

CHAPTER VI

CHAPTER VI

OTHER TAX RECEIPTS

6.1 Tax administration

This Chapter relates to receipts from Excise Duty, Profession Tax and Amusement Tax. The tax administration for these is governed by Acts and Rules framed separately for each tax head. These taxes are administered by the Finance Department headed by the Additional Chief Secretary who is assisted by the concerned Directorates.

6.2 Results of audit

In 2017-18, test check of the records of 39 units relating to Excise Duty, Profession Tax and Amusement Tax showed underassessment of tax and other irregularities amounting to ₹ 53.45 crore in 215 cases, which fall under the following categories as indicated in **Table 6.1**.

Table - 6.1
Results of audit

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
A. State Excise			
1.	Non-realisation of fees for unaccounted foreign liquor/spirit	21	22.00
2.	Non/short levy of Excise Duty due to issue of overstrength spirit/wastage fee on chargeable wastage of rectified spirit/India Made Foreign Liquor	27	6.77
3.	Non-realisation of regulatory fees	19	4.59
4.	Non-realisation of Additional Excise Duty	19	3.91
5.	Non-realisation of fees for change in management	19	1.56
6.	Non/short realisation of licence fee/renewal fee/initial grant fee/pass fee etc.	10	0.93
7.	Other cases	40	0.83
Total		155	40.59
B. Profession Tax			
1.	Non-realisation of profession tax against enrolled certificate holders	1	0.37
2.	Non-realisation of profession tax due to non- enrolment	26	0.33
3.	Other cases	7	0.07
Total		34	0.77
C. Amusement Tax			
1.	Non/short levy/realisation of tax/interest/penalty	14	11.45
2.	Short levy of Luxury Tax due to irregular allowance of internal sale	2	0.51

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
3.	Non-initiation of recovery process of assessed dues of tax	2	0.06
4.	Others	8	0.07
Total		26	12.09
Grand Total		215	53.45

During the course of the year, the Department accepted underassessment and other deficiencies of ₹ 8.90 crore in 122 cases, of which 62 cases involving ₹ 4.64 crore were pointed out in the year 2017-18 and the rest in the earlier years. An amount of ₹ 1.07 crore was realised in 60 cases during the year 2017-18.

A detailed compliance audit on “Assessment and Collection of Profession Tax” having money value ₹ 26.59 crore and an audit observation on State Excise involving ₹ 2.73 crore are discussed in the following paragraphs.

6.3 Detailed Compliance Audit on “Assessment and Collection of Profession Tax”

6.3.1 Introduction

Profession Tax (PT) is levied by the State Government on professions, trades, callings and employments. Assessment and collection of PT within West Bengal is regulated by the West Bengal State Tax on Professions, Trades, Callings and Employments (WBSTPTCE) Act, 1979 and West Bengal State Tax on Professions Trades, Callings and Employments (WBSTPTCE) Rules, 1979. Those who are liable to pay PT under the Act have been divided into two categories:

- (i) Person who is engaged in any profession, trade, calling and employment. It includes a Hindu Undivided Family, Firm, Company, Corporation or other Corporate body, any Society, Club or Association so engaged, but does not include any person who earns wages on a casual basis on being employed for a period not exceeding 180 days in a year.
- (ii) Employer, i.e., the person or the officer who is responsible for disbursement of salary or wages, and includes the head of any office or any establishment as well as the manager or agent of the employer.

PT is payable at the rates specified in the Schedule²²¹ to the WBSTPTCE Act 1979, subject to a maximum of ₹ 2,500 per annum²²². A person who becomes eligible to pay PT is required to obtain Certificate of Enrolment (EC) and pay tax annually. No return is, however, required to be filed by an EC holder. An employer is required to obtain Certificate of Registration (RC), pay tax monthly and file an annual Return. If an EC holder fulfils the eligibility conditions to become an employer, then he is also liable to be registered as an employer and is to deduct and pay tax on behalf of employees as mentioned in the Section 4 of the WBSTPTCE Act.

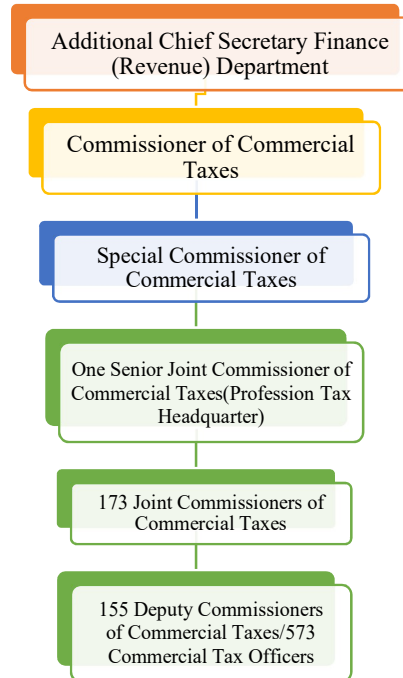
²²¹ The current Schedule is effective from 1 April 2014 and replaced previous Schedule vide notification no.- 440L dated 11 March 2014.

²²² Clause (2) of Article 276 of the Constitution of India.

