

CHAPTER - II: COMMERCIAL TAX

2.1 Results of audit

Test check of the records of the Commercial Tax Department conducted during the year 2007-08 revealed underassessment, non/short levy of tax/interest/penalty, application of incorrect rate of tax etc. amounting to Rs. 2.59 crore in 37 cases, which fall under the following categories:

(Rupees in crore)

Sl. No.	Category	Number of cases	Amount
1.	“Computerisation of the Commercial Tax Department” – A review	1	Nil
2.	Incorrect grant of exemption/deduction/set-off	18	1.12
3.	Non/short levy of tax	3	0.50
4.	Incorrect determination of taxable turnover	2	0.27
5.	Application of incorrect rate of tax	3	0.05
6.	Other irregularities	10	0.65
Total		37	2.59

During the year 2007-08, the department accepted underassessment of tax of Rs. 62 lakh in 16 cases.

An information technology review of **“Computerisation of the Commercial Tax Department”** and a few illustrative cases involving revenue of Rs. 73.43 lakh highlighting important audit findings are mentioned in the following paragraphs.

2.2 Computerisation of Commercial Tax Department

Highlights

- There was inadequate documentation of the project.
(Paragraph 2.2.6, 2.2.7)
- There were no plans to phase out the manual system and change-over to the computerised system.
(Paragraph 2.2.8.1)
- There was incomplete information of registered dealers on the system.
(Paragraph 2.2.8.2)
- There was frequent loss of connectivity with the central server.
(Paragraph 2.2.11)

2.2.1 Introduction

The Chhattisgarh Commercial Tax Department is responsible for levy and collection of tax under value added tax (VAT), central sales tax (CST), entry tax (ET), professional tax (PT) and luxury tax (LT) in the state. A project for the computerisation of Commercial Tax Department was initiated in Madhya Pradesh (MP) in the year 2000 which included the districts of the present State of Chhattisgarh. After the State's formation in November 2000, this work was awarded to Computer Maintenance Corporation Ltd. (CMC) in the year 2003 which developed an application software called the Chhattisgarh Commercial Tax Software (CGCOMTAX) in June 2005.

The total estimated cost of the project was Rs. 12.67 crore out of which Rs. 1.50 crore was financed from the Eleventh Finance Commission in 2002-03. As per the records produced to audit, the total expenditure on computerisation including hardware, accessories, software and handholding support by CMC amounted to Rs. 8.64 crore.

The software CGCOMTAX is based on three-tier architecture i.e., database server-Sun Solaris, application server-Windows 2003 and report server-Windows XP. It is a web-enabled application with Java Server pages in the front end and Oracle RDBMS at the back end. All the departmental offices have their own local area network (LAN) and are connected with the central server in the Commissioner's office, of a wide area network (WAN) through Bharat Sanchar Nigam Limited (BSNL) leased lines (64 Kbps).

The CGCOMTAX has 11 modules which are Dealer Information System (DIS), Returns Processing System (RPS), Tax Accounting System (TAS), Industrial Exemption System (IES), Professional Tax System (PTS), Luxury Tax System (LTS), Arrears Recovery System (ARS) and Law and Judicial System (LJS) which captures original data, Personal Information System (PIS) which relates to administrative work of the department, Dealer Assessment System (DAS) and Management Information System (MIS) which generates various reports from the data available in other modules.

2.2.2 Organisational set up

The department is under the administrative control of the Finance Department. The Commissioner of Commercial Tax (Commissioner) is the head of the department assisted by five Deputy Commissioners. There are three divisions and 19 circles in the State headed by Deputy Commissioner at the divisions and commercial tax officers at the circle level. The department operates five check posts.

2.2.3 Audit objectives

The audit was conducted to evaluate:

- whether project was implemented in a planned manner;
- the main constraints, if any, in implementing the project;
- the extent of utilisation of the features of the application software;
- whether security and backup issues are adequately addressed; and
- change management is controlled and well documented.

2.2.4 Audit criteria

The application software developed and implemented in the head office, divisions and circles was evaluated with reference to the Commercial Tax Department manual. Planning of computerisation, methodology of development of the application software, data management and monitoring was examined with reference to practices of information technology governance under Control Objectives for related Information Technology (CoBIT) framework.

