

## CHAPTER VI : REVENUE RECEIPTS

### 6.1 General

#### 6.1.1 Trend of revenue receipts

The tax and non-tax revenue raised by the Government of Meghalaya during the year 2007-08, the State's share of divisible Union taxes and grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are mentioned below:

**Table 6.1**

(Rupees in crore)						
Sl. No.	Particulars	2003-04	2004-05	2005-06	2006-07	2007-08
<b>I.</b>	<b>Revenue raised by the State Government</b>					
	• Tax revenue <sup>1</sup>	177.68	207.73	252.67	304.74	319.10
	• Non-tax revenue	128.95	133.49	146.01	184.37	199.35
	<b>Total I:</b>	<b>306.63</b>	<b>341.22</b>	<b>398.68</b>	<b>489.11</b>	<b>518.45</b>
<b>II.</b>	<b>Receipts from Government of India</b>					
	• State's share of divisible Union taxes	225.08	269.04	350.57	447.18	564.07
	• Grants-in-aid	867.12	935.87	997.69	1,205.90	1,358.86
	<b>Total II:</b>	<b>1,092.20</b>	<b>1,204.91</b>	<b>1,348.26</b>	<b>1,653.08</b>	<b>1,922.93</b>
<b>III.</b>	<b>Total receipts of the State Government</b>	<b>1,398.83</b>	<b>1,546.13</b>	<b>1,746.94</b>	<b>2,142.19</b>	<b>2,441.38</b>
<b>IV.</b>	<b>Percentage of I to III</b>	<b>21.92</b>	<b>22.07</b>	<b>22.82</b>	<b>22.83</b>	<b>21.24</b>

The above table indicates that during the year 2007-08, the revenue raised by the State Government was 21.24 *per cent* of the total revenue receipts (Rs. 2,441.38 crore) against 22.83 *per cent* in the preceding year. The balance 78.76 *per cent* of receipts during 2007-08 was from the Government of India.

**6.1.2** The non-plan grants received by the State from the Government of India during 2003-04 to 2007-08 are mentioned below:

**Table 6.2**

(Rupees in crore)	
Year	Amount of non-plan grants
2003-04	329.33
2004-05	360.82
2005-06	406.03
2006-07	472.47
2007-08	461.02

The share of non-plan grants during 2007-08 was 33.93 *per cent* of the total grants-in-aid received from the Government of India. Compared to 2003-04, the non-plan grants of the State increased by 39.99 *per cent* mainly due to

<sup>1</sup> Excluding share of net proceeds of taxes and duties assigned to the State.

increase in receipt of non-plan revenue deficit grants from Rs. 304.20 crore in 2003-04 to Rs. 393.24 crore in 2007-08.

**6.1.3** The following table presents the details of tax revenue raised during the period from 2003-04 to 2007-08:

**Table 6.3**

(Rupees in crore)

Sl. No.	Head of revenue	2003-04	2004-05	2005-06	2006-07	2007-08	Percentage of increase (+) or decrease (-) in 2007-08 over 2006-07
1.	Sales tax	83.37	106.35	159.65	187.78	216.89	(+) 15
	Central sales tax	26.76	19.84	13.72	28.04	18.01	(-) 36
2.	State excise	52.80	62.70	59.16	53.95	58.62	(+) 9
3.	Stamps and registration fees	3.37	4.56	5.48	6.49	5.99	(-) 8
4.	Taxes and duties on electricity	0.03	0.03	0.04	0.03	0.03	...
5.	Taxes on vehicles	5.52	7.45	8.73	9.34	11.35	(+) 22
6.	Taxes on goods and passengers	2.02	2.66	2.76	2.79	3.58	(+) 28
7.	Other taxes on income and expenditure – taxes on professions, trades, callings and employments, etc.	0.97	1.02	1.17	9.52	1.47	(-) 85
8.	Other taxes and duties on commodities and services	2.35	2.83	1.63	1.22	1.04	(-) 15
9.	Land revenue	0.49	0.29	0.33	5.58	2.12	(-) 62
	<b>Total</b>	<b>177.68</b>	<b>207.73</b>	<b>252.67</b>	<b>304.74</b>	<b>319.10</b>	<b>(+) 5</b>

The following reasons for variations were reported by the concerned departments:

**Sales tax:** The increase was attributed to receipts under tax on motor spirits and lubricants, trade tax and other receipts.

**State excise:** The increase was attributed to receipts under country fermented liquors, malt liquor, etc.

**Taxes on vehicles:** The increase was attributed to receipts under the State Motor Vehicles Taxation Act.

**Other taxes on income and expenditure:** The decrease was attributed to less receipts under taxes on profession, trades, callings and employment.

**Land revenue:** The decrease was attributed to decrease in receipt under land revenue tax.

The other departments did not inform the reasons for variation, despite being requested (October 2008).

**6.1.4** The following table presents the details of major non-tax revenue raised during the period 2003-04 to 2007-08:

**Table 6.4****(Rupees in crore)**

Sl. No.	Head of revenue	2003-04	2004-05	2005-06	2006-07	2007-08	Percentage of increase (+) or decrease (-) in 2007-08 over 2006-07
1.	Interest receipts	5.61	7.75	6.67	13.36	15.38	(+) 15
2.	Dairy development	1.18	1.25	0.79	0.13	0.04	(-) 69
3.	Forestry and wildlife	11.77	14.62	15.30	16.66	15.60	(-) 6
4.	Non ferrous mining and metallurgical industries	86.18	90.26	97.56	109.03	123.66	(+) 13
5.	Miscellaneous general services (including lottery receipts)	8.55	4.22	7.92	17.96	18.98	(+) 6
6.	Education, sports, arts and culture	0.80	0.45	0.55	0.91	0.53	(-) 42
7.	Medical and public health	0.62	0.61	0.70	1.08	0.56	(-) 48
8.	Co-operation	0.84	0.56	0.57	0.38	0.93	(+) 145
9.	Public works	3.66	5.10	4.33	5.11	4.24	(-) 17
10.	Police	1.42	2.26	3.65	3.54	1.48	(-) 58
11.	Other administrative services	0.91	0.75	1.21	8.91	3.58	(-) 60
12.	Other agricultural programmes	0.69	0.49	0.61	0.82	0.34	(-) 59
13.	Crop husbandry	1.57	1.76	1.99	2.21	2.38	(+) 8
14.	Animal husbandry	1.23	1.22	1.32	1.56	1.47	(-) 6
15.	Others	3.92	2.19	2.84	2.71	10.18	(+) 276
	<b>Total</b>	<b>128.95</b>	<b>133.49</b>	<b>146.01</b>	<b>184.37</b>	<b>199.35</b>	<b>(+) 8</b>

The following reasons for variations were reported by the concerned departments:

**Interest receipts:** The increase was attributed to realisation of more interest from investments.

**Non-ferrous mining and metallurgical industries:** The increase was attributed to increase in receipts under mineral concession fees, rents and royalties.

**Police:** The decrease was attributed to decrease in receipts under fees, fines and forfeitures, Arms Act and other receipts.

**Other administrative services:** The decrease was attributed to less receipts of fines and forfeitures under administration of justice.

**Forestry and wildlife:** The decrease was attributed to less receipts on sale of timber and other forest produce.

The other departments did not inform the reasons for variation, despite being requested (October 2008).

### 6.1.5 Variations between budget estimates and actuals

The variations between budget estimates and actuals of revenue receipts for the year 2007-08 in respect of the principal heads of tax and non-tax revenue are mentioned below:

**Table 6.5**

(Rupees in crore)

Sl. No.	Head of revenue	Budget estimates	Actuals	Variations excess (+) or shortfall (-)	Percentage of variation
1.	Land revenue	0.37	2.12	(+) 1.75	473
2.	Sales tax	233.16	234.90	(+) 1.73	1
3.	State excise	71.58	58.62	(-) 12.96	18
4.	Stamps and registration fees	7.92	5.99	(-) 1.93	24
5.	Taxes and duties on electricity	0.05	0.03	(-) 0.02	40
6.	Taxes on vehicles	10.56	11.35	(+) 0.79	7
7.	Forestry and wildlife	17.85	15.60	(-) 2.25	13
8.	Non-ferrous mining and metallurgical industries	121.43	123.66	(+) 2.23	2
9.	Taxes on goods and passengers	5.70	3.58	(-) 2.12	37

The concerned departments did not inform the reasons for variations despite being requested (October 2008).

### 6.1.6 Cost of collection

The gross collection in respect of principal revenue receipt heads, expenditure incurred on collection and percentage of such expenditure to gross collection during the years 2005-06 to 2007-08 along with the all India average percentage of expenditure on collection for 2007-08 are mentioned below:

**Table 6.6**

(Rupees in crore)

Sl. No.	Head of revenue	Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage for the year 2006-07
1.	Sales tax	2005-06	173.37	3.22	1.85	0.82
		2006-07	215.82	3.58	1.65	
		2007-08	234.89	4.09	1.74	
2.	State excise <sup>2</sup>	2005-06	59.16	3.45	5.83	3.30
		2006-07	53.96	3.95	7.32	
		2007-08	58.62	4.42	7.54	
3.	Taxes on vehicles	2005-06	8.73	2.29	26.23	2.47
		2006-07	9.34	2.41	25.80	
		2007-08	11.35	6.57	57.89	
4.	Stamp duty and registration fees <sup>2</sup>	2005-06	5.48	0.47	8.57	2.33
		2006-07	6.49	0.54	8.32	
		2007-08	5.99	0.60	10.02	

Thus, the percentage of expenditure on collection during 2007-08 as compared to the all India average percentage for 2006-07 was higher in the case of sales

<sup>2</sup> Figure as furnished by the department.

tax, state excise, taxes on vehicles and stamp duty and registration fees which the Government needs to look into.

### 6.1.7 Arrears in assessments

The details of assessments pending at the beginning of the year 2007-08, cases due for assessment during the year and cases disposed during the year and number of pending cases at the end of the year, as furnished by the department in respect of sales tax and taxes on motor spirits are mentioned below:

**Table 6.7**

Names of tax	Opening balance of cases pending assessment	Cases due for assessment during the year	Total assessment due	Cases finalised during the year	Balance cases pending at the end of the year	Percentage of column 5 to 4
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Sales tax/Central sales tax/Luxury tax	2,03,261	77,471	2,80,732	2,932	2,77,800	1.04
Motor spirits tax	7,566	3,317	10,883	153	10,730	1.41
<b>Total</b>	<b>2,10,827</b>	<b>80,788</b>	<b>2,91,615</b>	<b>3,085</b>	<b>2,88,530</b>	<b>1.06</b>

Thus, the percentage of pending cases at the end of 2007-08 was 98.93. Immediate action needs to be taken by the Government to finalise the pending assessment cases.

### 6.1.8 Arrears of revenue

The arrears of revenue as on 31 March 2008 in respect of some principal heads of revenue amounted to Rs. 56.07 crore of which Rs. 24.82 crore was outstanding for more than five years as mentioned below:

**Table 6.8**

(Rupees in crore)

Sl. No.	Head of revenue	Amount outstanding as on 31 March 2008	Amount outstanding for more than five years as on 31 March 2008
1.	Sales tax	22.86	17.12
2.	Motor spirits	0.30	-
3.	Other taxes	16.45	7.66
4.	Environment and forests	3.55	-
5.	State excise	12.87	-
6.	Land Revenue	0.04	0.04
	<b>Total</b>	<b>56.07</b>	<b>24.82</b>

The position of arrears of revenue at the end of 2007-08 in respect of Motor Vehicle Taxes, Geology and Mining and State Lottery was not furnished, despite being requested (October 2008 ).

### **6.1.9 Results of audit**

Test check of the records of sales tax, state excise, motor vehicles tax, other tax receipts, forest receipts and other non-tax receipts conducted during the year 2007-08 revealed underassessment/short/non-levy/loss of revenue amounting to Rs. 236.31 crore in 107 cases. During the year, the departments accepted assessments/short/non levy/loss of revenue of Rs. 27.16 crore in 35 cases pointed out during 2007-08 and in earlier years, and recovered Rs. 8 lakh. Reply has not been received in respect of the remaining cases (October 2008).

This chapter contains 41 paragraphs and one review involving Rs. 824.67 crore. The departments accepted audit observations involving Rs. 727.97 crore against which no recovery has been made. Audit observations with a total revenue effect of Rs. 39.26 crore have not been accepted by the departments, but their contention have been found to be at variance with the facts or legal position and these have been appropriately commented upon in the relevant paragraphs. No reply has been received in the remaining cases (October 2008).

### **6.1.10 Failure to enforce accountability and protect interest of the Government**

The Accountant General (Audit), Meghalaya, Shillong conducts periodic inspection of the various offices of the Government departments to test check the correctness of assessments, levy and collection of tax and non-tax receipts, and verify the maintenance of accounts and records as per the Acts, Rules and procedures prescribed by the Government. These inspections are followed by inspection reports (IRs) issued to the heads of offices inspected with copies to the higher authorities. Serious irregularities noticed in audit are also brought to the notice of the Government/head of the department by the office of the Accountant General (Audit), Meghalaya, Shillong. A half yearly report regarding pending IRs is sent to the Secretaries of the concerned Government departments to facilitate monitoring and settlement of audit observations raised in these IRs through the intervention of the Government.

IRs issued upto December 2007 pertaining to the offices under sales tax, state excise, land revenue, motor vehicles tax, passengers and goods tax, other taxes, forest, stamps and registration, state lottery, geology and mining departments disclosed that 270 IRs involving money value of Rs. 1,013.97 crore remained unsettled at the end of June 2008. Of these, 62 IRs containing 122 observations involving money value of Rs. 32.21 crore had not been settled for more than five years.

In respect of 15 IRs involving money value of Rs. 10.54 crore issued upto March 2008, even the first reply required to be received from the department/Government has not been received (October 2008).

The report regarding position of old outstanding IRs/paragraphs was reported to the Government in July 2008; their reply has not been received (October 2008).

### 6.1.11 Response of the departments to draft paragraphs

The draft paragraphs are forwarded to the Secretaries of the concerned departments through demi official letters drawing their attention to the audit findings and requesting them to send their response within six weeks. The fact of non-receipt of replies from the departments is invariably indicated at the end of each such paragraph included in the Audit Report.

Out of 41 audit paragraphs and one review included in this chapter to which the replies of the secretaries to the Government were requested for by Audit between May 2008 and June 2008, they furnished replies to only one paragraph and one review upto September 2008. The remaining 40 paragraphs have been included without the response of the Government.

### 6.1.12 Recovery of revenue of accepted cases

During the years 2002-08 the departments/Government accepted audit observations involving Rs. 1,586.31 crore of which only Rs. 4.79 crore had been recovered till September 2008 as mentioned below:

**Table 6.9**

(Rupees in crore)			
Year of Audit Report	Total money value	Accepted money value	Recovery made
2002-03	153.02	83.28	0.26
2003-04	276.79	3.20	0.26
2004-05	83.32	23.02	0.24
2005-06	262.43	10.90	0.05
2006-07	6,847.81	736.18	3.98
2007-08	829.85	729.73	-
<b>Total</b>	<b>8,453.22</b>	<b>1,586.31</b>	<b>4.79</b>

The above table indicates that amount recovered was only 0.30 *per cent* of the accepted amount. Recovery of such meagre amount reflects apathy on the part of the departments/Government in prompt recovery of Government dues.

