

- * The internal control framework was deficient in terms of inadequate selection of dealers for VAT audit, non-selection of eligible dealers and non-prescribing of VAT manual. No Register/Report/Return was prescribed for recording/monitoring of scrutiny/assessment cases.

2.4 Information Technology Audit on ‘Computerisation of Commercial Taxes Department’

Highlights

Introduction

To improve service delivery to dealers and efficient Value Added Tax administration, the work of Value Added Tax Management Information System (VATMIS) in Commercial Taxes Department was allotted to M/s Tata Consultancy Services (TCS) Ltd. on nomination basis in November 2006 by Industry Department of Government of Bihar. VATMIS runs on the servers installed at the Bihar Revenue Administration Intranet (BRAIN) Data Centre (DC) under National e-Governance Plan (NeGP).

(Paragraph 2.4.1)

Project Management and Governance

The service level agreement between BSEDC (State Designated Agency) and M/s TCS Ltd (Nominated agency for implementation of VATMIS) was not signed till date of audit (June 2015) and the User Requirement Specification, Software Requirement Specification, System Design Document, data flow diagram, data dictionary etc. were not on records. In addition, Commercial Taxes Department (CTD) had no source code of application, exit management and Disaster Recovery Centre for the system.

(Paragraph 2.4.6)

Due to non-completion of project activities within stipulated period, Central share of Mission Mode Project for Commercial Taxes (MMPCT) was curtailed. The Disaster Recovery Centre of the system was established at Patna instead of New Delhi.

(Paragraphs 2.4.7 and 2.4.8)

IT Controls

The application control of the system had various shortcomings like Tax Payers Identification Number (TIN) and Unique Electronic Identification Number (SUVIDHA) was generated with incomplete information of dealers and required business rules and validation checks were not mapped in the system. As a result, a number of errors in the uploaded data remained undetected and dealers were able to conceal facts in their favour.

(Paragraphs 2.4.12 to 2.4.14)

2.4.1 Introduction

Computerisation in Commercial Taxes Department (CTD), Government of Bihar (GoB) was initiated in the year 1999-2000 with engagement of National Informatics Centre (NIC). Later, Industry Department, GoB had allotted the work of Value Added Tax Management Information System (VATMIS) to M/s Tata Consultancy Services (TCS) Ltd. on nomination basis in November 2006. The objectives of computerisation are given hereunder:

- * Improved service delivery to dealers;
- * Efficient VAT administration;
- * Reduced official-dealer interface with reduced response time;
- * Information sharing among different authorities; and
- * Increased transparency and accountability.

VATMIS runs on the servers installed at the Bihar Revenue Administration Intra Net (BRAIN) Data Centre (DC) under National e-Governance Plan (NeGP). All the circles along with CTD Headquarter were connected to the BRAIN DC through Leased Lines/Secretarial Local Area Network (SECLAN) of Bharat Sanchar Nigam Limited (BSNL). Bihar State Wide Area Network (BSWAN under NeGP) provides the main backbone for connectivity between the BRAIN DC and locations. With installation of VATMIS, the stakeholders of the CTD may file their return online and make e-payment through Payment Gateway comprising of more than 40 premier Banks. Further, with this application, CTD can receive tax returns, monitor payments made by dealers, keep track of defaulters by taking resource to recovery procedures provided under the Statutes, assessments/re-assessment of tax due and generation and processing of data for cross-verification. The application functionalities of VATMIS include VAT, Central Sales Tax (CST), Entry Tax, Electricity Duty, Entertainment Tax, Luxury Tax, Advertisement Tax and Professional Tax.

2.4.2 Organisational Set up

Bihar State Electronics Development Corporation Ltd. (BSEDC) as State Designated Agency (SDA) was responsible for purchase of all types of software and hardware in the departments of GoB as well as implementation of VATMIS in the CTD. In the CTD, Commissioner of Commercial Taxes (CCT) is responsible for the administration of the Acts and Rules.

2.4.3 Audit Objectives

The IT audit was conducted to assess whether:

- * System achieved the intended objectives, supported the business processes, ensured compliance with applicable rules and regulations and maintained data integrity;
- * Necessary organizational controls were in place for effective and efficient management of the system;
- * Necessary controls were in place for ensuring the security of information system assets; and
- * Necessary controls were in place to ascertain continuity of business.

2.4.4 Audit Criteria

The following were the sources of the audit criteria adopted for the IT Audit:

- * The Central Sales Tax Act, 1956;
- * The Bihar Tax on Entry of Goods into Local Areas for Consumption, Use or Sale Therein Act, 1993;
- * The Bihar Value Added Tax Act, 2005;
- * The Bihar Value Added Tax Rules, 2005;
- * Bihar Financial Rules, 2005; and
- * Gazette/Notifications issued by the Government from time to time.

2.4.5 Scope and Methodology

The IT audit on computerisation of Commercial Taxes Department was conducted between February and June 2015 with the help of Computer Assisted Audit Techniques (CAATs) and data was collected from the BRAIN DC at Technology Bhawan, Patna. In course of audit, the data from the period April 2009 to January 2015 was extracted and analysis of data relating to different modules³¹ present in VATMIS application was done. During audit questionnaire and audit memos were issued to CTD and BSEDC. An entry conference was held on 13 March 2015 with the Principal Secretary, CTD in which the objectives, scope and methodology of audit was discussed. The Audit findings and recommendations were discussed in the Exit Conference on 18 September 2015. Replies received during exit conference and other points of time have been suitably incorporated in the relevant paragraphs.

Audit findings

Audit findings of the IT Audit has been detailed in two broad categories namely - '**Project Management and Governance**' (Paragraph numbers 2.4.6 to 2.4.11) and '**IT Controls**' (Paragraph numbers 2.4.12 to 2.4.14).

Project Management and Governance

Industries Department through State Cabinet Decision, GoB allotted (November 2006) the work of VATMIS to TCS on nomination basis. According to the allotment order, this work was to be implemented through BSEDC. Accordingly, BSEDC issued purchase order (November 2006) to TCS for implementation of VATMIS. The purchase order included installation of VAT IT software framework and implementation charges (Core Charges), Annual maintenance Charges (AMC) of three years and Training. Scrutiny of records disclosed following facts.

