

CHAPTER-II: Taxes on Sales, Trade etc.

2.1 Results of Audit

Test check of the records relating to assessments and refunds of sales tax in Commercial Taxes Department, conducted in audit during the year 2003-04, revealed under assessment of tax of Rs 258.72 crore in 269 cases which broadly fall under the following categories: -

(Rupees in crore)			
Sl. No.	Category	No. of cases	Amount
1	Non levy or short levy of tax	11	6.50
2	Irregular grant of exemption	46	16.53
3	Irregular allowance of concessional rate of tax	54	37.13
4	Non/short levy of additional tax/ surcharge	34	21.48
5	Application of incorrect rate of tax	34	10.90
6	Irregular determination of gross turnover	31	2.54
7	Non levy of penalty for excess collection of tax mistake in computation	03	2.95
8	Review on Arrears of revenue in sales tax	1	102.20
9	Other cases	55	58.49
Total		269	258.72

During the year 2003-04 the concerned Department accepted under assessment, etc. of Rs 25.99 crore involved in 58 cases of which 36 cases involving Rs 18.19 crore have been pointed out in audit during 2003-04 and rest in earlier years.

A few illustrative cases including a Review, **Arrears of Revenue in Sales Tax** involving tax effect of Rs. 154.87 crore are given in the following paragraphs:-

2.2 Review on Arrears of Revenue in Sales Tax

Highlights

- In the case of 78 dealers in nine circles though demand notices were issued between May 1995 and March 2003 for recovery of assessed dues no action was taken by the Department for realisation of the dues of Rs 13.58 crore as arrears of land revenue.

In 10 circles, tax amounting to Rs 6.47 crore had not been paid by 483 dealers who had either closed down their business or had surrendered registration certificates. No certificate proceeding was initiated against them even after a lapse of one to 12 years.

(Paragraph 2.2.7)

- In five circles, certificate proceedings were initiated against 20 dealers between March 2000 and March 2003 for recovery of unpaid amount of Rs 15.72 crore but the assessing officers while sending the cases to certificate officers did not levy penalty of Rs 61.17 crore.

(Paragraph 2.2.8)

- In the case of two dealers of two circles, interest of Rs 2.55 crore was not levied for non-payment of deferred tax of Rs 75 lakh resulting in non-realisation of revenue of Rs 3.30 crore including interest.

(Paragraph 2.2.9)

- A vehicle dealer of Ranchi East Circle, whose registration was cancelled in December 1998, had not paid assessed tax dues of Rs 9.15 crore. The dues were certified in June 2002 after delays ranging between 17 months and 65 months from the date of assessments.

(Paragraph 2.2.11)

- The claims for realisation of dues of Rs 3.22 crore from two cement manufacturing companies declared insolvent/ sick by the Board of Industrial and Financial Reconstruction, had not been filed with the appropriate authority.

(Paragraph 2.2.12)

2.2.1 Introduction

The levy and collection of sales tax in the Commercial Taxes Department is governed by the Bihar Finance Act, 1981 now named as Jharkhand Finance (Amendment) Act, 2001 (J F Act) with effect from 2 January 2002, Central Sales Tax Act (CST Act), 1956 and rules made/notification issued thereunder.

Every dealer liable to pay tax is required to submit monthly/quarterly/annual returns alongwith the proof of payment of tax due from him to the Assessing Officer. The assessment is required to be initiated and completed before the expiry of four years from the expiry of such period. The tax assessed shall be paid by the assessee in the manner and within the time specified in the notice of demand which shall ordinarily be not less than 45 days from the date of service of such notice. Any dealer not satisfied with the demand may prefer an appeal with the appellate authority appointed by the Department or in a court of law. Where the tax remained unpaid, the Assessing officer may direct the dealer to pay penalty at the prescribed rates for the period of default. The amount remaining unpaid shall be recoverable as arrear of land revenue under the Bihar and Orissa Public Demands Recovery (BOPDR) Act, 1914.

2.2.2 Organisational set up

At the apex level, Commissioner of Commercial Taxes (CCT) is responsible for the administration of the Act and Rules. He is assisted by an Additional Commissioner, Deputy Commissioner and Assistant Commissioner of Commercial Taxes, at the headquarters. The State is divided into five Commercial Taxes Divisions each under the charge of a Joint Commissioner of Commercial Taxes (JCCT). These divisions are further divided into 28 circles each under the charge of a Deputy Commissioner/Assistant Commissioner of Commercial Taxes assisted by Assistant Commissioner/Commercial Taxes Officers. Each Commercial Taxes division has a JCCT (Appeal) who hears appeals of dealers objecting to order of assessment and passes suitable orders. For recovery of the Government dues declared as arrears of land revenue, Dy. commissioner of each district nominates an officer designated as District Certificate Officer¹.

The Requiring Officers (RO)² and Certificate Officers (CO) are jointly responsible for prompt realisation of assessed tax dues.

2.2.3 Audit Objectives

The review was conducted with a view to ascertain:

- Whether the rules and procedures as prescribed in the Act/ Rules were being complied with,
- Whether adequate provisions/ Rules exist to safeguard the Government revenue,
- Whether adequate internal control mechanism exists for prompt realisation of arrears of revenue.

¹ Certificate Officer - Officer of the General Administration who executes the certificate proceedings for recovery of revenue declared as arrears of land revenue.

² Requiring Officer - Departmental officer who files requisitions with the certificate officer for recovery of arrears of revenue.

2.2.4 Scope of audit

A review was conducted between November 2003 and June 2004 in 12³ out of 28 Commercial Taxes Circles relating to the period 1998-99 to 2002-03 with special emphasis on pendency of sales tax revenue and their realisation.

2.2.5 Trend of arrears of revenue

The State of Jharkhand came into existence on 15 November 2000. In accordance with section 44 of the Bihar Re-organisation Act, 2000, the right to recover arrears of any tax or duty on property including arrears of land revenue should belong to the successor State in which the property is situated and the right to recover arrears of any other tax or duty shall belong to the successor State in whose territories the place of assessment of that tax or duty is included on the appointed day.

The arrears of revenue pending collection during 1998-99 to 2002-03 as furnished by the Department was as under:-

(Rupees in crore)

Year	Opening balance	Addition	Total	Amount recovered	Closing balance	Percentage of col 5 to 4
1	2	3	4	5	6	7
1998-99	720.89	254.41	975.30	19.92	955.39	2.04
1999-2000	955.39	170.20	1,125.59	37.40	1,088.18	3.32
2000-2001	1,088.18	163.95	1,252.13	62.86	1,189.27	5.02
2001-2002	1,189.27	181.01	1,370.28	62.39	1,307.89	4.55
2002-2003	1,307.89	169.60	1,477.49	58.16	1,419.33	3.93

It would be seen from the above that amount of arrears increased from Rs 720.89 crore as on 1 April 1998 to Rs 1,419.33 crore as on 31 March 2003 thus registering an overall increase of 97 *per cent* while the rate of recovery was very low and ranged between two to five *per cent*. It would also be seen that the percentage of amount of recovery of arrears of revenue decreased during 2001-02 (4.55 *per cent*) and 2002-03 (3.93 *per cent*) i.e. after bifurcation of the State when compared to 2000-01 (5.02 *per cent*).

