

## Chapter V: Revenue Receipts

### 5.1 Total Revenue Receipts

The total revenue receipts of the Government of National Capital Territory of Delhi for the year 2002-2003 was Rs. 6153.75 crore registering an increase of 6.60 per cent over the receipts for the year 2001-02. Of this, tax revenue was Rs. 5324.19 crore and non-tax revenue was Rs. 829.56 crore. Sales Tax was the main source of tax revenue constituting 72.9 per cent of total tax receipts while interest receipts constituted 89.4 per cent of non-tax revenue. The growth of revenue receipts during the last five years is given below:

**Table 5.1: Growth of Revenue Receipts**

(Rupees in crore)

Receipts	1998-99	1999-2000	2000-01	2001-02	2002-03
<b>Tax Revenue</b>	3088.78	3430.42	4400.62	4896.75	5324.19
<b>Non-Tax Revenue</b>	187.96	397.85	548.35	876.06	829.56
<b>Total</b>	<b>3276.74</b>	<b>3838.27</b>	<b>4948.97</b>	<b>5772.81</b>	<b>6153.75</b>

### 5.2 Cost of Collection of Tax Revenue

The gross collection in respect of major revenue receipts, expenditure incurred on their collection and the percentage of such expenditure to gross collection during the years 2000-01, 2001-02 and 2002-03 along with the relevant all India average percentage of expenditure are given below:

**Table 5.2: Collection of Tax-Revenue**

(Rupees in crore)

Head of Revenue	Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage for the year 2001-02
Sales Tax	2000-01	3388	22.24	0.7	1.26
	2001-02	3704	22.97	0.6	
	2002-03	3883	22.04	0.6	
State Excise	2000-01	557	3.49	0.6	3.21
	2001-02	606	3.87	0.6	
	2002-03	726	3.74	0.5	
Stamp Duty and Registration Fees	2000-01	192	5.21	2.7	3.51
	2001-02	283	8.95	3.2	
	2002-03	437	4.02	0.9	
Taxes on Motor Vehicles	2000-01	142	9.53	6.7	2.99
	2001-02	167	10.54	6.3	
	2002-03	160	11.28	7.1	

It is observed that in respect of Taxes on Motor Vehicles, the percentage of expenditure to gross collection was higher than the all India percentage of cost of collection.

### 5.3 Sales Tax Demands raised and pending

Details of demands raised during the last three years but pending at the end of each year as furnished by the Department are given below:

**Table 5.3: Sales tax demands raised and pending**

(Rupees in crore)			
	2000-01	2001-02	2002-03
<b>Demands awaiting recovery at the beginning of the year</b>	5527.56	6616.58	*6987.15
<b>Demands pending recovery at the end of the year</b>	6616.58	6999.37	8327.83

The pendency of documents and tax recoverable have increased steadily from Rs. 6,616.58 crore in 2000-01 to Rs. 8,327.83 crore in 2002-03.

### 5.4 Analysis of Collection

The break up of the total sales tax collections at the pre-assessment stage and after regular assessment during the year 2002-03 and the corresponding figures for the preceding two years as furnished by the Department are given below:

**Table 5.4: Analysis of collection**

(Rupees in crore)					
Year	Amount collected at pre-assessment stage	Amount collected after regular assessment	Amount refunded	Total collection	Percentage of column 2 to 5
1	2	3	4	5	6
<b>2000-01</b>	3318.37	71.62	2.13	3387.86	97.94
<b>2001-02</b>	3626.47	79.31	1.77	3704.01	97.91
<b>2002-03</b>	3805.97	61.00	0.88	3866.09	98.44

The collection of revenue at pre-assessment stage ranged between 97.91 per cent to 98.44 per cent of total collection during the last three years.

### 5.5 Outstanding Inspection Reports and Audit observations

Audit observations on incorrect assessments, short levy of taxes, duties, fee and defects in initial records noticed during audit and not settled on the spot are communicated to the heads of offices and other departmental authorities

\* *Departmental figure of closing balance of 2001-02 and opening balance of 2002-03 do not tally.*

through inspection reports. The important irregularities are reported to the heads of Departments and Government. The heads of offices are required to furnish replies to the inspection reports through the respective heads of Departments within a period of two months.