6.3.2 Organisational set up

Profession Tax is administered by the Profession Tax wing of the Directorate of Commercial Taxes (DCT), West Bengal as detailed in the following Chart:

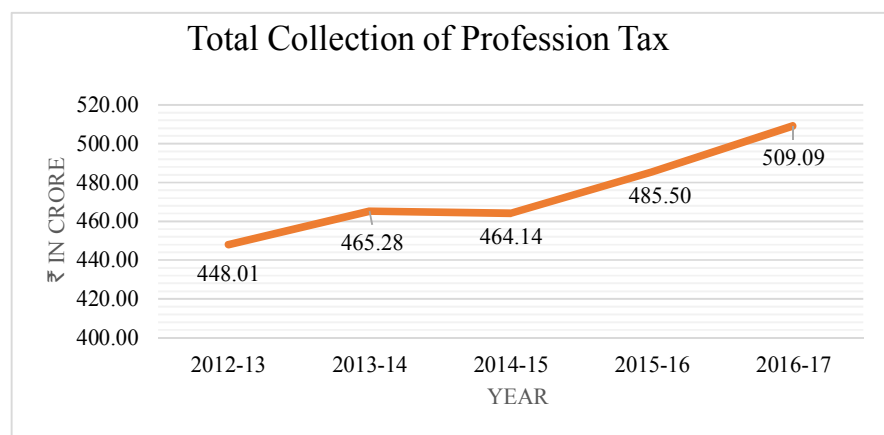
Chart - 6.1: Organisational set up



PT wing of the DCT has emerged to be a fully automated tax administration wing. Starting from registration (or enrolment) process to internal record keeping in respect of tax payers, all issues are managed and controlled by web-based application software with effect from 8 August 2014. DCT has a dedicated website for PT, namely www.wbprofessiontax.gov.in.

The trend of collection from PT during the last five years is shown in the following chart.

Chart-6.2: Collection of Profession Tax during the last five years



It was observed that collection of revenue increased by nearly five *per cent* in 2016-17 compared to 2015-16.

The year-wise comparison of growth rate of total revenue of the state and the revenue through PT is shown in the following table:

Table - 6.2
Growth of PT in respect of total tax revenue
(₹ in crore)

Year	Total tax revenue collected in the state	Total collection of PT	Percentage of PT to total tax revenue
2012-13	32,808.49	448.01	1.37
2013-14	35,830.56	465.28	1.30
2014-15	39,411.98	464.14	1.18
2015-16	42,492.08	485.50	1.14
2016-17	45,466.46	509.09	1.12

Apart from developing an IT based work platform, the PT wing has completed the Commercial Tax- Profession Tax merger process in the light of the State Government Notification²²³ issued to that effect. The jurisdiction of the authorities over the persons and employers enrolled/registered under PT is shown in the following table:

Table - 6.3
Jurisdiction of Authorities

Sl.No	Authority	Class of persons and employers covered
1.	39 Commercial Tax Charge offices	Any Person or an Employer having registration as a dealer in the charge under the West Bengal Value Added Tax (WBVAT) Act,2003 and West Bengal Sales Tax (WBST) Act,1994.
2.	29 Specified Commercial Tax Charge offices with which Range and Units of PT have been merged.	Along with those mentioned above, any Person or an Employer in accordance with the geographical location of their places of work and coming under the territorial jurisdiction of the merged Range/Unit of PT.

6.3.3 Audit Objective

The detailed compliance audit was conducted to seek assurance if the existing provisions on assessment and collection procedures under the Acts/Rules were being followed by the Department; and internal controls were in place and effective.

6.3.4 Scope and Audit Methodology

Audit Data Analytics

Audit was conducted during the period between January 2018 and May 2018 covering the period from April 2014 to March 2017. The Directorate office at Kolkata and its 12 Charge offices out of 29 Specified Commercial Tax Charge offices (41.38 per cent) were selected for the purpose of Audit. The selection of Charge offices was made on the basis of average collection of PT during the period from 2014-15 to 2016-17. Together these 12 selected Charge offices covered the 56 per cent of the total revenue towards Profession tax (PT).

²²³ Order No 646-F.T. dated 30 April 2015 of West Bengal.

The Professional Tax (PT) database is maintained in a web-based application software. The data regarding Enrolled persons for PT was requisitioned from PT (HQ) in different fields i.e., EC number, Owner name /Trade name, VAT number (in case of VAT dealers), PAN numbers, PT paid during the year 2014- 17.

The data was provided to audit in excel format. Besides, the data from IMPACT²²⁴ database in respect of the VAT dealers for the period 2013-14 and 2014-15, was utilised for obtaining information regarding VAT number, Owner name/ Trade name and annual gross turnover (AGT).

The data from these two sources, in respect of the selected units, was analysed using data analytic tool (IDEA) using functions like extraction, appending, Joining, summarisation etc. as follows:

- Extraction of cases where payment of PT has not been done, and determination of the PT payable based upon the turnover (AGT) available in the data.
- Extraction of cases where short payment of PT was done by VAT dealers based upon their AGT.
- Extraction of cases where permit holders of transport vehicles had not enrolled in the PT database.

During the course of the audit, information and data were called for from various departments/agencies in respect of persons engaged in any business/ profession. This information was cross-verified with the records maintained in the database of PT to ascertain whether those persons were enrolled/registered and discharging their PT liabilities. Information such as turnover of dealers registered under WBVAT Act, 2003 maintained in IMPACT (Information Management for Promotion of Administration in Commercial Taxes) database was also cross-verified with the database. This was done to ascertain that registered dealers under VAT had not defaulted and had paid the correct amount of PT. It was also examined whether demand notices to defaulting dealers were issued under the provisions of the Act/Rules.