■ Revenue raised vis-a-vis recovery of arrears

(Rupees in crore)

Year	Total revenue raised	Amount of arrears recovered	Percentage of Col.2 to 3
1	2	3	4
2001-02	1,238.70	62.39	5.03
2002-03	1,366.14	58.16	4.25

It would be seen from the above that the amount of recovery of arrears of revenue constituted 5.03 *per cent* of the total revenue raised during 2001-02 while in 2002-03 it constituted only 4.25 *per cent*.

³ Adityapur, Dhanbad, Dhanbad Urban, Hazaribagh, Jamshedpur, Jamshedpur Urban, Ranchi Special, Ranchi South, Ranchi East, Ranchi West, Sindri and Singhbhum.

- *Age-wise details of arrears of demand as furnished by the department was as under:*

(Rupees in crore)		
Pendency of demand	No of cases	Amount
Demand less than 1 year old	147	120.34
Demand between 1 to 2 years old	1,950	145.19
Demand between 2 to 5 years old	303	353.70
Demand between 5 to 10 years old	2,209	184.99
Demand over 10 years old	1,464	615.11
Total arrear demand	6,073	1,419.33

It would be seen from the above that 56 *per cent* of the arrears were pending collection for more than five years.

- *Position of cases in appeals*

Government had not fixed any norms for disposal of appeal cases by the JCCT (Appeal). Demand locked up in appeal as furnished by the Department was as under:

(Rupees in crore)		
Demand locked up in appeal	No of cases	Amount
Pending with appellate authorities	3,454	516.30
Pending with tribunal	384	58.18
Pending settlement by commissioner	141	39.75
Pending with court	31	191.98
Total demand locked up in appeal	4,010	806.21

It would be seen from the above that arrears demand pending with appellate authorities constituted 64 *per cent* of the total arrear demand locked up in appeal indicating therein that there is a need for fixing norms for disposal of appeals by JCCT (Appeal).

- *Correctness of the arrears*

As per information furnished by the Commissioner of Commercial Taxes, 3,454 cases involving Rs 516.30 crore were pending with the appellate authorities as on 31 March 2003 in the entire state while information furnished by appellate authorities of four divisions out of five revealed 6,720 cases were pending involving Rs 702.85 crore on the same date as detailed below:

(Rupees in crore)		
Name of division	No of cases pending	Amount involved
Dhanbad	4,485	462.63
Hazaribagh	734	46.34
Jamshedpur	1,062	141.55
Ranchi	439	52.33
Total	6,720	702.85

The position of arrears of four divisions exceeded the arrears of the entire State indicating therein that position of arrears as furnished by the Department was not correct and requires reconciliation.

2.2.6 Position of arrears furnished by the Circles vis-à-vis audit scrutiny

Under provisions of the JF Act and Rules made thereunder, the Department through executive instructions prescribed Dues and Collection Register (Register VI) to be maintained by each Commercial Taxes Circle to facilitate the monitoring of receipts of returns, deposit of admitted/ assessed tax and completion of assessment, balance tax due after deducting the tax deposited, amount pending in appeal, amount certified for recovery as arrear of land revenue etc.

It was noticed in two circles that Dues and Collection Register (Register VI) was not maintained properly. There was a substantial variation between the position of arrears furnished to audit by the circles and that worked out by audit on the basis of Register VI as detailed below:

(Rupees in crore)

Circles	Dealers	Assessment period	Arrear reported	Arrear as per register VI	Difference
Sindri	4	1989-90 to 1999-2000	10.83	24.18	13.35
	4	1989-90 to 2000-01	Nil	22.96	22.96
Adityapur	6	1979-80 to 2002-03	17.39	22.69	5.30
	29	1986-87 to 2001-02	Nil	4.23	4.23
Total					45.84

The above findings indicate that position of arrears as worked out by the circles was not correct and needed reconciliation.

2.2.7 Failure to initiate follow up action for recovery of arrears

Under the provisions of the JF Act, dues of assessed tax is realisable by issue of demand notice by a specified date which should not be ordinarily less than 45 days from the date of service of such notice. In case of non-payment the Act provides for initiation of certificate proceedings for realisation as arrears of land revenue under the BOPDR Act. The Act provides that no certificate proceedings can be initiated beyond a period of 12 years from the date of assessment. However, no minimum time has been prescribed for the proceedings to start.

In course of audit scrutiny it was noticed that in nine⁴ circles, in the case of 78 dealers though demand notice for Rs 13.58 crore were issued between May 1995 and March 2003 no action was taken by the Department to recover the dues as arrears of land revenue. Delay in initiating certificate proceedings ranged between five months to 108 months from the date of expiry of demand notice as detailed below:

⁴ Adityapur, Dhanbad, Hazaribagh, Jamshedpur, Jamshedpur Urban, Ranchi West, Ranchi South, Ranchi Special and Singhbhum.

(Rupees in crore)

Sl. No.	Name of circle	No of dealers	Period of assessment/ date of assessment	Period of delay till date of audit	Amount involved
1	South Circle, Ranchi	11	95-96 to 99-00 9/2000 to 3/03	5 months to 4 years 2 months	1.30
2	Jamshedpur circle	18	89-90 to 2000-01 11/96 to 2/03	1 year 1 month to 6 years 2 months	0.59
3	Ranchi West Circle	1	94-95 to 98-99 12/98 to 10/2000	3 years 2 months to 5 years 4 months	3.34
4	Jamshedpur Urban	8	90-91 to 99-00 3/97 to 4/02	5 months to 4 years 2 months	1.65
5	Singhbhum Circle	9	90-91 to 99-00 3/97 to 4/03	1 year 2 months to 5 years 11 months	4.29
6	Dhanbad Circle	5	91-92 to 99-00 2/95 to 2/03	11 months to 9 years	0.30
7	Special Circle, Ranchi	11	96-97 to 01-02 9/00 to 3/03	1 year to 4 years 2 months	0.22
8	Hazaribagh Circle	13	87-88 to 99-00 12/95 to 3/03	8 months to 7 years 2 months	0.82
9	Adityapur	2	89/90 to 97-98 12/96 to 1/2000	1 year 5 months to 2 years 10 months	1.07
Total					13.58

After this was pointed out between April and July 2004, the concerned Assessing Authorities stated that action would be taken to realise the outstanding amount.