2.2.5 Scope of audit and methodology

The audit of CGCOMTAX was conducted in the Commissioner's office, three divisional offices, 10 circles and two check posts¹. The files relating to the project were examined and the data from various modules was retrieved and scrutinised using structured query language (SQL). An exit conference was held on 27 November 2008 with the Commissioner, Commercial Tax and other officials to discuss the findings in the review. It was stated by the department that the findings in the review would be utilised in switching over fully to the computerised system.

2.2.6 Project management structure

The main objectives of the project are to improve the efficiency of the working system of the department and to discontinue the maintenance of registers. The perceived benefits of the computerisation included *inter alia*

1 Three divisions Bilaspur, Durg and Raipur
Ten circles: Ambikapur circle, Bilaspur circle - I, Bilaspur circle - II, Durg circle - I, Durg circle - II, Durg circle - III, Jagdalpur circle, Korba circle, Raipur circle - I and Raipur circle - II.
Bhagat Devri and Chichola check posts.

- to have a directory of registered dealers containing accurate dealer information;
- to enable the follow up of returns by generating list of defaulters and issue of advance tax notice/show cause notice;
- to automate segregation of challans circle wise/dealer wise/act wise and ensure their veracity by reconciling with bank details;
- to be able to have faster and more accurate access to relevant dealer details required at the time of assessment;
- to monitor the progress of recovery and keeping track of the dues of the dealers;
- to monitor appeals and court cases; and
- to provide efficient and accurate computerised control for Luxury Tax Management and Professional Tax system.

The department engaged CMC in September 2003, who was doing this computerisation in undivided MP since March 2000. It appointed a Project Manager and constituted a core team in October 2003 for facilitating and coordinating the computerisation as an interface with the CMC project team. The time schedule provided for delivery of source code and closure by May 2005. The department could not produce any implementation plan or schedule for complete change-over from the manual to the computerised system.

Audit findings

2.2.7 Application development, testing and user acceptance

The feasibility study of the project and the user requirements were not available on record. The department stated that CMC was given the user requirements in undivided MP. However it was unable to produce a copy to audit.

CMC demonstrated all the modules of CGCOMTAX in April 2004 and the department gave the acceptance for the software in June 2005. However, no related documents were produced to audit to verify the manner of testing, test results, consequent modifications, degree of user involvement and acceptance reports of various groups. It could not be ascertained whether the system designed by CMC met all the user requirements. It was evident that the documentation for various stages of the application development and testing was missing and it was difficult to ascertain whether due procedures were followed.

2.2.8 Implementation

The department did not produce any documented implementation plan to audit. Some of the deficiencies in implementation are reflected in the following paragraphs.

2.2.8.1 No plans to change-over to the computerised system

The department did not furnish any documented plan to phase out the manual system and change-over to the computerised system. It was observed that after giving acceptance certificate for the software in June 2005, the system is running in parallel with the manual system for almost three years (March 2008).

Therefore, the objectives of discontinuance of manual registers and improving the efficiency of the working system of the department were not achieved. Some instances are given below showing important items of work that continue to be done manually and are not updated in the system.

2.2.8.2 Dealer information system module

- The data pertaining to registered dealers is available in the Dealer Information System module (DIS). Scrutiny of the database and manual records showed that the total number of registered dealers in the system was less than the actual dealers as per the manual records in all three test checked divisions. It was observed that discrepancies had not been analysed to ascertain reasons. During the exit conference, it was intimated that discrepancies between manual records and the system will be reconciled in the next three months.
- During scrutiny it was found that for new registration applications, the circle offices were generating Tax payer's Identification Number (TIN) from the DIS after entering minimal details. The computer generated TIN and other details were thereafter entered in the registers and the registration certificates were issued manually to the dealers. Subsequently details were entered in DIS from the manual records. Similarly, the cancellation of registration certificates were also being done manually but were not updated in the DIS module in many cases.
- DIS module provides for accounting of the declaration forms² received from Commissioner's office. Scrutiny of the data in Raipur circle - I, Durg circle - I & II, Ambikapur and Korba circles revealed that the number of forms issued to dealers was more than the numbers requisitioned. It was verified that these errors occurred due to incorrect data entry in the module. The manual records were correct but the data had not been corrected as there was no reconciliation.

