

# CHAPTER – VI

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## CHAPTER – VI

### REVENUE RECEIPTS

#### GENERAL

##### 6.1 Trend of revenue receipts

The tax and non-tax revenue raised by the Government of Mizoram during the year 2006-07, 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 given below:

**Table: 6.1**

*(Rupees in crore)*

Particulars of revenue receipts	2002-03	2003-04	2004-05	2005-06	2006-07
<b>I. Revenue raised by the State Government</b>					
• Tax revenue	27.96	33.85	39.55	55.05	67.59
• Non tax revenue	52.63	58.01	75.60	120.09	133.38
<b>Total:</b>	<b>80.59</b>	<b>91.86</b>	<b>115.15</b>	<b>175.14</b>	<b>200.97</b>
<b>II. Receipt from the Government of India</b>					
• State's share of divisible Union taxes	94.60	130.33	155.79	225.83	288.08
• Grants in aid	846.42	1,148.76	1,230.92	1,252.68	1,479.90
<b>Total:</b>	<b>941.02</b>	<b>1,279.09</b>	<b>1,386.71</b>	<b>1,478.51</b>	<b>1,767.98</b>
<b>III. Total receipts of the State</b>	<b>1,021.61</b>	<b>1,370.95</b>	<b>1,501.86</b>	<b>1,653.65</b>	<b>1,968.95</b>
<b>IV. Percentage of I to III</b>	<b>7.89</b>	<b>6.70</b>	<b>7.66</b>	<b>10.59</b>	<b>10.21</b>

The above table indicates that during the year 2006-07, the revenue raised by the State Government was 10.21 *per cent* of the total revenue receipts (Rs. 1,968.95 crore) against 10.59 *per cent* in the preceding year. The balance 89.79 *per cent* of receipts during 2006-07 was from the Government of India.

**6.1.1** The following table presents the details of tax revenue raised during the period from 2002-03 to 2006-07:

**Table: 6.2**

(Rupees in crore)

Sl. No.	Head of revenue	2002-03	2003-04	2004-05	2005-06	2006-07	Percentage of increase (+) or decrease (-) in 2006-07 over 2005-06
1.	Sales tax	18.20	23.32	28.08	41.59	53.72	(+) 29
2.	State excise	1.29	1.36	1.40	1.46	1.65	(+) 13
3.	Stamps and registration fee	0.08	0.13	0.10	0.17	0.21	(+) 24
4.	Taxes on vehicles	2.56	3.38	3.80	4.35	5.01	(+) 15
5.	Taxes on goods and passengers	0.57	0.61	0.69	0.99	0.98	(-) 1
6.	Other taxes on income and expenditure, tax on professions, trades, callings and employment	3.96	4.08	4.37	4.53	4.99	(+) 10
7.	Other taxes and duties on commodities and services	0.33	0.25	0.25	0.37	0.30	(-) 19
8.	Land revenue	0.97	0.72	0.86	1.59	0.73	(-) 54
	<b>Total</b>	<b>27.96</b>	<b>33.85</b>	<b>39.55</b>	<b>55.05</b>	<b>67.59</b>	(+)23

The concerned departments did not inform (November 2007) the reasons for variation despite being requested (August 2007).

**6.1.2** The following table presents the details of the non tax revenue raised during the the period 2002-03 to 2006-07.

**Table: 6.3**

(Rupees in crore)

Sl. No.	Head of revenue	2002-03	2003-04	2004-05	2005-06	2006-07	Percentage of increase (+) or decrease (-) in 2006-07 over 2005-06
1.	Interest receipts	2.44	3.27	3.66	6.94	8.76	(+) 26
2.	Other non tax receipts	10.31	12.55	11.52	15.42	17.56	(+) 14
3.	Forestry and wild life	3.80	3.16	2.74	4.15	4.06	(-) 2
4.	Miscellaneous general services (including lottery receipts)	7.01	6.27	9.03	6.45	44.29	(+) 587
5.	Power	18.21	26.14	40.81	81.80	51.79	(-) 37
6.	Medical and public health	0.40	0.33	0.46	0.47	0.56	(+) 19
7.	Co-operation	0.81	0.16	2.01	0.67	0.02	(-) 97
8.	Public works	2.04	3.68	2.90	1.04	2.02	(+) 94
9.	Police	0.39	0.28	0.22	0.38	0.35	(-) 8
10.	Other administrative services	7.22	2.17	2.25	2.77	3.97	(+) 43
	<b>Total</b>	<b>52.63</b>	<b>58.01</b>	<b>75.60</b>	<b>120.09</b>	<b>133.38</b>	(+) 11

The concerned departments did not inform (November 2007) the reasons for variation despite being requested (August 2007).