Audit also test checked assessment case records of employers in 12 Commercial Tax Charge offices for compliance of Acts/Rules. Provisions of the WBSTPTCE Act, 1979 and WBSTPTCE Rules, 1979 and notifications and circulars issued by the Government of West Bengal were used as a source of criteria for the audit.

Audit findings

The audit revealed various system and compliance deficiencies as well as weaknesses in internal control mechanism in the Directorate, which are discussed in the following paragraphs:

6.3.5 Data not exchanged with other departments to widen the tax base

Integration of data with other related departments can be an effective tool to identify and bring unenrolled persons under the tax net. The Department did not put in place any system to exchange information/data with other departments such as the Transport Department, Health Department, Department of Municipal

²²⁴ Database of PT and Database of IMPACT both are maintained under the DCT.

Affairs etc. to bring under its tax net, persons not enrolled to pay profession tax. Audit obtained data from various sources like Transport Department, Chief Medical Officer of Health (CMOH), Municipal Authorities etc. in respect of classes of persons eligible to pay PT and cross verified them with the database of PT. The findings of Audit are discussed in the following paragraphs:

6.3.5.1 Non-enrolment of permit holders of Transport Vehicles

The Department did not collect data of PT from other departments to widen its tax net. As a result, 25,266 permit holders of heavy transport vehicles liable to pay PT of ₹ 15.93 crore, could not be brought under tax net.

As per the provisions of the Section 3(2) of the WBSTPTCE Act, 1979, a person engaged in any profession, trade/calling and falling under any of the other classes mentioned in the Schedule to the WBSTPTCE Act, 1979 are liable to pay PT at the prescribed rate. Under Entry No. 2(h) of the Schedule, holders of permits granted or issued under the Motor Vehicles Act, 1988, for transport vehicles²²⁵, are liable to pay tax at specific rate²²⁶.

Audit obtained data from Transport Department in respect of transport permit holders to whom permits were issued²²⁷ and who were paying road tax during the period 2014 to 2017. On cross verification of the data so obtained with the database of PT, it was observed that 25,266 permit holders of heavy vehicles²²⁸ had not been enrolled for payment of PT. These persons were liable to pay PT of ₹ 15.93 crore²²⁹ for the period between 2014-15 to 2016-17.

As there was no system to cross-verify PT data with that of other departments, DCT could not bring these transport permit holders under tax net. This resulted in non-realisation of ₹ 15.93 crore. DCT may consider to integrate databases within the Department and also link their databases with those of other Departments like Transport for cross-verification of data sets to prevent continuous loss of revenue.

After this was pointed out, PT headquarters did not furnish any reply.

The matter was reported to the Government in July 2018. Reply was awaited.

6.3.5.2 Non-enrolment of persons engaged in different professions and trade

Information available with other departments and permit/license issuing authorities was not collected for detection of unenrolled persons. This resulted in non-realisation of profession tax of ₹ 56.33 lakh in case of 770 persons.

Audit obtained data/information in respect of persons engaged in different

²²⁵ Which are adapted to be used for hire or reward, like auto –rickshaws, three wheeler goods vehicles, taxi including luxury taxi, trucks, trailers or buses.

²²⁶ The rate of tax ranges from ₹ 480 to ₹ 2,500 per annum depending on the annual gross income of the permits holder in the preceding year. Further, explanation (6) under the Schedule states that even if annual gross income of a person does not exceed the minimum threshold limit of ₹ 60,000, but if he intends to get himself enrolled or intends to continue his enrolment, as the case may be, he shall be liable to pay ₹ 480.

²²⁷ As per the provision of Section 66 of MV Act, 1988 no transport vehicle can be used without a valid permit.

²²⁸ HGV (Heavy Goods Vehicles) & HPV (Heavy Passenger Vehicle).

²²⁹ Money value is calculated, considering PT from HGV (Heavy Goods Vehicles) and HPV (Heavy Passenger Vehicle) at the rate ₹ 2,500.

professions and trade from various sources²³⁰ such as CMOH, Municipal Authorities, Government websites etc. On cross verification of this data with that of enrolled persons under DCT, it was observed that 770²³¹ persons like owners of nursing homes, legal and medical practitioners etc., liable to pay PT during the period 2014-17 did not get themselves enrolled with DCT. The jurisdictional Charge offices²³² also failed to bring them into the ambit of profession tax. This resulted in non-realisation of profession tax of ₹ 56.33 lakh due to non-enrolment during the period 2014-17 as detailed in the table below:

Table-6.4
Non-Enrolment of persons during the period 2014-17

Sl. No.	Description of the Person	Sl.No of the relevant Schedule	Name of the Charge office	Source of data/ information	Number of Persons	Amount of tax payable annually (in ₹)	Non-realisation of PT due to non-enrolment (₹ in lakh)
1	Owners or Occupiers or licensees of Nursing homes, pathological laboratories including diagnostic centres.	4(s)	Asansol, Barasat and Behala	Chief Medical Officer of Health of the district	116	2,500	7.30
2	Air Conditioned (AC) Beauty Parlours or spa and AC hair dressing saloons	4(i) and (k)	Durgapur	Municipal Authority	27	2,500	2.02
3	Legal Practitioners including Solicitors	2(a)	Different Charge offices in West Bengal	List of advocates contesting election of Bar Council of West Bengal	65	2,500	4.87
4	Medical Practitioners including medical consultants and dentists	2(b)	Behala, Parkstreet, Shibpur, Siliguri and Srirampur	Online appointment website	202	2,500	15.15
5	Owners or occupiers of cold storages	3(j)	Srirampur	Website of West Bengal Agricultural Marketing Board	115	2,500	8.62
6	Owners or Occupiers or licencees or lessees of residential hotels including guest houses, lodges	3(l)	Siliguri and Tamluk	Online Booking website for Hotels	93	2,500	6.97

²³⁰ As mentioned in column number 5 of the table 6.4.