Ambikapur, Durg circle-I & II and Korba circles confirmed that this was due to erroneous data entry by the data entry operators (DEO). It was evident that the circle officers had not instituted a system to verify the data entered by DEOs from the manual records. Consequently, the envisaged functionality of accurate dealer information to be fulfilled by this module was not fully achieved.

2.2.8.3 Returns processing system module

- The monthly, quarterly, annual returns and revised returns of dealers are entered in the RPS module. The department had set a deadline for entering all returns for the year 2002-03 to 2004-05 in the RPS module

² Forms used by dealers to facilitate intra-state and inter-state movement of goods.

by 31 March 2006. Due to shortage of staff, the department had outsourced the process of data entry from August 2005 to September 2007. However, the data entry of returns could not be completed despite engaging additional manpower and the module continues to have incomplete data. The RPS module has a provision for identifying dealers who have not submitted their periodical returns and generating advance tax notices (ATN). It was observed in test-checked circles that the ATNs were issued following the prevailing manual procedure. The CTOs of Ambikapur and Jagdalpur circle stated in their reply that ATN is being issued to defaulter dealers manually as per the dealer collection register in which the tax amount of the existing dealers for the previous year is available. The reply indicated that in order to make the module fully functional, it was necessary to enter the tax paid in previous years which was not available as the data entry of returns of earlier years was incomplete.

- The gross turnover and the net taxable turnover³ are entered in the RPS module. During the scrutiny of the RPS module, it was found that in 1,723 out of 28,832 records in the RPS module, the taxable turnover exceeded the gross turnover, which was not possible. Ambikapur, Durg circle-II and Jagdalpur circles in their reply stated that this occurred due to wrong entries in the system by the DEOs.
- It was observed that due to the backlog in data entry from manual records, data in the RPS module remained incomplete. Thus, the reports generated from RPS data through MIS reports like comparative revenue under VAT, CST, ET, PT and LT, month wise and Act wise revenue, statistics of returns process, monthly revenue review report would also be incomplete and could not be used for monitoring. Consequently, the envisaged functionality of follow up of returns by generating list of defaulters and issue of ATN/show cause notice to be fulfilled by this module was not fully achieved.
- The RPS module provides for entry of details of challans which are attached with the return of a dealer as proof of payment of tax. The TAS module contains the provision of capturing the actual receipts of revenue from the bank scrolls. The system provided for generating a mismatch report in the MIS module which would assist in the reconciliation of challans data entered in the TAS and RPS modules. During scrutiny of records/data entry in Ambikapur and Raipur - II circles, it was observed that data entry was being carried out in both the modules and there were several unreconciled discrepancies in the challan details from the two sources. The CTO, Ambikapur stated that the reconciliation was being done manually. It was evident that the corrections were not being carried out on the system which therefore did not have updated and reconciled challan information.

³ Gross turnover minus deductions.

2.2.8.4 Non-operational modules in the software

It was observed that in all the three divisions, the ARS, LTS, IES and LJS modules did not contain any data and were not operational. Consequently, the envisaged functionality of tracking and recovery of arrears, monitoring of appeals, court cases, LT and PT to be fulfilled by these modules was not achieved.

It was evident that the modules had incomplete information and the system generated reports would therefore also be incomplete and could not be used for monitoring. Thus, the envisaged objectives of improving the working system of the department and discontinuance of manual registers were not achieved. The department immediately needs to formulate steps to set up target dates for fully operationalising all modules to achieve the envisaged objectives. During the exit conference, the department intimated that discrepancies would be reconciled and connectivity problems would be addressed. The problems of implementation were attributed to shortage of technical staff and it was informed that additional posts had been sanctioned and it was planned to change-over fully to the computerised system within one year.