### 6.1.3 Variations between the budget estimates and actuals

The variations between the budget estimates and actual of revenue receipts for the year 2006-07 in respect of the principal heads of tax and non tax revenue are mentioned below:

**Table: 6.4**

(Rupees in crore)

Sl. No.	Head of revenue	Budget estimates	Actual revenue	Variations excess (+) shortfall (-)	Percentage of variation
<b>Tax revenue :</b>					
1.	Sales tax	35.00	53.72	(+) 18.72	(+) 53
2.	State excise	1.36	1.65	(+) 0.29	(+) 21
3.	Taxes on vehicles	3.80	5.01	(+) 1.21	(+) 32
4.	Taxes on goods and passengers	0.85	0.98	(+) 0.13	(+) 15
5.	Other taxes & duties on commodities and services	0.35	0.30	(-) 0.05	(-) 14
6.	Land revenue	1.00	0.73	(-) 0.27	(-) 27
<b>Non tax revenue :</b>					
1.	Interest receipts	2.50	8.76	(+) 6.26	(+) 250
2.	Forestry and wild life	2.75	4.06	(+) 1.31	(+) 48
3.	Medical and public health	0.40	0.56	(+) 0.16	(+) 40
4.	Miscellaneous, general services	0.66	44.29	(+) 43.63	(+) 6611
5.	Power	82.87	51.79	(-) 31.08	(-) 38

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

**State excise:** The increase was attributed to increase in import by security forces.

**Land revenue:** The decrease was attributed to change of collection system of revenue.

The other departments have not furnished (November 2007) the reasons for variation despite being requested (August 2007).

### 6.1.4 Cost of collection

The gross collection in respect of the principal receipt heads, expenditure incurred on collection and percentage of such expenditure to gross collection during the years 2004-05 to 2006-07 along with the all India average percentage of expenditure on collection for 2005-06 are given below:

**Table: 6.5**

(Rupees in crore)

Sl. No.	Head of revenue	Year	Collection	Expenditure on collection of revenue <sup>1</sup>	Percentage of expenditure on collection	All India average percentage for 2005-06
1.	Sales tax	2004-05	28.08	2.68	9.54	0.91
		2005-06	41.59	3.30	7.93	
		2006-07	53.72	3.77	7.02	
2.	Taxes on vehicles	2004-05	3.80	1.99	52.37	2.67
		2005-06	4.35	2.11	48.51	
		2006-07	5.01	2.31	46.11	

<sup>1</sup> Figures as furnished by the department

The percentage of expenditure on collection during 2004-05 to 2006-07 reflected a downward trend but as compared to the corresponding all India average for 2005-06 was substantially high in the cases of sales tax and taxes on vehicles, which the Government needs to look into.

### 6.1.5 Arrears in assessment

The details of assessment pending at the beginning of 2006-07, cases due for assessment during the year, cases disposed during the year and cases pending finalisation at the end of the year as furnished by the departments are mentioned below:

**Table: 6.6**

Name of tax	Opening balance	Cases due for assessment during the year	Total	Cases finalised during the year	Balance at the close of the year	Arrears as percentage of total cases
Sales tax/ Central sales tax/VAT	515	2475	2990	248	2742	92
Motor spirit tax	87	50	137	26	111	81
<b>Total</b>	<b>602</b>	<b>2,525</b>	<b>3,127</b>	<b>274</b>	<b>2,853</b>	<b>91</b>

Thus, the percentage of pending cases at the end of 2006-07 was 91 per cent. The Government has not fixed any norm prescribing the number of assessments to be completed by each assessing officer during a specified period. Immediate action needs to be taken to finalise the pending assessment cases.

### 6.1.6 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2007 in respect of some principal heads of revenue amounted to Rs. 2.33 crore as mentioned below:

**Table: 6.7**

(Rupees in lakh)

Sl. No.	Head of revenue	Amount outstanding as on 31 March 2007
1.	Sales tax	146.93
2.	Land revenue	37.16
3.	Forest	48.96
Total		233.05

### 6.1.7 Result of audit

Test check of the records of sales tax, state excise, motor vehicles taxation, land revenue, forest and other taxation departments conducted during 2006-07 revealed underassessments/short/non-levy/loss of revenue amounting to Rs.