### 6.1.13 Follow up on Audit Report – summarised position

To ensure accountability of the executive in respect of all the issues dealt with in the various Audit Reports, the Public Accounts Committee (PAC) issued instructions in July 1993 for submission of *suo motu* replies by the concerned departments from 1986-87 onwards. The PAC specified the time frame as six weeks upto 32<sup>nd</sup> Report and six months in the 33<sup>rd</sup> Report for submission of action taken notes (ATN) on the recommendations of the PAC.

A review of outstanding ATNs as of September 2008 on the paragraphs included in the Reports of the Comptroller and Auditor General of India disclosed that the departments of the State Government had not submitted *suo motu* explanatory notes on 199 paragraphs of Audit Reports for the years from 1992-93 to 2006-07 in respect of revenue receipts as mentioned below:

**Table 6.10**

Year of Audit Report	Date of presentation of the Audit Report to the Legislature	Number of paragraphs/reviews included in the Audit Report		Number of paragraphs/reviews for which <i>suo motu</i> replies are awaited	
		Paragraphs	Reviews	Paragraphs	Reviews
1992-93	16 September 1994	6	...	6	...
1993-94	08 September 1995	8	...	...	...
1994-95	20 September 1996	10	...	4	...
1995-96	07 April 1997	14	2	3	2
1996-97	12 June 1998	21	1	17	1
1997-98	09 April 1999	8	1	1	...
1998-99	12 April 2000	8	1	8	1
1999-2000	07 December 2001	23	2	22	2
2000-01	01 April 2002	20	1	18	1
2001-02	20 June 2003	25	...	8	...
2002-03	11 June 2004	30	1	30	1
2003-04	14 October 2005	29	...	27	...
2004-05	27 March 2006	23	...	5	...
2005-06	19 April 2007	33	1	6	1
2006-07	12 May 2008	34	3	32	3
<b>Total</b>		<b>292</b>	<b>13</b>	<b>187</b>	<b>12</b>

The departments failed to submit ATN on 29 out of 30 paragraphs pertaining to revenue receipts for the years from 1982-83 to 1997-98 on which recommendations had been made by the PAC in their 16<sup>th</sup> to 33<sup>rd</sup> Reports presented before the State Legislature between December 1988 and June 2000, as mentioned below:

**Table 6.11**

Year of Audit Report	Number of paragraphs on which recommendations were made by the PAC but ATNs are awaited	Number of PAC Report in which recommendations were made
1982-83	2	16 <sup>th</sup>
1984-85	9	26 <sup>th</sup> 19 <sup>th</sup>
1987-88	1	26 <sup>th</sup>
1988-89	1	20 <sup>th</sup>
1989-90	1	20 <sup>th</sup>
1990-91	11	26 <sup>th</sup> 20 <sup>th</sup>
1991-92	3	26 <sup>th</sup> 20 <sup>th</sup>
1997-98	1	33 <sup>rd</sup>
<b>Total</b>	<b>29</b>	

Thus, failure by the concerned departments to comply with the instructions of the PAC, defeated the objective of ensuring accountability of the executive.

#### **6.1.14 Audit committee meetings**

During the year 2007-08, one Audit Committee Meeting in respect of Taxation Department was held in which 53 IRs having 149 paragraphs were discussed. Of these, 30 IRs and 77 paragraphs involving money value of Rs. 22.27 crore were settled.



## SECTION 'A' : REVIEW

### TAXATION DEPARTMENT

#### 6.2 Working of Taxation Check Post

##### *Highlights*

**Lack of control of check post authorities on import/dispatch of goods through the check posts resulted in loss/non-realisation of revenue of Rs. 9.72 crore.**

**(Paragraph 6.2.8)**

**Failure of the unit offices/assessing officers to maintain way bill/road permit registers and to take cognizance of the way bills/road permits received from the check posts at the time of finalising the assessments resulted in evasion of tax of Rs. 35.14 crore remaining unnoticed.**

**(Paragraph 6.2.10)**

**Due to absence of co-ordination between the check posts of the Taxation Department and the Directorate of Mineral Resources there was non-realisation of revenue of Rs. 13.95 crore.**

**(Paragraph 6.2.11)**

**Failure of the department to erect check posts at strategic locations resulted in loss of revenue of Rs. 11.13 crore.**

**(Paragraph 6.2.12)**

**Non-detection of excess load by the check posts resulted in loss/non-levy of composition money of Rs. 351.19 crore.**

**(Paragraph 6.2.16)**

**Out of 12,36,033 vehicles carrying consignments meant for other states entering the State, 1,77,833 vehicles did not cross through the exit check post resulting in loss of revenue of Rs. 20.51 crore.**

**(Paragraph 6.2.17)**

##### **6.2.1 Introduction**

Under the Meghalaya Sales Tax Act, the State Government may, by notification, set up and erect, check posts and barriers at any place in the State with a view to prevent the evasion of tax. The Government of Meghalaya has set up 17 sales tax check posts at various strategic points along its border with the neighbouring states between July 1979 and May 1994. Of these, eight were declared non-functional in 1997. The working of sales tax check posts is

regulated under the provisions of the Meghalaya Sales Tax Act, Meghalaya Finance (Sales Tax) Act, and Meghalaya Purchase Tax Act upto 30 April 2005 and thereafter under the Meghalaya Value Added Tax (MVAT) Act, 2003 and Rules made thereunder.

The officer-in-charge of the checkpost exercises and discharges his duties by way of inspection of documents produced; counter signature of way bills; collection of information relating to goods carried; interception, detention and search of vehicle, if required; imposition and collection of tax, fine and penalty; issue of transit pass in respect of vehicles belonging to other states passing through Meghalaya; maintenance of movement register of vehicles; sending copies of road permits/way bills to the concerned unit offices and submission of periodic reports and returns to the Commissioner of Taxes (COT) and the Government of Meghalaya.

A review of working of taxation check gates in Meghalaya revealed a number of system and compliance deficiencies which have been discussed in the succeeding paragraphs.

### **6.2.2 Organisational set up**

The COT is the administrative head of the Taxation Department who is assisted by a Deputy Commissioner of Taxes (DCT) and an Assistant Commissioner of Taxes (ACT). At the field level, the Superintendents of Taxes (ST)/Inspectors of Taxes (IT) in-charge of the check gates are entrusted with the work of verification of way bills, road permits, invoices, challans, consignment notes, tax clearance certificates *etc.* accompanying the vehicles carrying taxable goods. The STs/ITs are assisted by other inspectors and checkers for verification of document accompanying the vehicles, recording particulars of goods in movement register and other ancillary works relating to collection of revenue and transmission of road permits/waybills *etc.* to the respective assessing authority.

### **6.2.3 Audit objectives**

The review was conducted with a view to ascertain

- the overall efficiency and effectiveness of the system/mechanism in preventing evasion of taxes;
- extent of compliance of Acts, Rules, executive orders; and
- adequacy and effectiveness of the internal control mechanism.

#### 6.2.4 Scope of audit

The review was conducted through test-check of records for the years 2002-03 to 2006-07 of the COT and nine<sup>1</sup> check posts. Records of all the 11 district STs were examined and cross-checked with the records of the Director of Mineral Resources (DMR), Meghalaya between November 2007 and May 2008. Selection of the assessment records was made after dividing the number of records in four groups (strata) on the basis of gross turnover<sup>2</sup> of the dealers. 100, 50, 40 and 10 *per cent* of assessment records were selected from the first, second, third and fourth strata respectively. Weightage was also given to the units where the concentration of dealers dealing with coal and lime was high since Meghalaya is a major producer of these two minerals.

#### 6.2.5 Acknowledgement

Indian Audit and Accounts Department acknowledges the co-operation of the Taxation Department in providing necessary information and records for audit. The audit findings were reported to the Government on 30 June 2008 and discussed in the Audit Review Committee meeting on 12 September 2008. Response of the Government to the audit observations have been appropriately incorporated in the review.

#### Audit findings

#### 6.2.6. Trend of revenue

The collection of revenue at the check posts and percentage thereof to the revenue collected by the Sales Tax Department during the year 2002-03 to 2006-07 are mentioned below:

**Table 6.12**

(Rupees in crore)

Year	Revenue collected by the Sales Tax Department	Revenue collected at check posts	Percentage of revenue collection at checkpost
2002-03	87.20	4.90	5.62
2003-04	110.13	7.65	6.95
2004-05	126.19	9.11	7.22
2005-06	173.37	4.28	2.47
2006-07	215.82	4.37	2.02

Thus, the revenue collected by the Sales Tax Department constantly increased which indicates that there was increase in movement of goods vehicles through the check post. However, the collection of revenue at check posts decreased significantly from 7.22 *per cent* in 2004-05 to 2.02 *per cent* in 2006-07. Although the reasons for shortfall in collection of revenue at the

<sup>1</sup> Athiabari, Bajengdoba, Byrnihat, Dainadubi, Gorampani, Mendipathar, Tikrikila, Umkiang and Umsiang.

<sup>2</sup> Rs. 10 crore and above – 100 *per cent*, five crore and above but below Rs.10 crore – 50 *per cent*, Rs. 1 crore and above but below Rs.5 crore - 40 *per cent* and below Rs. 1 crore – 10 *per cent*.

check posts has not been intimated, yet, failure of the check post authorities to check the way bills/road permits of the vehicles and abysmally low percentage of physical verification of vehicles which ranged between 1.50 and 1.63 *per cent* were certainly among the contributing factors which also highlighted lack of control of the check post authorities on the movement of goods vehicles.

### **System deficiencies**

#### **6.2.7 Deployment of staff in check posts**

The Government of Meghalaya, Taxation Department set up 17 check posts between 19 July 1979 and 2 May 1994. Out of the above, seven check posts set up primarily to monitor the movement of timber were closed in 1997 following a ban imposed on timber felling by the Supreme Court and one check post was merged with another check post.

Efficient functioning of a field formation depends upon the proper deployment of staff and work load is an important factor in assessment of man power for each unit and has considerable impact on the efficiency of the officials. The responsibility for determination of staff requirement, their deployment and effective utilisation in each check post rests with the COT. Audit scrutiny revealed that there was no system of periodic analysis of manpower deployment in the check posts. While in busy check posts, an IT was checking almost 142 vehicles a day, 12 ITs were posted in defunct check posts or in some gates where less than one vehicle passed during the day. This anomaly in posting of ITs not only had a detrimental impact on the efficiency of the ITs but also pointed towards poor management of the available staff strength. Deficiencies noticed in deployment of manpower are mentioned below:

**6.2.7.1** During the period of review, the deployment of staff against movement of vehicles was as under:

**Table 6.13**

Sl. No.	Name of the checkgate	Number of staff deployed		Number of vehicles crossed the check posts	Number of vehicles checked by each IT per day <sup>3</sup>
		ITs	Checkers		
1.	Umkiang	3	5	7,78,692	142
2.	Byrnihat	12	18	19,02,755	87
3.	Dainadubi	3	8	2,62,257	48
4.	Athiabari	2	6	33,400	9
5.	Garampani	2	4	30,898	8
6.	Bajengdoba	2	3	13,457	4
7.	Tikrikilla	2	3	4,229	1
8.	Mandipather	2	3	1,382	0.38
9.	Umsiang	1	4	16	0.009

Thus, the number of vehicles checked per day by each IT varied between 0.009 and 142. Due to absence of a system of need based analysis of the manpower deployment at regular intervals, the department remained oblivious of the wide variation between the figures of vehicles checked by each IT. This negated the scope of optimum utilisation of the available manpower.

<sup>3</sup> Total no. of vehicles/5 x 365 x no. of ITs = No of vehicles checked by each IT.

**6.2.7.2** Scrutiny of the records relating to the sanctioned strength of officers and staff in taxation check posts during the period 2002-03 to 2006-07 revealed that 12 ITs and 18 checkers had been shown as deployed in the defunct check posts. Further, setting up of check post at Umsiang through which only 16 vehicles had passed during five years was unjustified.

After the cases were pointed out, the Government while admitting the facts stated in September 2008 that IT of Umsiang checkpost had been withdrawn and re-deployed in another check post where the volume of work was more. The reply was silent about redeployment of staff from other defunct check posts.

The Government may consider making it mandatory to review the deployment of manpower in each check post on the basis of work load at regular intervals for optimum utilisation of the available staff strength. The personnel posted at the defunct check posts may immediately be shifted to the other check posts having shortage of staff. They may also review the requirement of the check post at Umsiang.

### **6.2.8 Verification of way bills/road permits of goods vehicles**

Under the taxation laws of Meghalaya, any person who seeks to transport any goods by road is required to furnish to the officer-in-charge of the check post, a declaration, in the prescribed form *i.e.* road permit and way bill in triplicate containing the prescribed particulars. The officer-in-charge, on being satisfied about the correctness of the particulars furnished in the declaration, shall countersign all copies of the declaration. Two copies of declaration are to be retained at the check post and one is required to be sent to the concerned ST, where the person is registered, for checking the particulars furnished in the road permits/way bills with reference to the accounts/records of the dealers. Further, if the officer-in-charge of the check post is not satisfied with the documents accompanying the vehicle, he is required to search the vehicle and inspect all the goods and the documents. Under the Meghalaya Sales Tax Act, where any goods in movement are without documents, the officer-in-charge of the check post may accept by way of composition a sum of money not exceeding Rs. 1,000 or double the amount of tax whichever is greater. However, under the MVAT Act, the officer-in-charge shall levy penalty equal to five times the amount of tax leviable on such goods or 20 *per cent* of the value of the goods, whichever is higher. Audit scrutiny revealed that there was lack of control on movement of vehicles through the check posts as is evidenced by non-detection of import/dispatch of goods made by the dealers without submitting way bills/road permits to the check post authorities. A few cases of cross verification conducted in audit revealed the following deficiencies.

**6.2.8.1** In purchase tax circle, Shillong, 18 dealers made interstate sale of lime stone valued at Rs. 30.45 crore between April 2002 and December 2006. But, these dealers neither obtained tax clearance certificate from the assessing officer nor presented any declaration in the form of way bills before the officer-in-charge of the check post. The movement of taxable goods was also

not recorded in the register of outgoing vehicles. Consequently, penalty/composition money of Rs. 19.44 crore leviable in these cases was not levied. It was further noticed that nine out of 18 dealers having turnover of Rs. 1.18 crore had already closed down their business resulting in loss of revenue of Rs. 17.14 lakh.

**6.2.8.2** During the years 2005-06 and 2006-07, 3,455 consignments of taxable goods (betelnut, lime stone, glass) of nine unregistered dealers valued at Rs. 1.43 crore crossed the Bajengdoba checkpost. But, the officer-in-charge of the check post did not intercept these cases and levy penalty on the erring dealers. This resulted in loss of revenue of Rs. 39.03 lakh.

After the cases were pointed out, the Government agreed to investigate the matter. Further reply has not been received (October 2008).