2.4.6 Non-signing of Service Level Agreement (SLA) and inadequate documentation

As per best practices of Information technology, User Requirement Specifications (URS) and System Design Document (SDD) which gives the complete description of the proposed system to be developed should be approved by the user agency so that the vendor understands the requirement of

³¹ Registration, Check-Post (Statutory Forms), Return and Payment.

the client. Further, proper documentation such as URS, Software Requirement Specification (SRS), SDD, data flow diagram, data dictionary etc. are crucial for computerization of the project.

During audit we observed that though the purchase order issued to TCS by BSEDC (November 2006) clearly mentioned that the purchase order was to be substituted by a detailed agreement between BSEDC and TCS, neither service level agreement (SLA) was signed (till June 2015) nor the details of work to be covered in AMC clause was mentioned. The relevant documents (URS, SDD) prepared by the system developer were not available with CTD. As a result, CTD became fully dependent on implementing agency for every step as it did not have source code of the application and exit management. The Department accepted the proposal of TCS for change request (additions/alterations) and paid ` 88.00 lakh out of ` 2.21 crore to TCS till date. As the scope of AMC was undefined, the CTD was not in a position to impose any liquidated damage/penalty on TCS for non/under performance.

After this was pointed out, the Department stated (September 2015) that the service level agreement with provision of exit management and source code had since been executed in July 2015 between BSEDC and TCS. As regards payment for change request, the Department stated that requirement of the Department keeps on changing and it cannot be predefined. Further, it was stated that all the modules developed by TCS are available with the Department and a sample copy of the URS related to payment modules has been made available to audit.

Reply of the Department regarding payment for change request is not acceptable because the user requirement was not pre-defined by the Department/SDA before issuing purchase order to TCS and due to undefined scope of AMC, the Department had to accept proposal for change request by TCS and pay for the same. Moreover, if the department's requirement keeps on changing, this clause also must be incorporated in the agreement accordingly. Further, reply of the Department regarding URS/SDD is not acceptable as it shared with audit only module-wise database table list.

2.4.7 Financial status of the system

The Ministry of Finance, Government of India approved (26 March 2010) a Mission Mode Project for Computerisation of Commercial Taxes administration (MMPCT) with total project cost of ` 51.21 crore in which the proposed Central share and State share was ` 35.05 crore and ` 16.16 crore respectively. The release of Central Share of funds was linked to the achievement of milestones of the project. The project was to be completed by 31 March 2014 (after extension of one year). Details of actual release and expenditure under this project are given in **Table 2.9** below:

Table- 2.9
Release and expenditure under MMPCT

(₹ in lakh)

Year	Opening Balance	Actual release of fund		Total available fund	Expenditure			Closing Balance
		GoI	GoB		BSEDC	CTD	Total	
2009-10	0.00	500.00	0.00	500.00	0.00	0.00	0.00	500.00
2010-11	500.00	0.00	250.00	750.00	6.72	0.00	6.72	743.28
2011-12	743.28	1000.00	647.00	2390.28	443.26	171.47	614.73	1775.55
2012-13	1775.55	1654.00	345.00	3774.55	685.41	8.79	694.20	3080.35
2013-14	3080.35	0.00	374.00	3454.35	961.56	0.00	961.56	2492.79
2014-15	2492.79	0.00	0.00	2492.79	6.55	190.41	196.96	2295.83
Total		3154.00	1616.00		2103.50	370.67	2474.17	

(Source: - Information furnished by BSEDC and CTD)

It was evident from the above table that only ₹ 47.70 crore was released against approved project cost of ₹ 51.21 crore and the expenditure against the release was only ₹ 24.74 crore which indicated non-completion of milestones³² of MMPCT.

It was, further, observed that due to non-completion of project activities/milestones within stipulated period, Central share amounting to ₹ 3.51 crore (₹ 31.54 crore released against proposed Central share of ₹ 35.05 crore) could not be received. Further, it was also noticed that due to delay for more than two years in site preparation work at headquarters (an integral part of MMPCT), the State was deprived of the Central Share and hence borne an extra burden of ₹ 38.46 lakh. In addition, quarterly physical and financial progress reports were also not being maintained by BSEDC.

After this was pointed out, the Department stated (September 2015) that completion of On-line refund functionality is in progress. As soon as Standardisation, Testing and Quality Certification (STQC) Audit is conducted, Department would be in a position to request GoI to release the remaining fund.

2.4.8 Non-installation of Disaster Recovery Centre at New Delhi

The equipment earmarked for the Disaster Recovery Centre (DRC) was not installed at New Delhi (different seismic zone).

The conditions of MMPCT stipulated that establishment of Disaster Recovery Centre (DRC) was mandatory for any organization which did their work in IT environment so that in case of *force majeure* i.e. earthquake, floods etc. the data could be recovered from DRC and the organization might run smoothly. Accordingly, Secretary, Finance Department, GoB had accorded (March 2012) approval for establishment of DRC at New Delhi to BSEDC. Further, BSEDC had purchased (March 2013) Hardware (IT equipment) worth ₹ 1.60 crore on behalf of CTD.

³² Disaster Recovery Centre, Use of State Data Centres, Use of Common Service Centres, E-Refund.

Scrutiny of records of BSEDC disclosed that these equipment were not installed at DRC, New Delhi and lying idle at BSEDC Bhawan, Patna. As a result, establishment of DRC (i.e. milestone of MMPCT) could not be completed till date of audit (July 2015). Further, it was also noticed that the Department never tested backup data.

After this was pointed out, the Department stated (September 2015) that DRC had since been set up and is functional at the State Data Centre. Hence, there was no case of non-utilisation of procured hardware.

The reply of the Department is not in consonance with the facts as the equipment earmarked for DRC was to be set up at New Delhi (i.e. in different seismic zone) and not in Patna.