8.28 crore in 30 cases. During the course of the year, the departments accepted underassessments/short/non-levy/loss of revenue of Rs. 5.39 crore in eight cases pointed out during 2006-07 and in earlier years and recovered Rs. 2.46 lakh.

This report contains 15 paragraphs involving money value of Rs. 7.16 crore. The department/Government accepted audit observations raised in five paragraphs involving revenue of Rs. 5.24 crore and 11 cases involving Rs. 1.37 crore had not been accepted. No reply has been received in respect of remaining cases (November 2007).

### **6.1.8 Failure to enforce accountability and protect interests of the Government**

The Accountant General (Audit), Mizoram, Aizawl conducts periodical inspection of various offices of the Government/departments to test check the correctness of assessments, levy and collection of tax receipts and non tax receipts and verify the accuracy in maintenance of accounts and records as per the Acts, Rules and procedures prescribed by the Government/departments from time to time. These inspections are followed by inspection reports (IRs) issued to the heads of offices inspected with copies to the next higher authorities. Serious irregularities noticed in audit are also brought to the notice of the Government/heads of the departments by the office of the Accountant General (Audit), Mizoram, Aizawl.

A half yearly report of pending IRs is sent to the secretaries of the concerned departments to facilitate monitoring and settlement of the audit observations included in these.

IRs issued upto December 2006 pertaining to the offices under sales tax, state excise, land revenue, motor vehicle tax and forest departments disclosed that 234 observations relating to 85 IRs involving revenue of Rs. 21.83 crore remained outstanding at the end of June 2007. Of these, 41 IRs containing 75 observations involving revenue of Rs. 8.61 crore had not been settled for more than three years. The year wise position of old outstanding IRs and paragraphs is detailed in *Appendix -6.1*

In respect of 23 paragraphs relating to 12 IRs involving revenue of Rs. 3.57 crore issued upto June 2007, even first reply required to be received from the department/Government has not been received (November 2007).

Report regarding position of old outstanding IRs/paragraphs was sent to the Government in July and August 2007; their reply has not been received (November 2007).

### 6.1.9 Follow up on Audit Reports - summarised position

With a view to ensure accountability of the executive in respect of all the issues dealt with in various Audit Reports, the Public Accounts Committee (PAC), issued (May 2000) instructions for submission of *suo motu* replies on all paragraphs and reviews featured in the Audit Report within three months of its presentation to the legislature. For the action taken notes (ATNs) on the recommendations of the PAC, the committee has specified the time frame for submission as six months.

Review of follow up on submission of *suo motu* replies and of ATNs as of 30 September 2007 on 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* replies on 59 paragraphs and two reviews featured in the Audit Reports for the years 2000-01 to 2005-2006 in respect of revenue receipts as mentioned below:

**Table: 6.8**

Year of Audit Report	Date of presentation of the Audit Report to the legislature	Number of paragraphs/ reviews included in the Audit Report (excluding standard paragraphs)		Number of paragraphs/ reviews on which <i>suo motu</i> replies are awaited	
		Paragraphs	Reviews	Paragraphs	Reviews
1998-99	13.4.2000	3	---	---	---
1999-2000	17.10.2001	3	---	---	---
2000-01	26.3.2002	7	1	6	---
2001-02	17.7.2003	8	1	6	---
2002-03	23.3.2004	15		12	---
2003-04	26.9.2005	16	---	---	---
2004-05	23.3.2006	10	2	10	2
2005-06	29.3.2007	25	---	25	---
Total		<b>87</b>	<b>4</b>	<b>59</b>	<b>2</b>

Thus, due to the failure of the respective departments to comply with the instructions of the PAC, the objective of ensuring accountability of the executive remained unfulfilled.

**DRAFT PARAGRAPH**

**GOVERNMENT OF MIZORAM**

**Environment and Forest Department**

**6.2 Short realisation of revenue**

**Settlement of 10 mahals at the bid of Rs. 1.07 crore against royalty value of Rs. 1.57 crore led to short realisation of revenue of Rs. 49.63 lakh**

The Government of Mizoram, Environment and Forest (E and F) Department in August 2001 fixed royalty on different classes of bamboo for sale outside the State at rates varying between Re. 1 and Rs. 2.25 per bamboo.