The number of inspection reports and audit observations relating to revenue receipts issued upto 31 March 2003 which were pending settlement by the Departments as on 30 June 2003, along with corresponding figures for the preceding two years are given below:

**Table 5.5: Outstanding objections**

	2000-01	2001-02	2002-03
<b>Number of inspection reports pending settlement</b>	943	1022	1115
<b>Number of outstanding audit observations</b>	8544	9290	9947
<b>Amount of revenue involved (in crore of rupees)</b>	418.98	662.82	835.82

## **5.6 Response of the Departments to Draft Paragraphs**

Drafts Paragraphs are forwarded to the Principal Secretary (Finance), and the concerned Commissioners of the Department through demi official letters drawing their attention to the audit findings and requesting them to send their response within six weeks. A total of 11 draft paragraphs/review were sent to the Finance Department for comment during August/September 2003. No reply has been received to any of these draft paras/ reviews.

## **5.7 Results of Audit**

Test check of records of sales tax, state excise, motor vehicles tax and other revenue earning Departments of the Government of National Capital Territory of Delhi during the year 2002-03 revealed under assessment/short levy/ loss of revenue amounting to Rs. 388.82 crore in 815 cases.

This chapter contains 11 paragraphs and one review involving Rs. 224.24 crore, which illustrates some of the major points noticed by audit.

**Review**

**5.8 Deductions of sales made on account of Export Turnover**

**Highlights**

**Irregular exemption of export turnover of Rs. 1,231.01 crore allowed to 117 dealers on the basis of deficient/incomplete certificates from chartered accountant resulted in non-levy of tax along with interest of Rs. 115.58 crore.**

*Paragraph 5.8.5*

**Irregular exemption allowed on export turnover of Rs. 720.06 crore to 29 dealers without production of certificate from chartered accountant or of export documents resulted in non-levy of tax along with interest of Rs. 76.30 crore.**

*Paragraph 5.8.6*

**Irregular exemption on exported goods of Rs. 157.47 crore allowed to 11 dealers on goods loaded on ship prior to the date of invoice resulted in non-levy of tax along with interest of Rs. 1.47 crore.**

*Paragraph 5.8.7*

**Misutilisation of H-form and F-form in purchases resulted in short realization of tax and interest of Rs. 2.83 crore.**

*Paragraph 5.8.11*

**Irregular exemption allowed on exported goods of Rs. 14.77 crore allowed due to non-existence of firm resulted in non levy of tax of Rs. 59 lakh and interest of Rs. 21 lakh**

*Paragraph 5.8.13*

### **5.8.1 Introduction**

Under Section 5 of the Central Sales Tax Act, 1956, sale or purchase of goods shall be deemed to take place in the course of export of goods out of the territory only if (i) the sale or purchase either occasions such exports or (ii) the sale is effected by transfer of documents of title to the goods after the goods have crossed the customs frontier of India. Deductions on account of sale value of goods exported out of India shall be available on the production of a certificate from a chartered accountant or of the export documents viz. export invoices/bills of lading/shipping bills duly stamped by the customs authorities, etc.

Under Sections 5(3) and 6A of the Central Sales Tax (CST) Act, 1956, goods must be exported/ sold in the same condition in which these were purchased without making any processing.

Under Section 14 of the Delhi Sales Tax (DST) Act, 1975, a registered dealer is permitted to deal in only those goods which are covered by his registration certificate.

Under Section 27 (1) and (2) of the DST Act, 1975, in the event of default in payment of tax, simple interest at the rate of one per cent per month for the first one month of default and thereafter at the rate of one and a half percent per month till the default continues is leviable.

### **5.8.2 Organizational Set-up**

The Commissioner of Sales Tax is the head of the Sales Tax Department. He is assisted by four Additional Commissioners, six Deputy Commissioners and 10 Assistant Commissioners. There are 10 zones covering 106 wards which are headed by a Sales Tax Officer.