2.2.9 Logical access control

Logical access controls protect an IT system from unauthorised access and malicious codes such as viruses and worms. It was observed that the department did not have a documented password policy and no written instructions were issued regarding regular change of passwords. Password control procedures like assigning alpha numeric passwords, minimum number of characters for password, restriction on number of unsuccessful login attempts and forced periodic password changes were not incorporated in the application. There was no documented approval of access profiles from the department authorising various levels of employees to access different modules and screens. There was also no evidence of review of system logs to detect attempts at unauthorised access or unexpected events.

The purchase orders for the personal computers (PC) provided for anti-virus software but had not been installed in the test checked circles, Commissioner's and DC's office.

In the absence of adequate logical access controls, the system was prone to risk of intrusion and data corruption. These factors would become more critical once the department shifts fully to the computerised system. It is recommended that the department should define and approve access profiles, strengthen password management and load anti-virus software in all the PCs. It was intimated in the exit conference that anti-virus software would be installed and password policy implemented within three months.

2.2.10 Hardware procurement

For the implementation of the software, the department procured 348 stand alone PCs, 12 HP make low end servers, one Sun Solaris server, CISCO networking items and Oracle RDBMS licenses. It was observed that payments had been made in contravention of the terms of the supply order and without

verifying actual delivery. Stock registers for the computer hardware were not available and the department had suspended the then storekeeper and instituted a departmental enquiry.

After the expiry of the warranty for the hardware in April 2007, the department had not concluded any annual maintenance contract (AMC). It was observed that many of the PCs were repaired locally.

It was observed that the department had not ascertained the hardware actually installed in various offices for the project even after detecting gross irregularities in the procurement process. It is, therefore, recommended that it should obtain this information from all the offices where hardware was installed and also conclude AMC for the available hardware. During the exit conference, the department intimated that information had been collected on the hardware available in all subordinate offices and AMC would be concluded within three months. In view of the irregularities detected by the department in purchases, the information collected on hardware was to be fully verified against purchase orders and related documents.

2.2.11 Networking

All the divisions and circles are connected to the central server located in the Commissioner's office, Raipur through WAN (provided by BSNL). In the test checked circles namely Ambikapur, Durg, Jagdalpur and Korba, the respective CTOs intimated that there was frequent loss of connectivity with the central server. Jagdalpur circle was the worst affected where there was no connectivity from November 2007 to June 2008 forcing the staff to continue the work manually. In the absence of connectivity, the system could not be fully functional. It was intimated in the exit conference that the connectivity was being improved with the assistance of National Informatics Centre (NIC).

2.2.12 Backup process

Daily physical and logical backup of data was being taken. While there was a procedure for weekly backup on DAT cartridges, there was no record of the instances when backup was actually taken and whether the backups were tested through actual restoring. The backup cartridges were stored in the same building i.e. Commissioner's office where the server is located.

It is recommended that the backup procedures be reviewed considering storage of the first copy of the backup cartridges in strong room/steel cupboards and storage of second copy and original system software compact disks (CD) in another location.

A system of regular testing of the restorability of the backup data and log of cartridge backups may also be maintained. During the exit conference, the department intimated that documented backup procedures including off-site storage of backups would be implemented within three months.

2.2.13 Change management

The department did not keep any record of change requirements, authorised change requests and execution of changes. It was, therefore, not possible to ascertain what changes had taken place in CGCOMTAX. It was intimated in

exit conference that in view of audit recommendations, a procedure has been prescribed for authorisation and documentation of changes.

2.2.14 Inadequate coverage of check posts

The CGCOMTAX did not have any separate module designed for check posts. However, PCs were provided for all the check posts in the initial supply order for 338 PCs. It was observed during test check that Bhagat Devri and Chichola check posts had three and nine PCs respectively. They were using the dealers registration details obtained on CDs at regular intervals from the Commissioner's office. A link to the central server would enable the check posts to verify from the DIS module, the details of declaration forms presented by vehicles crossing the check posts. It is, therefore, recommended that connectivity may be given to the check posts and suitable module incorporated in the software for the use of check posts. It was intimated in the exit conference that establishment of integrated check posts was under consideration of the Government.

2.2.15 Conclusion

Though the department implemented CGCOMTAX in the year 2005 and invested substantial resources on hardware, software and additional outsourced manpower, the work continues to be done manually and the computerised system has become an incomplete archive of information. The main constraints comprised absence of a time schedule for change-over, disruptions in connectivity and manpower constraints. The main objectives of increasing efficiency through a computerised system and discontinuing the maintenance of registers have not yet been achieved.