Test check of the records of the Principal Chief Conservator of Forest (PCCF), Aizawl in March 2006 revealed that 10 mahals<sup>2</sup> were settled for Rs. 1.07 crore through tenders. As per the schedule attached to the notice inviting tenders (NIT) and agreements, the contractors were allowed to extract 1.57 crore bamboo and sell them outside the State during the working period between October 2004 and June 2005. Based on the Government instructions of August 2001, the minimum royalty of 1.57 crore bamboo worked out to Rs. 1.57 crore. Thus, settlement of mahals without considering the actual royalty value fixed by the Government led to short realisation of revenue of Rs. 49.63 lakh.

After the case was pointed out, the PCCF stated in March 2007 that the Government can sell any forest produce in any manner at its discretion under Rule 30 of the Mizoram Forest Produce Mahals Rule (MFPMR). The reply is not acceptable as the aforesaid Rule empowers the State Government to finalise the mode of sale of forest produce and not to settle the mahal below the royalty value fixed by the Government.

The matter was reported to the Government in April 2006; their reply has not been received (November 2007).

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<sup>2</sup> Mahal means a defined geographical area where from certain forest produce are sold on condition of their removal within a specified period.



### **6.3 Loss of revenue**

**Revenue of Rs. 38.54 lakh was lost due to delay in cancellation of settlement order and resale of timber lots at the risk of the successful bidder.**

In order to mobilise additional revenue, the Government of Mizoram, E and F Department carried out thinning operation of teak trees in the Government plantation between April and July 1999. Under clause 8 and 9 of the auction notice issued on 15 April 2003 for the sale of teak logs, if the successful bidder after making full payment for the relevant lot(s) failed to remove the timber within 30 days of the issue of the settlement order, the settlement would be cancelled at the risk of the bidder.

Test check of the records of the PCCF, Mizoram in March 2006 revealed that 37 lots measuring 1,957.4987 cum of teak timber were allotted to a contractor in November 2001 at his bid of Rs. 87.32 lakh stipulating that the entire quantity should be lifted within 30 days from the date of issue of the allotment order. The contractor was, however, allowed to lift 18 lots, measuring 892.1522 cum valued as Rs. 41.90 lakh on pick and choose basis but no action was initiated by the department to ask the contractor to lift the balance 19 lots measuring 1,065.3465 cum valued as Rs. 45.42 lakh or cancel the settlement at his risk. In July 2004, after a lapse of about three years, the department cancelled the settlement order issued in November 2001 and forfeited the security deposit and earnest money amounting to Rs. 6.81 lakh. These lots were subsequently sold in auction as firewood for Rs. 7,000 only. Thus, lackadaisical attitude of the department to cancel the settlement order and resell the timber at the risk of the contractor as per terms and conditions of auction notice led to loss of revenue of Rs. 38.54 lakh.

After the case was pointed out, the PCCF stated in March 2007 that the defaulting contractor had been requested to pay the balance amount. The report on recovery has not been received (November 2007).

The case was reported to the Government in April 2006 and March 2007; their reply has not been received (November 2007).

### **6.4 Loss of revenue due to theft of timber**

**Loss of revenue of Rs. 35.07 lakh due to theft of 257.8716 cum of timber from forest depot.**

In 1999, the Government of Mizoram carried out thinning operation in its teak plantation and the outturn was divided into lots and kept in designated depots before disposal.

Test check of the records of the Kawrthah forest division in March 2006 revealed that 257.8716 cum of teak derived from thinning operation was divided into four lots and kept in Zawlnuam depot for disposal. The timber was put to public auction on several occasions between November 1999 and August 2001 and the highest bid amount of Rs. 16.11 lakh was not accepted as it was below the floor price of Rs. 35.07 lakh. Further scrutiny revealed that the timber was stolen from the depot as reported by the divisional forest officer (DFO) in March 2004. Theft of such a large volume of timber from a designated forest depot indicates inadequate surveillance and security arrangements and lapse of the beat officer and his staff. This resulted in loss of revenue of Rs. 35.07 lakh.

After the case was pointed out, the DFO while admitting the facts stated in August 2006 that the theft was due to engagement of forest officials in-charge of the depots in other duties. The reply is not tenable as alternative steps should have been taken to man the depot.

The matter was reported to the Government in April 2006 and March 2007; their reply has not been received (November 2007).

