

## CHAPTER-II: SALES TAX

### 2.1 Results of audit

Test check of records relating to sales tax assessments and other records, conducted during the year 2006-07, revealed short assessment of tax, non levy of penalty etc., amounting to Rs.6.80 crore in 194 cases, which broadly fall under the following categories:

| (Rupees in crore) |  |                 |             |
|-------------------|--|-----------------|-------------|
| Sr. No.           | Particulars  | Number of cases | Amount      |
| 1.                | Evasion of tax due to suppression of sales/purchases | 23              | 1.08        |
| 2.                | Non /short levy of penalty/ interest                 | 16              | 0.22        |
| 3.                | Under assessment of tax                              | 104             | 1.92        |
| 4.                | Non levy of tax due to non registration of dealers   | 02              | 1.50        |
| 5.                | Other irregularities                                 | 49              | 2.08        |
| <b>Total</b>      |  | <b>194</b>      | <b>6.80</b> |

During 2006-07, the department accepted under assessments of Rs. 2.94 crore involved in 56 cases which had been pointed out in audit in earlier years.

A few illustrative cases highlighting important observations involving financial effect of Rs. 2.78 crore are given in the following paragraphs.

## **2.2 Under assessment due to wrong allowance of concession**

As per notification dated 23 July 1999, issued under Himachal Pradesh General Sales Tax (HPGST) Act, 1968, a new tiny industrial unit located in industrial development block Solan was entitled for concessional rate of tax of 25 *per cent* of the specified rate of tax, for a period of five years from the date of commencement of commercial production. This concession was admissible only if, the annual turnover of the unit did not exceed Rs. 45 lakh. Further, if a dealer failed to pay the tax due by the prescribed date, he became liable to pay interest at the prescribed rates.

During audit of records of Assistant Excise and Taxation Commissioner (AETC) Solan, it was noticed in October 2006 that a new tiny industrial unit of Solan development block, engaged in manufacture of laboratory disposables\* was allowed to avail concessional rate of tax since October 2001. Annual turnover of the unit exceeded Rs. 45 lakh in 2002-03 and 2003-04, as such, it was not entitled to any concessional rate of tax. The assessing authority (AA) while finalising the assessments for the years 2002-03 and 2003-04, in March 2006, incorrectly allowed concessional rate of tax. This resulted in under assessment of sales tax of Rs. 11.04 lakh including interest of Rs.3.71 lakh.

The matter was reported to the department and Government in November 2006; reply had not been received (September 2007).

## **2.3 Non levy of tax due to non registration of dealers**

Under HPGST Act, “dealer” means any person who carries on his business of buying, selling or supplying or distributing goods directly or indirectly for cash or for deferred payment or for commission, remuneration or other valuable consideration. Further a dealer is liable to be registered and pay tax from the date on which his gross turnover during any year exceeds the taxable quantum of Rs. 4 lakh prescribed with effect from 23 April 1999.

During audit of records of AETC, Una, it was noticed in January 2007 that 23 suppliers sold khairwood valued at Rs. 6.56 crore to a firm\* between 2000-01 and 2001-02. The annual turnover of each dealer exceeded Rs. 4 lakh but none of them had applied for registration. The department also failed to detect the cases of non registration and the dealers had also not paid any tax during this period. This resulted in non levy of tax of Rs. 1.48 crore including interest of Rs. 0.69 crore.

The matter was reported to the department and Government in February 2007; reply had not been received (September 2007).

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\* Pipettes tips and Petri dish

\* M/s Mahesh Udyog Oel, district Una

#### **2.4 Incorrect determination of turnover**

Under HPGST Act, “turnover” includes the aggregate of the amount of sales and purchases actually made by any dealer during the given period. As per departmental instructions issued in April 1978, AAs while examining accounts of dealers are required to see that sales are in agreement with the purchases and should take cognizance of any difference between the figures shown by the dealers in their returns and those reflected in the accounts.