**6.2.8.3** Cross check of the records of the Byrnihat checkpost with those of the Khanapara taxation check post (Assam) revealed that a registered dealer imported 19 consignments of goods valued at Rs. 3.18 crore during 2004-05 out of which only three consignments valued at Rs. 50 lakh were recorded in the Byrnihat check post in Meghalaya. Failure of the check post authorities to detect the remaining 16 consignments involving goods valued at Rs. 2.68 crore led to non-realisation of tax of Rs. 32.24 lakh.

**6.2.8.4** Cross verification of the records of the ST Guwahati, Assam with those of the Byrnihat and Dainadubi checkposts revealed that six dealers imported 657 consignments of taxable goods valued at Rs. 18.03 crore through two taxation check posts between 2002-03 and 2006-07 by utilising eight declaration in form 'C'. Of this, goods valued at Rs. 16.76 crore were imported without utilising road permits/way bills. No entry was recorded in the incoming vehicle movement registers of the concerned check posts. This resulted in non-levy of penalty of Rs. 8.84 crore.

**6.2.8.5** Scrutiny of the records revealed that the enforcement branch of COT detected 675 offence cases between April 2004 and March 2007 and collected revenue of Rs. 34.26 lakh from the transporters for import of taxable goods without valid documents. However, these cases escaped notice of the Byrnihat check post authorities and were subsequently intercepted by the enforcement branch.

Thus, due to absence of control of check post authorities on movement of vehicles, the goods imported without road permits/way bills could not be detected. As a result, the very purpose of erecting check posts was frustrated and checkpost authorities failed to impose and realise tax and penalty in the above cases.

The Government may issue specific instruction for verification of the transit documents of each and every vehicles passing through the check posts. Accountability may be fixed in case of passage of vehicles without submission of documents in the check posts.

### 6.2.9 Physical verification of goods vehicles

The COT, Meghalaya in 1979 prescribed norms of physical verifications of 10 *per cent* goods vehicles passing through the check post every day. During the course of the review, it was seen that the department did not have any infrastructure for loading and unloading, weighbridges, godowns and manpower in any of the check posts which are essential for carrying out physical verification.

Scrutiny of the records revealed that though 27 lakh vehicles crossed five check posts<sup>4</sup> during 2002-03 to 2006-07, only 42,086 vehicles were physically verified. The percentage of vehicles checked varied from 1.50 to 1.63 *per cent* as shown below:

**Table 6.14**

Year	Number of goods vehicles passed through the check-posts	Number of vehicles physically verified	Percentage of vehicles checked
2002-03	5,30,364	8,660	1.63
2003-04	5,34,104	8,047	1.51
2004-05	5,28,848	7,951	1.50
2005-06	5,44,262	8,322	1.53
2006-07	5,62,937	9,106	1.62
<b>Total</b>	<b>27,00,515</b>	<b>42,086</b>	<b>1.56</b>

Thus, against prescribed norms of 10 *per cent*, only 1.56 *per cent* of the total number of vehicles passing through the check gates could be checked. This was mainly due to lack of infrastructure for loading and unloading, weighbridges, godowns and shortage of man power.

After these cases were pointed out, the Government while admitting the facts stated in September 2008 that in absence of basic infrastructure like bye lane for parking of vehicles, loading and un-loading facilities *etc.*, the physical verifications as per norms could not be undertaken. However, all the cases had been sent to concern STs for verification and necessary action. Recovery of tax has not been intimated.

The Government may consider making it mandatory for the check posts to carry out physical verification of 10 *per cent* of the vehicles. Logistical support for carrying out the physical verification may also be provided in the interest of Government revenue.

### 6.2.10 Co-ordination between check posts and unit offices

Under the taxation laws of Meghalaya, a person transporting taxable goods for interstate sale shall produce the valid tax clearance certificate and way bill to the officer-in-charge of the check post who shall send these to the concerned assessing officer (AO). Besides, statements showing the details of way bills/road permits sent to the unit offices are also required to be endorsed to

<sup>4</sup> Bajengdoba, Byrnihat, Mendipathar, Tikrikilla and Umkiang. Remaining four checkposts did not furnish the details of physical verification report.

the COT for record and further monitoring. Each unit office shall maintain a register in form 4 for recording way bills received for verification and the result of such verification. As soon as a way bill is received by a unit office, it shall forthwith be entered in the register and passed to the concerned IT within three days for verification. The IT shall return the way bill to the unit office within seven days from the date of receipt after recording the result of verification on the body of the way bill. The task of maintenance of the register shall ordinarily be entrusted to the IT. The AO will cross verify the particulars in the way bill with the records of the dealer at the time of making assessment. Audit scrutiny revealed that there was lack of co-ordination between the check posts and the unit offices. It was noticed that though the check post authorities have send the copies of way bills/road permits to the unit offices, neither any action was taken by the IT to enter the particulars of the way bills/road permits in the prescribed registers and record the results of verification on the body of the way bills/road permits, nor did the AOs cross verify the particulars of the way bills/road permits while finalising the assessments. Also, the monitoring mechanism was weak as the statements received from the check posts were left unattended in the office of the COT and also no periodic report/return has been prescribed to be furnished by the STs to the COT mentioning the details of road permits/way bills received from the check gates during the month and action taken on these. Scrutiny also revealed that only four out of 11 unit offices maintained waybills/road permit registers and one ST maintained these registers partially. Due to these system defects, the following cases of evasion of tax were noticed during the course of review.

**6.2.10.1** In Byrnihat check post, it was noticed that, 49 dealers of Shillong and Jowai sold coal valued at Rs. 428.85 crore to dealers in Guwahati, Assam in the course of interstate trade or commerce during 2002-03 to 2006-07. Cross verification of assessment records of these dealers revealed that turnover of Rs. 27.39 crore only was assessed. Though the way bills/road permits were sent to the unit offices by the check post, due to non-maintenance of way bill register, turnover of Rs. 401.46 crore escaped assessment resulting in evasion of tax of Rs. 32.12 crore.

**6.2.10.2** In ST, Shillong it was noticed that, in 56 cases, the AO determined taxable turnover of Rs. 44.35 crore for the period between April 2002 and March 2005 and assessed the dealers accordingly between October 2003 and December 2007. Cross verification of road permits of the concerned dealers revealed that these dealers actually imported taxable goods valued at Rs. 58.47 crore. Thus, non-verification of the way bills/road permits resulted in short determination of turnover of Rs. 14.86 crore and consequently evasion of tax of Rs. 1.50 crore. Besides, maximum penalty of Rs. 2.25 crore was also leviable.

**6.2.10.3** Cross verification of the records of Umkiang check post with the assessment records of 13 dealers revealed that 1,14,897 MT of coal valued at Rs. 16.95 crore were dispatched in the course of interstate trade or commerce to Cachar (Assam) and Tripura through Umkiang check post during the years 2005-06 and 2006-07. The dealers did not disclose the aforesaid turnover and



due to non-maintenance of way bill register in the unit office, the AO also failed to assess the undisclosed turnover. Consequently, evasion of tax of Rs.1.36 crore remained unnoticed.

**6.2.10.4** In Purchase Tax Circle, Shillong, it was noticed that five registered dealers sold broom stick, *tezpatta*, and *dhooplakri* in the course of interstate trade through the Byrnihat check post and disclosed turnover of Rs. 5.24 crore in their returns for the period from April 2002 to September 2004 and were accordingly assessed between March and April 2006. However, cross verification of way bills received from the check post revealed that the dealers actually sold goods valued at Rs. 6.85 crore during the aforesaid period. Thus, due to non-verification of the way bills/road permits received from the check posts at the time of assessment, concealment of turnover of Rs. 1.61 crore remained unnoticed resulting in underassessment of tax of Rs. 16.08 lakh.

After the cases were pointed out, the Government stated in September 2008 that the AOs had been instructed to maintain prescribed register and also offer their comments on the aforesaid audit observation.

The Government may instruct the unit offices to maintain prescribed registers and also to take cognizance of the way bills/road permits while finalising the assessments.

#### **6.2.11 Co-ordination between check posts of the Taxation Department and the Directorate of Mineral Resources**

The COT vide notifications of 19 September 2000 and 26 September 2003 instructed that each truck load of 15 MT of coal would be allowed to cross the check posts of the state against 'P' form obtained on advance payment of security at prescribed rate of Rs. 1,200 and Rs. 1,800 respectively in addition to submission of declaration in the form of waybills and road permits. The coal laden trucks are also allowed to cross through the DMR check posts on payment of prescribed royalty. Audit scrutiny revealed that there was lack of co-ordination between the Taxation and Directorate of Mineral Resources' (DMR) check posts which led to evasion of tax as mentioned below.

Scrutiny of records revealed that 7,66,487 trucks load of coal crossed five taxation check posts<sup>5</sup> during 2002-03 to 2006-07 by producing 'P' forms at the check gates. Cross verification with the records of the DMR disclosed that 8,11,119 coal laden trucks actually crossed the check posts during the aforesaid period. Thus, 44,632 trucks of coal crossed the taxation check posts without 'P' forms which resulted in non-realisation of revenue of Rs. 7.19 crore. Besides, composition money of Rs. 6.76 crore could not be imposed as the officer-in-charge of the checkposts failed to detect unauthorised transportation of coal laden trucks through the taxation checkposts.

After this was pointed out, the Government while admitting the facts stated in September 2008 that efforts were being made to introduce a system of better co-ordination between the two departments to arrest loss of revenue.

<sup>5</sup> Athiabari, Byrnihat, Dainadubi, Garampani and Umkiang.

The Government may expedite the process of ensuring better co-ordination between the check posts of the taxation and DMR in the best interest of revenue of the State.

#### **6.2.12 Non-erection of check post at strategic locations**

**6.2.12.1** Under the taxation laws of the State, the Government may by notification, set up check posts at strategic places in the State with a view to prevent evasion of tax. Further, every person transporting goods shall file before the officer-in-charge of the check post, a correct declaration of the goods in such manner as prescribed under the CST Act in case of export of goods outside the territory of India. At the time of submission of return/finalisation of assessment, the dealer shall furnish the prescribed documents in support of export to claim exemption from payment of tax. Audit scrutiny revealed that the department did not erect any checkpoints along the border with Bangladesh to check bonafide export of coal.

Cross verification of the records of the DMR, Meghalaya with the records of the ST, Circle-V revealed that 174 dealers who were not registered under the taxation laws, were allowed to transport 9,17,544 MT of coal by the DMR during the period between July 2004 and September 2006 for export to Bangladesh. Movement of these vehicles carrying goods meant for export could not be checked by the Taxation Department due to non-existence of check post on the roads leading to Bangladesh border. Thus, absence of check post coupled with non-registration of the dealers resulted in loss of revenue of Rs. 11.01 crore.

After this was pointed out, the Government while admitting the facts stated in September 2008 that the DMR had been requested henceforth to allow the registered dealers only to export coal.

**6.2.12.2** The taxation check post at Byrnihat is not strategically located and is about 6 km away from the border of Assam. Audit scrutiny revealed that the check post has no control over transportation of taxable goods by manufacturers having manufacturing units located between the check post and the border with Assam.

In ST, Ri-Bhoi district, Nongpoh, assessment records of nine registered dealers having manufacturing units beyond Byrnihat check gate were scrutinised. Eight out of nine dealers disclosed interstate sales of Rs. 91.29 crore between 2002-03 to 2006-07. As there were no checkgate, the AO had no alternative but to accept the returns as furnished by the dealers. The ninth dealer was registered as the manufacturer of *oleo-resin*. As per records of the Commissioner of Excise, Meghalaya, the dealer imported 3.12 lakh bulk litres of rectified spirit valued at Rs. 62.40 lakh between January 2005 and May 2006 for production of *oleo-resin*. The import, however, remained undetected by the Taxation Department in absence of any check post. It was, however, seen that the dealer did not take up any manufacturing process and sold the spirit in the same form. During the period of existence of the business, the dealer did not submit any return and the AO did not complete assessments on

the best judgment basis. This resulted in loss of revenue of Rs. 12.48 lakh as the dealer had already closed down his manufacturing unit.

Thus, due to non-erection of check post in an appropriate place, the movement of vehicles carrying taxable goods of the dealers having business premises beyond the Byrnihat check post could not be cross checked and thus, there was no scope to detect evasion of tax by the dealers.

After the cases were pointed out, the Government while admitting the fact stated in September 2008 that erection of a sub-check post had been sanctioned to supplement working of the Byrnihat check post.

The Government may consider expediting the erection of sub-check post at strategic points so that no dealer can transport taxable goods without crossing the check post.

### **6.2.13 Internal Control Mechanism**

Internal controls are intended to provide reasonable assurance of proper enforcement of laws, rules, executive instructions *etc.* The internal control is effected through internal audit, inspection and periodical returns. The deficiencies noticed during audit are enumerated below.

#### **6.2.13.1 Internal audit**

Internal audit brings to the notice of the higher authorities the financial and procedural irregularities of the department to ensure effective working of the office. Audit scrutiny revealed that the Taxation Department has no independent internal audit wing. The Examiner of Local Accounts (ELA) is responsible for conducting internal audit of State Government departments. However, internal audit of the taxation check posts was never conducted by the ELA to evaluate the system of working of the check posts and suggest ways and means to plug leakage of revenue.

After this was pointed out, the Government in September 2008 assured that the ELA would be instructed to intensify internal audit and adequate man power would be deployed in the ELA to ensure better coverage of offices and check posts.

#### **6.2.13.2 Inspection by supervisory officers**

To ensure satisfactory functioning of all the checkposts, the Taxation Department had laid down the following norms of inspection by the supervisory officer:

- bimonthly inspection of check posts by the ST;
- half yearly inspection by DCT/ACT; and
- annual inspection by the COT.

Scrutiny revealed that no inspection had ever been carried out at any of the check posts by the aforesaid officials. This lapse reflects lack of internal

control mechanism which has been adequately pointed out in the paragraphs of the review.

After this was pointed out, the Government while admitting the facts stated in September 2008 that the suggestion had been accepted and order to this effect was being issued.

The Government may consider setting up an independent internal audit wing to ensure compliance with the rules and regulations. Supervisory inspection should be made obligatory for proper enforcement of Acts, Rules and executive instructions.

#### **6.2.14 Non-maintenance of basic records**

Under the taxation laws of the state, Bank drafts/bankers cheques as and when received are required to be forwarded to the concerned ST. A register of valuables is to be maintained in unit offices reflecting therein the date of receipt and deposit to the Government account.

- In ST, Jowai and Tura, the register of valuables was not maintained to watch the receipt of bank drafts/banker cheques from the taxation check posts. As a result, receipt and deposit of 381 bank drafts valuing Rs. 10.46 crore and bankers cheques valuing Rs. 75 lakh pertaining to the period from December 2002 to March 2007 sent by the Umkiang and Dainadubi check posts between January 2003 and May 2007 to the unit offices could not be verified. The unit offices also failed to confirm the receipt and deposit of the drafts/banker cheques into the Government account. Thus, failure to maintain the register of valuables as per prescribed rules was not only indicative of deficiencies in operational control but also fraught with the risk of draft becoming invalid or lost leading to loss of revenue.
- Cross-check of the records of the Umkiang check post with the records of the ST, Purchase Tax Circle, Shillong revealed that four banker cheques valuing Rs.1.47 lakh pertaining to the period from 14 April 2005 to 26 November 2006 sent to the unit office between 5 October 2005 and 29 November 2006 were neither reflected in the draft register maintained by the unit office nor deposited into the Government account. Thus, due to the absence of a system of monitoring on the part of the COT regarding the receipt and timely deposit of the drafts into the Government account by the STs, this lapse remained unnoticed and consequently led to non-remittance of revenue into the Government account.

