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**CHAPTER-V  
COMMERCIAL  
TAXES**



## CHAPTER-V COMMERCIAL TAXES

### 5.1 Tax administration

The levy and collection of commercial taxes<sup>193</sup> in the State is governed by the provisions of the following Acts and Rules made the reunder:

- Central Sales Tax (CST) Act, 1956;
- Central Goods and Services Tax (CGST) Act, 2017;
- Bihar Goods and Services Tax (BGST) Act, 2017;
- Integrated Goods and Services Tax (IGST) Act, 2017;
- Bihar Value Added Tax (BVAT) Act, 2005;
- Bihar Tax on entry of goods into local areas (BTEG) Act, 1993;
- Bihar Entertainment Tax Act, 1948;
- Bihar Taxation on Luxuries in Hotels Act, 1988;
- Bihar Electricity Duty Act, 1948;
- Bihar Tax on Professions, Trades, Callings and Employments Act, 2011; and
- Bihar Tax on Advertisement Act, 2007.

At the apex level, the Commercial Taxes Department (CTD) is headed by the Commissioner of State Tax (CST) assisted by Special Commissioners of State Tax, Additional Commissioners of State Tax, Joint Commissioners of State Tax (JCST), and Deputy Commissioners of State Tax (DCST)/Assistant Commissioners of State Tax (ACST). At the field level, the State is divided into nine administrative divisions<sup>194</sup>, nine appeals divisions<sup>195</sup> and nine audit divisions<sup>196</sup> as they were under the VAT period, each headed by an Additional Commissioner of State Tax. The nine administrative divisions are further sub-divided into 50 circles each headed by a JCST/DCST assisted by Assistant Commissioners of State Tax.

### 5.2 Results of audit

During 2019-20, Audit test-checked records of seven units<sup>197</sup> out of 90 units of CTD, in which irregularities involving ₹737.41 crore in 403 cases were observed

<sup>193</sup> *Commercial taxes include Taxes on Sales, Trade etc., Taxes on goods and services, Taxes on Goods and Passengers; Taxes and Duties on Electricity; Other Taxes on Income and Expenditure-Taxes on Professions, Trades, Callings and Employment and Other Taxes and Duties on Commodities and Services.*

<sup>194</sup> *Bhagalpur, Central, Darbhanga, Magadh, Patna East, Patna West, Purnea, Saran and Tirhut.*

<sup>195</sup> *Bhagalpur, Central, Darbhanga, Magadh, Patna East, Patna West, Purnea, Saran and Tirhut.*

<sup>196</sup> *Bhagalpur, Central, Darbhanga, Magadh, Patna East, Patna West, Purnea, Saran and Tirhut.*

<sup>197</sup> *CST Patna, Kadamkuan, Patliputra, Patna Central, Patna City West, Patna North and Patna South.*

which fall under the following categories as detailed in **Table- 5.1**.

**Table- 5.1**  
**Results of audit**

(₹in crore)

Sl. No.	Categories	No. of cases	Amount
<b>A: Taxes on sales, trade etc./ VAT/CGST/SGST/IGST</b>			
1.	Non-levy and short levy of taxes	28	2.67
2.	Suppression of turnover	72	328.40
3.	Excess allowance of ITC	22	82.59
4.	Non-levy or short levy of additional tax & surcharge	03	6.81
5.	Application of incorrect of rates of tax	26	21.77
6.	Short Levy due to incorrect determination of turnover	03	19.93
7.	Incorrect/Irregular adjustment of entry tax	12	22.86
8.	Non/short payment of tax	15	18.74
9.	Other cases	108	120.09
<b>Total</b>		<b>289</b>	<b>623.86</b>
<b>B: Entry Tax</b>			
1.	Short levy of entry tax due to suppression of import value	19	50.03
2.	Application of incorrect of rates of entry tax	08	7.77
3.	Other cases	09	9.34
<b>Total</b>		<b>36</b>	<b>67.14</b>
<b>C: Electricity duty</b>			
1.	Non/short levy of electricity duty	02	26.41
<b>Total</b>		<b>02</b>	<b>26.41</b>
<b>D: GST</b>			
1.	Non/short levy of GST	76	20.00
<b>Total</b>		<b>76</b>	<b>20.00</b>
<b>Grand Total</b>		<b>403</b>	<b>737.41</b>

During 2019-20, the Department accepted under assessment and other deficiencies of ₹52.59 crore in 782 cases and recovered ₹12.59 crore in 150 cases which were pointed out before 2019-20. The replies in the remaining cases of previous years and all cases of 2019-20 were not received (August 2021).

### 5.3 Short levy of tax due to incorrect availing/claim of deduction

**The Assessing Authorities failed to detect availing of inadmissible deductions by dealers which resulted in short levy of tax of ₹1.10 crore including leviable interest.**

Section 7 of the BVAT Act stipulates that no tax shall be payable on sale or purchase of goods specified in Schedule-I. Further, serial no. 76 of Schedule-I of BVAT Act read with S.O. No. 325 dated 05.12.2008 provide that no tax shall be paid on purchase/sale of goods for the use of members of the Central Paramilitary Forces by Central Master Canteen situated in the State subject to the condition that an officer not below the rank of a Commanding Officer certifies that the sale/purchase has been done for the use of a member of the Central Forces and resale of the sold goods shall not be done.

Audit test check of assessment records in two commercial taxes circles<sup>198</sup> in September 2020 revealed that two dealers availed of deductions of ₹42.74 crore towards schedule-I goods during the period 2016-17 though they were eligible for deduction of ₹30.78 crore only. Out of two, one dealer availed of deductions towards the sale of goods to CSD Canteens on basis of exemption certificate, which was issued by either Canteen Officer or Vice-chairman or Canteen Manager and not certified by the Commanding Officer (SHQ). While, in other case, information of sale disclosed by the dealer in his Tax Audit Report do not match with the information of purchase disclosed in the Tax Audit Report of the purchasing dealer, therefore the deduction claimed towards Schedule-I goods was incorrect.

The Assessing Authorities, however, did not detect the claims of inadmissible deductions while doing assessment. This resulted in short levy of tax for ₹1.10 crore including leviable interest of ₹41.84 lakh, as detailed in *Appendix-5.1*.

The matter was reported to the Department (August 2021); reply is awaited.

#### **5.4 Short levy of tax due to application of incorrect rate of tax**

**The Assessing Authorities failed to detect the application of incorrect rate of tax which resulted in short levy of tax of ₹ 2.87 crore including interest.**

Under the provision of Section 25 (1) of the BVAT Act, 2005, the Assessing Authorities are to scrutinise annual returns to ensure application of correct rate of tax. Further, provision of Section 39(4) of the BVAT Act, provides for levy of interest at the rate of one and a half *per cent* per month on the amount of tax found payable subsequent to scrutiny.

Audit test-check of assessment records in Patna South Commercial Taxes Circle between September and October 2020 revealed that two dealers in their self-assessment and the Assessing Authority in case of third dealers assessed tax liability at the lower rate of five to 14.5 *per cent* on sale of various goods valued at ₹24.21 crore instead of the correct rate of 14.5 to 15 *per cent* during 2016-17.

The Assessing Authority failed to detect the application of incorrect rate of tax while doing assessment, resulted in short levy of tax for ₹2.87 crore including interest of ₹1.09 crore as detailed in *Appendix-5.2*.

The matter was reported to the Department (August 2021); reply is awaited.

<sup>198</sup> *Gandhi Maidan and Patna South.*