### **5.8.3 Audit Objectives**

Test check of the records in the Sales Tax Department relating to deductions on account of export turnover during the period 1997-98 to 2001-02 was conducted in order to ascertain:

- Whether sufficient controls existed in the Department to monitor timely submission and correctness of the declarations furnished in support of export documents against which exemption from sales tax has been claimed; and
- Whether exemption on export had been correctly worked out in accordance with the extant provisions.

#### **5.8.4 Scope of Audit**

Assessment records of 29 out of 106 wards covering ten zones of the office of the Commissioner Sales Tax were scrutinized in audit during April 2003 to August 2003. However, out of 2,845 folders relating to different dealers called for by audit, the Department supplied only 2,466 folders for audit scrutiny. The results of the findings of audit are given in the following paragraphs.

#### **5.8.5 Irregular grant of exemption in the course of export**

As per extant instructions, deductions on account of sale value of goods exported out of India shall be available on the production of a certificate in the prescribed format from a Chartered Accountant or the export documents i.e. export invoices/bills of lading/ shipping bills duly stamped by the customs authorities, etc. establishing export of the goods out of the country.

Audit scrutiny revealed that in 117 cases of dealers assessed between March 2000 and March 2003 for the assessment years 1997-98 to 2001-02, the Assessing Authorities allowed tax exemption on export turnover of Rs. 1231.01 crore on the basis of deficient/incomplete certificates from Chartered Accountants. The deficiencies noticed were as follows:

- Name and address of the foreign buyer was not mentioned;
- Number and date of certificate issued by the Customs Authorities about loading of goods on board was not furnished; and
- Value of goods exported, amount realized, date and certificate of bank on which the amount was realized was not given.

This resulted in non-levy of tax of Rs. 77.65 crore. In addition, interest of Rs. 37.93 crore was also leviable.

#### **5.8.6 Exemption allowed on Export without obtaining CA Certificate/ Export Documents/ Documents not countersigned by Custom Authorities**

It was noticed in 29 cases that the Assessing Authorities, while finalizing assessment between March 2000 and March 2003, allowed tax exemption on export turnover of Rs. 720.06 crore for the assessment years 1997-98 to 2001-02 either without any certificate from the chartered accountant or without any of the stipulated export documents duly counter-signed by the Customs Authorities. This resulted in non-levy of tax of Rs. 49.82 crore along with interest of Rs. 26.48 crore.

**5.8.7 Shipping Date prior to date of invoice**

It was also noticed in audit that in 11 cases, assessed between March 2000 to March 2003, although the goods were loaded on ship prior to the date of invoice yet the dealers were granted exemption on exported goods valued at Rs. 157.47 crore which resulted in non-levy of tax of Rs. 86 lakh and interest of Rs. 61 lakh.

**5.8.8 Exemption of previous year export allowed in next year and vice versa**

It was further noticed in seven cases assessed between March 2000 to March 2003, that the dealers were granted exemption valued at Rs. 31.75 crore on previous years' export in the next year or vice versa during the years 1997-98 to 2001-02 which was not supported by relevant documents i.e. export invoices, shipping bills and bills of lading. This resulted in non-levy of tax of Rs. 11 lakh and interest of Rs. 8 lakh.

**5.8.9 Irregular Grant of Excess Exemption on Export**

It was noticed in 2 cases that the dealers exported goods valued at Rs. 4.58 crore during 1997-98 to 1999-2000 whereas exemption on export was allowed for Rs. 4.99 crore by the Assessing Authority resulting in irregular grant of excess exemption on export amounting to Rs. 41 lakh. This resulted in short-levy of tax amounting to Rs. 2.46 lakh. In addition, interest of Rs. 1.85 lakh was also leviable.

**5.8.10 Irregular Grant of Exemption on Export Sale on the basis of ST - 49/ H - Form**

Under Section 5(3) of the Central Sales Tax Act, 1956, read with the rules made thereunder, sale of goods made by one registered dealer to another registered dealer for export are to be allowed as a deduction from turnover of the selling dealer on his furnishing the complete list of such sales duly supported by statutory form ST-49/H Form duly filled in and signed by the exporter alongwith evidence of export of such goods, viz. bill of lading/bill of export/shipping bill, etc. duly countersigned by the Customs Authorities obtained from the purchasing dealers. In case, the dealer fails to produce such documents, sales tax and interest are leviable under the Act.