After these cases were pointed out, the Government while admitting the facts stated in September 2008 that instruction has been issued to all the STs to maintain prescribed registers.

### ***Compliance deficiencies***

#### ***6.2.15 Loss of revenue due to manipulation in the weighment slips by the weighbridges***

In order to ensure proper realisation of tax, the Government issued orders to all the check posts to realise additional security from the vehicles carrying extra load of coal in the course of interstate trade in excess of prescribed quantity of 15 metric tonne (MT) per vehicle. The rates of additional security so fixed were Rs. 80 and Rs. 120 per MT of excess load with effect from October 2000 and September 2003 respectively. For this purpose, all coal laden vehicles were required to weigh their vehicles in the Government approved private weighbridges, obtain weighment slips and produce them at the exit check post. Further, Mines and Minerals Department also collects royalty on excess load on the basis of weighment slips issued by the Government approved weighbridges which are different from those approved by Taxation Department.

**6.2.15.1** Scrutiny of the records revealed that the COT checked the coal laden vehicles passing through the Byrnihat check post in November 2005 and informed the Government that there were manipulations made by the weigh bridges in the weighment slips recording an average weight of 15 MT instead of 20 to 23 MT carried by each vehicle. The COT also suggested measures to contain leakage of revenue. Audit had also pointed out on several occasions<sup>6</sup> to the State Government such manipulation in weighment slips by the truckers but no effective steps were taken by the Government to curb the revenue loss till the date of review. Thus, considering the aforesaid report of the COT, the Government was deprived of minimum revenue of Rs. 24.30 crore calculated on the basis of minimum average excess load of 5 MT on 4,05,078 trucks which passed through the Byrnihat check post during 2005-06 to 2006-07.

#### ***6.2.15.2 Short accountal of excess load***

Scrutiny revealed that in four check posts<sup>7</sup>, excess load of 17,24,779 MT of coal was despatched outside the state during 2003-04 to 2006-07 on which additional security of Rs. 18.96 crore was realised. But, as per records of the DMR, excess load of 23,86,254 MT of coal was actually despatched during the aforesaid period. Thus, due to short accountal of excess load of 6,61,475 MT of coal, the Government sustained a loss of revenue of Rs. 6.24 crore.

After the case was pointed out, the Government while admitting the facts stated in September 2008 that the proposal for setting up departmental weigh bridges was awaiting Cabinet approval.

<sup>6</sup> Paragraph 6.17 of Audit Report 2001-02, Paragraph 5.18 of Audit Report 2003-04, Paragraph 6.2.4 of Audit Report 2005-06 and Paragraph 6.2.6 of Audit Report 2006-07.

<sup>7</sup> Athiabari, Byrnihat, Dainadubi, and Umkiang.

### **6.2.16 Non-imposition of composition money**

Under the Meghalaya Finance (Sales Tax) Act, the COT may accept from the person who has committed an offence under the Act by way of composition of such offence in addition to tax recoverable, a sum of money not exceeding Rs. 1,000 or double the amount of tax whichever is greater. However, the MVAT Act stipulates that the composition money shall be Rs. 5,000 or double the amount of tax whichever is greater. Further, the COT, Meghalaya in May 2002 instructed all the officers-in-charge of the taxation check posts to realise composition money while realising additional security on coal transported beyond permissible limit of 15 MT.

**6.2.16.1** During the period 2005-06 and 2006-07, 3,88,429 coal laden trucks had crossed the Byrnihat check post with minimum excess load of 5 MT each<sup>8</sup>. The officer-in-charge of the check post failed to detect excess load due to manipulation of weighment slip by the weigh bridge personnel, resulting in non-levy of composition money of Rs. 194.21 crore.

**6.2.16.2** In three checkposts<sup>9</sup>, 8,08,208 trucks carried 25,18,374 MT of coal beyond permissible limit of 15 MT per truck during April 2002 to March 2007. The officers-in-charge of the check posts though realised additional security, failed to recover the composition money as directed by the COT. This resulted in loss of revenue of Rs. 156.98 crore. Further, statements sent by the check posts showing the excess load carried by the coal laden trucks to the COT were left unattended and thus non-imposition of composition money remained undetected.

After this was pointed out, the Government while admitting the facts stated in September 2008 that the MVAT Act is being amended to insert the instruction of May 2002 after consulting Law Department.

### **6.2.17 Control on transit of goods through the state**

According to the MVAT Act and the Rules made thereunder, when a vehicle carrying goods from another state meant for delivery outside the state passes through Meghalaya, the driver of the vehicle is required to obtain a transit pass (TP) at the entry check post and produce it at the time of exit from the state to the officer-in-charge of the exit check post and obtain his endorsement with seal and signature as a proof of such exit. This provision is of vital importance to ensure that vehicles carrying goods meant for other states do not deliver goods to the dealers within the state. Such provision was, however, not in existence under the repealed Acts and though the provision was included in the MVAT Act, these were not implemented during the period covered by this review. Due to the absence of the provisions of issue of TP under the repealed Acts and non-implementation of the provisions under the MVAT Act following irregularities were noticed.

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<sup>8</sup> Based on COT's report of November 2005.

<sup>9</sup> Byrnihat, Dainadubi and Umkiang.

**6.2.17.1** In three check posts<sup>10</sup>, it was noticed that, during 2002-03 to 2006-07, 5,42,741 vehicles carrying taxable goods valued at Rs. 19,414.06 crore entered from other states for transit by road through Meghalaya. However, only 5,25,400 vehicles carrying goods valued at Rs. 19,290.96 crore crossed the exit check posts. Thus, 17,341 vehicles carrying taxable goods valued at Rs. 123.12 crore did not cross the exit check posts and the goods were sold inside the state. This resulted in loss of revenue of Rs. 11.36 crore.

After this was pointed out, the Government while admitting the facts stated in September 2008 that enforcement branch and concerned STs were instructed to initiate action against all the cases referred by audit. The Government however, stated that the computation of revenue loss might not be accurate as 14 movement registers had escaped audit scrutiny. A further scrutiny of the 14 movement registers revealed that the vehicles recorded in those registers had already been checked and duly incorporated in the paragraph.

**6.2.17.2** In Garampani check post, it was seen that during 2002-03 to 2006-07, 23,844 vehicles carrying cement valued at Rs. 174.83 crore from Umrangso (Assam) entered Meghalaya through the Garampani check post. The consignments were meant for delivery in different places of Assam, Tripura and Mizoram and the vehicles were to exit through the Umkiang check post. However, 9,943 out of 23,844 vehicles carrying cement valued at Rs. 72.88 crore did not cross the exit check post. Thus, cement valued at Rs. 72.88 crore was sold inside the state. This resulted in loss of revenue of Rs. 8.87 crore.

**6.2.17.3** In Garampani check post, it was seen that 45 vehicles carrying taxable goods valued at Rs. 2.53 crore of other states entered through Umkiang check post during 2006-07 on transit through Byrnihat exit check post. Scrutiny, however, revealed that the vehicles did not cross the exit check post. Thus, the goods were sold inside the state resulting in loss of revenue of Rs. 24 lakh.

**6.2.17.4** Scrutiny of records revealed that 33 vehicles carrying taxable goods valued at Rs. 28.74 lakh meant for other states entered through Byrnihat check post during 2006-07 on transit through the Umkiang exit check post. Records of Umkiang exit check post, however, disclosed that the vehicles did not cross the exit check post. Thus, the goods were sold inside the state resulting in loss of revenue of Rs. 3.60 lakh.

**6.2.17.5** In Umkiang check post, it was seen that, 6,69,370 vehicles crossed the checkpost during April 2002 to March 2007, of which, 2,43,922 vehicles carried goods from places within the state to places outside the state. The remaining 4,25,448 vehicles, carrying goods from other states meant for delivery outside the state, entered the state through Byrnihat check post and accordingly crossed exit checkpost at Umkiang as stated by the department. However, cross verification of the records of neighbouring checkpost of Assam revealed that against 6,69,370 vehicles only 5,18,899 vehicles crossed the check post during the aforesaid period. Thus, 1,50,471 vehicles carrying

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<sup>10</sup> Byrnihat, Garampani and Umkiang function as both entry and exit checkposts.

taxable goods did not actually cross the exit check posts and delivered goods to the dealers within the state leading to evasion of tax. Such evasion of tax could have been avoided had the department introduced the system of TP as provided in the MVAT Act with effect from the date of introduction of MVAT Act i.e, May 2005.

#### **6.2.18 Misappropriation of Government revenue**

The COT, Meghalaya directed the ST, Jowai in February 2002 to open an account at the designated bank at Umkiang for depositing all revenue collected at the check post. The amount thus deposited was to be transferred to the United Bank of India, Jowai through banker's cheque. Transfer by cash to any other ST was not permissible.

**Test check of the cash book of the Umkiang taxation check post revealed that an amount of Rs. 3.29 lakh collected between 17 November 2004 and 4 September 2006 was shown as transferred to the ST, Tura by cash. The ST, Tura however, stated in January 2008 that no cash had ever been received by his office during the period from 2002-03 to 2006-07 from any check post. Thus, the revenue of Rs. 3.29 lakh remained out of the Government account and was misappropriated.**

After this was pointed out, the Government while admitting the facts stated in September 2008 that the matter was under investigation at ACT's level and action would be taken on the basis of report of the investigation.

#### **6.2.19 Short realisation of penalty**

Under section 76 of the MVAT Act read with Rule 53 of the Rules made thereunder, if the person in charge of a vehicle carrying taxable goods fails to produce the prescribed documents before the check post, the officer-in-charge of the check post shall impose penalty equal to five times of the tax leviable on such goods or 20 *per cent* of the value of goods, whichever is higher.

In Byrnihat taxation checkpost, it was noticed that, 81 vehicles imported taxable goods valued at Rs. 14.93 lakh during the period May 2005 to February 2007 without valid documents. The officer-in-charge of the check post realised security money of Rs. 1.13 lakh but did not impose and realise penalty of Rs. 6.48 lakh. This resulted in short realisation of revenue of Rs. 5.35 lakh.

After this was pointed out, the Government while admitting the facts stated in September 2008 that the Act was being amended to delegate officer-in-charge of check posts the power for imposition of penalty.

#### **6.2.20 Realisation of revenue at the check posts**

According to Rule 58 of the Meghalaya Financial Rule, all check posts are required to issue receipts in TR form 4 while collecting money on behalf of the Government and maintain stock register of receipt books. The receipt shall



be signed by a duly authorised officer and the amount collected should be entered in the cash book. The detailed particulars of books received from the issuing authority, issued to the revenue collector and utilised are required to be recorded in a register and authenticated by the officer-in-charge periodically.

**6.2.20.1** In Dainadubi check post, it was noticed that the particulars of books issued, utilised and balance in stock were not regularly recorded in the stock register of receipt books. The entries were also not authenticated by the officer-in-charge of the check post.

Cross verification of the issue register of receipt books of COT with the stock register of the check post revealed that 2,350 receipt books (100 pages each) were issued to checkpost between 4 December 2002 and 9 March 2007. However, 2,265 books only were shown as received in the check posts registers. Thus, 85 books remained unaccounted for in stock register of the check posts which is fraught with risk of unauthorised usage and misappropriation.

After this was pointed out, the Government while admitting the facts stated in September 2008 that 85 books were subsequently entered in the stock register which was earlier not recorded through oversight. However, during physical verification in October 2008 the department could produce 78 books out of 85 books.

**6.2.20.2** In Byrnihat taxation check post, security money aggregating Rs. 18 lakh was collected in cash from 1,078 vehicles during the years 2002-03 to 2006-07, but no receipts were issued to the payees and no cash book was maintained for posting of revenue collected. Instead, the revenue was entered in a register and deposited into Government account. Thus, collection of revenue without issuing receipts and non-maintenance of a cash book was fraught with the risk of misappropriation of Government revenue.

After this was pointed out, the Government while admitting the facts stated in September 2008 that receipts were issued to the payees for additional security realised. The reply was, however, silent regarding non-issue of receipts in the aforesaid cases.

### ***Other points of interest***

#### ***6.2.21 Delay in deposit of revenue***

According to Rule 7 of the Central Treasury Rules (as adapted by the Government of Meghalaya), all moneys received by the Government officers on account of revenue, shall without undue delay, be paid in full into the appropriate head of the Government account.

**6.2.21.1** In Byrnihat taxation checkpost, composition money aggregating Rs. 14.06 lakh was collected in cash from 15,362 vehicles during the period between April 2005 and March 2007. Instead of promptly depositing the revenue into the Government account, the amount collected was retained in hand for a period ranging from 6 to 169 days reckoned from the first day of

the month following the month of collection upto the dates of deposit. Reasons for such irregular retention of Government money was not on record.

**6.2.21.2** In Dainadubi taxation checkpost, additional security aggregating Rs. 60 lakh was realised in cash from the vehicles carrying excess load of coal during the period between 1 January 2007 and 31 March 2007. Instead of depositing the amount into the Government account, the revenue collected was kept in bank as deposit at call. Out of Rs. 60 lakh, Rs. 57 lakh and Rs. 3 lakh were converted into eight bank drafts on 2 May and 9 July 2007 respectively. The drafts were sent to concerned AO for credit into Government account. Thus, delay in deposit resulted in revenue ranging between Rs. 3 lakh and Rs. 57 lakh remaining outside the Government account for a period ranging between 36 and 100 days reckoned from the first day of month following the month of collection upto the dates of purchase of bank drafts.

After this was pointed out, the Government while admitting the facts stated in September 2008 that sincere efforts would be taken to avoid undue delay and to make prompt deposit of revenue

#### **6.2.22 Conclusion**

Check posts were erected with a view to check evasion of tax which was however negated by ill equipped infrastructure. Improper distribution of manpower at check posts was also a major factor for the revenue leakages. The percentage of physical verification ranged between 1.50 and 1.63 *per cent* against the target of 10 *per cent*. There was lack of co-ordination between the check posts of the department and the unit offices/DMR check posts. Absence of proper control on movement of vehicles through the check posts resulted in substantial number of goods vehicles escaping notice of the check post authorities leading to evasion of tax remaining unnoticed. Rampant manipulation of weight, passage of trucks carrying unauthorised goods and goods meant for other states being illegally delivered within the state as a result of non-introduction of TP system led to loss of revenue to the state exchequer. Non-erection of check posts at strategic locations resulted in export of goods remaining undetected/acceptance of turnover disclosed by the dealers without any scope of further verification. Internal control mechanism was weak as evidenced by absence of internal audit/non-conducting of inspection by the departmental officers and non-maintenance of prescribed registers.

#### **6.2.23 Summary of recommendations**

The State Government may consider the following recommendations to check evasion of tax/leakage of revenue:

- **issuing specific instruction for verification of the transit documents of each and every vehicles passing through the check posts. Also, physical verification of 10 *per cent* of the vehicles prescribed by the COT may be made mandatory.**
- **making it mandatory for the unit offices to maintain prescribed registers and also to take cognizance of the way bills/road permits**

while finalising the assessments in the interest of Government revenue.