#### **6.5 Non-realisation of extension fee**

##### **Loss of revenue of Rs. 13.87 lakh due to non-realisation of extension fee from *mahaldar* for extension of *mahal* period beyond three months.**

Under Rule 22 of the MFPMR 2002, any quantity remaining unextracted within the *mahal* period shall automatically belong to the State Government after expiry of the *mahal* period. Any extension of the period of *mahal* shall be considered only in exceptional cases and extension of operation period beyond three months from the date of issue of order should only be granted on payment of 15 *per cent* of the total purchase price of the *mahal*.

Test check of the records of the DFO, Aizawl forest division in November 2005 revealed that the Sairang Ghat sand *mahal* was settled for the year 2003-04 with a *mahaldar* at Rs. 60.20 lakh for extraction of 10,000 cum of sand within the working period from 1 October 2003 to 31 May 2004. The *mahaldar* extracted 5,069 cum of sand during the working period and applied for extension of the working period on 26 April 2004. The State Government granted extension for a period of 3 months 15 days without realising the extension fee of Rs. 9.03 lakh.

Similarly, for the year 2004-05 the same *mahal* was settled with another *mahaldar* at Rs. 32.25 lakh to extract 11,250 cum of sand within the working period from 21 December 2004 to 31 May 2005. The *mahaldar* extracted 2,533 cum of sand during the working period and the Government granted extension of *mahal* period for four months from 1 June 2005 to 30 September 2005 without realising the extension fees of Rs. 4.84 lakh.

After the cases were pointed out, the DFO stated in May 2007 that extension fee was not charged in the former case as this was at the discretion of the State Government. In the latter case, the DFO, stated that the *mahal* could not be settled in time due to court case and hence the extension fee was exempted. The reply in the former case is not tenable as the charging of extension fee is mandatory as per the rules and in the latter case, the bid value of Rs. 43 lakh had been proportionately reduced to Rs. 32.25 lakh to compensate for the loss of the working period due to the court case.

The matter was reported to the Government in December 2005 and March 2007; their reply has not been received (November 2007).

#### **6.6 Non initiation of recovery proceedings**

##### **Loss of revenue of Rs. 5.75 lakh due to non-initiation of recovery proceedings from the defaulting tenderer.**

Rule 19 of the MFPMR provides that if a tenderer whose tender has been accepted, fails to pay the security deposit and installment on due dates, the sale of the *mahal* shall be liable to be cancelled and the *mahal* shall be resold, either to the next suitable tenderer or be resold for the remaining part of the *mahal* period at the risk of the defaulting tenderer.

Test check of the records of the PCCF, Mizoram in March 2006 revealed that the Turrial sand *mahal* for the year 2004-05 was settled with a *mahaldar* at his bid of Rs. 7 lakh. The settlement order was issued on the 6 October 2004 and the *mahaldar* was asked to deposit security of Rs. 70,000 and first installment of Rs. 3.50 lakh within 15 days from the date of issue of the settlement order. The *mahaldar* failed to pay the security and first installment despite reminders and the State Government settled the *mahal* with the second bidder at the negotiated price of Rs. 1.25 lakh on 16 December 2004. As per the provision of the Rule, the balance amount of Rs. 5.75 lakh was to be recovered from the original bidder but no action was initiated to realise the amount. This resulted in loss of revenue of Rs. 5.75 lakh.

After the case was pointed out, the PCCF stated in May 2006 that the *mahaldar* withdrew his bid citing delay in settlement of adjoining sand *mahal* and objection raised by the village authorities against him. The reply is not tenable as the *mahaldar* was at liberty to inspect the *mahal* area before submission of the tender and under Rule 9, any complaints after settlement of the *mahal* were not to be entertained.

The matter was reported to the Government in April 2006 and April 2007; their reply has not been received (November 2007).

**6.7 Short realisation of royalty**

**Royalty of Rs. 2.90 lakh on 10 lakh bamboo was realised short due to non-adoption of the minimum rate of royalty as prescribed by the Government.**

The Government of Mizoram, E and F Department, in May 2005, directed the PCCF Mizoram to refix exploitable quantity of bamboo for each *mahal*, keeping in view the fact that the minimum rate of royalty per bamboo should not be less than Re. 1.

Test check of the records of the PCCF, Mizoram, Aizawl in March 2006 revealed that 10 lakh additional bamboo were allotted to the *mahaldar* of Langkaih bamboo *mahal* on 29 June 2005 for Rs. 7.10 lakh instead of a minimum of Rs. 10 lakh as instructed by the State Government. The *mahaldar* accordingly deposited Rs. 7.10 lakh on 27 June 2006 and was allowed to extract 10 lakh bamboo by the department. This resulted in short realisation of revenue of Rs. 2.90 lakh.