2.2.16 Recommendations

- The department should prepare a time bound implementation plan to shift completely to computerised system with a target date for complete change-over for each module;
- the implementation plan should provide for adequate manpower;
- the connectivity to all circles and other offices, especially those in the remote areas, may be reviewed to ensure uninterrupted access to the central server;
- authorised change requests and action taken may be documented;
- suitable module may be incorporated for check posts;
- backup procedures and access controls may be strengthened; and
- the department should obtain hardware installation information from all the offices and also conclude AMC for the available hardware.

2.3 Non-levy of penalty

According to Section 69 of the Chhattisgarh Commercial Tax (CGCT) Act⁴ 1994, if the Commissioner or the appellate or the revisional authority during any proceeding is satisfied that the dealer has concealed his turnover or the aggregate amount of purchase in respect of any goods or has furnished false particulars, the authority concerned may initiate proceedings for imposing penalty. Further, as per Section 69(3), if the total tax shown as payable according to the returns and paid by a dealer for any period is less than 80 *per cent* of the total tax assessed, such dealer shall be deemed to have concealed his turnover or aggregate of his purchase price and is liable to pay penalty upto five times but not less than three times of the tax evaded. In all such cases the Assistant Commissioner, Commercial Tax (ACCT) has been delegated with the power to levy penalty.

Test check of the records of the ACCT, Raipur in February 2007 revealed that while assessing a dealer engaged in sale of vegetable oil in February 2004 for the period April 2000 to March 2001, the assessing officer (AO) detected that the dealer had concealed purchase of tea from Kunnor valued at Rs. 1.25 crore resulting in understatement of turnover. Although tax of Rs. 10.53 lakh was imposed on the sale value of the concealed turnover, minimum penalty of Rs. 31.59 lakh leviable for concealment of turnover was not levied. This resulted in non-levy of penalty of Rs. 31.59 lakh.

After the case was pointed out, the AO replied (February 2007) that penalty order had been passed. A report on recovery has not been received (November 2008).

The matter was reported to the Commissioner, Commercial Tax and the Government in May 2007; their reply has not been received (November 2008).

2.4 Non-levy of tax by accepting form F of doubtful authenticity

Under Section 79(1)(i) of the CGCT Act, tax on the sale of goods shall not be imposed where such sale takes place outside the State of Chhattisgarh provided the sale is supported by form F issued by the dealer to whom goods are dispatched for sale.

Further, as per Section 6-A(1) of Central Sales Tax (CST) Act, 1956, where any dealer claims that he is not liable to pay tax in respect of goods on the ground that the movement of such goods from one State to another was occasioned by reason of transfer of such goods by him to any other place of his business or to his agent or principal, as the case may be, and not by reason of sale, the burden of proving the movement of those goods shall be on that dealer and he may furnish to the assessing authority, a declaration, duly filled and signed by his agent or principal, as the case may be, along with the evidence of dispatch of such goods.

Test check of the records of the ACCT, Raipur in November and December 2006 revealed that two dealers engaged in sale of edible oil assessed between

⁴ The Government of Chhattisgarh adopted the Madhya Pradesh (MP) Commercial Tax Act, 1994.

January and November 2004 for the period April 2000 to March 2002, dispatched edible oil valued at Rs. 5.60 crore to the agents located outside Chhattisgarh for sale. No tax was levied on the sale as the department treated it as out of State sale on the basis of form F issued by the agents. Scrutiny of the form F revealed that freight for sending the goods from Raipur to Mizoram, Guwahati and Kolkata ranged from Rs. 4,000 to Rs. 9,300 for 600 containers of edible oil i.e. nine metric tonne. These freight rates were abnormally low as in other cases, freight for shorter distance (Raipur to Kolkata) was in the range of Rs.12,000 to Rs. 14,200 for the same quantity during the same period.