It was noticed in eight cases that exemption was allowed on sales of Rs. 17.03 crore to other registered dealers for export during 1997-98 to 2001-02 on the basis of 'ST-49'/H Forms not supported by evidence of export duly countersigned by the Customs Authorities. This resulted in short realization of tax amounting to Rs. 50 lakh along with interest of Rs. 26 lakh.

#### ***5.8.11 Misutilisation of H-form and F-form in purchases***

Under the Central Sales Tax Act, 1956, goods must be exported/sold in the same condition in which these were purchased without any processing involved. The provisions of the Act implied that same goods in the original form must be exported if purchases are made on H-Form/ST-49 Form/F-Form.

A dealer had purchased goods worth Rs. 16.15 crore during 1999-2000 to 2000-01 and was assessed between December 2001 and January 2002. After receiving the stock, the dealer further processed the goods and exported the finished goods for Rs. 22.09 crore. It is evident that the goods purchased against H-Forms and F-Forms were not exported in the original form. Thus, the dealer had misutilised the H and F forms which resulted in short realization of tax of Rs. 1.94 crore and interest of Rs. 89 lakh.

#### ***5.8.12 Non-levy of Tax on Unauthorized Transactions***

Under the DST Act, 1975, a registered dealer is permitted to deal in only those goods which are covered by his registration certificate. Any deviation therefrom is treated as an unauthorized transaction which is to be taxed alongwith interest.

A dealer who had purchased readymade garments worth Rs. 3 crore during 2000-01 to 2001-02 was assessed in April 2002 and December 2002, on the basis of declaration forms though the goods purchased were not covered by his registration certificate. This sale was, thus, an unauthorized transaction which resulted in short realization of tax amounting to Rs. 12 lakh. Besides, interest of Rs. 3 lakh and penalty of Rs. 30 lakh were also leviable.

#### ***5.8.13 Irregular exemption due to non-existence of firm.***

A dealer claimed and was allowed exemption of Rs. 14.77 crore on sales made to a firm in the course of export in August 2002. As per the report of the Sales Tax Inspector of the ward who visited the dealer, no such firm existed at the given address. Hence, exemption allowed by the Assessing Authority was irregular resulting in non-levy of tax amounting to Rs. 59 lakh and interest of Rs. 21 lakh.

#### ***5.8.14 Recommendations***

Based on our audit findings, Government may consider putting in place a strong and effective internal control mechanism in the Department to avoid lapses such as grant of irregular exemption on account of deficient/incomplete certificates from chartered accountants, export sale on forms not supported by



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documents, excess exemption on export and non-levy of tax alongwith interest on unauthorized transactions.

The omissions were reported to the Government in August 2003; reply was awaited. (February 2004).

## Paragraphs

### 5.9 Short accountal of purchase/sales

As per Section 38 of DST Act, 1975, every dealer should maintain a true and correct account of sales and purchases made by him. If the dealer conceals the particulars of his sales or furnishes inaccurate particulars thereof, he shall pay, by way of penalty, in addition to the amount of tax payable, a sum not exceeding two and a half times the amount of tax under section 56 of DST Act, 1975.

**5.9.1** Test check of records of 17 wards of the office of the Commissioner of Sales Tax Delhi revealed that in 21 cases, dealers had purchased goods valued at Rs 195.29 crore on the strength of statutory forms or otherwise but accounted for only Rs 180.95 crore in their books of accounts thereby concealing purchases amounting to Rs 15.19 crore. The Assessing Authorities while finalising the assessments between December 1999 to December 2001 failed to detect the suppression of corresponding sales of Rs. 16.23 crore after including margin of profit which resulted in short levy of tax of Rs 1.01 crore and interest of Rs. 65 lakh. In addition, penalty of Rs. 2.53 crore was also leviable.

**5.9.2** Test check of records of two wards revealed that while finalising the assessment cases in March 2001 and December 2001 of two dealers for the assessment years 1998-99 and 1999-2000, the Assessing Authority assessed sales of only Rs. 3.15 crore against sales of Rs. 4.12 crore. This resulted in under assessment of sales of Rs. 97 lakh with a short levy of tax of Rs. 3 lakh. In addition, interest of Rs. 2 lakh and penalty not exceeding Rs. 8 lakh was also leviable.