After the case was pointed out, the PCCF stated in May 2006 that allotment of 10 lakh bamboo at Rs. 7.10 lakh did not amount to loss of revenue due to impending gregarious flowering of bamboo. The reply is not tenable as the allotment of additional bamboo below the minimum royalty value violated the Government instructions. Further, the department collected Rs. 10 lakh on another allotment of 10 lakh bamboo from the same *mahaldar* in December 2006.

The matter was reported to the Government in April 2006 and March 2007; their reply has not been received (November 2007).

## Taxation Department

### 6.8 Concealment of purchase

**Seven registered dealers concealed turnover of Rs. 31.79 crore and evaded tax of Rs. 2.93 crore on which interest of Rs. 1.70 crore and penalty of Rs. 4.40 crore were payable additionally**

Under Section 15(1) of the Mizoram Sales Tax (MST) Act, 1999, every registered dealer is required to file a return of his taxable turnover within the due date. If any dealer conceals the particulars of his turnover or deliberately furnishes inaccurate particulars of such turnover, he is liable to pay by way of penalty, a sum not exceeding one and a half time of the tax due in addition to the tax payable by him. The Act also provides that if a registered dealer fails to pay the full amount of the admitted tax by the due date, he is liable to pay interest at the prescribed rates varying between 12 and 24 *per cent* for the period of default on the amount by which the tax paid falls short.

**6.8.1** Test check of the records of the Assistant Commissioner of Taxes (ACT), North Zone, Aizawl in December 2006 revealed that six registered dealers disclosed purchase of taxable goods from outside the State valued as Rs. 17.11 crore during 2003-04. As per information furnished by the officer-in-charge of Vairengte taxation checkgate to the Commissioner of Taxes (COT) Mizoram, these dealers actually imported taxable goods valued as Rs. 47.08 crore during the aforesaid period. The information was duly communicated to the ACT, North Zone in October 2004 directing him to finalise the assessments based on the purchase value of imported goods mentioned therein. The assessing officer (AO), however, did not consider the particulars of purchase communicated by the COT and completed the assessments on different dates between May 2005 and September 2006 based on the purchase value of goods disclosed by the dealers. This resulted in concealment of purchase turnover of Rs. 29.97 crore which led to the evasion of tax of Rs. 2.78 crore. The tax effect would be even more if the element of profit could be ascertained. Besides, interest of Rs. 1.67 crore and penalty not exceeding Rs. 4.18 crore was also leviable for deliberate concealment of turnover.

After the case was pointed out, the ACT stated in April 2007 that the Joint Commissioner of Taxes was requested to furnish in detail the purchases made by the dealers and prompt action would be taken on receipt of the reply. The reply is, however, silent on the reasons for ignoring departmental information received well in advance.

**6.8.2** Test check of the records of the Superintendent of Taxes (ST), Kolasib in March 2006 revealed that a dealer disclosed turnover of Rs. 65.92 lakh in his return during the period from July 2001 to March 2005. The AO rejected the turnover and enhanced it to Rs. 2.42 crore on the basis of purchase

particulars received from the taxation check gate and closing stock as on 31 March 2005 was recorded as 'nil'. Further scrutiny of the utilisation statement of form 'C' revealed that the dealer purchased cement valued as Rs. 4.24 crore at concessional rate from outside the state during the aforesaid period. Thus, the dealer concealed minimum turnover of Rs. 1.82 crore which escaped the notice of the AO and evaded tax of Rs. 14.56 lakh. Besides, maximum penalty of Rs. 21.84 lakh and interest of Rs. 2.91 lakh were also leviable.

After the case was pointed out, the AO stated in March 2007 that there was no concealment as the assessments were completed on the basis of the prevailing market price. The reply is not tenable as evasion of tax has been calculated on the basis of difference between the purchase value of cement imported by using declaration forms and turnover determined by the AO even without considering the element of profit.

The cases were reported to the Government between April 2006 and March 2007; their reply has not been received (November 2007).

## **6.9 Underassessment of tax due to incorrect determination of turnover**

### **Turnover of Rs. 10.91 crore escaped tax of Rs. 1.18 crore including interest and penalty.**

**6.9.1** Under the provisions of the MST Act, if the Commissioner is satisfied that any turnover of taxable goods has escaped assessment during any return period, he may at any time within eight years of the aforesaid period, proceed to reassess the dealer in respect of such period. The Commissioner may direct the dealer to pay by way of penalty, a sum not exceeding one and a half times of tax amount. Further, the dealer shall also be liable to pay interest at the prescribed rate for delayed/non-payment of tax.