2.4.9 Excess expenditure on procurement of Software

Excess procurement of MS Office software licences of ` 8.29 lakh without requirement.

As per departmental letter (May 2012), 274 Desktops³³, 389 Laptops³⁴ and 663 M.S Office software licenses³⁵ were to be procured under MMP for Commercial Tax Offices.

During test-check of records relating to procurement, we observed that BSEDC procured 274 desktops and 300 (out of 389) laptops while 663 M.S Office software licenses were procured against the required 574 (274+300) licenses. Thus, 89 number of M.S Office software licenses amounting to ` 8.29 lakh³⁶ were procured excessively without its requirement. Further, BSEDC submitted detail of only 209 out of 300 laptops.

After this was pointed out, the Department/SDA accepted (August 2015) the fact and stated that 19 licenses were installed in old desktops and remaining 70 licenses would be used in future procurement.

Reply is not acceptable as technology changes rapidly and the Department may get upgraded version in future at lower price.

2.4.10 Excess payment to Data Base Administrator (DBA)

The Department had paid an extra amount of ` 16.18 lakh for hiring services of Data Base Administrator (DBA) separately.

The work of implementation of VATMIS under BRAIN Project for the Government of Bihar which was inclusive of AMC charges worth ` 1.26 crore for three years (which was later extended up to 22 August 2015) was awarded (28 November 2006) to TCS by BSEDC. Besides above mentioned work, TCS submitted (27 January 2012) a proposal for Database Administrator (DBA) for better monitoring of servers at Data Centre.

During test check, we observed that details of work covered under AMC by TCS were not on records. The Senior Consultant of MMPCT was also against

³³ Desktops at the rate of ` 55569 each.

³⁴ Laptops at the rate of ` 53077 each.

³⁵ M.S Office software licenses at the rate of ` 9317 each.

³⁶ 89 x ` 9317 = ` 829213

the proposal of separate DBA by TCS and suggested to the CTD (July 2012) that AMC should include all types of support and no payment should be demanded for human resources separately. However, CTD and BSEDC accepted the proposal for rendering service of Data Base Administrator (DBA) and paid an extra amount of ` 16.18 lakh to TCS for hiring service of DBA separately.

After this was pointed out, the Department stated (September 2015) that function of DBA was not part of initial scope of work for TCS. When the online services were launched the need for DBA was felt and TCS was given the work for one year. We do not agree with the reply of the Department as scope of works to be covered should have been detailed in the AMC.

2.4.11 Infructuous expenditure on development of software for Check Posts

Injudicious decision to develop another check post system module resulted in infructuous expenditure of ` 12.24 lakh.

As per purchase order for implementation of VATMIS, the Check Post System module (Goods Information System) was to be implemented by TCS. Accordingly, TCS had developed the required application software for Check Post System.

During test check of records of CTD, we observed that despite availability of application software www.biharcommercialtax.gov.in prepared by TCS for Check Posts, CTD ordered (May 2013) M/s BeST to develop another Check Post System Module i.e. online D-VII (Out to Out) D-VIII (within State) software. Accordingly, M/s BeST had developed another software www.ctdbihar.gov.in and received (June 2014) a sum of ` 12.24 lakh for the same. Later, the use of software prepared by M/s BeST was rescinded (May 2015). In addition, the work was awarded to M/s BeST without inviting tender in contravention to the provision of Rule 131(I) of BFR 2005 and without executing agreement in contrary to the Rule 30(v) of the Rules *ibid*.

After this was pointed out, the Department/SDA accepted (August 2015) the fact and stated that originally procured server became overburdened due to the added functionalities (e-suvidha). New hardware was purchased for the enhancement of server capacity but the same could not be installed due to non-availability of Oracle licenses. In view of restrictions of server capacity, the Department decided to shift the load of e-suvidha to another website and CTD approached BeST to develop a website exclusively for generation of e-suvidha. But, the services provided by M/s BeST were not up to mark and BeST gave in writing that they were unable to continue rendering service due to logistic problems and it was decided that the website would be closed from April 2015.

The reply itself demonstrates that the requirements of the Department were not frozen by the Department/SDA before issuing purchase order to TCS.

IT Controls

IT controls are specific controls that help to ensure the proper authorisation, completeness, accuracy, and validity of transactions, maintenance, and other

types of data input. These controls are used to provide assurance (primarily to management) that all transactions are valid, authorised and recorded. In course of this IT audit, Registration module, Check post module and Return and payment module of VATMIS application were analysed under IT Controls.

2.4.12 Registration module

Due to deficient Input Control and validation checks in the system, invalid data was accepted by the System.

Registration module of VATMIS helps the assessing officer to manage various aspects of the registration viz. initial registration, collection of taxes, cancellation of registration etc. A unique registration number³⁷ to identify a dealer and to trace all his transactions is the foundation of the VAT system. Under the provisions of Section 19(2) of the BVAT Act read with Rule 3 of BVAT Rules, 2005, an application in Form A-I, in which some information like PAN, Bank Details etc. have to be furnished. Further, Certificate of Registration in Form "C-I" granted to the dealer by the issuing authority mentions the date of Registration from which the dealer is liable to pay tax under the Act. The registered dealers are of different categories like Compounding³⁸, Normal etc. and the application software segregates these dealers by mentioning their specific category by allotting specific codes viz. YB, YC, SD and NORM.

During scrutiny of the database we observed that there were 3,37,318 registered dealers in the CTD as on January 2015 and the above said details of dealers were either not entered or entered with invalid data as given in the **Table 2.10** below:

Table- 2.10
Discrepancies in the data

Details of discrepancies	No. of dealers
PAN missing or Invalid PAN	64,405
Registration Type-blank	1,910
Bank Details- missing	99,765

(Source: -Information furnished by BSEDC)

As evident from the table above, the system had accepted invalid data. This was indicative of deficient input control in the system.

After this was pointed out, the Department stated (July 2015) that PAN was not mandatory at inception phase and now from May 2015 PAN was validated on real time basis with NSDL. Many records were of migrated data. Further, only 1,910 number of records under VAT were missing and the Department was working on the rectification.