- It was further noticed that in 10 circles⁵ test checked, 483 dealers had either closed down their business or had surrendered registration certificates or had stopped filing of returns during the years 1991-92 to 2002-03 and had not paid the tax dues amounting to Rs 6.47 crore but no certificate proceedings were initiated against them even after a lapse of one to 12 years. The possibility of recovery of dues involved in such cases was remote.

It would be seen from the above that there is a need for fixing time period within which certificate proceedings should start as the Assessing Authorities failed to apply their prudence in the interest of revenue.

2.2.8 Non-levy of penalty before institution of certificate cases

Under provisions of the JF Act, penalty may be levied before initiation of certificate case against the dealer on the unpaid amount of assessed tax by an amount which may extend upto five *per cent* of the amount of tax for each of the first three months following the expiry of such date as prescribed in the notice and 10 *per cent* for each subsequent month or part thereof.

In five circles⁶, certificate proceedings against 20 dealers (assessed between March 1992 and February 2003) were initiated between March 2000 and March 2003 for recovery of unpaid amount of Rs 15.72 crore. The Assessing

⁵ Adityapur, Dhanbad Urban, Hazaribagh, Jamshedpur, Jamshedpur Urban, Ranchi East, Ranchi West, Ranchi South, Singhbhum and Sindri.

⁶ Dhanbad, Dhanbad Urban, Ranchi East, Ranchi Special, and Sindri.

Officers while sending the cases to certificate officers in March 2000 and March 2003 did not impose penalty of Rs 61.17 crore for delay in payment of tax nor assigned any reasons for its non- imposition.

After this was pointed out, Assessing Officers of three circles Ranchi East, Ranchi Special and Sindri stated between May and July 2004 that action would be taken for imposition of the penalty whereas Assessing Officers of remaining two circles did not furnish any reply.

2.2.9 Non-realisation of deferred tax and interest

Under the provisions of the Bihar Sales Tax Supplementary (Deferment of Tax) Rules, 1990 interest at the rate of two *per cent* is chargeable for non-payment of the deferred tax on the date specified till the date of payment.

Test check of records of two⁷ circles revealed that two dealers did not pay deferred tax of Rs 75 lakh even after the expiry of the due dates in March 1999 and February 2002. No action was taken by the Department to recover the same as arrears of land revenue. Besides, the dealers were also liable to pay interest of Rs 2.55 crore for which demand was not issued by the Department. Thus, lack of action on the part of the Department resulted in non- realisation of Government revenue of Rs 3.30 crore.

After this was pointed out, the Assessing Officer of Ranchi East circle stated in May 2004 that the matter was being examined and action would be taken after scrutiny while the Assessing Officer of Singhbhum Circle did not furnish any reply.

2.2.10 Short initiation of certificate proceedings

Under the BOPDR Act, any money which is declared by any law for the time being in force as arrears of revenue is recoverable as arrears of land revenue.

In three circles⁸ audit scrutiny revealed that tax dues of Rs 7.24 crore were outstanding against three dealers during 1999-2000 and 2000-2001. However, certificate proceedings were initiated for Rs 3.05 crore only against these dealers. This resulted in short initiation of certificate proceedings by Rs 4.19 crore.

After this was pointed out, the Assessing Officers stated that action would be taken to initiate the certificate proceedings.

⁷ Ranchi East and Singhbhum

⁸ Dhanbad Urban, Ranchi Special and Singhbhum.

2.2.11 Delay in initiation of certificate proceedings

Under the provisions of the JF Act, if a dealer fails to pay the amount of assessed tax and penalty within the specified period certificate proceedings is to be initiated for realisation of the dues as arrears of land revenue.

In Ranchi East Circle, a dealer engaged in purchase and sale of vehicles manufactured by M/s Maruti Udyog Limited was a habitual defaulter in filing returns and payment of admitted tax. It was found by the Department in April 1996 that he had indulged in tax evasion in April 1996. Consequently his registration was cancelled in December 1998. However, in spite of adverse revelations, dues against the dealer were certified in June 2002 after a delay ranging between 17 months to 65 month as detailed below:

Year	Date of assessment/ reassessment	Demand Notice no and date	Date of service	Amount of dues	(Rupees in lakh)	
					Period of delay (from the date of assessment to date of certificate as on June 2002	
					Year	Month
1987-88	7.4.95/ 31.10.97	106/10.4.95 3124/17.11.97	12.5.95/17.1.98	0.22	4	8
1988-89	7.4.95/ 31.10.97	107/10.4.95 3125/17.11.97	12.5.95/17.1.98	2.11	4	8
1989-90	24.1.97	4844/28.1.97	5.2.97	50.37	5	5
1990-91	24.1.97	4845/28.1.97	5.2.97	3.98	5	5
1991-92	25.1.97	4846/28.1.97	5.2.97	176.81	5	5
1992-93	25.1.97	4847/28.1.97	5.2.97	286.26	5	5
1993-94	25.1.97	4848/28.1.97	5.2.97	123.81	5	5
1994-95	27.1.97	4849/28.1.97	5.2.97	126.07	5	5
1995-96	27.1.97	4850/28.1.97	5.2.97	23.95	5	5
1996-97	14.2.01	3454/14.2.01	26.4.01	121.69	1	5
Total				915.27		

After this being pointed out, the Assessing Authorities did not furnish explanation for delay in filing of certificate case though it could have been initiated before cancellation of the registration of the dealer.

2.2.12 Non- realisation of government revenue due to departmental lapses

Under the provisions of the JF Act, notwithstanding any thing to the contrary contained in any law for the time being in force any amount of tax and penalty, if any, payable by a dealer or any other person under this part shall be a first charge on the property of the dealer or such persons.

Test check of records of two Commercial Taxes Circles revealed that Government revenue of Rs 3.22 crore was neither recovered nor was it claimed though two cement manufacturing companies had become sick/ insolvent as detailed below:

(Rupees in crore)

Name of circle No of dealer	Period	Nature of departmental lapses	Loss of revenue
<u>Ranchi East</u> One	1989-90 to 1999-2000	The company was wound up and officials liquidator appointed (January 2002). Till date claim was not submitted to the liquidator.	1.58
<u>Ranchi West</u> One	1996-97 to 2000-01	The company became sick in the year 2001-02 and the BIFR recommended its winding up (October 2003). Till date claim was not pursued with the appropriate authority.	1.64
Total			3.22

After these were pointed out, the Assessing Authorities stated in May/ December 2004 that claim would be filed against the assessee. Further report is awaited (April 2005).