²³¹ The figures are only indicative and DCT should access the full database to assess the number of persons who were not enrolled.

²³² Asansol, Barasat, Behala, Durgapur, Parkstreet, Shibpur, Siliguri, Srirampur and Tamluk.

Sl. No.	Description of the Person	Sl.No of the relevant Schedule	Name of the Charge office	Source of data/ information	Number of Persons	Amount of tax payable annually (in ₹)	Non-realisation of PT due to non-enrolment (₹ in lakh)
7	Authorised stockists of lottery tickets in West Bengal	4(n)	Different Charge offices in West Bengal	West Bengal Lottery Stockists Syndicate Pvt. Ltd	152	2,500	11.40
Total					770		56.33

Integrating the data from relevant departments could enable DCT to identify persons liable to pay PT DCT but unenrolled in the system.

After this was pointed out, the Charge offices of Behala, Siliguri and Tamluk stated that notices will be issued to the non-enrolled nursing homes and hotels. In rest of the cases, the Charge offices did not furnish any specific reply.

The matter was reported to the Government in July 2018. Reply was awaited.

6.3.6. Inadequate monitoring of PT dues from persons/entities enrolled with DCT

Audit analysed data of the dealers registered under WBVAT Act, obtained from IMPACT database to ensure that PT paid by the enrolled persons were in accordance with the Annual Gross Turnover (AGT) of the dealers as shown in the database. Findings of audit are discussed in the following paragraphs:

6.3.6.1 Inadequate monitoring of payment of PT by enrolled persons registered as dealers under WBVAT Act.

Turnover of enrolled persons registered as dealers under WBVAT Act was not cross verified with that available in the database of DCT. This resulted in non /short realisation of profession tax of ₹ 5.13 crore.

Under entry 3(a) of the Schedule, every person as defined in Section 2(f) of this Act, registered as dealer under the WBVAT Act or WBST Act is liable to pay PT at specific rate depending upon the AGT in the preceding year as mentioned in **Appendix-IV**²³³. As per provisions of Section 8 of the Act, the amount of PT, due from any person who stands enrolled before the commencement of any year, shall be paid by him on or before 31 July of that year.

The annual turnover of enrolled persons having registration under WBVAT Act was available in the database maintained by DCT. PT was to be paid annually online by each dealer. Audit analysed data in respect of enrolled persons in 12 Charge offices²³⁴ and ascertained their AGT from the IMPACT database. Audit findings are as follows:

Audit found that 34,867 Enrolment Certificate (EC) holders, also registered as dealers under WBVAT Act, did not pay PT for one to three years in 45,016 cases during the period 2014-17. The AGT of these dealers as per database

²³³ Based on entry 3 (a) of the Schedule.

²³⁴ Asansol, Barasat, Barrackpore, Behala, Bhowanipur, Bowbazar, Krishnanagar, Parkstreet, Shibpur, Siliguri, Srirampur and Tamluk.

accessed through IMPACT software was found to be in the range of ₹ 0.05 crore to ₹ 115.50 crore, based on which PT due from these EC holders worked out to ₹ 3.99 crore. The Charge offices did not ascertain the AGT from the database to raise demand against the defaulting EC holders. This resulted in non-realisation of PT of ₹ 3.99 crore.

Audit also found that 8,241 dealers in 11,666 cases paid PT of ₹ 0.67 crore for the period from 2014-15 to 2016-17. As per AGT shown in the database of DCT, tax payable by these EC holders for the aforesaid period stood at ₹ 1.81 crore. The Charge offices did not make use of the database of the dealers to ascertain their AGTs for determining PT payable by them. As a result, PT paid short by the EC holders could not be detected. This resulted in short realisation of PT of ₹ 1.14 crore.

It was observed that there was a need for integrating PT and IMPACT databases of the Directorate. In absence of such integration, data on defaults and short-payments of PT by VAT dealers could not be cross verified by the DCT. This resulted in non/short realisation of PT of ₹ 5.13 crore from dealers registered under WBVAT in test checked Charge offices.

After this was pointed out, six²³⁵ Charge offices accepted the audit observations and stated that notices would be issued for realisation of PT. In the remaining cases, the Charge offices did not furnish any/specific reply (December 2019).

The matter was reported to the Government in July 2018. Reply was awaited.

6.3.6.2 Non/short realisation of PT from enrolled persons not registered as dealers under WBVAT Act

Non-payment of PT by persons enrolled under serial numbers 2 and 3 of the Schedule in accordance with the Annual Gross Income (AGI) and Annual Gross Turnover (AGT) respectively, resulted in non/short realisation of ₹ 4.86 crore.

Persons engaged in any profession, trade or calling and enrolled under serial number 2 (persons engaged in any profession or calling but not engaged as an employee) and serial number 3 (persons engaged in any profession or trade involving supply of goods or services) of the Schedule are liable to pay tax at specific rates depending upon the AGI and AGT, respectively. The AGI and AGT are available in database of PT and are based upon self-declaration given at the time of enrolment. In addition to this, persons enrolled under Serial No.4²³⁶ are liable to pay PT at the fixed rate of ₹ 2,500 per annum.