The omissions were reported to the Government in August 2003; reply was awaited (February 2004).

### 5.10 Irregular grant of exemption on tax paid sale

Under the DST Act 1975, sale of tax paid goods made by one registered dealer to another dealer is to be allowed as a deduction from the turnover of the selling dealer. This can be claimed by furnishing returns alongwith complete details of tax paid purchases etc. duly supported by declarations in

prescribed forms. In case a dealer conceals the particulars of his sales/purchases, he is liable to pay tax as well as interest thereon.

Test check of records of 11 wards of the office of Commissioner of Sales Tax, Delhi, revealed that in 20 cases, dealers had claimed and were allowed exemption between January 2000 to December 2001 on tax paid sale for the assessment years 1996-97 to 1999-2000 of Rs. 40.20 crore without production of any proof that such purchases were tax paid. This resulted in short levy of tax amounting to Rs. 2.45 crore alongwith interest of Rs. 1.69 crore which was also leviable.

The omissions were reported to the Government in August 2003; reply was awaited (February 2004).

#### **5.11 Irregular exemption on defective forms**

Under the DST Act 1975 read with DST Rules, sale of goods made by one registered dealer to another is exempt from tax if such sale is duly supported by prescribed declarations in form ST-I or ST-35. However, if a dealer conceals the particulars of his sales, tax is leviable alongwith interest thereon.

Test check of the records of 34 wards of the office of the Commissioner of Sales Tax, Delhi, revealed that in 76 cases, while finalizing the assessments between June 1999 to May 2002, the dealers were allowed exemption of sales tax for the assessment years 1995-96 to 1999-2000 on turnover of Rs 1,125.65 crore on defective forms due to (i) registration/authorisation numbers not being mentioned, (ii) description of goods not being mentioned, and (iii) original form not being submitted. This resulted in short realisation of tax amounting to Rs 7.49 crore and interest of Rs 4.83 crore.

The omissions were reported to the Government during June 2003 and August 2003, reply was awaited (February 2004).

#### **5.12 Non-levy of tax on sale of assets**

Under the DST Act 1975, "business" includes any transaction in connection with, or incidental or ancillary to, such business trade, commerce, manufacture, adventure or concern. Sale of any material which is connected with or incidental to the business of the dealer is liable to be taxed. The

Supreme Court<sup>1</sup> held in 1973 that the definition of business would cover sale of advertisement material, scrap and canteen sales and were liable to sales tax.

Test check of records of six wards of the office of the Commissioner of Sales Tax, Delhi, revealed that in 11 cases, dealers sold computer, furniture & fixtures, plant and machinery, vehicles, etc. for Rs. 2.15 crore during the period 1996-97 to 1999-2000 which were initially purchased in connection with the business of the dealers. The Assessing Officers failed to levy tax while finalising the assessment between June 2000 to December 2001. This resulted in non levy of tax amounting to Rs. 19 lakh. Besides interest of Rs. 14 lakh was also leviable.

The omissions were reported to the Government in June 2003; reply was awaited (February 2004).

### **5.13 Irregular grant of exemption on unauthorised sale/ purchase**

Under DST Act, 1975, sale/purchase of goods on the strength of statutory forms made by one registered dealer to another is exempt from tax on his furnishing along with his returns, a complete list of such sales/purchase which are duly authorised in registration certificate for sale/purchase by the dealer. If the dealer misutilises the statutory forms, he shall be liable to pay tax and interest under Section 27 of DST Act, 1975. In addition, the dealer would also liable to pay by way of penalty a sum not exceeding two and a half times the amount of tax under Section 56 of the DST Act, 1975.

Test check of the records of eight wards of the office of the Commissioner of Sales Tax, Delhi, revealed that in 10 cases, dealers unauthorisedly carried out sale and purchase of goods (not covered under their certificate of registration) valued at Rs 1.70 crore and Rs. 68 lakh respectively during the period 1996-97 to 1999-2000. The Assessing Authority while finalising the assessment between October 1999 and December, 2001 failed to detect that these transactions were not covered under their certificate of registration. This resulted in non-levy of tax amounting to Rs. 18 lakh along with interest of Rs. 11 lakh and penalty of Rs. 44 lakh.