2.2.13 Incorrect retention of deferred amount of tax and interest thereon

Under the Bihar Sales Tax Supplementary (Deferment of Tax) Rules, 1990 as applicable to the state of Jharkhand, an industrial unit which discontinues commercial production for any reasons whatsoever at any time or discontinues the business during the period of deferment shall cease to enjoy the benefit of deferred payment of tax forthwith and would be liable to pay tax deferred till then within a period of 30 days of the date of discontinuance of business. In case of non-payment by the stipulated date, interest at the rate of two *per cent* per month or part thereof is also chargeable.

In Ranchi East Circle, a manufacturer of confectionary items was allowed deferment of tax of Rs 30.73 lakh for the period from May 1996 to May 2004. Scrutiny of records revealed that during the deferment period the assessee had shown his business as closed with effect from April 2002 and merged with a sister concern. Consequently, though he was liable to pay the deferred tax of Rs 30.73 lakh in one instalment, the Assessing Authority neither recovered the tax nor was it deposited by the assessee. This resulted in non-realisation Government dues of Rs 45.79 lakh including interest of Rs 15.06 lakh.

After this was pointed out, the Assessing Officer stated that the firm would be allowed to close only after clearing all the dues. The contention of the Assessing Officer was not tenable. Under the deferment rules, the assessee should have been ordered to repay entire amount deferred alongwith interest forthwith in one instalment within one month of closure of business failing which the dues should have been recovered as arrears of land revenue.

2.2.14 Discrepancy between Register IX and X

Under the provisions of PDR Act, read with instruction 46 of the Board of Revenue, certificate proceedings initiated for realisation of arrears are entered in register IX maintained in the circle and are required to be sent to the

Certificate Officer who enters its details in Register X. Further, Certificate Officer is responsible for ensuring that no delay occurs in the certificate office and certificates are made as soon as applied for. Board's instruction further stipulated that register IX and X must be compared every month.

Cross verification of register IX and X in two circles Sindri and Dhanbad revealed that 66 cases involving revenue of Rs 66.29 lakh were found to have been entered in register IX of the Circle but were not traceable in register X of the certificate office. Consequently the action taken to dispose of these cases could not be ascertained by audit. There is a need for reconciliation of the cases between the Requiring Officer and Certificate Officer.

2.2.15 Conclusion

In view of the above facts it is recommended that:

- Demand register and other records relating to correct accounting of outstanding dues including certificate cases should be prepared properly to ensure correct accounting and prompt realisation of the arrears.
- The Department may consider framing of norms for speedy disposal of the appeals pending with the Departmental Authorities. .

The cases were reported to the Government in August and November 2004; their final reply is awaited (April 2005).

2.3 Cross verification of collection of sales tax in respect of turnover of lessees of Mines and Minerals

Under provisions of JF Act, the Assessing Officers are required to examine the returns with the accounts and other supporting statements, documents produced by the dealer at the time of finalising assessments. The JF Act further provides that the Assessing Authority is entitled to use in making an assessment, materials gathered by it by inspection, enquiries conducted by the Department, information obtained from accounts of other dealers and records of other taxing authorities. By executive instructions issued in May 1990 and June 1991 under the Act, CCT instituted a control measure for cross-verification of data/information collected from different Central/State Government departments regarding purchase / sale by the different dealers with their returns / records to detect fraud and evasion of tax. By another instruction issued in November 1998 the Department instituted a control measure for monitoring of return, which *inter alia* includes initiation of penalty proceeding on concealed turnover before assessment. Tax was leviable

on stone⁹ chips at the rate of nine *per cent* besides additional tax and surcharge.

Cross verification of data collected in respect of 218 lessees from five District Mining Offices and Public Works Department with the records of five Commercial Taxes Circles¹⁰ revealed suppression of turnover having a tax effect of Rs 15.62 crore due to furnishing of incorrect information or non-registration of dealers as discussed in the following paragraphs.

2.3.1 Under the JF Act, if the prescribed authority is satisfied that a dealer has concealed any sales or purchases with a view to reduce the amount of tax payable by him, he shall, after giving such a dealer an opportunity of being heard, direct the dealer, to pay in addition to tax assessed under the Act, by way of penalty a sum not exceeding three times but not less than the amount of tax on the concealed turnover. The penalty shall be imposed before completion of assessment besides other punishment.

- Cross verification of dispatch of stone chips by 28 lessees of mines and minerals with the records of Sahebganj and Dumka commercial taxes circles revealed that the lessees had accounted for despatch of stone chips valued at Rs 24.57 crore instead of Rs 38.76 crore and thereby concealed sales turnover valued at Rs 14.19 crore relating to the period 1997-98 to 2002-03, assessed between November 1998 and September 2003. This resulted in under assessment of tax amounting to Rs 5.87 crore including penalty of Rs 4.30 crore.

After these were pointed out between July and September 2004, the Department stated that the cases would be reviewed.

Concealment of sale turnover by the lessees in their return

- Cross verification of records of two¹¹ Commercial Taxes circles with the records of Mining Department revealed that 22 lessees had reflected incorrect amount of despatch of stone chips valued at Rs 9.81 crore instead of the correct amount of Rs 17.82 crore during the period 1999-2000 to 2002-03 in their returns. This resulted in concealed sales turnover of Rs 8.01 crore. Penalty of Rs 2.42 crore though leviable was not levied in these cases by the Departmental Authorities.

After these were pointed out between July and September 2004, the Department stated that the cases would be reviewed.

⁹ Schedule rate for graded stone chips of size 10 mm to 20 mm as fixed by PWD was Rs 265 per cubic meter.

¹⁰ Chaibasa, Dumka, Godda, Hazaribagh and Sahebganj

¹¹ Dumka Commercial Taxes Circle and Sahebganj Commercial Taxes Circle

Non-levy of tax due to non-registration of lessees of Mines and Minerals

2.3.2 Under provisions of the JF Act, every dealer, who is a manufacturer, is liable to pay tax irrespective of the quantum of his gross turnover. Further, no dealer, who is liable to pay tax, shall sell or purchase goods, unless he has been granted and is in possession of a valid registration certificate. Failure to apply for registration may render him liable to pay penalty, in addition to levy of tax, at the rates of Rs 50 for each day of default or an amount equivalent to the amount of tax assessed, whichever is less. According to instructions issued by CCT in April 1990 and April 1997, market survey should be conducted in every circle during the period from April to June every year, to unearth unregistered dealers, for registering them under the Act and for ascertaining whether any class of dealers has escaped liability for taxation.