The reply is not acceptable since all the details were mandatory and hence these should be compulsory to capture all the records as mentioned above.

³⁷ TIN (Tax payer Identification Number).

³⁸ Registered under Section 15 of the BVAT Act and pay a fix amount in lieu of the tax payable by the dealer under the Act.

2.4.13 Check Post Module

As per departmental notification issued (September 2010), the CTD had to establish six check posts³⁹ along the borders of the State for monitoring of goods transporting into and outside the State. However, the computerized Check post Management System module (SUVIDHA⁴⁰) was started in the State from July 2012 at five check posts⁴¹ to capture the details of goods purchased/sold and stock transferred into and outside State as well as transit of the goods through the State of Bihar.

The deficiencies noticed in the Check Post Module are discussed in the succeeding paragraphs.

2.4.13.1 Non-mapping of provisions of Section 62 of BVAT Act

The computerized system was not mapped properly with the provisions of Section 62 of BVAT Act, due to which the Department could not monitor exit of the vehicles utilising transit passes.

Under the provision of Section 62 of the BVAT Act, if any consignment of goods is being transported by road from a place outside the State of Bihar to another such place and the vehicle carrying consignment passes through the territory of the State, the driver or any other person in-charge of the vehicle shall obtain transit permission from first check-post *en-route* after entry into the State and shall surrender the same transit permission to the authority of the last check-post before leaving the State and in the event of failure to do so within seventy-two hours of leaving the first check-post falling *en-route*, it shall be deemed that goods transported have been sold within the State by the owner or the person in-charge of the vehicle. Further, the rate of penalty is rupees five hundred for every day of the default or a sum twice the amount of tax calculated on the value of the goods transported, whichever is higher.

The data is captured in VATMIS when a vehicle having D-VII authority enters/exits into/from the State border. The system should have an inbuilt mechanism to give alert to the Department on entering a vehicle, having transit pass, into the State border, so that the Department could monitor the exit of the same from the State border.

During data analysis of check posts for the period from July 2012 to January 2015, we noticed (June 2015) that the system did not have an inbuilt mechanism to monitor the exit of the goods from the State border. It was, however, observed from data analysis that 5,43,341⁴² out of 40,89,500 vehicles with consignment had got 'out to out SUVIDHA' during July 2012 to January 2015 and they did not surrender the transit passes within 72 hours but due to system deficiency (i.e. lack of mapping of provisions of Section 62 of BVAT Act) CTD could not monitor the stay of consignments in the State. This might

³⁹ Dalkola (Purnea), Dobhi (Gaya), Jalalpur (Gopalganj), Karmnasa (Kaimur), Rajauli (Nawada) and Sohanpatti (Buxar).

⁴⁰ Simplified Usage of Vehicle Information Data Harmonized Application.

⁴¹ Dalkola (Purnea), Dobhi (Gaya), Jalalpur (Gopalganj), Karmnasa (Kaimur), Rajauli (Nawada).

⁴² 14,532 vehicles having consignment value of ` 5,615.50 crore had already been reported in the Audit Report (Revenue Sector)-2013-14.

result into leakage of revenue⁴³ on those consignments as per system data. We further observed that out of 5,43,341 defaulter vehicles, 88,447 vehicles have repeatedly entered into the State (two to 227 times) after generating out to out SUVIDHA without surrendering their transit passes in each previous occasion. We also observed that 587 out to out SUVIDHA were generated without proper vehicle's registration numbers, but no restrictions/alerts as mentioned above were raised by the system. Further, 2,98,411 vehicles having consignment value ` 86,188.65 crore with tax effect (VAT) amounting to ` 10,560.06 crore out of 5,43,341 vehicles had to exit from those five check posts where computerized Check Post Management System module was functional.

A recommendation to evolve a full proof mechanism for vehicles making transit through Bihar by establishing check posts at those exit points for which SUVIDHA was generated was already given in earlier Audit Report (Revenue Sector) for the year ended March 2014 was not yet considered by the Department.

After this was pointed out in audit, the Additional Commissioner, CTD admitted (July 2015) that more than five lakh vehicles did not surrender their transit passes but denied their stay in the State. He further said that there were several routes from which vehicles could enter into the State and exit from the State where there was no functional check post. He also added that the drivers of vehicle could not understand the implications of the Section 62 of BVAT Act in the beginning hence, they did not surrender the transit passes. The Department further stated (September 2015) that it has revamped the mechanism through which defaulter vehicles are identified and mechanism for punitive action on defaulter vehicles and for deleting their identity from the defaulter list has been developed.

This was indicative of facts that CTD had not ensured pre-requisite checks at functional check posts and establishment of online check posts at each entry and exit points of the State before entering transactions under VATMIS.

2.4.13.2 Deficiency in input control of the system

The VATMIS Application had no inbuilt control mechanism to restrict the import of goods by unauthorised person/dealer.

Under the provisions of the BVAT Act, 2005 and BTEG Act, 1993, the following restrictions with regard to import of goods into the State had been made mandatory which should also be properly mapped in the computer application:

* Under provisions of Section 5 of the BTEG Act read with Section 28 of the BVAT Act, dealers not registered under BTEG Act are not allowed to import scheduled goods under BTEG Act.

During data analysis we observed that 77 Compounding Bricks Kiln Dealers imported the scheduled goods under BTEG Act amounting to ` 13.28 crore having Entry Tax impact of ` 69.80 lakh by generating 1,386 number of SUVIDHA without taking registration under ET.

⁴³ Consignment value of 5,43,341 vehicles = ` 1,19,383.98 crore, VAT amount = ` 13,950.15 crore.

Further, we also observed that 932 unregistered Normal Dealers (under ET) imported ET scheduled goods amounting to ` 84.34 crore having Entry Tax impact of ` 4.76 crore by generating 4,381 number of SUVIDHA.