Audit analysed database of PT of EC holders not registered as dealers under WBVAT Act in 12 Charge offices²³⁷. Audit findings are as follows:

- Audit analysis of database of PT of EC holders not registered as dealers under WBVAT Act revealed that 28,065 persons paid PT of ₹ 1.93 crore, during the period 2014-15 to 2016-17. It was, however, calculated that

²³⁵ Asansol, Barrackpore, Bowbazar, Krishnanagar, Siliguri and Tamluk.

²³⁶ Person engaged in any profession under Sl. 4 is liable to pay PT at fixed rate irrespective of his AGI/AGT.

²³⁷ Asansol, Barasat, Barrackpore, Behala, Bhowanipur, Bowbazar, Krishnanagar, Parkstreet, Shibpur, Siliguri, Srirampur and Tamluk.

the PT payable on the basis of the AGI and AGT declared²³⁸ and available in database of PT was at ₹ 3.43 crore. The Charge offices failed to detect any case of short payment of PT and did not issue any demand notice for its realisation. This resulted in short realisation of PT to the tune of ₹ 1.50 crore.

- It was also found that 24,502 EC holders did not pay their annual PT for one to three years during the period 2014-15 to 2016-17. According to status of the EC holders, as shown in the database of PT, the enrolled persons were active in their profession and trade. This resulted in non-realisation of PT of ₹ 3.36 crore.

The Charge offices, however, did not issue demand notices for realisation of outstanding PT under Section 17A of the WBSTPTCE Act. This resulted in non/short realisation of PT of ₹ 4.86 crore from dealers not registered under WBVAT in test checked Charge offices.

After this was pointed out, four²³⁹ Charge offices accepted the audit observations and stated that notice would be issued for realisation of PT. In the remaining cases, the Charge offices did not furnish any/specific reply (December 2019).

The matter was reported to the Government in July 2018. Reply was awaited.

6.3.6.3 PT not realised due to non-enrolment/registration of branches of Banks

DCT could not ensure that each bank branch had an RC and an EC so that it could pay PT on its own behalf as well as on behalf of its employees.

Under Serial No.4 of the Schedule, Banking Companies as defined in the Banking Regulation Act, 1949 were liable to pay PT at the rate of ₹ 2,500 per annum as an entity. In addition, as per Explanation (5) below the Schedule²⁴⁰ to the Act, a Bank and its branches are deemed as separate assesseees and tax is required to be collected from each of the branches. Thus, each branch of a bank is required to get both Enrolment Certificate (as an entity) and Registration Certificate (as an employer), for payment of PT on its own behalf and on behalf of its staff.

1. Data was analysed in respect of four banks²⁴¹ from PT database and obtained their PAN/VAT details. By using this information, Audit identified their Profession Tax Payment Certificates²⁴² (PTPC) and observed that these four Banks got RCs for 2,674 branches located at different places. Further, it was found from EC/RC Master details²⁴³ that the banks did not get EC against 148 such branches. As each branch

²³⁸ At the time of application for EC, the person has to declare his AGI/AGT himself to the DCT. This is required as PT payable is determined on the basis of AGI/AGT.

²³⁹ Barrackpore, Krishnanagar, Siliguri and Tamluk.

²⁴⁰ The rate of tax payable by each branch or office of a firm, company, corporation or other corporate body shall be the same as that payable by that firm, company, corporation or other corporate body as the case may be, in accordance with any entry of the Schedule.

²⁴¹ Axis Bank, Indian Overseas Bank, State Bank of India and United Bank of India.

²⁴² As per provisions of Sec 6C, of the Act, PTPC can be generated by an EC/RC holder from the PT website.

²⁴³ Complete details of a person/employer as per EC/RC.

was required to get EC for payment of PT, ₹ 11.10 lakh²⁴⁴ for the period 2014-17 could not be realised from these branches for enrollment. Thus, there was no mechanism in place to ensure that a branch having RC had also EC so that realisation of PT against each branch could be ensured

2. It was further observed in case of four²⁴⁵ banks that as against 2,560 ECs issued to as many branches, no RCs were issued to 194 branches. Thus, 194 branches though enrolled with the Charge offices concerned, were not registered as employers.

As a result, DCT could not ascertain whether these bank branches had in their capacity as employers, deducted PT from their employees and deposited the same to the Government account.

DCT could not ensure that each bank branch had an RC and an EC so that it could pay PT on its own behalf as well as on behalf of its employees.

The observation was issued to PT Headquarters and two²⁴⁶ concerned Charge offices (March 2018 to June 2018), Barrackpore Charge office stated that notice in Form XII²⁴⁷ for enrolment would be issued to the concerned Bank branches. Bhowanipur Charge stated that matter would be looked into in consultation of the PT Headquarter.

The matter was reported to the Government in July 2018. Reply was awaited.

6.3.7 Inadequate monitoring of payment of PT by enrolled persons

The Department did not assess or gather information about AGI/AGT of the enrolled persons as per the requirement of current Schedule. As a result, the correctness of PT paid by enrolled persons could not be ensured.