Cross verification of records of five District Mining Offices¹² with the records of five Commercial Taxes Circles¹³ revealed that 168 lessees of mines and minerals were not registered with the Commercial Taxes Department. This resulted in a turnover of Rs 50.45 crore escaping assessment for the period between 1997-98 and 2002-03 and consequent evasion of tax amounting to Rs.7.33 crore including penalty of Rs 1.84 crore.

Thus, lack of proper internal control and non-observation of the instructions resulted in leakage of revenue indicated in above paragraphs.

After these were pointed out between July and September 2004, the Department stated that the cases would be reviewed.

The cases were reported to the Government in August and November 2004; their reply has not been received (April 2005).

2.4 Cross verification of supplies made by firms / individuals to different Government Departments /Public Sector Undertakings with their return in Commercial Taxes Department

Under provisions of JF Act, the Assessing Authorities are required to examine the returns with the accounts and other supporting statements, documents produced by the dealer at the time of finalising assessments. Sale means any transfer of property in goods for cash or deferred payment or other valuable consideration and includes transfer of property in goods involved in execution of works contract. Royalty, cess and value of materials recovered from contractor form a part of the sale price.

2.4.1 Cross verification of assessment records of three contractors and a supplier with the records of other four contractors who had supplied material

¹² Chaibasa, Dumka, Godda, Hazaribagh and Pakur.

¹³ Chaibasa, Dumka, Godda, Hazaribagh and Sahebganj.

to them in three Commercial Taxes Circles¹⁴ revealed concealment of turnover of Rs 22.99 crore having a tax effect of Rs 8.56 crore including penalty of Rs 6.26 crore as detailed below:

(Rupees in crore)

Sl. No.	Name of Circle Name & Regn. No. of dealer	Period Date of assessment	Nature of observation	Suppressed turnover	Tax Penalty	Total
1	2	3	4	5	6	7
1	Ranchi West IRCON International Ltd. RNW 1661 (R)	1998-99 August 2000	As per audited accounts / other records enclosed, the GTO of the dealer was Rs. 9.68 crore against which the dealer submitted and was assessed on a returned income of Rs. 2.64 crore	7.04	<u>0.70</u> 1.92	2.62
2	Ranchi West Vijeta Construction Ltd RNW 1146 (R)	1999-2000 June 2003	Cross verification of records of M/s Encon Builders (I) Ltd. with the records of the dealer revealed that the dealer was supplied material valued at Rs 8.67 crore against which the dealer submitted return of Rs 7.14 crore and was assessed accordingly.	1.53	<u>0.15</u> 0.42	0.57
		2000-01 June 2003	As per information obtained from the records of M/s Encon Builders (I) Ltd. the dealer had received materials valued at Rs. 6.89 crore against which the dealer submitted return of Rs. 6.19 crore and was assessed accordingly.	0.71	<u>0.07</u> 0.19	0.26
3	Bokaro S.M.S India Ltd. BK 2210 (R)	1996-97 March 2001	As per information obtained from the records of M/s BSBK Ltd. the dealer had received materials valued at Rs. 47.56 crore against which the dealer submitted return of Rs. 35.51 crore and was assessed accordingly.	12.05	<u>1.21</u> 3.28	4.49
		1997-98 November 2001	As per information obtained from the records of M/s BSBK Ltd. the dealer had received materials valued at Rs. 15.74 crore against which the dealer submitted return of Rs. 14.28 crore and was assessed accordingly.	1.46	<u>0.15</u> 0.40	0.55
4	Hazaribag GE Power Services (I) Ltd. HZ 5071 (R)	1999-2000 September 2001	The dealer received payment towards supply of special consumables and rental charges of Rs. 0.20 crore which was not included in the return.	0.20	<u>0.02</u> 0.05	0.07
			Total	22.99	<u>2.30</u> 6.26	8.56

After these were pointed out between April and September 2004, the Assessing Authorities agreed (May and September 2004) to review the cases.

Turnover escaping assessment

2.4.2 Under the JF Act, gross turnover for the purpose of levy of sales tax, in respect of sales of goods, means aggregate of sales prices received and receivable. In case of works contract, royalty, value of materials recovered from contractor and materials consumed in course of execution of works contract is leviable to tax.

In three Commercial Taxes Circles,¹⁵ in case of four contractors and one supplier, sale of goods valued at Rs 6.10 crore escaped from levy of tax during the period 1997-98 to 2001-02, assessed between May 2000 and June 2002,

¹⁴ Bokaro, Hazaribagh and Ranchi West.

¹⁵ Deoghar, Hazaribagh and Ranchi West

resulting in under assessment of tax of Rs 60.30 lakh including additional tax and surcharge as detailed below:

Sl. No.	Name of Circle Number of dealers	Period Date of assessment	Nature of observation	Escaped turnover (Rupees in crore)	Short levy of tax (Rupees in lakh)
1	2	3	4	5	6
1	Hazaribag One	2001-02 June 2002	The dealer was assessed to tax on Rs. 20.20 lakh instead of Rs. 39.30 lakh as shown in the annual return.	0.19	1.91
2	Ranchi West Three	1997-98 to 2000-01 September 2001 to November 2001	Royalty and recovery of materials valued at Rs. 1.17 crore from contractors bill though taxable were not taxed.	1.17	11.06
3	Deoghar One	1997-98 to 1999-2000 May 2000	Consumables i.e. pipeline accessories valued at Rs. 4.74 crore though taxable were not taxed.	4.74	47.33
Total				6.10	60.30

After these were pointed out between April and July 2004, the Department stated between May and July 2004 that the cases would be reviewed.

Non-levy of tax due to non-registration of contractors/ suppliers

2.4.3 Under the provisions of the JF Act, every dealer, who is a contractor, is liable to pay tax when his gross turnover exceeds Rs 25,000. Further, no dealer, who is liable to pay tax, shall sell or purchase goods, unless he has been granted and is in possession of a valid registration certificate. Failure to apply for registration may render him liable to pay penalty, in addition to levy of tax, at the rate of Rs 50 for each day of default or an amount equivalent to the amount of tax assessed, whichever is less. According to instructions issued in April 1983 and April 1990, market survey should be conducted in every circle during the period from April to June every year, to unearth unregistered dealers, for registering them under the Act and for ascertaining whether any class of dealers has escaped liability for taxation.

It was seen in case of nine contractors/suppliers falling under the jurisdiction of two Commercial Tax Circles¹⁶ that there was nothing on record to show that these dealers were registered in the respective circles during the period 1997-98 and 1999-2000. Of these, one dealer was found registered after a lapse of five months after the assessment year in which the transaction took place. The contractors had received payment of Rs 10.31 crore for the execution of work during the period of non-registration from IOC and Railways and did not pay any tax. Thus, non-registration of dealers resulted in a turnover of Rs 10.31 crore escaping assessment and consequent evasion of tax amounting to Rs 1.12 crore including penalty of Rs 9.13 lakh.