The omissions were reported to the Government in August 2003; reply was awaited (February 2004).

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<sup>1</sup> State of Tamil Nadu Vs Burmah Shell Oil Storage and Lubrication Company (1973-31 STC 4 to 6 SC)

#### **5.14 Irregular grant of exemption**

Under the DST Act 1975 read with the Rules thereunder, a registered dealer may deduct the sale value of goods which has already been subjected to tax at the first stage of sale from his gross turnover provided he appends the statutory forms ST-35 on the basis of which the goods were sold alongwith his return. Failure to pay tax in accordance with the provisions of the Act attracts tax and interest.

Test check of the records of five wards of the office of Commissioner of Sales Tax, Delhi, revealed that in 5 cases, the dealers were granted exemption of Rs. 88 lakh while being assessed between March 2001 to December 2001, for the assessment years 1998-1999 to 1999-2000, on the ground that these sales had been made to registered dealers against declarations in form ST-1 although these goods were taxable at first point for which form ST 35 should have been obtained. Thus, the exemption allowed by the Assessing Authority was irregular and resulted in short levy of tax of Rs. 7 lakh and interest of Rs. 4 lakh.

The omissions were reported to the Government during June 2003 to August 2003; reply was awaited (February 2004).

#### **5.15 Irregular grant of excess exemption**

Under Section 4 of DST Act, 1975, sales of goods made by one registered dealer to another registered dealer are to be allowed as a deduction from the turnover of the selling dealer on his furnishing alongwith his return a complete list of such sales duly supported by prescribed declaration in forms ST-35, ST-I or Embassy certificates obtained from the purchasing dealers/diplomatic missions. Any deviation attracts penalty not exceeding two and a half times the tax avoided under section 56 of DST Act 1975 in addition to tax payable.

Test check of records of two wards of the office of the Commissioner of Sales Tax, Delhi, revealed that in two cases, Assessing Officer while finalising the assessments on February 2001 and March 2001, for the assessment year 1998-99 and 1999-2000 respectively, allowed exemption of taxable turnover of Rs 1.18 crore as against the value of statutory forms of Rs 1.05 crore submitted by the dealers which resulted in non-levy of tax on the turnover of Rs. 13 lakh. This resulted in short levy of tax amounting to Rs. 1 lakh, and interest of Rs. 1 lakh. Penalty of Rs. 3 lakh was also leviable.

The omissions were reported to the Government in June 2003; reply was awaited (February 2004).

### **5.16 Concessional rate of tax/ Exemption allowed against Defective Forms**

Under section 8 of the Central Sales Tax Act 1956 read with 12(I) of CST(R&T) Rules, inter-State sale to registered dealers is taxable at concessional rate of four per cent when such sale is supported by declaration in forms 'C'. The dealer can claim deduction from his turnover in respect of sales against declaration forms by furnishing the original portion of the declaration form showing the registration certificate/ authorisation number etc. duly signed by him.

Test check of the records of 23 wards of the office of the Commissioner of Sales Tax, Delhi, revealed that in 43 cases, the dealers were allowed concessional rate of tax on the basis of 'C' forms on turnover of Rs. 44.70 crore for the assessment year 1996-97 to 1999-2000 assessed between February 2000 to December 2001. However, declaration forms pertaining to sales of Rs.18.08 crore were defective on account of (i) absence of registration number of the purchaser (ii) sale being prior to registration of the purchaser and (iii) 'C' form not being submitted in original. This resulted in incorrect exemption of tax of Rs. 89 lakh and interest of Rs. 59 lakh

The omissions were reported to the Government during June 2003 to August 2003; reply was awaited (February 2004).

### **5.17 Excess exemption on transfer of goods**

Under section 6A of the CST Act, 1956, when a dealer claims exemption of tax on the ground that movement of such goods from one State to another was on account of stock transfer, he has to furnish a declaration in Form 'F' for that amount duly signed by the Principal Officer of the other place of business or his agent or principal. Any deviation attracts penalty not exceeding one and a half times the tax avoided under section 10 of CST Act, 1956, in addition to the tax payable.