During audit of records of AETC Solan, it was noticed in October 2006 that in a case, remanded in March 2005, taxable turnover of a dealer as reflected in the manufacturing, trading and profit and loss accounts for the years 1996-97 to 2001-02 worked out to Rs.3.82 crore. However, AA while framing fresh assessments for these years in August 2005 incorrectly determined the taxable turnover as Rs. 1.86 crore. This resulted in incorrect determination of turnover of Rs. 1.96 crore having a tax effect of Rs. 19.60 lakh. Besides, interest of Rs.19.33 lakh was also leviable.

The matter was reported to the department and Government in November 2006; reply had not been received (September 2007).

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

Taxes on goods are leviable in accordance with schedules prescribed in HPGST Act.

During audit of records of three<sup>^</sup> AETCs, it was noticed between February 2006 and January 2007, that AAs while finalising assessments between January 2002 and December 2005, of seven dealers for the years 1998-99 to 2004-05, applied lesser rate of tax instead of prescribed rates of tax on goods valued at Rs. 5.47 crore. Application of incorrect rate of tax resulted in short levy of tax of Rs. 30.41 lakh including interest. A few instances are given below:

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<sup>^</sup> Kangra: one case: Rs.1.94 lakh; Sirmour: four cases: Rs.7.13 lakh and Una: two cases: Rs. 21.34 lakh

(Rupees in lakh)

| Sr. No.   | AETCs<br>Year<br>Date of assessment  | Dealers<br>Goods                             | Nature of irregularity  | Value of goods | Tax effect                                  |
|---|--|--|---|----------------|---|
|   |  |  |   |                | Tax levied<br>short<br>Interest<br>leviable |
| 1.  | <u>Sirmour</u><br>• <u>1998-99</u><br>January 2002<br><br><u>1999-2000</u><br>December 2002<br><br><u>2000-01</u><br>June 2004<br><br>• <u>1998-99 and</u><br><u>1999-2000</u><br>March 2005 | <u>2</u><br>Limestone                        | Dealers made inter state sale to unregistered dealers. Local rate of tax on limestone was 30 per cent (non-LD* grade). AA while finalising the assessments of the dealers levied tax at the rate of 10 per cent instead of 30 per cent.   | 8.00           | <u>1.60</u><br>1.60                         |
| <b>Remarks:</b> AETC Sirmour intimated in November 2006 that a demand of Rs.3.85 lakh had been raised against the dealers, of which Rs. 0.32 lakh had been recovered till October 2006. |  |  |   |                |   |
| 2.  | <u>2001-02</u><br>December 2005  | <u>1</u><br>Katha <sup>&amp;</sup>           | Dealer purchased khair wood valued Rs. 45.55 lakh locally. The khair wood was used in manufacture of katha and was transferred out of state against 'F' forms. Purchase tax was to be levied at the rate of 12 per cent instead of eight per cent.                                | 45.55          | <u>1.82</u><br>1.52                         |
| 3.  | <u>Una</u><br><u>2000-01</u><br>January 2005<br><u>2001-02</u><br>September 2005   | <u>1</u><br>Steel<br>scrap                   | Dealer made inter state sale of steel scrap. This being declared goods, was taxable at four per cent. AA while finalising assessments of the dealer levied tax at the rate of one per cent instead of four per cent on inter state sale of steel scrap against 'C' forms.         | 302.55         | <u>9.07</u><br>9.11                         |
| 4.  | <u>2002-03, 2003-04</u><br><u>and 2004-05</u><br>December 2005   | <u>1</u><br>PVC<br>pipes and<br>its fittings | The dealer was engaged in the manufacturing of PVC pipe and fittings. The rate of tax on PVC pipes was 12 per cent. AA while finalising the assessments of the dealer levied tax at the rate of eight per cent instead of 12 per cent by treating the PVC pipes as plastic pipes. | 53.76          | <u>2.15</u><br>1.01                         |

The matter was reported to the department and Government between March 2006 and February 2007; reply had not been received (September 2007).