After these were pointed out between May and July 2004, the Department stated that the cases would be reviewed.

¹⁶ Bokaro and Ranchi West

The cases were reported to the Government in August and November 2004; their final reply is awaited (April 2005).

2.5 Suppression of sales/purchase turnover

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Under the JF Act, read with the CST Act, if the prescribed authority has reason to believe that the dealer has concealed, omitted or failed to disclose willfully the particulars of turnover or has furnished incorrect particulars of such turnover, the said authority shall assess or re-assess the amount of tax due from the dealer in respect of such turnover and shall direct the dealer to pay, besides the tax assessed on escaped turnover, penalty not exceeding three times but not less than an amount equivalent to the amount of tax on the escaped turnover.

In 11 Commercial Taxes Circles, it was noticed from the assessment records assessed between May 1999 and April 2003 and utilisation certificate of declaration forms¹⁷, trading account, annual audited accounts, etc. that 20 dealers purchased and sold goods valued at Rs. 589.61 crore during the years between 1996-97 and 2001-02. The dealers were however, assessed to tax on the basis of purchase/sale of goods valued at Rs. 466.19 crore as furnished by them in their returns. The failure of the Assessing Authorities to cross examine the documents furnished by the dealers with the returns filed by them resulted in short determination of taxable turnover by Rs. 123.42 crore and consequent short levy of tax of Rs. 14.31 crore including penalty of Rs. 6.87 crore. A few illustrative cases are detailed below:

(Rupees in crore)

Sl. No.	Name of Circle No. of Dealers	Period of assessment Month /Year of assessment	Name of the Commodity	Actual purchase / Sale Purchase/ Sale accounted for	Amount concealed Rate applicable (per cent)	Amount of tax Penalty	Total
1	2	3	4	5	6	7	8
1.	Jamshedpur Three	Between 1998-1999 & 2000-01 11/2002 & 2/2003	Excavator, Lease rental, Profit on sale of assets, Ferrous & Non-Ferrous metals	<u>478.05</u> 395.48	<u>82.57</u> 4, 8+1+SC	<u>5.26</u> 4.78	10.04
2	Singhbhum Four	Between 1997-98 & 2000-01 Between 5/1999 & 2/2003	Railway lease rental, packing materials, spare parts, Industrial chemicals, Aluminium notch bars	<u>17.15</u> 10.28	<u>6.87</u> 8,10 +1+SC	<u>0.85</u> 0.78	1.63
3.	Sindri One	<u>2000-01</u> 1/2003	Fertilizer	<u>60.57</u> 37.60	<u>22.97</u> 8+1+SC	<u>0.51</u> 0.51	1.02

¹⁷ 'IX C', 'F' and Road permits

1	2	3	4	5	6	7	8
4.	<u>Giridih</u> Two	Between 1998-99 & 1999- <u>2000</u> Between 12/2001 & 9/2002	Profit on sale of asset, Coal tar, etc.	<u>4.88</u> 1.31	<u>3.57</u> 8+1+SC	<u>0.36</u> 0.33	0.69
5.	<u>Adityapur</u> Three	Between 1999-2000 & <u>2000-2001</u> Between 4/2000 & 4/2003	Steel Forging, Plastic granules, Mild Steel	<u>18.13</u> 15.42	<u>2.71</u> 4, 7 +1+ SC	<u>0.11</u> 0.10	0.21
6.	<u>Ranchi</u> <u>West</u> One	Between 1998-99 & 1999-2000	Hire Charges of vehicles leased out to different institutions	<u>1.33</u> Nil	<u>1.33</u> 8 +1+SC	<u>0.13</u> 0.12	0.25

After this was pointed out between April 2003 and March 2004, in two cases of Adityapur Circle an additional demand of Rs 12.64 lakh was raised between June 2004 and September 2004 and in other cases the Department stated between April 2003 and March 2004 that the cases would be reviewed. Further reply was awaited (April 2005).

The cases were reported to the Government in July 2004; their final reply is awaited (April 2005).

2.6 Incorrect determination of gross turnover

Under the JF Act, gross turnover (GTO) for the purpose of levy of sales tax in respect of sales of goods, means aggregate of sales prices received or receivable by a dealer during any given period. Further, in case of submission of revised return, a dealer is required to furnish a clear statement in writing assigning reasons for omission or wrong statement which necessitated submission of such returns and the assessing authority is also required to assign reasons in writing for accepting the same.

In the case of two dealers in two commercial taxes circles, GTO was incorrectly determined between June 2001 and March 2003 at Rs. 5,123.73 crore and Rs. 44.91 crore instead of Rs. 5,204.66 crore and Rs. 55.11 crore respectively, for the year 1998-99. This resulted in short determination of GTO by Rs. 91.13 crore and consequential short levy of tax amounting to Rs. 4.26 crore including additional tax and surcharge as detailed below:

(Rupees in Crore)

Sl. No.	Name of the circle Number of dealer(s)	Period of assessment Month of assessment	Amount of correct GTO	GTO as determined	Reasons	Short determination of GTO	Short levy of tax
1	Jamshedpur (Urban) One	1998-99 3/2003	5,204.66	5,123.73	Short determination of GTO due to incorrect allowance of deduction for sale made from a branch outside the country	80.93	3.24
2	Tenughat One	1998-99 6/2001	55.11	44.91	Turnover was incorrectly reduced by the dealer in the revised return without furnishing reconciliation statement and accepted by the Assessing Officer without assigning reasons in writing in contravention of the provisions of Act/ Rules.	10.20	1.02
	Total		5,259.77	5,168.64		91.13	4.26

After this was pointed out, between July and October 2003, the Department stated that the cases would be reviewed. Further reply has not been received till April 2005.

The cases were reported to the Government in July 2004: their final reply is awaited (April 2005).

2.7 Under assessment of tax under Central Sales Tax (CST)

Under the provisions of CST Act, tax is leviable at the rate of four *per cent* on inter-State sale of goods (other than declared goods) duly supported by prescribed declaration form. In case, the sale is not supported by the prescribed declaration form and sale not being a subsequent sale, tax is leviable at the rate of 10 *per cent* or at the prescribed rate of sale within the State, whichever is higher. By a notification issued in May 1996, the Government exempted sale of finished goods from levy of CST in course of inter-state trade or commerce for a specified period provided such sale was not contrary to the provisions of CST Act.