- **ensuring co-ordination between the check posts of the Taxation Department and DMR to arrest the scope of evasion of tax.**
- **erection/shifting of checkpost at strategic points so that no dealer can transport taxable goods without crossing the check post.**
- **setting up an independent internal audit wing to ensure compliance with the rules and regulations. Supervisory inspection should be made obligatory for proper enforcement of Acts, Rules and executive instructions.**
- **periodical return to the COT showing receipt, issue and balance of receipt books in each check post may be made mandatory.**

## **SECTION 'B' : AUDIT OF TRANSACTIONS**

### **EXCISE DEPARTMENT**

#### **6.3 Misclassification of India made foreign liquor**

##### **Misclassification of 34,350 cases of IMFL as general brand instead of deluxe brand led to short realisation of excise duty of Rs. 16.49 lakh.**

Under the provisions of the Meghalaya Excise Act and rules made thereunder, passes for the import of IMFL shall be issued to licenced vendors on payment of import pass fee at prescribed rate. The Act provides payment of different rate of excise duty on the cost price of different brand of IMFL. The cost price of general brand and deluxe brand of IMFL ranges from Rs. 336 to Rs. 635 and Rs. 636 to Rs. 1,135 per case respectively. The excise duty on general brand and deluxe brand of IMFL is leviable at the rate of Rs. 399 and Rs. 447 respectively.

Scrutiny of the records of the SE, Jaintia Hills district, Jowai in December 2007 revealed that 34,350 cases of a particular brand of IMFL were removed from three bonded warehouses during 2006-07 and excise duty was realised on the basis of cost price of Rs. 635 per case classifying these as general brand. The cost price, however, did not include the import pass fee of Rs. 54 per case that was paid by the bonder. Since import pass fee is required to be paid by a bonded warehouse before importing IMFL from outside the state it forms an element of cost price. If export pass fee is included in these cases, the particular brand of IMFL would be classified as deluxe brand instead of general brand and thereby would attract higher rate of excise duty. Thus, due to non-inclusion of import pass fee to the cost price of liquor, excise duty of Rs. 16.49 lakh was short realised.

The case was reported to the department/Government in January 2008; their reply has not been received (November 2008).

#### **6.4 Non-realisation of licence fee**

##### **A bottling plant was allowed to function without getting the licence renewed resulting in non-realisation of licence fee of Rs. 15.82 lakh.**

Under the Meghalaya Excise Act and Rules made thereunder, every licensee dealing in IMFL, is required to renew his licence on payment of the licence fee in advance as prescribed by the Government from time to time. Further, no licensee shall be allowed to function unless the licence is renewed on payment of the prescribed licence fee in advance. If any duty or fee is unpaid, the authority who granted the licence, may cancel or suspend it.

Scrutiny of the records of the Superintendent of Excise (SE), Ri-Bhoi District, Nongpoh in May 2007 revealed that the owner of a bottling plant did not renew the licence for the period from 2002-03 to 2007-08. Instead of cancelling the licence, the Commissioner of Excise (CE), Meghalaya continued to issue import permits to the bottling plant during the aforesaid periods. Thus, irregular granting of permits without realisation of licence fee not only violated the Excise Act and Rules but also resulted in non-realisation of revenue of Rs. 15.82 lakh.

The case was reported to department/Government in January 2007, their reply has not been received (November 2008).

### **6.5 Irregular grant of exemption**

**A manufacturer of *oleo* resin was irregularly granted exemption from payment of import pass fee of Rs. 10.80 lakh on import of rectified spirit for industrial purposes.**

Under Rule 27 of the Meghalaya Excise Rules, import of all foreign liquor shall be covered by a pass to be obtained on payment of prescribed pass fee. However, import of denatured spirit is exempted from payment of pass fee. Under Rule 370, a pass fee of Rs. 6 per bulk litre (BL) is leviable on liquor imported into Meghalaya.

Scrutiny of the records of the CE, Meghalaya in May 2007 revealed that a manufacturer of *oleo* resin imported 1.80 lakh BL of rectified spirit during 2005-06 and was exempted from payment of import pass fee. The exemption granted was irregular as only denatured spirit was permitted to be exempt from the payment of pass fee. This resulted in irregular exemption of Rs. 10.80 lakh.

The case was reported to the department/Government in June 2007; their reply has not been received (November 2008).

## **FOREST AND ENVIRONMENT DEPARTMENT**

### **6.6 Loss of revenue due to non-realisation of export fee**

**Unauthorised export of limestone without transit pass resulted in loss of revenue of Rs. 6.95 crore.**

Under the Meghalaya Forest Regulation, ‘forest produce’ includes rock and minerals including limestone whether found in a forest or non-forest area. In October 1999, the Government of Meghalaya, Forest and Environment Department notified that for removal of any forest produce outside the State, a transit pass shall be issued on realisation of Rs. 300 per truck.

Scrutiny of the records of the Principal Chief Conservator of Forests (PCCF), Meghalaya and divisional forest officers (DFO), Khasi Hills, Jaintia Hills forest division in November – December 2007 revealed that between April 2002 and March 2007, 2.32 lakh trucks of limestone were removed from the forest divisions and exported to other states. The divisions did not issue any transit pass to these trucks on realisation of export fee of Rs. 300 per truck as provided in the aforesaid notification. Thus, unauthorised export of limestone without transit pass resulted in loss of revenue of Rs. 6.95 crore.

The cases were reported to the department/Government between December 2007 and February 2008; their reply has not been received (November 2008).

### **6.7 Unauthorised lifting of timber**

**Timber was unauthorisedly lifted by the Meghalaya Forest Development Corporation on part payment of Rs. 62 lakh against the royalty of Rs. 1.82 crore leading to short realisation of Rs. 1.20 crore.**

Under the Meghalaya Forest Regulations, no forest produce shall be extracted/lifted from a forest area unless the prescribed royalty is paid in full.

Scrutiny of the records of the PCCF, Meghalaya and the DFO, Garo Hills forest division in August and November 2007 revealed that between February 2001 and December 2003, the Meghalaya Forest Development Corporation (FDCM) lifted timber of mixed species measuring 5,356.348 cum on part payment of royalty of Rs. 62 lakh against the due royalty of Rs. 1.82 crore. The balance royalty of Rs. 1.20 crore was neither paid by the FDCM nor was any action initiated by the Forest Department to realise it. This led to unauthorised lifting of timber and short realisation of royalty of Rs. 1.20 crore.

The case was reported to the department/Government in October 2007 and February 2008; their reply has not been received (November 2008).

### **6.8 Loss of revenue**

**Loss of revenue of Rs. 79.63 lakh as 17 mahals remained inoperative due to inaction of the department.**

As per the Assam Settlement of Forest Coupes and *Mahals* by Tender System Rules, 1967 (as adopted by the Government of Meghalaya), *mahals* are to be settled by inviting tenders. Sand/stone in a river bed is in constant process of accumulation and depletion due to river current and if a *mahal* is left unsettled during a specified working period, the sand/stone is carried away by the river current resulting in loss of revenue.

**6.8.1** Scrutiny of the records of DFO, Khasi Hills forest division, Shillong in November 2007 revealed that 15 *mahals* were put up for sale for the

working period 2003-04 and 2004-05 with a stipulated quantity of 55,900 cum of stone and 1,00,350 cum of sand. But, none of these *mahals* were put up for sale during the working period 2005-07 by inviting tenders. As the working period of the *mahals* had already expired, the *mahals* remained unsettled for the entire period of 2005-07 resulting in minimum loss of revenue of Rs. 74.83 lakh.

**6.8.2** Scrutiny of the records of DFO, Jaintia Hills forest division, Jowai in November 2007 revealed that stone boulders available in the Umngot and Rongapani rivers were drained into Bangladesh in absence of extraction. The DFO, thus, proposed to the PCCF in November 2006 to constitute two stone boulder *mahals* viz., Umngot River stone *mahal* and Rongapani River stone *mahal* with stipulated quantity of 3,000 cum each. The PCCF informed the Government in December 2007 about the loss incurred due to boulders being washed away to the neighbouring country and requested for Government approval to constitute the river *mahals*. Even after lapse of one year, the proposal was not approved leading to loss of revenue of Rs. 4.80 lakh.

The cases were reported to the department/Government in January 2008; their reply has not been received (November 2008).

## **6.9 Illicit felling and removal of timber**

### **Illicit felling and removal of 1,348.039 cum of timber from reserve forests led to loss of revenue of Rs. 75.88 lakh.**

Under the provisions of the Meghalaya Forest Regulation (MFR) and rules framed thereunder, felling and removal of trees from a reserve forest without a valid pass constitutes a forest offence punishable with fine. To prevent such illegal/removal of forest produce, erection of forest check gates at all the vital points is the primary responsibility of the Forest Department.

Scrutiny of the records of the DFOs, Garo Hills and Khasi Hills forest divisions in August and November 2007 respectively revealed that 1,348.039 cum of timber of mixed species involving royalty of Rs. 75.88 lakh was illegally felled by miscreants from the reserve forests under the two divisions between July 2005 and July 2007 and the entire outturn was removed by the miscreants during the aforesaid periods. Illegal felling and removal of such a large quantity of timber by miscreants from the state reserve forest not only indicates poor enforcement measures but also resulted in loss of royalty of Rs. 75.88 lakh. Audit had repeatedly pointed out these lapses in successive Audit Reports but no follow up action was initiated by the department and offence cases were left unattended.

These cases were reported to the department/Government in October and December 2007; their reply has not been received (November 2008).

## **6.10 Loss of revenue due to non-lifting of timber**

### **Loss of revenue of Rs. 18.95 lakh due to non-lifting of timber by the Forest Development Corporation of Meghalaya.**

Seized and wind fallen trees are allotted to the (FDCM) by the Government on payment of full royalty.

**6.10.1** Scrutiny of the records of the PCCF, Meghalaya, Shillong and DFO, Garo Hills Forest Division, Tura in August and November 2007 revealed that 261.954 cum of timber of mixed species valued at Rs. 14.30 lakh was allotted to the FDCM in July and September 2002. Though the corporation neither paid the royalty nor lifted the timber till November 2007, no action was taken by the PCCF and the DFO, Tura to ensure lifting of timber by the allottee. With the passage of time, the timber deteriorated and the percentage of deterioration was between 60 and 79 *per cent*. The department, thus suffered a loss of revenue of Rs. 10.19 lakh.

**6.10.2** Scrutiny of the records of the DFO, Khasi Hills in November 2007 revealed that timber of mixed species measuring 558.18 cum was allotted to the FDCM during 2003 from the Kyrdumkulai and Umshing area of Umtasar Range. Out of the allotment, the FDCM lifted 245.461 cum and the remaining timber measuring 312.72 cum having royalty value of Rs. 8.76 lakh was left inside the reserved forests and deteriorated with the passage of time. Thus, due to non-lifting of timber by the FDCM, the department incurred a loss of Rs. 8.76 lakh.

These cases were reported to the department/Government in October 2007 and February 2008, their reply has not been received (November 2008).

## **6.11 Short realisation of royalty**

### **Incorrect application of rate on 2,433.74 cum of sand, 5,796.62 cum of stone, 607.55 cum of squared stone and 2,429.49 cum of clay led to short realisation of royalty of Rs. 3.28 lakh.**

The Government of Meghalaya, Forest and Environment Department in their notification of 12 November 1998 revised the rate of royalty on sand from Rs. 20 to Rs. 30, stone from Rs. 40 to Rs. 80, squared stone from Rs. 40 to Rs. 95 and clay from Rs. 16 to Rs. 32 per cum.

Scrutiny of the records of two user agencies<sup>1</sup> with those of the DFO, Jaintia Hills forest division, Jowai in November 2007 revealed that 2,433.74 cum of sand, 5,796.62 cum of stone, 607.55 cum of squared stone and 2,429.49 cum clay were extracted and utilised in works by the contractors during 2006-07. The user agencies realised royalty of Rs. 3.44 lakh at the pre-revised rates

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<sup>1</sup> Executive Engineer: North and South division.



from the contractors bills instead of Rs. 6.72 lakh. No action was thereafter initiated by the Forest Department to recover the balance revenue accrued due to realisation of royalty at the pre-revised rate. This resulted in short realisation of royalty of Rs. 3.28 lakh. It would be pertinent to mention that this lapse had been repeatedly pointed out by audit in successive Audit Reports since the revision and the Forest Department had maintained that the user agencies were responsible to recover the loss. But no effective step has been taken either by the Forest Department or the Works Department to sort out the issue due to which Government is sustaining short realisation of revenue year after year and with the passage of time these may become irrecoverable.

The case was reported to the department/Government in January 2008; their reply has not been received (November 2008).

## MINING AND GEOLOGY DEPARTMENT

### 6.12 Short realisation of royalty

#### **Delay in implementation of revised rate of royalty led to loss of revenue of Rs. 10.09 crore.**

In exercise of powers conferred under the Mines and Minerals (Development and Regulation) Act, 1957 (MMDR Act), the Government of India, Ministry of Coal revised the rate of royalty per metric tonne (MT) of coal from Rs. 165 to Rs. 130 plus five *per cent* of pithead price of coal with effect from 1 August 2007. Further, in August 2007, the North East Coal Field Limited, Assam informed the Director of Mineral Resources (DMR), Meghalaya, the pithead price of coal which varied from Rs. 1,320 to Rs. 1,888 per MT. Based on this information and taking into consideration the minimum notified price of Rs.1,320 per MT, the revised rate of royalty per MT of coal is calculated at Rs. 196.

Scrutiny of the records of the Directorate of Mineral Resources (DMR), Meghalaya in March 2008 revealed that the revised rates had not been implemented till March 2008. Between August 2007 and January 2008, 32,55,185 MT of coal was sold and royalty of Rs. 53.71 crore was realised at the pre-revised rate of Rs. 165 per MT instead of Rs. 63.80 crore at the revised rate of Rs. 196 per MT. Thus, inordinate delay on the part of the State Government to implement the revised rate of royalty resulted in loss of revenue of Rs. 10.09 crore.

After the case was pointed out, the Government stated in September 2008 that the DMR had taken up the matter with the Ministry of Coal, Government of India to ascertain notified price of Meghalaya coal in May 2008 after a lapse of nine months from the date of notification.

### **6.13 Short/non-realisation of royalty on coal**

#### **Failure of the Mines and Minerals Department to prevent unauthorised export of coal and limestone led to the loss of revenue of Rs. 6.37 crore.**

The MMDR Act lays down that every licensee or permit holder or lessee shall pay the prescribed royalty in respect of the mineral removed or consumed by him. The DMR, Meghalaya notified in September 1995 that if any trader fails to pay the full royalty in advance on the quantity of mineral transported, penalty at the rate of 25 to 100 *per cent* should be collected at the mineral check gate in addition to the royalty. The royalty on coal was fixed at Rs. 165 per MT from 16 August 2002 and royalty on limestone was Rs. 45 per MT and cess was Rs. 5 per MT.