In the old Schedule²⁴⁸ the amount of PT payable was fixed as per the class/type of the profession. As per the current Schedule, however, which was effective from April 2014, PT payable by a person engaged in any profession or trade is based on AGI/AGT.²⁴⁹

PT payable by persons mentioned under serial number 2 (persons engaged in any profession or calling but not engaged as an employee) of the revised Schedule are to be determined according to the AGI of the persons. In all, nine slabs of AGI have been prescribed in the revised Schedule for determination of the PT payable by such persons as mentioned in **Appendix-V**. DCT did not have any access to the data of Income Tax Department. In the absence of any other source of information, DCT was not able to ensure correctness of the AGI self-declared by EC holders.

In case of persons enrolled under serial number 3 (persons engaged in any profession or trade involving supply of goods or services) of the revised Schedule, the PT payable was determined according to their AGT as mentioned in **Appendix-IV**. It was observed that integration of PT database and IMPACT database which are under the control of DCT would ensure that the correct

²⁴⁴ ₹ 2,500 × three years × 148 Branches.

²⁴⁵ HDFC, Indian Overseas Bank, State Bank of India and United Bank of India.

²⁴⁶ Barrackpore and Bhowanipur.

²⁴⁷ Issued to a person, who is liable to pay PT but failed to get himself enrolled.

²⁴⁸ Valid upto 31 March 2014.

²⁴⁹ AGI/AGT of the preceding year.

AGT (reflected in IMPACT) is considered for assessment of PT. Similarly, in case of PT assessed on AGI, the correct AGI could have been considered for assessment if the PT database is linked to the database of service tax. As a result, correctness of payments of PT made by the EC holders could not be ensured by the Charge offices. DCT did not put in place any system to assess or gather information about AGI/AGT as specified in the current Schedule.

It was observed that the tool integrated in the Website of PT Directorate for generation of Profession Tax Payment Certificates (PTPCs) does not assess the PT slab on the basis of AGI/AGT. The tool assesses the PT slab on the basis of PT paid by the EC holder during the year. As a result, possibility of evasion of tax payable by suppression of AGI/AGT could not be ruled out. It was observed that there was non/short realisation of PT of ₹ 5.13 crore and ₹ 4.86 crore as mentioned in paragraph no. 6.3.6.1 and 6.3.6.2 respectively.

As per the provisions of Section 17(C) of the Act, the tax, penalty or interest payable cannot be determined after expiry of three years from the end of such year. Hence, the outstanding PT from enrolled persons for the period 2014-15 would not be realised due to the cases being barred by limitation of time.

After this was pointed out, DCT accepted the observation and stated that there was no option for cross reference as there was no compulsory assessment/tax determination procedure for enrolled persons.

The matter was reported to the Government in July 2018. Reply was awaited.

6.3.8 Systemic Deficiencies and lack of internal controls in the Directorate with respect to assessment and collection of Profession Tax

Internal control is an integral component of an organisation's management processes to provide reasonable assurance that the organisation's operations are carried out effectively, economically and efficiently. Deficiencies in the internal control mechanism are discussed in the following table:

Nature of control weakness	Audit Criteria	Audit Observations	Impact of control weakness
(i) Deficiencies in format of returns	As per the provisions of Section 7B of the WBSTPTCE Act, 1979 the return furnished by a registered employer under Section 6 is deemed to be summarily assessed on the date of its submission. Further, as per provisions of Rule 12 (7) of WBSTPTCE	Audit test checked e-returns filed and PTPC generated by four ²⁵⁰ companies under two ²⁵¹ Charge offices. It was observed that each company had filed one consolidated return in respect of all their branches for the year 2016-17. As per the consolidated returns filed	In the absence of suitable provisions for other employers ²⁵² with multiple branches, those filing consolidated e-returns and required to provide complete list of all places of work with their registration numbers, could not

²⁵⁰ Arambagh Hatcheries, CESC, ICICI, and Khosla electronics.

²⁵¹ Bowbazar and Bhowanipur.

²⁵² Who are neither contract manpower users nor manpower supply agencies.

Nature of control weakness	Audit Criteria	Audit Observations	Impact of control weakness
	<p>Rules, 1979 a registered employer having more than one place of work under the jurisdiction of different authorities, may, furnish a consolidated return. He can pay taxes from his principal place of work, subject to the condition that the return in Form III shall accompany a complete list of all places of work with their respective registration numbers.</p>	<p>by these companies, PT was paid for the number of employees between 36 and 9,479. PT paid by them for the year 2016-17 stood between ₹ 0.64 lakh to ₹ 213.79 lakh. From these consolidated returns no details of the branches and their registration numbers were ascertainable. Audit checked from the PTPC that the number of branches under these companies were between 38 and 151. It also observed that the system module for filing of e-return does not provide any option to submit the details of the branches and their registration numbers as the format of Annexure to Form III has two Parts. Part A is meant for 'contract manpower user' and Part B is for 'manpower supply agency.'</p>	<p>furnish the details of the branches and their registration numbers.</p> <p>In absence of such information, DCT could not ascertain that PT collected from each branch, was duly deposited and reflected correctly in the return.</p>
(ii) Role of Internal Audit Wing	<p>Internal Audit Wing (IAW) of the Directorate of Commercial Taxes is a permanent in-house mechanism for scrutinising the assessments of Sales Tax/VAT cases and detecting irregularities, if any. This wing also checks the records and registers of different offices under the DCT to ascertain the effectiveness of the internal control system.</p>	<ul style="list-style-type: none"> • It was observed that man power deployment in the IAW was inadequate as there was only one Sr.JCCT (in charge of DDO and service matters) and two CTOs in position. • No audit of Profession Tax was done by IAW during the period covered by audit and no register or records were maintained in this regard. • There was no target fixed for the IAW by CCT or the IAW itself for PT. No audit manual was formulated on the working procedure of IAW. 	<p>In absence of audit by IAW, the assessment and collection of receipts from profession tax were not scrutinised. Therefore, the possibility of revenue leakage cannot be ruled out.</p>