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It was noticed in the case of three dealers in three Commercial Taxes Circles, that exemption from levy of tax on inter-State sale of goods valued at Rs. 37.58 crore was incorrectly allowed. This resulted in non-levy of tax of Rs. 3.33 crore as detailed below:

(Rupees in crore)

Sl. No.	Name of the circle Number of dealers	Period of assessment Month/year of assessment	Turnover on which exemption allowed	Short levy of tax	Remarks
1	2	3	4	5	6
1	Jamshedpur one	1999-2000 12/2002	26.79	2.68	Out of total inter state branch transfer of Excavator, M. C Crane valued at Rs 203.14 crore, transfer of goods valued at Rs 26.29 crore was not supported by declaration form 'F'. Consequently tax was leviable at 10 per cent.
2	Sindri one	1999-2000 9/2002	7.58	0.46	Out of total inter state sale of fertilizer valued at Rs 14.73 crore, sale valued at Rs 7.88 crore was not supported by valid declaration form 'C'. Tax was leviable at 10 per cent on Rs 7.88 crore, but was levied at four per cent.
3	Singhbhum one	1999-2000 9/2002	3.21	0.19	The dealers sold goods valued at Rs 3.21 crore to a dealer of the State. On submission of declaration form 'C' concessional rate of tax at four per cent was levied treating the sale as inter state sale. As the sale was completed within the state, tax was leviable at 10 per cent.
	Total		37.58	3.33	

After this was pointed out, between August 2003 and March 2004, the Department stated that the cases would be reviewed. Further reply has not been received till April 2005.

The cases were reported to the Government in July 2004; their final reply is awaited (April 2005).

2.7.1 Under the provisions of CST Act, and Rules framed thereunder, no tax shall be payable on sales or purchases of goods, which have taken place in the course of export out of the territory of India, only if either the sale or purchase occasions such export or is effected by a transfer of documents of title of the goods have crossed the customs frontiers of India. According to orders issued by Government in March 1986 and August 1991, for exemption from levy of tax on sale taking place in the course of export to Nepal, the transaction must be supported apart from other evidences, by bills of export granted by the custom officials of India.

In three Commercial Taxes Circles¹⁸ it was noticed that four dealers were allowed incorrect exemption from levy of tax on export sale of goods valued at Rs. 13.96 crore during the years 1998-99 and 1999-2000, assessed between December 2001 and May 2003, not supported by the prescribed documentary evidence like agreement to sale with the purchaser and bill of export etc. The

¹⁸ Ranchi South, Ranchi West and Jamshedpur Urban.

incorrect grant of exemption resulted in underassessment of tax amounting to Rs. 80.25 lakh including additional tax and surcharge.

After this was pointed out between December 2002 and March 2004, Department in one case of Ranchi West Circle stated that transaction was supported by Bank Receipt of Nepal, *Bhansar* Receipts, Transport Challan, etc. The reply is not tenable, as the transaction was not supported by agreement of sale and bill of export which are essential elements for treating the sale as an export sale. In other cases the Department stated that the cases would be reviewed. Further reply has not been received till April 2005.

The cases were reported to the Government in July 2004; their final reply is awaited (April 2005).

2.8 Incorrect allowance of exemption from levy of tax

Under the provisions of JF Act, and notifications issued thereunder, sale of raw materials, which are directly converted into finished goods and sale of finished goods were exempted from levy of sales tax under certain conditions. Scrap/byproduct is not a finished good. Further, as per notification issued in November 1958 by Government of India, Ministry of Finance (Department of Economic Affairs), zinc is not a direct raw material for the purpose of iron and steel smelting, rolling and re-rolling.

In two Commercial Taxes Circles of Giridih and Singhbhum, it was noticed that five dealers were allowed exemption from levy of sales tax on sale of zinc and scrap/ byproducts valued at Rs 17.11 crore and Rs 4.35 crore respectively made between 1997-98 and 1999-2000, assessed between October 1999 and April 2003. Since scrap/ byproduct of Zinc is not a direct raw material, the exemption allowed was incorrect. This resulted in under assessment of tax amounting to Rs. 1.88 crore.

After this was pointed out, between October 2003 and February 2004, the Department stated that the cases would be examined. Further reply has not been received till April 2005.

The cases were reported to the Government in July 2004; their final reply is awaited (April 2005).

2.9 Inadmissible allowance of concessional rate of tax

Under the provisions of JF Act, registered dealers are allowed concessional rate of tax on sale of goods required directly for use in mining of any goods

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¶ Under the provisions of CST Act, 1956 and Rules framed thereunder, no tax shall be payable on sales or purchases of goods, which have taken place in the course of export out of the territory of India only if either the sale or purchase occasions such export or is effected by a transfer of documents of title of the goods have crossed the customs frontiers of India. According to orders issued by Government in March 1986 and August 1991, for exemption from levy of tax on sale taking place in the course of export to Nepal, the transaction must be supported apart from other evidences, by bills of export granted by the custom officials of India. ¶

¶ In three Commercial Taxes Circles (Ranchi South, Ranchi West and Jamsshedpur Urban), it was noticed that four dealers were allowed incorrect exemption from levy of tax on export sale of goods valued at Rs. 13.96 crore during the years 1998-99 and 1999-2000, assessed between December 2001 and May 2003, not supported by the prescribed documentary evidence like bill of export issued by Indian Customs. The incorrect grant of exemption resulted in underassessment of tax amounting to Rs. 80.25 lakh including additional tax and surcharge. ¶

¶ On this being pointed out between December 2002 and March 2004 the Deputy Commissioner of Commercial Taxes (DCCT), Commercial Taxes Circle, Ranchi West stated that ... [1]

for sale. It has been Judicially held¹⁹ that goods, which are not directly used in mining, cannot be treated as raw material. Timber, cement, tyres & tubes, bricks and uranium are not used directly in mining of coal.

In Commercial Taxes Circle, Sindri, it was noticed that two dealers engaged in mining of coal had purchased timber, cement, tyres, bricks and uranium valued at Rs.5.31 crore between 1998-1999 and 2001-02 and claimed concessional rate of tax, assessed between May 1999 and October 2002. Since the goods were not raw materials meant for direct use in the course of mining, were thus leviable to tax at the rate specified. This resulted in inadmissible allowance of concessional rate of tax of Rs.46.78 lakh including additional tax and surcharge.

After this was pointed out in September 2003, the Department stated that the cases would be reviewed. Further reply has not been received till April 2005.

The cases were reported to the Government in July 2004; their final reply is awaited (April 2005).

2.9.1 Incorrect allowance of exemption/concessional rate of tax

Under the provisions of JF Act, sales include transfer of right to use goods for any purpose (whether or not for a specific period) for cash or deferred payment or other valuable consideration. Lease rentals²⁰ are sales and leviable to tax. Concessional rate of tax is not allowable on the sale of goods which are not directly used in mining or manufacturing of goods for sale.