Scrutiny of the records of the DMR, Meghalaya in March 2008 revealed that permit holders exported 10.29 lakh MT of coal and 5.89 lakh MT of limestone for the period from April 2005 to March 2007 to Bangladesh through Borsora, Bholaganj and Shella land customs stations. Cross verification with the report of the Customs Department, however, revealed that the permit holders actually exported 11.74 lakh MT of coal and 12.66 lakh MT of limestone during the aforesaid period. The enforcement staff at the check gate of Mines and Minerals Department failed to detect export of 1.45 lakh MT of coal and 6.77 lakh MT of limestone to Bangladesh resulting in loss of revenue of Rs. 6.37 crore in the shape of royalty, cess and penalty.

The case was reported to the department/Government in April 2008; their reply has not been received (November 2008).

### **6.14 Evasion of royalty on coal**

#### **Supply of coal by 124 dealers to a cement manufacturing company without payment of royalty led to non-realisation of royalty of Rs. 1.46 crore on which minimum penalty of Rs. 36.45 lakh was also leviable.**

In September 1995, the DMR, Meghalaya notified that with effect from October 1995, if any dealer/firm/company fails to pay full royalty in advance on the quantity of coal transported in his carrier, penalty at rates varying from 25 to 100 *per cent* should be collected at the mineral check gate in addition to the royalty on the quantity on which advance royalty of coal was not paid. Coal traders should possess valid coal transport *challans* (CTC) on advance payment of royalty on the quantity of coal transported to avoid payment of penalty at the check gate.

Scrutiny of the records of the DMR, Meghalaya in March 2008 revealed that 124 dealers transported 88,365 MT of coal to a cement manufacturing company between April 2005 and March 2007. Cross check of the CTC register in DMR, Meghalaya disclosed that neither any CTC was issued to the suppliers nor was any royalty realised at the mines and minerals check gates.

This resulted in evasion of royalty of Rs. 1.46 crore. Besides, minimum penalty of Rs. 36.45 lakh was also realisable from the transporters.

The case was reported to the department/Government in April 2008, their reply has not been received (November 2008).

### **6.15 Non-payment of royalty on production of limestone**

**A lessee paid royalty on lime stone actually despatched instead of the quantity produced leading to non-realisation of revenue of Rs. 1.80 crore. Besides, interest of Rs. 86.17 lakh was also leviable.**

The MMDR Act stipulates that every lessee shall pay the prescribed royalty in respect of any minerals removed or consumed by him. It was judicially held<sup>2</sup> by the Supreme Court that removal of the seam in the mine and extracting the same through the pit's mouth to the surface satisfy the requirement of the aforesaid section in order to give rise to liability for royalty. Further, Rule 64 A of the MC Rules provides that if the dues payable by the lessee are not paid within the time specified for such payment, simple interest at the rate of 24 *per cent* per annum shall be charged on the unpaid amount from the sixtieth day of the expiry of the date fixed for payment of such dues.

Scrutiny of the records of the DMR, Meghalaya in March 2008 revealed that between January 2006 and December 2007, a lessee extracted 11.38 lakh MT of limestone, of which, 7.38 lakh MT was despatched/consumed during the aforesaid period. The lessee was thus, liable to pay royalty of Rs. 5.12 crore on 11.38 lakh MT of limestone but he paid royalty of Rs. 3.32 crore on the quantity actually despatched/consumed which was contrary to the judgment of the apex court. This resulted in non-realisation of revenue of Rs. 1.80 crore. Besides, for non-payment of royalty on production, the lessee was also liable to pay interest of Rs. 86.17 lakh.

The case was reported to the department/Government in April 2008; their reply has not been received (November 2008).

### **6.16 Loss of revenue due to concealment of quantity of limestone despatched**

**A lessee concealed despatch of 81,474 MT of limestone and evaded royalty of Rs. 36.66 lakh and cess of Rs. 4.07 lakh.**

The Mineral Concessions Rules, 1960 states that a lessee shall furnish to the State Government a monthly return in form 8 reflecting therein the opening stock, minerals produced and minerals in stock at the close of the month.

<sup>2</sup> National Coal Development Corporation Vs State of Orissa, AIR 1976 Orissa.

Scrutiny of the records of the DMR, Meghalaya in March 2008 revealed that a lessee submitted monthly returns of limestone in the prescribed format for the period from January 2005 to December 2007. Scrutiny further revealed that the lessee disclosed closing stock of lime stone as 7,25,520 MT for the month of November 2006 whereas opening stock of limestone for December 2006 was shown as 6,44,046 MT. Thus, the lessee concealed despatch of 81,474 MT and evaded royalty of Rs. 36.66 lakh and cess of Rs. 4.07 lakh. This resulted in loss of revenue of Rs. 40.73 lakh.

The case was reported to department/Government in April 2008; their reply has not been received (November 2008).

## STAMPS AND REGISTRATION DEPARTMENT

### 6.17 Evasion of stamp duty

**Four companies transferred Rs. 1.71 crore without payment of stamp duty of Rs. 16.91 lakh.**

Under the Indian Stamps (IS) Act, 1899, conveyance includes a conveyance on sale and every instrument by which property, whether movable or immovable, is transferred *inter vivos*. Further, clause 23 of the IS (Meghalaya Amendment) Act, 1993 lays down that stamp duty on conveyance where the value of the consideration exceeds Rs. 1.50 lakh shall be calculated at the rate of Rs. 99 for every Rs. 1,000.

Cross verification of the records of the ST, Circle-V, Shillong with those of the Registrar (SR), East Khasi Hills, Shillong in November 2007 revealed that four companies transferred Rs. 1.71 crore between January 2005 and January 2006 to the personal accounts of one of the directors of each company. These companies did not register the aforesaid transfer of assets with the Registrar and hence evaded payment of stamp duty of Rs. 16.91 lakh.

The case was reported to the department/Government in January 2008, their reply has not been received (November 2008).

### 6.18 Irregular grant of exemption from payment of stamp duty

**Stamp duty of Rs. 2.77 lakh was short levied due to grant of exemption of Rs. 28 lakh towards development works.**

Under the IS Act, conveyance includes a conveyance on sale and every instrument by which property whether movable or immovable is transferred *inter vivos*. It was judicially held<sup>3</sup> that property also includes the benefit of a contract, which can be the subject of an assignment. Such an assignment is chargeable as a conveyance. The agreement to convey such a benefit should

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<sup>3</sup> Nathu Vs Hansraj I, Bom LR 110.

be stamped as an agreement but the interest created by the agreement is property whose transfer is liable to duty as a conveyance.

Scrutiny of the records of the SR, East Khasi Hills, Shillong in November 2007 revealed that a vendor sold a plot of land to a company for a consideration of Rs. 1.74 crore and the sale deed was registered in June 2006 on realisation of stamp duty of Rs. 18.95 lakh. Scrutiny of the sale deed, however, revealed that the vendor further received another sum of Rs. 28 lakh from the company as full payment of contracted amount for carrying out development work on the demised land which was exempted from payment of stamp duty. Since the development work created property whose transfer was liable to stamp duty as a conveyance as per the aforesaid judicial decision, the exemption granted was irregular and resulted in short realisation of stamp duty of Rs. 2.77 lakh.

The case was reported to the department/Government in January 2008; their reply has not been received (November 2008).

### **6.19 Short levy of stamp duty**

**Stamp duty was short levied by Rs. 2.73 lakh due to non-inclusion of value of periodical increase of rent and security deposit.**

The IS (Meghalaya Amendment) Act, lays down that stamp duty on a lease, where the lease purports to be for a term exceeding five years and not exceeding 10 years, shall be calculated for a consideration equal to the amount or value of the average annual rent reserved. Further, it was judicially held<sup>4</sup> that when the lessee by leased deed hypothecated certain other property belonging to him for the purpose of securing payment of agreed rent, the instrument is considered to be multifarious chargeable to duty both as a lease and as a mortgage. The stamp duty on lease as well as mortgage deed is calculated at the rate of Rs. 99 for every Rs. 1,000.

Scrutiny of the records of the SR, East Khasi Hills, Shillong in November 2007 revealed that an instrument of lease was registered in January 2006 under which the lessor conferred upon the lessee the right to use two floor of a multistoried building for a period of nine years. The annual rent was fixed at Rs. 41.68 lakh with a 15 *per cent* increase after expiry of every succeeding period of three years. In addition, the lessee had deposited with the lessor Rs. 21 lakh as security against default in payment of rent or injuries to the demised premises. However, the SR while calculating average annual rent did not include periodical increase of rent and thus levied stamp duty on Rs. 41.68 lakh instead of Rs. 48.24 lakh. Further, Rs. 21 lakh paid as security was also exempted from payment of stamp duty. This resulted in short levy of stamp duty of Rs. 2.73 lakh on Rs. 27.56 lakh<sup>5</sup>.

<sup>4</sup> 17 All 55

<sup>5</sup> Rs. 48.24 lakhs - Rs. 41.68 lakh = Rs. 6.56 lakh + Rs. 21 lakh.

The case was reported to the department/Government in January 2008, their reply has not been received (November 2008).

## TAXATION DEPARTMENT

### 6.20 Irregular grant of exemption under the Central Sales Tax Act

**Interstate sale of Rs. 261.39 crore not supported by declaration form was irregularly exempted resulting in underassessment of tax of Rs. 23.21 crore and interest of Rs. 15.28 crore.**

Under Sections 8(4) and (5) of the Central Sales Tax (CST) Act, 1956 as amended in May 2002, the State Government is empowered to issue notification granting exemption to the eligible industrial units from payment of tax in respect of those interstate sales which are supported with declarations in form 'C' or 'D' as the case may be. If interstate sales made by the exempted units are not supported by declarations in form 'C' or 'D', such units are liable to pay tax at 10 *per cent* or the local rate of tax whichever is higher.

Further, under the Industrial Policy of 1997, new industries set up on or after 15 August 1997 and existing units which undertake expansion, modernisation or diversification shall be exempted from payment of tax on sale of finished product within the state or in the course of interstate trade for a period of seven years from the date of commercial production. Again, in exercise of powers conferred under Section 8(5) of the CST Act, the State Government notified in April 2001 that no tax shall be payable by any eligible industrial unit to whom exemption certificate in the form of Certificate of Authorisation (CA) has been granted on sale of goods manufactured by such unit in the course of interstate trade during the period of validity of the CA. Under the provision of Meghalaya Sales Tax Act, if any registered dealer fails to pay the full amount of admitted tax, he is liable to pay interest at prescribed rate for the period of default on the amount by which tax paid falls short.

Scrutiny of the records of the Superintendent of Taxes (ST), Ri-Bhoi District, Nongpoh in May 2007 revealed that 16 manufacturing units sold goods valued at Rs. 261.39 crore in course of interstate trade between October 2002 and September 2005 without being supported by declarations in form 'C' or 'D'. The units claimed exemption from payment of tax as per the Meghalaya Industrial Policy, 1997 and Government notification of April 2001 issued under Section 8(5) of the CST Act. The assessing officer (AO) while finalising the assessments between December 2004 and April 2007 admitted the claims and assessed the manufacturing units accordingly. The grant of exemption to the manufacturers was irregular as the sales were not supported by declarations in form 'C' or 'D' resulting in underassessment of tax of Rs. 23.21 crore. Besides, interest of Rs. 15.28 crore was also leviable.

After the cases were pointed out, the AO stated in September 2007 that the exemption from payment of tax was granted as per the Government notification of 12 April 2001. The reply is not tenable as the exemption was subject to production of form 'C' or 'D' in support of the interstate sales.

The case was reported to the Government in August 2007; their reply has not been received (November 2008).

## 6.21 Concealment of turnover

### Eleven dealers concealed turnover of Rs. 92.90 crore and evaded tax of Rs. 7.43 crore on which penalty of Rs. 14.86 crore was also leviable.

Under the MVAT Act, if any dealer conceals the particulars of his turnover or evades in any way the liability to pay tax, he shall be liable to pay in addition to the tax, a penalty not exceeding Rs. 5,000 or double the amount of tax payable on the sale turnover, whichever is greater. The provision of the Act applies *mutatis mutandis* in the case of assessment and reassessment under the CST Act. Further, sale of declared goods in course of interstate trade is taxable at the concessional rate of four *per cent* if such sale is supported by declaration in form 'C', otherwise such sale is taxable at the rate of eight *per cent*. The COT, Meghalaya in his notification dated March 2002 fixed the rate of advance tax at Rs. 1,800 for 15 MT coal based on its prevailing market price ranging between Rs. 1,400 and Rs. 1,500 per MT.

**6.21.1** Cross verification of the records of the Divisional Mining Officer (DMO), Williamnagar with those of the ST, Williamnagar in January 2007 revealed that as per the records of the DMO, two dealers sold 3.66 lakh MT of coal valued at Rs. 51.19 crore in the course of interstate trade between April 2005 and March 2006. The dealers, however, disclosed sale of 35,400 MT of coal only valued at Rs. 3.94 crore in their sales tax returns for the aforesaid period and the AO assessed the dealers accordingly between February and June 2006. Thus, the dealers concealed sale of 3.30 lakh MT of coal valued at Rs. 47.25 crore and evaded tax of Rs. 3.78 crore. Besides, penalty of Rs. 7.56 crore was also leviable.

**6.21.2** Scrutiny of the assessment records of the ST, Jowai and Circle V, Shillong in December 2006 and April 2007 revealed that nine dealers sold 6.04 lakh MT of coal in the course of interstate trade between April 2005 and December 2006. The dealers disclosed turnover of Rs. 38.85 crore in their returns for the aforesaid periods duly supported by form 'C' instead of Rs. 84.50 crore calculated at the minimum rate of Rs. 1,400 per MT as fixed by the COT. The AOs while completing the assessments between February 2006 and February 2007 also ignored the rate fixed by the COT. This resulted in concealment of turnover of Rs. 45.65 crore and evasion of tax of Rs. 3.65 crore. Besides, penalty of Rs. 7.30 crore was also leviable for concealment of turnover.

The cases were reported to the department/Government between February and June 2007; their reply has not been received (November 2008).

#### **6.22 Evasion of tax by utilising fake declaration form**

**Eight dealers utilised fake form 'C' and evaded tax of Rs. 1.21 crore on which penalty of Rs. 2.20 crore was also leviable.**

Under the CST Act, on interstate sale of goods which are covered by a valid declaration in form 'C', tax is leviable at a concessional rate of four *per cent*. In case of declared goods, if not covered by valid declaration in form 'C', tax is leviable at twice the rate applicable to sale or purchase of such goods inside the appropriate state. Further, under the MST Act, if any dealer evades in any way the liability to pay tax, he shall be liable to pay as penalty, in addition to the tax payable by him, a sum not exceeding one and half times the amount of tax due. Under the Meghalaya Value Added Tax (MVAT) Act, 2003, the Commissioner may accept from any person charged with such offence, by way of composition of offence, a sum not exceeding Rs. 5,000 or double the amount of tax whichever is greater. In Meghalaya, coal is taxable at the rate of four *per cent*.

Scrutiny of the assessment records of the ST, Jowai in April 2007 revealed that between June 2003 and December 2006, eight dealers sold coal in the course of interstate trade valued at Rs. 30.20 crore to dealers in Durgapur and Kolkata in West Bengal and produced 36 declarations in form 'C' issued by the purchasing dealers. The AO accepted the declaration forms and assessed the dealers accordingly on different dates between May 2005 and February 2007. Verification of the records of the Commissioner of Commercial Taxes, West Bengal and Assistant Commissioner of Commercial Taxes, Durgapur revealed that these dealers were neither registered nor was any declaration form issued to them. Thus, the declaration forms submitted by the dealers of Meghalaya were fake and tax should have been levied at the rate of eight *per cent* instead of four *per cent*. This resulted in evasion of tax of Rs. 1.21 crore. In addition, penalty of Rs. 2.20 crore was also leviable for deliberate submission of fake form 'C'.

