Purchases taxable @ 14.50 % as per Trading Account
1	M/S Global Marketing, TIN-13501462029, Ward - A	2014-15	16.37	00
		2015-16	2.84	17.91
		2016-17	00	14.92
2	M/S Steel Centre, TIN-13503024032, Ward- C	2016-17	00	7.48
3	M/S Brightway Auto Distributors, TIN- 13010773078, Ward-A	2016-17	00	2.36
Total			19.21	42.67

Further examination of the annual tax returns and trading accounts of the three dealers revealed that they declared sales within the state of ₹ 8.20 crore taxable @ 13.25 per cent and ₹ 18.03 crore taxable at 14.50 per cent. The dealers declared in their returns furnished to the AAs the value of goods returned (₹ 0.20 crore) and inter-state sale (₹ 9.62 crore) taxable at 14.50 per cent.

The dealers did not disclose any closing balance in their returns furnished to the Assessing Authority and avoided taxable turnover of ₹ 11.01 crore⁶⁸ taxable at 13.25 per cent and ₹ 14.82 crore⁶⁹ against goods taxable at 14.5 per cent.

The dealers concealed the total purchase value of goods worth ₹ 25.82 crore and evaded payment of tax of ₹ 3.61 crore (**Appendix-4.2.2**).

The failure of the Assessing Authority failed to exercise necessary checks as required under Section 32 of the NVAT Act, while assessing the returns filed by the dealers enabled the dealers to evade payment of tax. The dealers are liable to pay tax of ₹ 3.61 crore along with interest of ₹ 1.56 crore (calculated up to February 2018) as interest under Section 49 of the NVAT Act, 2005.

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

⁶⁸ Total purchase of ₹ 19.21 crore minus declared sale of ₹ 8.20 crore.

⁶⁹ ₹ 42.67 crore ₹ (total purchase) - ₹ 0.20 crore (returned) - ₹ 9.62 crore (inter-state sale) - ₹ 18.03 crore (declared by dealers) = ₹ 14.82 crore.

4.2.3 Inadmissible exemption

Failure of the Assessing Authority to exercise prescribed checks resulted in concealment of purchases for ₹ 5.71 crore, irregular exemption of taxable purchases of ₹ 28.60 crore and evasion of tax ₹ 1.66 crore

Examination of records (June 2017) of the Superintendent of Taxes, Ward 'C', Dimapur under Deputy Commissioner of Taxes, Dimapur Zone revealed that one dealer (M/s Gemini Enterprises Pvt. Ltd. bearing TIN-13501446063) registered for dealing with taxable items at different rates declared purchases of ₹ 31.51 crore which included goods worth ₹ 2.91 crore taxable at the rate of 4.75 per cent and ₹ 28.60 crore as non-taxable goods for the year 2014-15. The dealer declared a 'Nil' closing balance in his returns indicating that all goods imported by him had been sold during the same year. The Assessing Authority (AA) accepted the return filed by the dealer and assessed the dealer for ₹ 0.12 crore as tax which was paid by the dealer.

To authenticate the returns filed by the dealer and the assessment done by the AA, Audit cross examined the utilisation of 'C' Forms from the Tax Information Exchange System (TINXSYS) website which revealed that goods valued at ₹ 37.22 crore was purchased by the dealer through 19 'C' forms during 2014-15. Out of the total purchases made, goods worth ₹ 0.42 crore were taxable at 13.25 per cent. The remaining purchase of goods worth ₹ 36.80 crore was taxable at 4.75 per cent. Against the purchase of taxable commodities valuing ₹ 37.22 crore the dealer declared purchase of ₹ 31.51 crore, out of which only ₹ 2.91 crore was declared as taxable goods and goods valuing ₹ 28.60 crore was declared as non-taxable purchases. The AA accepted the return filed by the dealer without verifying the inter-state purchases and allowed the claim of the dealer of purchase of non-taxable items of ₹ 28.60 crore. This resulted in concealment of purchase of ₹ 5.71 crore (₹ 37.22 crore - ₹ 31.51 crore) and irregular exemption of taxable purchases of ₹ 28.60 crore which led to evasion of tax ₹ 1.66 crore⁷⁰.

Failure of the AA to exercise the necessary checks as required under Section 32 of the NVAT Act 2005 while assessing the returns filed by the dealer thus enabled the dealer to evade tax of ₹ 1.66 crore on which interest of ₹ 1.13 crore (calculated up to February 2018) was leviable under Section 49 of the NVAT Act, 2005.

The Department stated (August 2017) that as per 'C' form utilisation, the purchases made by the dealer were non-taxable items.

The reply was not acceptable as the cross examination of the 'C' forms revealed that the dealer had actually imported refined oil which is a taxable commodity. This was corroborated by the fact that the request of the dealer for issue of 'C' forms against the sales made by him to M/S Gemini Enterprises was for refined oil. Given the facts, the dealer therefore, is liable to pay tax of ₹ 1.66 crore along with ₹ 1.13 crore as interest (calculated up to February 2018).

⁷⁰ (₹ 34.31 crore - ₹ 0.42 crore) x 4.75% plus (₹ 0.42 crore x 13.25%)