After this was pointed out, the Department stated (June 2015) that 53 normal dealers out of 932 were registered under Entry Tax and 27 dealers out of 53 have deposited Entry Tax of ` 79.50 lakh. Further, the Department stated (September 2015) that the data of e-SUVIDHA and payment of Entry Tax upto February 2015 only had been taken under the audit observation whereas the payment of Entry Tax regarding SUVIDHA generated upto February 2015 was to be made after February 2015. The specific replies of the remaining cases are still awaited.

* Under the provisions of Section 15(1) and 15(1A) of the BVAT Act, the dealers classified as Compounding are not eligible to import any goods from outside the State.

During data analysis we observed that 110 dealers classified as Compounding Dealers in the database, imported goods worth ` 286.88 crore. Further, we also observed that 14 Compounding Dealers had paid lesser entry tax amounting to ` 4.73 crore than payable on import of ET scheduled goods worth ` 111.42 crore on 3,664 number of SUVIDHA and three Compounding Dealers did not pay the entry tax of ` 3.07 lakh on import of scheduled goods under ET worth ` 61.46 lakh on 54 numbers of SUVIDHA.

In reply the Department stated (June 2015) that 11 dealers out of these 110 were dealers of Schedule IV goods of the BVAT Act but these were classified wrongly as Compounding Dealers in the database. Again they stated in the Exit Conference (September 2015) that some more dealers are wrongly classified in this category which needs correction.

* Under the provisions of Section 19 of the BVAT Act, an unregistered dealer is not liable to pay tax under Section 3 or 4 of this Act, as the case may be. Further, as per VATMIS application, the CTAN (a temporary User ID) is generated by an individual (other than a dealer under BVAT Act or BTEG Act) for import of goods for his personal use while a dealer uses his TIN as User ID for generation of SUVIDHA.

The data analysis revealed that 275 SUVIDHA were generated for import of goods worth ` 7.34 crore by 104 dealers who were not registered under the BVAT Act or BTEG Act, impersonating as a dealer.

In reply the Department stated (June 2015) that 214 SUVIDHA were erroneously generated by 83 transporters for D-IX in place of D-VII and for remaining cases they assured to examine it individually.

Further, we also observed that 165 numbers of individuals had imported goods using 279 SUVIDHA on the basis of CTAN worth ` 10.62 crore for the purpose of Resale or Packing of Goods for sale/resale.

After this was pointed out by audit, the Department stated (September 2015) that most of the importers were individuals. These might be a result of wrong entries regarding purpose of import. However, action would be taken by the concerned circles after detail examination of the data on case to case basis.

In the Exit Conference (September 2015) the Department not only appreciated all the findings related to the deficiency in the system but also stated that many corrective measures in the VATMIS application have been taken with effect from the year 2015-2016.

We recommend that the system should restrict the generation of SUVIDHA for import of goods by an unauthorised dealers or by an individual for restricted purposes.

2.4.13.3 Short/non-payment of ET by Compounding Brick Kiln Dealers

The VATMIS application was not mapped to raise alert on short/non-payment of Entry Tax.

The provisions of Section 3 of the BTEG Act, 1993 provides that the Entry Tax is leviable at the prescribed rates when any scheduled goods is imported for sale, use or consumption in the State.

During data analysis we observed that 126 number of Compounding Brick Kiln Dealers had paid less entry tax of ` 58.72 lakh than payable on the import of scheduled goods worth ` 40.78 crore on generation of 4,180 number of SUVIDHA while 13 number of dealers did not pay the entry tax amounting ` 10.05 lakh on the import of scheduled goods worth ` 1.98 crore on generation of 188 number of SUVIDHA.

After this was pointed out, the Department accepted (June 2015) the fact.

2.4.14 Return and payment module

A registered dealer shall furnish a true and complete return in respect of all his transactions relating to sale, purchase, receipt and dispatch of goods and any other transactions prescribed specifically to the prescribed authority in such form and in such manner as may be prescribed.

With the help of Return and Payment module of VATMIS, a registered dealer under VAT can file returns and can make payment electronically from any place at any time through Internet. However, from October 2012 the Electronic filing of all returns under BVAT Act and e-payments on departmental website had been made compulsory for the registered dealers having Gross Turnover exceeding a sum of fifty lakh of rupees during any financial year or part thereof or having output tax liability during any quarter exceeding a sum of one lakh of rupees.

The system should have an inbuilt mechanism to give alert to the concerned assessing authority on the delay/non-filing of returns, short/non-payment of VAT, short payment of admitted tax, excess claims of rebate under Section 24 (12) of BVAT Act and generate demand notice automatically against defaulter dealers so that the assessing authority could monitor the case.

The shortcomings noticed in Return and Payment module of VATMIS are discussed in the succeeding paragraphs.

2.4.14.1 Absence of alert for delay/non-filing of Return

The VATMIS application was not mapped to raise alert on non/delayed filing of returns.

Under Section 24(3) of the BVAT Act, 2005, every registered dealer shall furnish to the prescribed authority, on or before due date, a true and complete return in respect of every financial year in the form and manner prescribed.

Further, as per provision of Section 24(8) of the BVAT Act, if a dealer fails to furnish the annual return (RT-III) within time, he shall be liable to pay fine⁴⁴ for the delay.

During analysis of data pertaining to such dealers whose at least one quarterly return was found uploaded in the system for the period from 2011-12 to 2013-14, it was noticed that 53,845 dealers did not file their RT-III while 30,718 filed RT-III with delay. However, due to system deficiency, demand notice of fine⁴⁵ for non-filing/delay filing of returns could not be generated automatically.

After this was pointed out in audit, the Department stated (September 2015) that there were possibilities that the assessing authorities might have imposed penalty/fine on dealers who failed to file return in time. As the demand created was not entered into the system, it does not reflect.

The reply was itself an admission of system fault. However, the actual position of demand created and fulfilled was awaited.

We recommend that the system should restrict the dealers from filing returns after due date without paying payable fine and also raise an alert regarding dealers who have not filed their returns after due date.

2.4.14.2 Absence of alert regarding short payment of VAT

The VATMIS application was not mapped to raise alert on short payment of tax by Brick Kilns Dealers who had opted for compounding scheme.