After the cases were pointed out, the AO replied (November and December 2006) that deduction on sales out of State was allowed on the basis of form F submitted by the dealer and action would be taken after verification of inter-State sale from the State concerned. However, for the case pertaining to 2001-02 of the first dealer, the AO stated that a letter had been issued to Dy. Commissioner, Inter-State Verification Wing, West Bengal, Kolkata in March 2005 for verification of facts and action would be taken after verification from the State concerned. The reply did not explain why the department accepted the form F which were prima facie of doubtful authenticity due to the abnormally low freight rates. Subsequently, audit carried out a verification of three consignments sent by the first dealer using three tankers⁵ bearing registration numbers of Orissa State. These had purportedly transported oil worth Rs. 12.28 lakh from Raipur to Orissa and Guwahati during the period June to August 2001. It was ascertained from the Transport Department, Orissa that the registration numbers were not of tankers but were of two wheelers. This confirmed that fraudulent documents were used to evade tax in these consignments. Therefore, all the other consignments purportedly sent by the two dealers with similar abnormal low freight rates are also doubtful. The department may therefore investigate all the consignments and verify all the form F used by these dealers to ascertain the extent of false form F used resulting in tax evasion which could extend upto Rs. 33.18 lakh.

The matter was reported to the Commissioner and the Government in April 2007; their reply has not been received (November 2008).

2.5 Short levy of purchase tax

Under the Tax Exemption Scheme of 1994 notified in October 1994, new industrial exempted units are eligible to purchase raw material from registered dealers of Chhattisgarh at concessional rates, subject to the condition that a declaration in form IV⁶ as laid down in 10(b) of para 12 of the scheme is submitted by the dealers. The concessional rate of purchase tax is two *per cent* on iron and steel and four *per cent* on other goods.

Test check of the records of the ACCT, Raipur in December 2006 revealed that a dealer engaged in the manufacture and sale of angle channels and cold twisted (CTD) bars assessed in June 2003 for the period April 2000 to March

⁵ Consignments were stated to be sent to M/s Bharat Store, Bolangir (Orissa) by tanker Nos. ORR-1365 and ORM-3517 on 28 August 2001 and 13 June 2001 and M/s Krishna Agencies (Guwahati) by tanker No. ORH-4732 on 31 August 2001.

⁶ Statement of purchases, product, sales and consumption of goods.

2001 was allowed concessional rate of purchase tax on purchase of iron and steel worth Rs. 11.84 crore and furnace oil worth Rs. 12.59 lakh. However, the requisite declaration in form IV was not submitted and thus the dealer should have been taxed at full rate. This resulted in short levy of tax amounting to Rs. 24.19 lakh⁷.

The matter was reported to the Commissioner and the Government in April 2007; their reply has not been received (November 2008).

2.6 Non-levy of entry tax

According to the notifications dated 16 June 1998 and 13 April 2000 issued by the Commercial Tax Department, iron and steel as specified in (ii) & (xvi) of clause (iv) under Section 14 of the CST Act is exempt from levy of entry tax provided the material purchased is for use as raw material in manufacturing and has been purchased from a registered dealer. Otherwise, the dealer is liable to pay entry tax at one and half *per cent* on the value of material brought into one local area from other local area.

Test check of the records of the ACCT, Raipur in December 2006 revealed that a dealer engaged in the manufacture and sale of rollable products, assessed in June 2003 for the period April 2000 to March 2001, purchased iron and steel amounting to Rs. 19.88 crore from Bhilai and brought them to Raipur. Out of the purchase of Rs. 19.88 crore, iron and steel worth Rs. 6.02 crore was sold without using it in the process of manufacture. As the conditions of notifications were not fulfilled, the assessee was liable to pay entry tax at the rate of one and half *per cent* on iron and steel valued at Rs. 6.02 crore. This resulted in non-levy of entry tax of Rs. 9.03 lakh.

The matter was reported to the Commissioner and the Government in April 2007; their reply has not been received (November 2008).

2.7 Irregular grant of set-off

According to Section 13 (1) (a) of the CGCT Act, a manufacturer is eligible for set-off from the tax payable on sale of finished goods within the State upto the extent of the tax applicable on purchase of that particular goods. However, if finished products are transferred to any branch outside the State, then the dealer is not eligible for set-off even if the branch is located outside the State and has sold such goods in the course of export.