The case was reported to the department/Government in June 2007; their reply has not been received (November 2008).

#### **6.23 Irregular grant of exemption under the CST Act**

**Interstate sales of Rs 12.45 crore made by a works contractor was irregularly exempted resulting in underassessment of tax of Rs 1.25 crore.**

Under section 8(2) of the CST Act, interstate sale of goods not supported by declaration in form 'C' is taxable at 10 *per cent* or at the rate of tax applicable to the sale or purchase of such goods within the State whichever is higher. It



was judicially held<sup>6</sup> by the Supreme Court that so long as the Central Government does not make rules under the CST Act, for determination of the turnover in relation to interstate works contract, determination of turnover may be carried out by the assessing authority in a state in terms of the rules made by the State Government. Under the taxation laws of Meghalaya, works contract is taxable at the rate of eight *per cent*.

Scrutiny of the records of the ST, Circle IV, Shillong in January 2007 revealed that a company engaged in works contract, disclosed interstate sale of goods valued at Rs. 12.45 crore between October 2004 and March 2005 and claimed exemption from payment of tax. The AO accepted the claim and assessed the dealer accordingly in March 2006. Since there is no specific provision dealing with works contract and rate of tax thereon under the CST Act and Rules made thereunder tax on these sales was to be levied in accordance with the taxation laws of the state. The irregular grant of exemption resulted in underassessment of tax of Rs. 1.25 crore calculated at the rate of 10 *per cent*.

The case was reported to the department/Government in February 2007; their reply has not been received (November 2008).

## 6.24 Suppression of turnover

**Three registered dealers concealed turnover of Rs. 3.08 crore and evaded tax of Rs. 33.28 lakh on which penalty of Rs. 53.34 lakh was also leviable.**

Under the provisions of the Meghalaya Sales Tax (MST) Act, if the Commissioner is satisfied that any dealer has concealed the particulars of his turnover or deliberately furnished inaccurate particulars of such turnover, he may direct that such dealer shall pay by way of penalty, in addition to the tax payable by him, a sum not exceeding one and half times of that amount. Further, under the provision of the Meghalaya Value Added Tax (MVAT) Act, 2005, if a dealer conceals the particulars of turnover, the Commissioner may accept by way of composition of offence, a sum not exceeding Rs. 5,000 or double the amount of tax whichever is greater.

**6.24.1** Scrutiny of the assessment records of the ST, Circle-IV, Shillong in October 2006 revealed that a manufacturer of cement disclosed turnover of Rs. 1.26 crore in his return for the period from April 2002 to March 2003 and the AO assessed the dealer in June 2006 accordingly. Verification of the balance sheet, profit and loss accounts and schedules connected thereto of the dealers furnished to the Registrar of Companies, Shillong, however, revealed that the dealer actually sold cement valued at Rs. 3.43 crore during the aforesaid period. The dealer, thus, deliberately concealed turnover of Rs. 2.17 crore and evaded tax of Rs. 26.04 lakh. Besides, maximum penalty of Rs. 39.06 lakh was also leviable.

<sup>6</sup> Mahim Patram Private Ltd Vs Union of India and others (and another Appeal)-{2007} 6 VST 248 (SC).

**6.24.2** Cross check of the records of the DMR, Shillong with those of the ST, Circle-V, Shillong in December 2006 revealed that as per the DMR's records, a dealer sold 17,840 tonnes of coal in course of inter-state trade during the period between April 2005 and March 2006. The dealer, however, disclosed sale of 13,875 tonnes of coal in his return under the CST Act for the aforesaid period and the AO assessed the dealer accordingly in June 2006. The dealer, thus, concealed sale of 3,965 tonnes of coal valued at Rs. 59.48 lakh and evaded tax of Rs. 4.76 lakh. Penalty of Rs. 9.52 lakh being double the amount of tax was also leviable.

**6.24.3** Test check of the assessment records of the ST, Circle V Shillong in October 2006 revealed that a dealer sold coal valued at Rs. 1.05 crore to a dealer of Haryana during April to September 2005. The turnover was supported by a declaration in form 'C' and the dealer was assessed in November 2005 at a concessional rate of four *per cent*. Further, scrutiny of records revealed that the dealer had also sold 2,070 tonnes of coal valued at Rs. 31.05 lakh which was despatched through Umkiang check gate located at the exit point of Meghalaya on the road connecting States like Assam (southern point), Manipur, Mizoram and Tripura during the aforesaid period. Although the records of despatch of coal were forwarded to the AO by the officer-in-charge of taxation check gate, the AO did not include the turnover while finalising the assessments. This led to evasion of tax of Rs. 2.48 lakh. Penalty of Rs. 4.76 lakh was also leviable for concealment of turnover.

The cases were reported to the department/Government in February 2007; their reply has not been received (November 2008).

## **6.25 Loss of revenue due to irregular grant of exemption**

### **Irregular grant of authorisation certificate led to the loss of revenue of Rs. 36.40 lakh.**

Under Section 2(i) of the Meghalaya Industries (Sales Tax Exemption) Scheme, 2001 notified under the Industrial Policy 1997, new units set up on or after 15 August 1997 will be eligible for sales tax exemption on the sale of finished products manufactured by such units provided that the tax exemption certificate in the form of certificate of authorisation (CA) is granted to these units by the Taxation Department. Manufacturing of cement<sup>7</sup> consists of preparation of raw mix, production of clinker<sup>8</sup>, grinding of clinker in a factory and blending of ground cement with silicos.

Scrutiny of the assessment records of ST, Jowai in June 2006 revealed that a company was allowed to set up a plant for manufacture and sale of portland cement, aluminous cement, slag cement and similar hydraulic cement except

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<sup>7</sup> Limestone, clay, boxite and iron ore sand in specific proportions when heated in a rotating kiln at 2770 degree Fahrenheit they begin to form cinder lumps known as cement clinker.

<sup>8</sup> Clinker Ultra Tech Cement Limited Vs Principal Secretary, Department of Industries and Commerce and others (2008) 11 VST 881 (Karn).

in the form of clinker by the Government of India, Ministry of Commerce and Industry. Moreover, clinker is not a finished product, and hence it is not eligible for exemption under the Industrial Exemption Scheme. While issuing the CA, the AO, however, granted exemption from payment of tax on the sale of cement as well as clinker. The unit started commercial production from February 2005 and sold clinker valued at Rs. 3.67 crore upto March 2005 both within and outside the state and was exempted from payment of tax on the strength of the CA. Thus, erroneous inclusion of clinker in the CA resulted in loss of revenue of Rs. 36.40 lakh.

After this was pointed out, the ST stated in August 2006 that the dealer had been asked to furnish the books of accounts for verification. Result of verification has not been intimated (October 2008).

The case was reported to the Government in June 2006; their reply has not been received (November 2008).

#### **6.26 Loss of revenue due to non registration of dealers**

**Two unregistered dealers transported 28,500 MT of coal on which advance tax of Rs. 34.20 lakh though realisable was not realised.**

Under the CST Act, every dealer liable to pay tax shall not carry on the business unless he is registered and possesses a certificate of registration. Further, under section 83 of the MVAT Act, the COT shall, from time to time, carry out a survey of unregistered dealers who are liable to pay tax but have remained unregistered. A sale in course of export is exempted from payment of tax provided the exporter furnishes to the AO, documentary evidence to the effect that the goods have crossed the customs frontier of India. It was judicially held<sup>9</sup> by the Supreme Court that a sale by export involves a series of integrated activities commencing from the agreement of sale with a foreign buyer and involving the delivery of goods to a carrier for transport out of the country by land or sea. The security in the form of advance tax was revised (September 2003) and fixed at the rate of Rs. 120 per MT for sale of coal in the course of interstate trade which came into effect from 26 September 2003.

Scrutiny of the records of the DMO, Williamnagar in January 2007 revealed that two dealers were permitted to extract 28,500 MT of coal from East Garo Hills district for export to Bangladesh in February and March 2006. Further scrutiny of the records of the ST, Williamnagar in January 2007, however, revealed that the two coal dealers were neither registered nor furnished any evidence in support of export of coal to Bangladesh either to the DMO or to the AO. No survey was also conducted under the MVAT Act to trace out the dealers for registration. Thus, failure to register the dealers led to the loss of revenue of Rs. 34.20 lakh.

<sup>9</sup> State of Travancore-Cochin Vs. Bombay Co. Ltd., (1952) 3STC 434 (SC).

After the case was pointed out, the ST stated in July 2007 that the coal dealers were exporters of coal to Bangladesh and hence they were not liable to be registered. The reply is not correct as it is mandatory for exporters to be registered and furnish evidence of export as laid down under Section 5 of the CST Act to claim exemption from payment of tax.

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

#### **6.27 Non-levy of interest**

##### **Interest of Rs. 14.21 lakh due to belated payment of tax was not levied and collected from eight dealers.**

Under the provisions of the MVAT Act and Rules made thereunder, every registered dealer liable to pay tax is required to submit his return and pay the tax within 21 days of the end of a month of the year. If any dealer fails to pay the full amount of tax payable by him by the due date, he shall be liable to pay simple interest at the rate of two *per cent* per month from the first day of the month next following the due date on the amount by which the tax paid falls short.

Scrutiny of the records of the ST, Tura in October 2007 revealed that eight dealers submitted returns for the periods from May 2005 to March 2006 along with admitted tax and the AO accepted all the returns accordingly. Further scrutiny of the treasury *challans*, however, revealed that the dealers paid the due tax belatedly with delays ranging between 7 and 24 months but the AO did not levy and realise interest for belated payment of tax. This resulted in non-levy of interest of Rs. 14.21 lakh.

After the cases were pointed out, the ST stated in May 2008 that the concerned dealers had been asked to produce the accounts for verification. Further reply has not been received (October 2008).

The case was reported to the Government in January 2008; their reply has not been received (November 2008).

#### **6.28 Irregular assessment at concessional rate**

##### **Underassessment of tax of Rs. 11.93 lakh due to acceptance of invalid declaration form.**

Under the CST Act, tax is leviable at a concessional rate of four *per cent* on interstate sale of goods if such sales are supported by valid declarations in form 'C'. However, interstate sale of goods not supported by declaration in form 'C' are taxable at 10 *per cent* or at the rate applicable to the sale or

purchase of such goods within the state whichever is higher. In Meghalaya, motor vehicles are taxable at 12 *per cent*.

Scrutiny of the records of the ST, Circle-I, Shillong in December 2006 revealed that a dealer, having branch offices both in Shillong and Guwahati (Assam), sold motor vehicles valued at Rs. 1.49 crore from Guwahati branch office between April 2003 and March 2005 on the strength of five form 'C' furnished by the purchasers belonging to the State of Assam. However, while submitting the accounts, the dealer who was registered in Shillong irregularly furnished the aforesaid form 'C' as sales made from Shillong to avail the concessional rate of tax. The AO also accepted the declaration forms and assessed the dealer at concessional rate of four *per cent* in November 2006. Since the sale did not occasion the movement of goods from Meghalaya to the purchasers of Assam, the declaration forms produced by the dealer were invalid and tax should have been levied at the rate of 12 *per cent* instead of four *per cent*. This irregular acceptance of declaration forms led to underassessment of tax of Rs. 11.93 lakh.

The case was reported to the department/Government in February 2007; their reply has not been received (November 2008).

## **6.29 Loss of revenue due to non-registration of dealers**

### **Failure to register the dealers dealing in taxable goods and deduct tax at source led to loss of revenue of Rs. 11.68 lakh.**

Under the MST Act, no dealer shall carry on business of taxable goods unless he is registered and possesses a certificate of registration. If the dealer fails to apply for registration, the COT shall register the dealer within a specified time after allowing him a reasonable opportunity of being heard. As a measure of control, the Government of Meghalaya, Taxation Department instructed, in January 1995, that the buying department(s) should deduct tax at source at the prescribed rate while making payment to the supplier and deposit it in the Government account.

Cross verification of the annual accounts of a State Government cement manufacturing company with those of the ST Circle-VI, Shillong in July 2006 revealed that the company purchased 83,770.16 MT clay valued at Rs. 1.46 crore during 2002-03 and 2004-05 from unregistered dealers on which tax of Rs. 11.68 lakh was to be deducted at source and deposited into the Government account. But, neither the company deducted the tax at source nor did the AO initiate any action to register the dealers and realise the tax. Thus, failure of the company to deduct the tax at source and the AO to cross verify the accounts furnished by the cement manufacturing company and register the dealers resulted in loss of revenue of Rs. 11.68 lakh.

The case was reported to the department/Government in March 2008; their reply has not been received (November 2008).

### **6.30 Turnover escaping assessment**

#### **Underassessment of tax of Rs. 9.26 lakh due to turnover of Rs. 1.25 crore escaping assessment.**

Under the Meghalaya Finance (Sales Tax) (MFST) Act, if the COT is satisfied that sale of taxable goods has escaped assessment in any period or has been underassessed, he may proceed to assess the dealer in respect of such period. In Meghalaya medicine is taxable at the rate of eight *per cent*.

Scrutiny of the records of the ST, Circle-III, Shillong in January 2007 revealed that a dealer disclosed sale of medicines valued at Rs. 7.36 lakh in his return for the month of April 2005 and he was accordingly assessed in October 2005. Further, scrutiny of the treasury *challans* furnished by the dealer, however, revealed that the dealer actually sold medicines valued at Rs. 1.32 crore during the aforesaid period. Thus, turnover of Rs. 1.25 crore escaped assessment resulting in underassessment of tax of Rs. 9.26 lakh.

The case was reported to the department/Government in March 2007; their reply has not been received (November 2008).

### **6.31 Underassessment of tax due to turnover escaping assessment**

#### **Twelve dealers disclosed turnover of Rs. 5.27 crore against which turnover of Rs. 4.12 crore was assessed leading to underassessment of tax of Rs. 9.08 lakh.**

Under the taxation laws of Meghalaya, if the COT is satisfied that any turnover in respect of sale of any goods chargeable to tax has been underassessed during any return period, he may at any time within eight years from the end of that period proceed to reassess the dealer.

Scrutiny of the assessment records of the ST, Circle-IV and VI, Shillong in January 2007 revealed that 12 dealers disclosed taxable turnover of Rs. 5.27 crore for the period from April 2004 to March 2005 in their application for registration under the MVAT Act. However, while assessing the dealers between March 2005 and September 2006 for the aforesaid periods, turnover of Rs. 4.12 crore only was assessed. Thus, turnover of Rs. 1.15 crore escaped assessment resulting in underassessment of tax of Rs. 9.08 lakh.

The case was reported to the department/Government in February 2007; their reply has not been received (November 2008).