**6.9.1.1** Test check of the records of the ACT, North and South Zone, Aizawl during October to December 2006 revealed that three registered dealers disclosed purchase of taxable goods valued as Rs. 8.35 crore for the period from April 2004 to March 2005 and the AO assessed the dealers between September 2005 and April 2006 accordingly. Scrutiny of the records of Vairengte taxation check post, however, revealed that the dealers had actually purchased taxable goods worth Rs. 11.89 crore which escaped the notice of the AO. Thus, due to incorrect determination of turnover based on the purchase price disclosed by the dealer, turnover of at least Rs. 3.54 crore escaped assessment which led to underassessment of tax by Rs. 27.57 lakh. Besides, interest of Rs. 9.87 lakh and penalty not exceeding Rs. 41.36 lakh was also leviable.

After the cases were pointed out, the ACT South Zone stated in February 2007 that action for rectification of assessment had been taken up in respect of the

dealer registered in South Zone. Reply in respect of the dealer registered under ACT, North Zone has not been received (November 2007).

**6.9.1.2** Test check of the assessment records of the ST, Kolasib in March 2006 revealed that a cement dealer in his returns for the year 2003-04 and 2004-05 disclosed sale of cement valued as Rs. 34.80 lakh which was enhanced to Rs. 3.05 crore by the AO while assessing the dealer between August 2003 and May 2005. The dealer had no closing stock as on 31 March 2005. Further scrutiny of the assessment records, however, revealed that the dealer imported cement from a manufacturer of Mumbai valued as Rs. 63.06 lakh during the aforesaid period, sale of which was neither disclosed by the dealer in the return nor included in the turnover by the AO at the time of assessment. As a result, turnover of atleast Rs. 63.06 lakh escaped assessment leading to underassessment of tax of Rs. 5.04 lakh. Further, interest of Rs. 1.01 lakh and maximum penalty of Rs. 7.56 lakh was also leviable.

After the case was pointed out, the ST, Kolasib stated in March 2007 that there was of turnover escaped tax as the assessment was completed based on the local market rate of cement during 2003-04. The reply is not tenable as turnover disclosed by the dealer was only enhanced by the AO while finalising the assessment while the entire purchase of cement from the Mumbai based manufacturer escaped notice which led to the underassessment of tax.

**6.9.2** Under the provisions of the MST Act, tax payable by a dealer shall be on the taxable turnover in respect of any transfer of property in goods involved in the execution of works contract at the rate(s) specified in the schedule.

Test check of the records of the ST, Kolasib in December 2006 revealed that a registered dealer disclosed turnover of Rs. 95 lakh taxable at four *per cent* during 2003-04 in his return and the AO assessed the dealer accordingly in September 2004. In the detailed accounts, the dealer, however, disclosed sale of taxable goods valued as Rs. 7.68 crore during the aforesaid period which escaped the notice of the AO and resulted in underassessment of tax of Rs. 25.91 lakh.

After the case was pointed out, the ST Kolasib stated in April 2007 that there was no underassessment as the assessment was completed as per the revised return. The reply is not tenable as the dealer disclosed tax liability of Rs. 29.56 lakh in the detailed account which was collected from the State Government while executing the works contract valued as Rs. 7.68 crore.

The cases were reported to the Government between April 2006 and March 2007; their reply has not been received (November 2007).

## 6.10 Evasion of tax due to non-registration of dealer

### Failure of the department to register three dealers under the MST Act led to evasion of tax of Rs. 28.33 lakh including interest and penalty.

Under the provisions of the MST Act, no dealer shall carry on business in taxable goods unless he is registered and possesses a certificate of registration. The Act empowers the COT to register any dealer who fails to apply for registration. Further, if a dealer fails to pay the full amount of tax due within the specified time, he shall be liable to pay simple interest at the prescribed rate ranging between 12 and 24 *per cent* for the period of default on the amount by which the tax paid falls short. Besides, penalty not exceeding one and half times of the tax sought to be evaded is also leviable.