Under the provision of the sub section (4) of Section 15 of the BVAT Act, the Department issued (May 2006) notification under which the owner of brick kilns opting for compounding tax (VAT) has to pay a minimum amount ` 60,000 per financial year till 2011-12 and as per notification (July 2012), this amount was further enhanced to ` 75,000 for 2012-13 and ` 83,000 for 2013-14 (earmarked for lowest category of brick kilns).

During data analysis, it was noticed that 1,405 out of 4,102 brick kiln owners, who opted for compounding tax, paid short compounding tax amounting to ` 4.54 crore during the period 2009-10 to 2013-14 (calculated on minimum VAT/year).

⁴⁴ A sum of ` 750 for each month or part thereof for the first six month of delay and a sum of ` 1000/- for each month or part thereof for each subsequent month of delay.

⁴⁵ ` 86.43 crore (calculated upto December 2014 for the period 2011-13) for non-filing of RT-III and ` 9.35 crore (calculated upto January 2015 for the period 2011-14) for delayed filing of return.

After this was pointed out (May 2015), the Department accepted the facts and stated (June 2015) that 1,234 'YB' dealers⁴⁶ had actually paid short VAT of ` 3.51 crore, while 171 dealers were wrongly classified as 'YB' dealers in the system. Further the department stated (September 2015) that, if a brick kiln dealer does not fulfil the terms and conditions as laid down in notification issued under sub Section (4) of Section 15 of the BVAT Act, he is no longer treated as a compounding dealer. The facts remained as the system was still showing those dealers as compounding dealers.

2.4.14.3 Absence of alert regarding short/non-payment of admitted tax

The VATMIS application was not mapped to raise alert against short/non-payment of admitted tax.

Under the provisions of Section 24 of the BVAT Act, every dealer shall deposit the tax payable in respect of every month on or before the 15th day of the following month, failing which the dealer shall be liable to pay interest at the rate of one and a half *per cent* per month on the amount due from the date the tax was payable and became due to the date of its payment.

* During data analysis of the returns and payment of the dealers as made available to audit, it was noticed that 22,588 dealers had made short payment of ` 694.31 crore during 2009-10 to 2013-14 against their admitted tax liability under BVAT Act which was not flagged by the system automatically.

* It was also noticed that 14,034 dealers had not paid tax amounting to ` 180.25 crore during the year 2009-10 to 2013-14 against their admitted tax liability under BVAT Act which was also not flagged by the system automatically. The dealers were also liable to pay interest as per prevalent provision of the BVAT Act in addition to tax.

After this was pointed out, the Department stated (September 2015) that in some cases this happened due to wrong entry in the Returns by the dealers. Further, the Department stated that the short payment calculated by audit cannot be accepted as every parameters like payment of tax for return period, C-II claims, set-off of unadjusted ET of previous year, output tax, Input Tax, Rebate under Section 24 etc. were not considered. In case of non-payment the Department further stated that the individual cases are being examined at circles level.

The reply was not acceptable as the onus for entering data in a field lies on the dealer in case of e-filing and an automatic alert in this regard need to be generated by the system to minimize the manual intervention as an objective of the computerization and further it is to mention that the audit had calculated the short/non-payment after deducting the actual amount of VAT/CST paid (admitted/assessed/advance), ET set off claimed and amount shown in the TDS column in the returns (RT-III) from the amount of net tax payable shown in the earmarked column of the Annual Return (RT-III).

⁴⁶ Compounding brick kiln dealers.

2.4.14.4 Absence of alert regarding non-payment of interest on delay payment of VAT

The VATMIS application was not mapped to raise alert on non-payment of interest on delayed payment of VAT.

Under the provisions of Section 24(9) of the BVAT Act, every dealer, other than a dealer permitted to pay tax under Section 15(1) and 15(4), shall deposit the tax payable in respect of every month on or before the 15th day of the following month. Further, under the provisions of Section 24(10), a dealer required to furnish return under Section 24(1A) and 24(4), if fails to pay the tax payable according to the provisions of Section 24(9), such dealer shall be liable to pay interest at the rate of one and half *per cent* per month. The application should have inbuilt control so that an automatic alert for leviable interest against the defaulter dealer could be raised by the system.

During data analysis for the period from 2009-10 to 2013-14 it was noticed that ` 70.83 crore as interest for delayed payment of VAT has not been levied on 1,33,704 dealers. This was after considering interest paid amount, if any, by the dealers.

Thus, due to lack of inbuilt control in the system, the system did not raise any automatic alert in this regard. The Department did not give any specific reply in this regard.

We recommend that the steps should be taken to restrict the dealers from paying their tax without leviable interest.

2.4.14.5 Absence of alert regarding excess rebate availed by dealers

Due to lack of input and validation checks in the application software the dealers were allowed to claim excess rebate.

Under the provision of Section 24 (12) of the BVAT Act a rebate at the rate of half *per cent* of amount of tax admitted to be due in the return under Section 24 subject to maximum ` 50,000 in a year is allowable to a dealer.

During analysis of the returns of dealers under VATMIS for the period from 2009-10 to 2013-14, it was noticed that 1,680 dealers had claimed excess rebate.

After this was pointed out, the Department accepted (June 2015) that till now the return templates available for the dealers were not macro based so the dealers were open to upload values in wrong columns or absurd values due to mistake. It was further stated that from first quarter of 2015-16, provision for macro based excel template was being made in the system which would put end to these type of mistakes by auto calculation and subsequent correction.

Further, the Department stated (September 2015) that the dealers/Data Entry Operators have committed mistakes while uploading RT III and have put wrong amount against the column “Rebate under Section 24(12)”.

2.4.14.6 Non-mapping of provision of revision of quarterly returns

The application software was not properly mapped with the prevailing provisions of the BVAT Act, which allowed the dealers to revise their returns irregularly.

The State Government amended the provisions of sub-section 1 of Section 24 of BVAT Act in the year 2012 due to which the facility of revision of quarterly returns submitted under Section 24 (1A) were automatically ceased from the dealers. Accordingly, the system should be mapped with the prevailing provisions of the Act.