Nature of control weakness	Audit Criteria	Audit Observations	Impact of control weakness
(iii) Irregular cancellation of ECs	As per the provisions of the WBSTPTCE Act, 1979 dealers as defined under WBVAT Act 2003 and West Bengal Sales Tax (WBST)Act, 1994 fall under serial number 3(a) of the Schedule. Their enrolment is mandatory irrespective of whether or not they are liable to pay tax under the aforesaid Acts. Further as per the provisions of the rule 7(2) of the WBSTPTCE Rules, 1979, EC granted to a dealer may be cancelled only after ensuring that his liability to pay tax has ceased.	Audit analysed data of EC holders in six ²⁵³ Charge Offices. It found that 105 ECs were granted to 97 ²⁵⁴ persons having registration certificates under WBVAT Act. The ECs of these persons were subsequently cancelled between May 2015 and February 2018. Audit also found that the dealers whose ECs were cancelled, were active and found to have filed their returns under WBVAT Act. Thus, they continued their business activities even after cancellation of their ECs. Moreover, scrutiny of the returns filed by 29 dealers revealed that their quarterly turnover ranged between ₹ 0.30 lakh and ₹ 493 lakh without having any liability to pay PT as detailed in the Appendix- VI.	It was observed that there were no internal controls in place to ensure that VAT registration of a dealer ²⁵⁵ was cancelled before cancellation of EC.
(iv) Migration of dealers from VAT to GST regime without having EC	As per the provisions under Section 3 (2) of the WBSTPTCE Act, 1979, enrolment of dealers registered under WBVAT Act 2003 is mandatory. At the time of transition to the Goods and Services Tax (GST) regime, dealers getting GST Identification Number (GSTIN), through VAT number, therefore, should have a valid EC.	Audit found that there was no mechanism in place to ensure that dealers migrating to GST regime have valid ECs in their possession. It was observed from database of dealers accessed through IMPACT software that 52 dealers whose ECs were cancelled between May 2015 and December 2016 got their provisional GSTIN through their VAT numbers.	Such deficiencies in the internal controls poses challenge to the DCT in its endeavour to widen the tax base.

²⁵³ Barrackpore, Krishnanagar, Shibpur, Silliguri, Srirampur and Tamluk.

²⁵⁴ Two VAT dealers had two and eight branches respectively against which ECs were issued.

²⁵⁵ Registered under the same charge.

Nature of control weakness	Audit Criteria	Audit Observations	Impact of control weakness
(v) Application of incorrect entry of the schedule in enrolment	PT of a class of person has been fixed according to trade/profession as specified in the relevant entry of the Schedule. Application of incorrect entry at the time of enrolment of person may result in incorrect determination of PT.	During the course of audit, data of enrolled persons in database of PT was test checked to ascertain that PT was realised according to the profession/trade specified in the relevant entry of the Schedule. It was observed that 53 out of 166 Motor training schools were not enrolled according to their profession/trade as specified in relevant entries of the Schedule as detailed in the Appendix- VII.	Motor training schools were not enrolled according to their profession/trade as specified in relevant entries of the Schedule due to which their proper monitoring for tax compliance could not be ensured.

6.3.9 Rush of assessments

During the period covered under audit, 66 per cent to 100 per cent of total cases were assessed in the last three months of the period prescribed for assessment.

As per sub-Sections 2, 3 and 4 of Section 7 of WBSTPTCE Act, 1979 if the prescribed authority is not satisfied with the correctness and completeness of the returns filed and the amount of tax paid, he shall assess the tax due by giving notice and calling for related accounts and papers for examination.

Further, sub-Section 4 (a) provides that no assessment shall be made after the expiry of two years from the end of the year in respect of which or part of which the assessment is made. However, assessment of cases in respect of the year or part of the year ending on or before the 31 March 2014, was to be made on or before 31 December 2016²⁵⁶.

As per information provided by the Charge offices, status of assessments under Section 7 for the periods of assessments 2012-13 to 2014-15 was as follows:

Table-6.5
Rush of assessments

Period of assessment	Number of Charge offices which furnished specific information	Total No. of cases assessed	No. of cases assessed month- wise in the last three months of the period prescribed for assessment			Percentage of assessments made in the last three months of the period prescribed for assessment
			1st month	2nd month	3rd month	
2012-13	7	5,553	2,552	1,273	1,728	100
2013-14	12	17,527	774	1,995	13,892	95
2014-15	11	7,983	1,512	1,200	2,602	66

It is evident from the table that for the periods of assessments 2012-13 to 2014-15, 66 per cent to 100 per cent of total cases were assessed in the last three

²⁵⁶ The West Bengal Finance Act 2016 vide No. 682L-28 July 2016.

months of the period prescribed for assessment. It was further observed that norms/targets had not been fixed for monthly or phase-wise assessment of cases by Assessing Authorities (AAs) to avoid rush of assessment. Assessment of large number of cases in short duration of time is fraught with errors. Thus possibility of under assessment of tax during rush of assessment cannot be ruled out.