**5.17.1** Test check of records of two wards of the office of the Commissioner of Sales Tax, Delhi, during June 2002 to July 2002 revealed that in two cases, the Assessing Officer while finalizing the assessment during December 2001, allowed exemption on transfer of goods of Rs. 6.19 crore for the assessment year 1999-2000 against which F forms for only Rs. 5.91 crore were submitted by the dealers. This resulted in short levy of tax amounting to Rs. 3 lakh. Besides, interest of Rs. 1 lakh and penalty of Rs. 4 lakh was also leviable.

**5.17.2** Test check of the records of six wards, revealed that in nine cases, the dealers were allowed exemption by the Assessing Authority while finalizing

the assessments between February 2000 to December 2001, for the assessment years 1996-97 to 1999-2000, on account of transfer of goods of Rs. 6.63 crore on the basis of incomplete and defective 'F' forms which did not contain railway receipt number, goods receipt number, description of goods, quantity of goods, etc. There was also no other evidence on record such as goods receipt/ challans, stock register, etc. with the returns furnished by the dealer to establish that the Assessing Authority had satisfied itself about the actual dispatch of goods before allowing the exemption. Such grant of exemption was irregular and resulted in non-levy of tax of Rs. 56 lakh. Besides, interest of Rs. 33 lakh thereon was also leviable.

The omissions were reported to the Government in August 2003; reply was awaited (February 2004).

**5.18 Incorrect exemption on transfer of goods to places not included in the Registration Certificate and prior to the date of registration.**

Under section 7 of the CST Act, 1956, and rules made there under, a dealer seeking registration is required to specify in his application the list of places of business in other States alongwith the address of such places and particulars of registration so that the same are mentioned in the registration certificate. Any deviation attracts penalty not exceeding one and a half times the tax avoided under section 10 of CST Act, in addition to tax payable.

**5.18.1** Test check of records of two wards of the office of the Commissioner of Sales Tax, Delhi, revealed that in two cases, goods amounting to Rs. 48 lakh were exempted from payment of tax by the Assessing Authority, while finalising the assessment in September 2000 and December 2001 as branch transfer for the period 1997-98 and 1999-2000 to places other than those specified in the registration certificates of the dealers. This resulted in under assessment of tax of Rs. 4 lakh. Besides, interest of Rs. 2 lakh and penalty of Rs. 5 lakh were also leviable.

**5.18.2** Test check of records of two wards of the office of the Commissioner of Sales Tax revealed that in two cases, a deduction of Rs. 56 lakh was allowed by the Assessing Authority while finalising the assessment in March 2001 and January 2002 from the turnover of sales of two dealers for the period 1998-99 and 1999-2000, on account of goods consigned to agents outside the State prior to their obtaining registration certificates in those States. This resulted in under assessment of tax of Rs. 5 lakh. Besides, interest of Rs. 3 lakh and penalty of Rs. 8 lakh was also leviable.

The omissions were reported to the Government in August 2003, reply was awaited (February 2004).

### **5.19 Non-levy of tax on sale of tradeable licences**

Under the Delhi Sales Tax Act, 1975, replenishment licenses (REP), duty entitlement passbook licences (DEPB), special import licences (SIL), quota and other tradeable licences which are granted by the Director General of Foreign Trade (DGFT) in recognition of export of certain products are goods and can be transferred by way of sale. It has also been judicially held by the Supreme Court\* that the above said licences are goods and the price received by the holder by the transfer thereof to another person is liable to sales tax.

It was noticed in audit that in 40 cases, dealers had sold such tradeable licences for Rs. 12.85 crore during the years 1997-98 to 2001-02 which the Assessing Authority failed to tax while finalizing assessment between March 2000 and March 2003. This resulted in non-levy of tax amounting to Rs. 75 lakh and an interest of Rs. 35 lakh.

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\**Vikas Sales Corporation vs. Commissioner of Commercial Taxes (STI, 1996-SC-100)*