During analysis of data we observed that 63,127 and 72,618 number of quarterly returns submitted under sub-section 1A of Section 24 have been revised in the year 2012-13 and 2013-14 respectively which had been accepted by the software as well as the Department itself.

After this was pointed out, the Department passed the BVAT (Amendment and Validation) Act 2015 in August 2015 and restored the provision of revision of quarterly returns with retrospective effect i.e. from 1 April 2012.

2.4.14.7 Concealment of sale/stock transfer outside the State and purchase/stock receipts from outside the State

The system was not able to raise alert regarding any mismatch of the admitted sale/purchase figures with the actual sale or purchase as per check-post data. Further, it also failed to automatically restrict the dealers putting wrong figures of Opening Stock in the returns with regard to closing stock admitted in previous year's return.

Under the provisions of Section 31(2) of the BVAT Act, if a dealer conceals his turnover or any particulars thereof, he is liable to pay penalty with interest in addition to tax payable on the suppressed value.

* During cross verification of data of the check post (for approved and expired SUVIDHA) with the data of returns filed by dealers for the year 2012-13 (check post data available only from July 2012) and 2013-14, we found that 515 out of 1,632 dealers and 2,158 out of 3,138 dealers shown their outside sale and stock transfer of ` 118.18 crore and ` 1,249.31 crore less during 2012-13 and 2013-14 respectively.

After this was pointed out, the Department replied (July 2015) that the amount of outside sale shown in annual return (RT III) under VAT excludes the amount of CST, while in e-SUVIDHA it includes the CST amount which might be a reason of this difference.

The reply is not acceptable since under the provisions of Section 2(O) and 2(Zd) (vi) the sale price in the RT-III excludes only the tax under BVAT Act and not under the CST Act. Further, the data has been re-analysed in the light of Department's reply and only Sale/Resale and stock transfers have been considered for Approved e-SUVIDHA (D-X) only and found that 179 and 524 dealers have concealed their CST sale or Outside Stock Transfer for ` 19.64 crore and ` 166.47 crore during 2012-13 and 2013-14 respectively.

* During comparison of data of the check post (for approved and expired SUVIDHA) with the data of returns filed by dealers for the 2012-13

and 2013-14 it was observed that 3,005 and 5,666 number of dealers shown their outside purchase and stock receipts worth ` 9,775.88 crore and ` 6,068.46 crore less during 2012-13 and 2013-14 respectively. Further, it was noticed that 2,320 dealers in the year 2012-13 and 3,733 dealers in the year 2013-14 had not disclosed their rate wise purchase in their returns and only total purchase had been disclosed therein as the concerned fields were not made mandatory in the application, hence, the tax impact on said concealment had only been calculated against 685 and 1,933 dealers amounting to ` 365.00 crore and ` 1,466.13 crore (based on rate mentioned in the SUVIDHA) for the year 2012-13 and 2013-14 respectively. The above concealment also attracts leviable penalty and interest thereon.

Further, on Department's reply (July 2015), the audit re-analysed the data considering only Approved e-SUVIDHA(D-IX) by excluding the Capital Goods (CPGD) and Purchase Returns (PRUS) and found that 1029 and 1576 dealers in 2012-13 and 2013-14 respectively concealed their purchases (purchase and stock receipts from outside the State) worth ` 587.16 crore and ` 902.87 crore (since against 17,849 and 21,870 e-SUVIDHA using dealers only 13,746 and 14,851 RT-III were found uploaded in the database during 2012-13 and 2013-14 respectively).

Again, due to unavailability of the rate-wise purchase figures in the RT-III, which is a system deficiency duly accepted by the Department, the audit could calculate the tax impact of ` 10.42 crore and ` 29.01 crore on the basis of database figures against 117 and 272 dealers for the period 2012-13 and 2013-14. The penalty of ` 118.29 crore and interest amounting to ` 6.61 crore is also leviable. This amount excludes the amount of concealment due to putting wrong figures of invoice value in D-IX regarding 54 cases as made available by the Department.

We recommend that the system should raise an alert for any mismatch of figures of admitted sale/purchase in the returns with their respective figures in the SUVIDHA.

* It was noticed that 11,426 dealers had admitted either less Opening Stock than previous year's Closing Stock or admitted 'Nil' Opening Stock while they have admitted the Closing Stock during preceding year in their Annual Returns. The application neither disallowed the entries of wrong Opening Stock nor raised alert in this regard. This resulted in concealment of the Stock remaining with the dealer worth ` 3,459.79 crore which had tax impact of ` 219.76 crore (tax calculated on proportionate basis of GTO and tax admitted during preceding year). Since these were the cases of purchase concealments hence, the dealers were also liable to pay penalty and interest as provided under Section 31(2) of the BVAT Act.

After this was pointed out (July 2015), the Department stated (September 2015) that, the individual cases are being examined at the circles level.

We recommend that the Government may consider introducing an automated mechanism so that the entry of Opening Stock in the return should not differ from the Closing Stock of the previous year.

2.4.14.8 Mismatch in figures of TAR and Annual Returns

Due to absence of validation controls, the system could not raise any alert regarding mismatch of figures in annual returns and TAR.

Under the provisions of Section 24(3) and Section 54 of the BVAT Act, the liable dealers have to furnish their Annual Return (RT-III) and Tax Audit Report (TAR) in which they have to disclose same figures like Gross Turnover, Taxable Turnover, Purchase, output tax liability, etc. The application should have validation control so that the same figures disclosed in two different sets of records submitted by same dealer should not be different and if the different figure is entered the system should generate an alert in this regard.

During analysis of the purchase figures admitted by the dealers in their annual return with the figures accounted for in their respective Tax Audit Report (TAR), we observed that 9,625 dealers had declared different figures of purchase in both of their records.

Further, it was noticed that 1,783 dealers had admitted less output tax liability in the annual return (RT-III) as compared to their TAR amounting to ` 11,182.34 crore for the period from 2009-10 to 2013-14.