The matter was reported to the Government in July 2018. Reply was awaited.

6.3.10 Effectiveness of survey of unenrolled persons/unregistered employers

Out of 12 Charge offices test checked, survey of unenrolled persons/unregistered employers were conducted in only three Charge offices in 2014-15 and in four Charge offices in 2015-16.

To identify persons/employers who are liable to pay tax under the Act, but have remained unenrolled or unregistered, survey is an effective tool to bring such persons/employers under the tax net. As per the administrative guidelines issued by the DCT²⁵⁷ in December 2015, the designated²⁵⁸ Sales Tax Charge Office, shall conduct survey, verification in order to unearth cases of evasion of PT by any person or employer.

During the course of audit, information on surveys conducted during 2014-15 to 2016-17 was sought from 12 Charge offices selected for audit. From the replies received, Audit ascertained that no registers/records in respect of surveys had been maintained by any of the Charge offices. Of the 12 Charge offices, seven Charge offices stated to have conducted surveys. The outcome of surveys conducted was as follows:

Table-6.6

Survey of unenrolled persons and unregistered employers

Year	Survey of unenrolled persons			Survey of unregistered employers		
	No. of Charge offices where surveys were conducted	No. of surveys conducted	No. of persons enrolled	No. of Charge offices where surveys were conducted	No. of surveys conducted	No. of employers registered
2014-15	3	174	1,272	3	121	121
2015-16	4	144	1,379	4	121	184
2016-17	7	116	1,168	5	102	107
Total		434	3,819		344	412

(Source: Information provided by the Charge offices)

The table indicates that 434 surveys for enrolment of persons and 344 surveys for registration of employers were conducted in three to seven Charge offices during the period 2014-15 to 2016-17. In the surveys, 3,819 persons and 412 employers were found to be not enrolled or registered with DCT despite being eligible. It was therefore evident that the survey process in DCT is an effective

²⁵⁷ Memo No:1101CT/PRO dt.11 December 2015 issued by Commissioner, Commercial Taxes & Profession Tax, West Bengal.

²⁵⁸ As per the Notification No. 646-FT dated 14 April 2015.

measure in bringing potential tax payers under tax net. However, out of 12²⁵⁹ Charge offices test checked, such survey was conducted in only three²⁶⁰ Charge offices during 2014-15 and in four²⁶¹ Charge offices during 2015-16. Further, the number of surveys conducted in 2016-17 had declined as compared to that in previous years though more Charge offices had undertaken survey. Conducting regular surveys, in compliance with the administrative guidelines, would enable DCT to identify and bring under the tax net unenrolled persons and unregistered employers.

The matter was reported to the Government in July 2018. Reply was awaited.

State Excise

6.4 Non-levy of additional excise duty

Eight licensees were liable to pay the difference of excise duty consequent upon enhancement of excise duty during the intervening period between issue of import passes and arrival of consignments at their warehouses. The excise authorities did not realise additional excise duty of ₹ 2.73 crore from these licensees.

Rule 132 of the West Bengal Excise (Foreign Liquor) Rules, 1998 provides that in case of an enhancement of duty in the intervening period between the issue of import pass and the arrival of the consignment at the warehouse/godown in West Bengal, the importer shall pay the difference of the duty. The difference in duty is to be calculated at the rate in force on such date of arrival of the consignment and the duty actually paid at the time of issue of the import pass.

Further, by an amendment²⁶² to the West Bengal Excise (Foreign Liquor), Rules, 1998 Finance Department, Government of West Bengal, inserted a new Appendix-L under Rule 196. As per Appendix-L, an additional excise duty on foreign liquor shall be levied at the rate of 27 *per cent* of the declared Maximum Retail Price in respect of all kinds foreign liquor with effect from 1 January 2017.

During the period from August 2017 to February 2018, scrutiny of Import Permit-cum-Passes in four Excise offices²⁶³ revealed that 25 import passes were issued to eight licensees between 19 December 2016 and 28 December 2016. The consignments against these passes reached the warehouses/godown of the licensees between 3 January 2017 and 11 January 2017. As the consignment reached the warehouses/godown after 31 December 2016, the licensees were liable to pay additional excise duty at the rate of 27 *per cent* as per the Notification which came into effect from 1 January 2017. The additional excise duty payable was ₹ 2.73 crore which was neither paid by the licensees, nor levied by the Excise authorities. This resulted in non-collection of revenue amounting to ₹ 2.73 crore.

²⁵⁹ Asansol, Barasat, Barrackpore, Behala, Bhowanipur, Bowbazar, Krishnanagar, Parkstreet, Shibpur, Siliguri, Srirampur and Tamluk.

²⁶⁰ Asansol, Krishnanagar and Siliguri.

²⁶¹ Asansol, Krishnanagar, Shibpur and Siliguri.

²⁶² Gazette Notification No. 1921-FT dated 30 December 2016.

²⁶³ Superintendent of Excise, Diamond Harbour, Superintendent of Excise, Jalpaiguri, Collector of Excise, Kolkata (North) and Collector of Excise, Kolkata (South).

After this was pointed out, the Excise Commissioner, West Bengal while admitting (November 2018) all audit observations reported realisation of ₹ 1.69 crore from six licensees and stated that demand notice had been issued to the remaining two licensees to realise the additional excise duty.

The matter was reported to the Government in May 2018. Reply was awaited (December 2019).