Test check of the records of the Commissioner, Commercial Tax (technical wing), Raipur in December 2006 revealed that for a dealer engaged in generation of electricity, manufacture and sale of iron and steel products and sale of coal assessed for the period from April 2002 to March 2003 in November 2005, total set-off of Rs. 10.29 lakh was allowed on sale of finished goods prepared from aluminium ingots purchased from M/s Bharat Alluminium Company Ltd. Further scrutiny of the records revealed that Rs. 21.59 crore (31.84 *per cent*) out of the total sales of Rs. 67.79 crore was transferred to different branches. The branch transfer outside the State did not fall under the category of sales but was not proportionately reduced by the

⁷ Rs. 23.69 lakh on iron and steel and Rs. 50,000 on furnace oil.

AO. This resulted in irregular grant of set-off of Rs. 3.27 lakh (31.84 per cent of total set-off allowed).

After the case was pointed out, the department stated in December 2006 that set-off was limited to the tax rate applicable on goods as per CGCT Act but was silent on the excess set-off allowed.

The matter was reported to the Commissioner and the Government in April 2007; their reply has not been received (November 2008).

2.8 Non-levy of value added tax

According to Section 9-B of the CGCT Act, value added tax (VAT) is leviable on the differential amount between the tax paid purchases and sales thereof in respect of resale of goods except declared goods and exempted goods.

Test check of the records of ACCT, Raipur in December 2006 revealed that a dealer engaged in purchase and sale of cereals, de-oiled cake, *khalli*⁸, sugar etc. was assessed in December 2002 for the period from April 1999 to March 2000. Out of the total sale of Rs. 50.21 crore, the dealer had sold de-oiled cake valued at Rs. 29.08 crore. This included sale of de-oiled cake worth Rs. 8.25 crore on which the AO did not levy VAT as the purchase was made from exempted units. However, the VAT was leviable as Section 9-B did not provide for any relief for purchase from any exempted units. This resulted in non-levy of VAT of Rs. 2.84 lakh calculated on Rs. 30.86⁹ lakh i.e. the difference between the purchase and sale price.

After the case was pointed out, the department stated in June 2007 that as per notification of June 1995, VAT is not leviable. This interpretation was not correct as the notification of 1995 related to exemption from Section 9 whereas VAT was introduced subsequently through a new Section 9-B in May 1997 which was not governed by the earlier notification.

The matter was reported to the Commissioner and the Government in March 2007; their reply had not been received (November 2008).

2.9 Short levy of tax due to application of incorrect rate

As per Section 9 of the CGCT Act read with Schedule-II, commercial tax including surcharge on biscuits and crocin (medicine) is leviable at 13.8 per cent and 9.2 per cent respectively for the period 1 January 2000 to 31 March 2000.

Test check of the records of the ACCT, Raipur in December 2006 revealed that a dealer engaged in the purchase and sale of biscuits and medicines etc. was assessed in January 2003 for the period from April 1999 to March 2000. However, commercial tax on sale of biscuits and crocin valued at Rs. 81.11 lakh (sale made during the period 1 January 2000 to 31 March 2000) was levied at the rate of 9.2 per cent and 6.9 per cent instead of 13.8 per cent and

⁸ Residue left after extraction of oil from oil seeds.

⁹ Total value addition [Rs. 1.09 crore = sale value (Rs. 29.08 crore) – purchase value (Rs. 27.99 crore)] on sale of de-oiled cake purchased from exempted units on which VAT was not levied = $8.25 / 29.08 \times 1.09 = \text{Rs. } 30.86 \text{ lakh}$.

9.2 *per cent* leviable with effect from 1 January 2000. This resulted in short levy of tax of Rs. 2.51 lakh.

After the case was pointed out, in the case of sale of biscuits, the AO stated that action would be taken after verification of records while in the case of crocin, it was stated that in the assessment order there was no item on which tax was levied at 6.9 *per cent*. The reply is not correct as in the assessment order, the AO while calculating the total tax payable, has levied taxes on biscuits and crocin at 9.2 *per cent* and 6.9 *per cent* respectively.

The matter was reported to the Commissioner and the Government in April 2008; their reply has not been received (November 2008).