The system had no input validation control to match the same figures as mentioned above in RT-III and TAR. With regard to mismatch in purchase, there was risk of dealers inflating their purchase in the return to avail excess Input Tax Credit (ITC) on local purchase or for reporting a lower purchase in the accounts to suppress sales while in the cases of short admission of output tax liability there was risk of direct loss of tax to the Government exchequer.

After this was pointed out (July 2015), the Department stated (September 2015) that the individual cases are being examined at circles level.

2.4.14.9 Irregular claim of Input Tax Credit

The system had no validation control regarding putting invalid TIN in the Tax Audit Report which resulted in irregular claim of ITC.

Under the provisions of Section 16 of the BVAT Act, the ITC can be claimed by a registered dealer if he purchases goods (inputs) from a registered dealer of within the State of Bihar.

The system should have an inbuilt input control mechanism to give alert to the concerned assessing authority on Irregular claim of Input Tax Credit (ITC) taken by the dealers so that the assessing authority could monitor the case.

During analysis of TAR data for the period from 2009-10 to 2013-14 it was noticed that ` 266.61 crore was claimed as ITC on the inputs purchased by 7,415 dealers having invalid TIN and ` 40.45 crore was claimed as ITC on the inputs purchased by 1,129 dealers without mentioning their TIN.

Thus, the claimed ITC was irregular which could not be detected by the system and the application system failed to generate alert in this regard.

After this was pointed out, the Department accepted (September 2015) the system faults and stated that case to case examination was required.

2.4.14.10 Non-payment of tax on Closing Stock on discontinued business

The VATMIS application was not mapped to raise alert regarding non-payment of tax on closing stock on discontinued business.

Under the provisions of Section 3(5) of the BVAT Act, 2005 a registered dealer should, within a period of twelve consecutive months, pay tax on the stock of goods remaining with him on the date with effect from which he closes or discontinues his business.

The application should have a system to generate an automatic alert when a dealer discloses his Closing Stock and does not file any return in next twelve months.

During analysis for the period from 2009-10 to January 2015, we noticed that 1,008 dealers had admitted Closing Stock in their Annual Returns of the concerned years but neither filed any Return nor paid any Tax (VAT or CST) in the subsequent years. Since, some of dealers had admitted their GTO as NIL hence tax impact had been calculated only on 298 dealers amounting to ` 2.24 crore, calculated in proportion of tax admitted with respect to their GTO for the concerned years.

After this was pointed out (July 2015), the Department stated (September 2015) that the individual cases were being examined at circles level.

2.4.14.11 Non-verification of TDS claimed by the dealers

In the absence of provision for assigning unique ID to tax deducting authority on VATMIS application, the filing of statement in RT-VI and return in RT-VII was insufficient to verify the TDS amount deposited.

Under the provisions of Section 40 and 41 of the BVAT Act, every authority shall deduct Tax at Source (TDS) from the bill of the seller, supplier or works contractors, as the case may be, at the time of payment and deposit it to Government treasury. Further, the person making deduction shall submit a statement in RT-VI and a quarterly return in RT-VII and shall also issue a Certificate in Form C-II to the concerned dealers getting the payment which is a proof against TDS claimed by him in the returns.

The application should have facility to reconcile/verify automatically the amount of TDS claimed by the dealers with the Statement (RT-VI) or Return (RT-VII).

During data analysis for the period from 2009-10 to 2013-14, it was observed that 16,052 dealers had claimed TDS amounting to ` 1,794.77 crore. Analysis revealed that there were data of only 84 authorities who have filed their RT-VII in which TDS was shown as deducted against 98 dealers out of 16,052 existed in the system. This indicated that RT-VII was not being uploaded in the database properly. Resultantly, the claim of TDS could not be verified from the data. Further, due to non-assigning of unique ID to the TDS deducting authority on VATMIS application, it was also not possible to monitor the filing of RT-VII and verification of TDS deposited on VATMIS database.

After this was pointed out in audit, the Department accepted (September 2015) the audit observation and stated that the Department would try to ensure the filing of RT-VII and uploading these in the database.

2.4.14.12 Non-automation of calculation of Taxable Turnover

The system had no automation even regarding simple mathematical calculation.

Under the provision of Rule 19(2) of the BVAT Rules 2005, every registered dealer other than registered under Section 15 of the Act shall furnish annual return in which he has to disclose the Gross Turnover (GTO) and deductions under the BVAT Act. In the return, the total deduction was the sum of all deduction claimed while the Taxable Turnover (TTO) was calculated after deducting the deductions from GTO disclosed in the Returns.

The application should have inbuilt automation so that the total deduction and the TTO might be calculated automatically.

During data analysis for the period from 2009-10 to 2013-14 it was observed that 56,946 number of returns disclosed incorrect total deduction while 58,365 number of returns disclosed incorrect TTO, i.e. less than or more than actual calculation. This clearly indicated that the system had no automation even regarding a simple mathematical calculation.

After this was pointed out (May 2015), the Department accepted (September 2015) the audit observation and assured that from the 2015-16, macro based excel templates for quarterly and annual returns were being introduced for the dealers which would eliminate these types of errors pointed out by audit.

2.4.15 Conclusions

IT audit revealed the followings:

- * The service level agreement with provision for exit management and source code was executed in July 2015 between BSEDC and TCS after a delay of more than eight years from issue (November 2006) of the purchase order to TCS for implementation of VATMIS.
- * Transit passes issued between July 2012 and January 2015 for transit through the State were not surrendered by more than five lakh vehicles. The Department could not monitor the non-surrender of transit passes and stay of consignments in the State as the Check Post Modules of VATMIS application was not mapped properly with the provisions of Section 62 of the BVAT Act to raise an alert in cases of transit passes not being surrendered within prescribed time.
- * The application control of the system had various shortcomings like insufficiency of input control and validation checks and generation of Tax Payer Identification Number (TIN) and Unique Electronic Identification Number (SUVIDHA) without complete information.
- * The VATMIS application was not mapped to raise alert regarding delay/non-filing of returns, delayed/short/non-payment of VAT and excess availing of rebates etc.