In Commercial Taxes Circle, Jamshedpur Urban, it was noticed that a dealer received lease rental of Rs. 2.63 crore and Rs. 7.92 crore during the years 1999-2000 and 2000-01 respectively from lessees of goods. Out of the amount received, Rs. 38.30 lakh was incorrectly exempted from levy of tax on the ground that these amount were received from the lease of tax paid goods. Besides the lease valued at Rs. 10.16 crore was taxed at a concessional rate of tax of three *per cent* instead of eight *per cent* but the goods were not meant for direct use in mining or manufacturing purposes. This resulted in under assessment of tax amounting to Rs. 59.84 lakh including additional tax and surcharge.

After this was pointed out in August 2003, the Department stated (September 2003) that the case would be reviewed. Further reply has not been received till April 2005.

The case was reported to the Government in July 2004; their final reply is awaited (April 2005).

¹⁹ Commissioner of Sales tax. *vs.* M/s Rewa coalfields and others (1999) civil appeal No. 3319 of 1981 dt 22.4.1999 (S.C)

²⁰ The amount received on rent from goods / machinery leased out to other parties.

2.10 Application of incorrect rate of tax

Under the provisions of JF Act, the State Government may from time to time, by notification specify the rate of tax on any class or description of goods. Sale of cement in Poly Vinyl Chloride (PVC) bags, LPG, Mortein coil mat, spare parts of excavators, motor parts, stabilizers, cotton bandages, aluminium conductor, fabricated steel structure and spare parts of tractor are leviable to tax between eight and 12 *per cent*. It has been judicially held²¹ that 'Mosquito Repellents' are not insecticides and are taxable at eight *per cent*.

In six Commercial Taxes Circles, in the case of 11 dealers tax was either not levied or levied at incorrect rate on sale of goods valued at Rs. 16.12 crore, which resulted in short levy of tax amounting to Rs. 66.62 lakh including additional tax and surcharge as detailed below:

(Rupees in lakh)

Sl. No.	Name of circle Number of dealer	Name of commodity	Assessment year Month of assessment	Total value of sale	Rate of tax (per cent)		Short levy of tax
					Leviable	Levied	
1	Jamshedpur (Urban) Two	PVC Bags	1998-99 3/2003	592.00	11	7	26.31
		Motor Parts	1996-97 12/1998	14.45	10	4	0.96
2	Jamshedpur Two	LPG	1999-2000 & 2000-01 10/2001 & 12/2002	195.61	9	8	2.17
		Spare parts of excavator	1998-99 11/2002	332.09	10	8	7.38
3	Ranchi East One	Mortein Coil	1997-98 8/2001	96.63	8	4	4.29
4	Giridih One	Stabilizer	1998-99 10/2002	17.46	12	8	0.78
5	Ranchi West Four	Cotton Bandages	1997-98 5/2000	24.37	8	Nil	2.43
		Spare parts of tractor Fabricated steel structure nut bolt	1998-99 & 2001-02 Between 11/ 2001 and 2/2003	312.07	8	4	20.45
6	Hazaribagh One	Aluminium Conductor	2000-01 & 2001-02 3/02 & 6/02	27.75	8	2	1.85
Total				1,612.43			66.62

After this was pointed out between February 2001 and March 2004, the DCCT, Ranchi East stated that Mortein coil mat was treated as insecticide while the DCCT Ranchi West Circle stated that electrical pole was fabricated

²¹ Sonic Electrochem and another *v/s* Sales Tax officer and others civil appeal No 6753 of 1994 date of orders 11.8.1998 (S.C.).

steel structure as per work order hence it was a declared good and tax was levied at the rate of four *per cent*. The reply was not tenable as mortein coil is a mosquito repellent and is taxable at the rate of eight *per cent* in the light of the aforesaid judgment. The fabricated steel structure, nut, bolt are unspecified goods and not declared goods as such tax is leviable at eight *per cent* instead of four *per cent*. In other cases, it was stated that the cases would be reviewed. Further reply has not been received till April 2005.

The cases were reported to the Government in July 2004; their final reply is awaited (April 2005).

2.11 Short levy of tax on liquor

By a notification issued in June 1985, effective from 1 July 1985, under the provisions of the JF Act, tax on sale of India Made Foreign Liquor (IMFL) is leviable at every stage of sale at the rate of 25 *per cent* of the sale price and additional tax is leviable at the rate of two per cent on the total sales turnover including tax. However, the amount of sales tax paid at each preceding stage of sale would be adjusted against the amount of tax payable at each subsequent stage of sale.

In Commercial Taxes Circle, Jamshedpur, it was noticed that in case of two dealers, tax on tax paid sale of liquor worth Rs. 56.03 crore made during the years between 1998-99 and 2001-2002 worked out to Rs 2.62 crore against which Value Added Tax (VAT) amounting to Rs. 2.17 crore only was levied between December 2000 and November 2002. This resulted in short levy of VAT amounting to Rs. 44.65 lakh.

After this was pointed out in August 2003, the Department stated that the case would be reviewed. Further reply has not been received till April 2005.

The case was reported to the Government in July 2004; their final reply is awaited (April 2005).

2.8.1 Incorrect grant of exemption

Under the provisions of CST Act, 1956 and Rules framed thereunder, no tax shall be payable on sales or purchases of goods, which have taken place in the course of export out of the territory of India only if either the sale or purchase occasions such export or is effected by a transfer of documents of title of the goods have crossed the customs frontiers of India. According to orders issued by Government in March 1986 and August 1991, for exemption from levy of tax on sale taking place in the course of export to Nepal, the transaction must be supported apart from other evidences, by bills of export granted by the custom officials of India.

In three Commercial Taxes Circles (Ranchi South, Ranchi West and Jamshedpur Urban), it was noticed that four dealers were allowed incorrect exemption from levy of tax on export sale of goods valued at Rs. 13.96 crore during the years 1998-99 and 1999-2000, assessed between December 2001 and May 2003, not supported by the prescribed documentary evidence like bill of export issued by Indian Customs. The incorrect grant of exemption resulted in underassessment of tax amounting to Rs. 80.25 lakh including additional tax and surcharge.

On this being pointed out between December 2002 and March 2004 the Deputy Commissioner of Commercial Taxes (DCCT), Commercial Taxes Circle, Ranchi West stated that transactions were supported by Bank Receipt of Nepal, Bhansar Receipts, Transport Challan, etc. The reply is not tenable in view of the above orders of the Government, while other Assessing Authorities stated that the cases would be reviewed. Further reply has not been received (.....2004).

The cases were reported to the Government in July 2004; their final reply is awaited (.....2004).