## 2.6 Non levy of interest

Under HPGST Act, if a dealer fails to pay the tax due by the prescribed date, he becomes liable to pay interest at the rate of one per cent per month, from the date immediately following the last date on which the dealer should have paid the tax, for a period of one month and at the rate of one and a half per cent per month thereafter, so long as the default continues.

During audit of records of two<sup>§</sup> AETCs, it was noticed between August and October 2006 that AAs while finalising assessments between August 2003 and

\*Limestone which have one and a half per cent or more silica content

& manufactured from converted khairwood

§ Kangra and Solan

August 2005 for the years falling between 1998-99 and 2001-02 of three dealers created tax demands amounting to Rs. 10.62 lakh. Of these, two dealers of Kangra district had not paid tax of Rs. 2.84 lakh on their return income while another dealer of Solan district paid it short by Rs. 7.78 lakh. However, the AAs did not levy interest of Rs. 9.73 lakh on non/short deposit of tax. Besides, interest of Rs. 2.98 lakh had also become leviable upto July/ September 2006. AAs had not taken any action to recover the amount of tax. This resulted in non realisation of Government revenue of Rs. 23.33 lakh including interest.

The matter was reported to the department and Government between September 2006 and November 2006; reply had not been received (September 2007).

## **2.7 Short levy of tax**

As per notification dated July 1999 issued under the Central Sales Tax (CST) Act, 1956, production of 'C' forms was compulsory for claiming concessional rate of tax in the case of inter state sale of steel wires. Further, an amendment dated May 2002 stipulated that furnishing of 'C' forms was compulsory in all cases of inter state sale for claiming concessional rate of tax.

**2.7.1** During audit of records of AETC, Kangra it was noticed in August 2006 that a dealer made inter state sale of steel wires valued at Rs. 87 lakh during 2000-01. AA while framing the assessment in May 2002 incorrectly levied tax on sales without 'C' forms at concessional rate of one *per cent* instead of eight *per cent*. This resulted in short levy of tax of Rs. 11.82 lakh including interest.

**2.7.2** In another case, the dealer made inter state sale of activated carbon\* valued at Rs. 1.12 crore during 2003-04. The dealer furnished 'C' forms for Rs. 97.10 lakh only. AA while finalising the assessment in November 2005 levied concessional rate of tax of one *per cent* on entire inter state sale. The tax was leviable at the rate of 10 *per cent* on the sale of Rs. 15.10 lakh not covered by 'C' forms. This resulted in short levy of tax of Rs. 1.90 lakh including interest.

The matter was reported to the department and Government in September 2006; reply had not been received (September 2007).

## **2.8 Evasion of sales tax**

As per amended<sup>^</sup> notification of February 1992, issued under the HPGST Act, tax was leviable at concessional rate of one *per cent* on sale of semi finished katha against declaration form RM-1. But tax on khair was leviable at 12 *per cent* upto 19 April 2002 and eight *per cent* thereafter. If a dealer maintained false or

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\* Carbon powder used as purifier for the manufacture of pharmaceuticals goods and for purification of ghee and mustard oil etc.

<sup>^</sup>dated 23 July 1999

incorrect accounts with a view to suppress his sales or purchases turnover, he was liable to pay penalty at the prescribed rate.

During audit of records of AETC, Bilaspur, it was noticed in March 2006 that a dealer sold khair wood valued at Rs. 68.34\* lakh during 2000-01 and 2002-03. However, AA treated it as semi finished katha and levied in January 2005 tax of Rs.0.81 lakh at concessional rate of one *per cent* though no document in this regard was found on record. This resulted in evasion of sales tax of Rs. 12.87 lakh including interest and penalty.

After this was pointed out, the Additional ETC (HQ) Shimla intimated in October 2006 that AA had reassessed the dealer in August 2006 and created an additional demand of Rs. 14.94 lakh. No recovery could be made as the dealer had filed an appeal. Further report had not been received (September 2007).

The matter was reported to Government in April 2006; reply had not been received (September 2007).

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\* 2000-01: Rs. 39.91 lakh; 2002-03: Rs. 28.43 lakh