### 6.32 Incorrect application of rate

#### **Incorrect application of rate led to underassessment of tax of Rs. 9 lakh.**

As per entry 13 of schedule to the MF (ST) Act, any fixture made of iron and steel is taxable at the rate of 12 *per cent*. Steel tubular poles supplied to Meghalaya State Electricity Board (MeSEB) are used as fixture of electric lines for transmission and distribution of power and are, therefore, taxable at the rate of 12 *per cent*.

Scrutiny of the records of the ST, Circle-IV Shillong in November 2007 revealed that three dealers sold steel tubular poles valued at Rs. 1.13 crore to the MeSEB, Shillong between April 2003 and March 2005. While assessing the dealers between August 2004 and February 2006 for the aforesaid period, the AO levied tax at the rate of four *per cent* instead of 12 *per cent*. Thus, incorrect application of rate led to short levy of tax of Rs. 9 lakh.

The case was reported to the department/Government in February 2007; their reply has not been received (November 2008).

### 6.33 Non-realisation of tax

#### **Three user agencies purchased sand and stone valued at Rs. 61.43 lakh without deducting tax at source which led to non-realisation of tax of Rs. 6.70 lakh.**

Under the MVAT Act, every person responsible for paying tax in respect of any sale or supply of taxable goods to the Government shall deduct tax therefrom in the prescribed manner and at the rate specified in the schedule to the Act.

Cross scrutiny of the records of the ST, Jowai with three user agencies<sup>10</sup> in April 2007 revealed that 590 contractors sold sand and stone valued at Rs. 61.43 lakh to the user agencies between June 2005 and September 2005 but tax payable in all these cases was neither deducted by the user agencies nor was the tax paid by the suppliers to the Taxation Department. The AO also did not initiate any action to realise tax from the contractors. This resulted in non-realisation of tax of Rs. 6.70 lakh.

After the case was pointed out, the AO stated in April 2008 that the DFO, Jowai had been requested to deduct tax at source. The reply is not tenable as the AO has to take up the matter with the concerned user agencies and not with the DFO, Jowai for deduction of tax at source. Further reply has not been received (November 2008).

<sup>10</sup> Executive Engineer, PWD (Road) North, PWD (Road) South Division and NEC Divisions Jowai.

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

#### **6.34 Irregular exemption of tax on sale of tax paid goods**

**Two dealers fraudulently claimed exemption of tax on the turnover of Rs. 79.28 lakh as sales of tax paid goods and evaded tax of Rs. 6.34 lakh on which penalty of Rs. 9.51 lakh was also leviable.**

Under the MFST Act, tax shall be payable at the stage of first sale of taxable goods in Meghalaya, provided that where any question arises on whether any particular sale is the first sale in Meghalaya, the burden of proof that it is not the first sale shall be on the dealer making the sale. Further, if the COT is satisfied that any dealer has evaded in any way the liability to pay tax, he may direct that such dealer shall pay by way of penalty in addition to tax payable by him, a sum not exceeding one and half times that amount.

Scrutiny of the records of ST, Circle-I, Shillong in December 2006 revealed that two registered dealers claimed exemption from payment of tax on sale of lubricants valued at Rs. 79.28 lakh between April 2002 and March 2005 as the goods were purchased from another dealer registered in Circle-III, Shillong and the AO assessed the dealers accordingly between September 2003 and September 2004. Further scrutiny of the assessment records of the selling dealer, however, revealed that the dealer neither dealt in lubricants nor disclosed any sale of lubricants during the aforesaid period. Thus, the dealers fraudulently claimed exemption which escaped notice of the AO resulting in evasion of tax of Rs. 6.34 lakh. Besides, penalty of Rs. 9.51 lakh was also leviable for deliberately misstatement of facts.

The cases were reported to the department/Government in June 2006 and March 2007 respectively; their reply has not been received (November 2008).

#### **6.35 Irregular grant of exemption under Sales Tax Exemption Scheme**

**Turnover of Rs. 47.28 lakh of an industrial unit was irregularly exempted from payment of tax leading to underassessment of tax of Rs. 3.78 lakh.**

In April 2001, the Government of Meghalaya, Taxation Department notified that no tax shall be payable by any eligible industrial unit to whom an exemption certificate in the form of certificate of authorisation (CA) has been granted. The CA is valid for one year and is renewable thereafter on examination of annual return which is required to be submitted in the prescribed form within 30 days of the end of each financial year.



Scrutiny of the assessment records of ST, Circle-III, Shillong in January 2007 revealed that a manufacturing unit disclosed taxable turnover of Rs. 47.28 lakh for the period from April 2000 to April 2005 and claimed exemption from payment of tax under the Meghalaya Industries (Sales Tax Exemption) Schemes, 2001. The dealer neither applied for grant of CA nor submitted the annual return in the prescribed format for issue of the CA. The AO while assessing the dealer in December 2005 exempted the turnover from payment of tax. Such irregular exemption without supporting CA resulted in underassessment of tax of Rs. 3.78 lakh.

After the case was pointed out, the AO while admitting the facts stated in April 2008 that the exemption was granted irregularly through oversight. However, action taken to reassess the dealer and recovery of tax has not been intimated (October 2008).

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

### **6.36 Turnover escaped assessment**

#### **Turnover of Rs. 30.22 lakh determined on best judgment basis escaped assessment leading to underassessment of tax of Rs. 3.63 lakh.**

Under the MFST Act, if a dealer fails to submit returns, the COT shall, by an order in writing, assess the dealer to the best of his judgment and determine the tax payable by him on the basis of such assessment. Further, if the COT is satisfied that any dealer has without any reasonable cause failed to furnish the return, he may direct that such dealer shall pay by way of penalty, in addition to the tax payable by him, a sum not exceeding one and a half times that amount.

Scrutiny of the records of the ST, Circle-III, Shillong in December 2006 revealed that a dealer who was a defaulter in submission of returns and payment of tax, requested the AO to complete the assessments for the period from October 2003 to April 2005 to the best of his judgment as he did not maintain any books of accounts. The area Inspector of Taxes (IT) conducted an enquiry in February 2006 and estimated taxable turnover of Rs. 2.14 lakh treating cold drinks, ice creams *etc.*, as sale of locally purchased goods and the AO completed the assessments for the aforesaid periods accordingly in February 2006. Further scrutiny of the records revealed that the dealer imported ice creams and cold drinks valued at Rs. 30.22 lakh from outside the State during the aforesaid period which escaped notice of the IT as well as the AO. This resulted in underassessment of tax of Rs. 3.63 lakh. Since the dealer was a defaulter in submission of return and payment of tax, maximum penalty of Rs. 5.45 lakh was also leviable but not levied.

The cases were reported to the department/Government in March 2007; their reply has not been received (November 2008).

### **6.37 Short realisation of surcharge**

#### **Application of incorrect rate led to short realisation of surcharge of Rs. 3.38 lakh.**

The Government of Meghalaya, Taxation Department in their notification of 25 August 2004 enhanced the rate of surcharge from 10 *per cent* to 20 *per cent* of the tax on sale of all the goods except the declared goods. The enhanced rate of surcharge was to take effect from the date of notification.

Scrutiny of the records of the ST, Circle-III, Shillong in January 2007 revealed that a dealer dealing in medicine and electrical goods deposited tax of Rs. 33.84 lakh for the month of April 2005. Scrutiny of the treasury *challans* available in the case records, however, revealed that surcharge of Rs. 3.38 lakh at the rate of 10 *per cent* of tax was collected and deposited instead of 20 *per cent*. The AO while finalising the assessment in October 2005 failed to detect the payment of surcharge at incorrect rate resulting in short realisation of surcharge of Rs. 3.38 lakh.

The case was reported to the department/Government in March 2007; their reply has not been received (November 2008).

### **6.38 Non-levy of penalty for misuse of form 'C'**

#### **Penalty of Rs. 3.32 lakh was not levied for misuse of form 'C' on purchase of goods at concessional rate by two steel plants.**

Under the provision of the CST Act, a registered dealer may purchase goods from a registered dealer of another state at a concessional rate of tax by furnishing the prescribed declaration in form 'C'. If any person, after purchasing the goods for any of the purposes specified in the declaration form, fails to make use of the goods for any such purpose, he is liable to pay penalty not exceeding one and half times the amount of tax.

Scrutiny of the records of the ST, Ri-Bhoi District, Nongpoh in May 2007 revealed that two manufacturers of mild steel ingot purchased building materials, weighing scale *etc.* valued at Rs. 35.96 lakh at concessional rate against declaration in form 'C' for use as raw material for manufacture of mild steel ingot. Since the goods purchased at concessional rate i.e. building materials, weighing scale *etc.* were not directly linked with production of mild steel ingots, the manufacturers were liable to pay penalty upto Rs. 3.32 lakh for misuse of 'C' forms which was not levied and realised by the AO.

After the case was pointed out, the AO stated in September 2007 that show-cause notices had been issued to the concerned dealers. Report on levy and realisation of penalty has not been received (October 2008).

The case was reported to the Government in August 2007; their reply has not been received (November 2008).

### 6.39 Underassessment of tax due to grant of excess deduction

**A dealer was allowed deduction of Rs. 1.16 crore instead of Rs. 81.86 lakh towards cost of labour resulting in underassessment of tax of Rs. 2.73 lakh.**

As per the MST Act, ‘sale price’ means the amount payable to a dealer as consideration for carrying out of any works contract less such fraction of such amount as represents the proportion of the cost of labour used in carrying out such contract. Works contract is taxable at the rate of eight *per cent* after allowing requisite percentage of deduction varying from 10 to 30 *per cent* towards the cost of labour if the dealer fails to furnish the detailed account of labour charges.

Scrutiny of the records of the ST, Circle-IV, Shillong in February 2006 revealed that a contractor engaged in construction works disclosed taxable turnover of Rs. 4.62 crore for the period from April 2004 to March 2005. Of this, Rs. 1.35 crore was taxable under the MFST Act and the balance Rs. 3.27 crore being the value of the works contract was taxable under the MST Act. Since the dealer did not maintain the accounts showing the cost of material and cost of labour separately, he was entitled to get maximum deduction of Rs. 81.86 lakh towards cost of labour on the turnover of Rs. 3.27 crore. Instead the dealer claimed a deduction of Rs. 1.16 crore on the entire turnover of Rs. 4.62 crore and was assessed accordingly in October 2005. Thus, allowance of excess deduction of Rs. 34.14 lakh towards the cost of labour resulted in underassessment of tax of Rs. 2.73 lakh.

The case was reported to the department/Government in July 2005 and March 2006; their reply has not been received (November 2008).

### 6.40 Non-levy of penalty

**Penalty of Rs. 2.22 lakh was not levied and realised on seven dealers who did not furnish the returns within due date.**

Under the MVAT Act, if a registered dealer fails to furnish any return by the due date, the COT may direct him to pay penalty of a sum of Rs. 100 per day of default subject to a maximum of Rs. 10,000.

Scrutiny of the records of the ST, Tura in October 2007 revealed that seven registered dealers failed to furnish their returns for the quarter ending June 2005 to September 2006 by the due date(s). For delay in submission of returns, the dealers were liable to pay penalty of Rs. 2.22 lakh but the AO failed to take any action to levy and realise the penalty. This resulted in non-levy of penalty of Rs. 2.22 lakh.

After these cases were pointed out, the ST while admitting the facts stated in May 2008 that the penalty could not be imposed due to delay in delegation of

power by the department. The reply is not tenable as the cases should have been referred to the COT for imposition of penalty.

The case was reported to the Government in January 2008; their reply has not been received (November 2008).

## **TRANSPORT DEPARTMENT**

### **6.41 Non-levy of fine on trucks carrying excess load of coal**

#### **Non levy of fine of Rs. 255.49 crore on 3,11,321 commercial trucks for carrying excess load beyond maximum permissible limit.**

In Meghalaya, all commercial trucks are registered by the district transport officers (DTO) with maximum permissible pay load of 10 MT on which road tax is payable under the Assam Motor Vehicle Taxation Act, 1936 (as adapted in Meghalaya). Further, under the Motor Vehicles (MV) Act, 1988 whoever drives a motor vehicle or causes or allows a motor vehicle to be driven carrying load in excess of the permissible limit, shall be liable to pay a minimum fine of Rs. 2,000 and additional fine of Rs. 1,000 per MT of excess load.

Cross verification of the records of the Commissioner of Transport (CT), Meghalaya with those of the DMR check gates at Mookyndur, Umkiang, Athiabari, Dainadubi and Masangpani in April 2008 revealed that 3,11,321 commercial trucks carried 50,45,508 MT of coal against the maximum permissible limit of 31,13,210 MT during the period between April 2006 and March 2007. But, the excess load of 19,32,298 MT carried by these trucks beyond the permissible limit escaped notice of the enforcement wing of the Transport Department resulting in non-levy and consequent non-realisation of minimum fine of Rs. 255.49 crore.

After the case was pointed out, the department while admitting the facts stated in July 2008 that all the concerned DTOs/Enforcement staffs were directed to collect fine from trucks carrying excess load as per provision of MV Act.

The case was reported to the Government in May 2008; their reply has not been received (November 2008).

### **6.42 Short realisation of composite fee**

#### **Realisation of composite fee of Rs. 16.53 lakh against Rs. 32.43 lakh from 1,081 national permit holder trucks led to short realisation of composite fee of Rs. 15.90 lakh.**

The Government of Meghalaya, Transport Department in their notification of 10 October 1994 fixed annual composite fee (CF) of Rs. 3,000 on commercial

trucks authorised to ply in Meghalaya under the national permits granted by the state transport authority (STA) of other states/UTs. The CF is realised by the Secretary, STA of the state which grants the national permit and remits it to the STA of Meghalaya by bank draft.

Scrutiny of the records of the STA, Meghalaya in April 2008 revealed that in 1,081 cases, the STAs of nine states<sup>11</sup> realised and remitted CF of Rs. 16.53 lakh to the STA, Meghalaya instead of Rs. 32.43 lakh on commercial trucks authorised to ply under national permit in the state of Meghalaya for the period between April 2006 and March 2007. The STA, Meghalaya did not take up the matter with his counterparts of the concerned states for recovery of the balance amount. This resulted in short realisation of CF of Rs. 15.90 lakh.

The case was reported to the department/Government in April 2008; their reply has not been received (November 2008).

#### **6.43 Short levy of fine**

##### **Levy of fine of Rs. 2.43 lakh against minimum fine of Rs. 4.82 lakh led to short realisation of fine of Rs. 2.39 lakh.**

Under the MV Act, plying a motor vehicle without permit in contravention of the provisions of the Act shall be punishable for the first offence with a fine which may extend to Rs. 5,000 but shall not be less than Rs. 2,000.

Scrutiny of the records of the CT, Meghalaya in April 2008 revealed that for the period between April 2006 and March 2007, 241 transport vehicles plying without valid permits were detected by the enforcement wing of the department but fine of Rs. 2.43 lakh only against minimum fine of Rs. 4.82 lakh was levied and realised. This resulted in short levy of fine of Rs. 2.39 lakh.

After this was pointed out, the department while admitting the facts stated in July 2008 that all the transport officials were directed to realise fine as per provision of MVT Acts. Report of realisation of fine has not been received (October 2008).

The case was reported to the Government in May 2008; their reply has not been received (November 2008).

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<sup>11</sup> Assam, Andhara Pradesh, Arunachal Pradesh, Haryana, Kerala, Nagaland, Tripura and West Bengal.