**6.10.1** Test check of the assessment records of the ACT, North Zone, Aizawl in December 2006 revealed that between 2001-02 and 2004-05, a dealer imported paints<sup>3</sup> valued as Rs. 1.07 crore from a dealer in Shillong, Meghalaya by utilising five declarations in form 'C' issued by the registering authority. Though the dealer was registered under the Central Sales Tax (CST) Act, 1956 and obtained 'C' forms to purchase goods taxable under the State Act, the COT did not initiate any action to register the dealer under the MST Act. This resulted in evasion of tax of Rs. 8.57 lakh calculated on the purchase price.

**6.10.2** Test check of the assessment records of the ST, Kolasib in March 2006 revealed that a dealer imported tyre retreading materials<sup>4</sup> valued as Rs. 78.19 lakh from outside the State between April 2003 and March 2005 at concessional rate by utilising declarations in form 'C' issued by the AO. Though the dealer was registered under the CST Act and obtained form 'C' to import goods taxable under the MST Act, the department did not initiate any action to register the dealer under the MST Act. This resulted in evasion of tax of Rs. 6.26 lakh. Besides, interest of Rs. 1.25 lakh and maximum penalty of Rs. 9.39 lakh was also leviable.

After the case was pointed out, the AO stated in March 2007 that there was no evasion of tax as the material utilised in tyre retreading was not specified in the schedule of notified goods. The reply is not tenable as flabs are taxable as specified in item 6 of schedule II. Further reply has not been received (November 2007).

**6.10.3** Test check of the records of the ACT, South Zone, Aizawl in November 2006 revealed that a dealer imported cement<sup>5</sup> valued as Rs. 19.40 lakh in September 2002 at concessional rate by utilising one declaration in form 'C' issued by the AO. Though the dealer was registered under the CST

<sup>3</sup> Paints are taxable at the rate of eight *per cent*.

<sup>4</sup> Tyre retreading materials are taxable at the rate of eight *per cent*.

<sup>5</sup> Cement is taxable at the rate of eight *per cent* in Mizoram.



Act and obtained form 'C' to import taxable goods, the department did not initiate any action to register the dealer under the MST Act. Further scrutiny revealed that the dealer was not traceable. Thus, laxity of the AO to register the dealer under the MST Act resulted in loss of revenue of Rs. 2.86 lakh including interest.

After the case was pointed out, the ACT while admitting the facts stated in February 2007 that action was being taken to trace out the dealer. Report on further development has not been received (November 2007).

The cases were reported to the Government between April 2006 and March 2007; their reply has not been received (November 2007).

#### **6.11 Underassessment of tax due to irregular grant of exemption**

**Taxable turnover of Rs. 50.36 lakh was wrongly deducted as non-taxable resulting in underassessment of tax of Rs. 6.04 lakh.**

Under the provisions of the MST Act, if the Commissioner is satisfied that any deduction of turnover of sales of taxable goods has been wrongly made, he may at any time within eight years of the aforesaid period proceed to reassess the dealer in respect of such turnover.

Test check of the assessment records of the ACT, North Zone, Aizawl in December 2006 revealed that a dealer disclosed purchase of goods valued as Rs. 3.35 crore taxable at 12 *per cent* during 2003-04 from outside the State with opening and closing stock of Rs. 42.21 lakh and Rs. 1.51 crore respectively. But the AO while completing the assessment in January 2005 allowed deduction of Rs. 50.36 lakh on sale of non-taxable goods from the aforesaid taxable purchase. Since the dealer did not deal in any non-taxable goods during the period, the deduction granted was not regular and resulted in underassessment of tax of Rs. 6.04 lakh.

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

#### **6.12 Short realisation of tax due to incorrect deduction**

**Irregular allowance of deduction of tax element of Rs. 40.32 lakh from net turnover led to short realisation of tax of Rs. 3.10 lakh.**

Under the MST Act, in determining the taxable turnover of a dealer, a deduction on account of the tax collected by him is allowable from the aggregate of sale price in accordance with the prescribed formula.

Test check of the records of the ST, Kolasib in March 2006 revealed that two dealers dealing in cement and MS rod<sup>6</sup> were assessed between August 2004 and May 2005 on a turnover of Rs. 5.77 crore being the purchase price of the goods as disclosed by the dealer at Vairengte taxation checkgate. It was, however, noticed that the AO allowed deduction of Rs. 40.32 lakh from the turnover towards element of tax. Since tax collected by the dealer was not included in the turnover, allowance of this deduction was irregular and resulted in short realisation of tax of Rs. 3.10 lakh.

After the cases were pointed out, the AO stated in March 2007 that deduction granted was not irregular as tax element included in the turnover was, only a deduction as per provision of the MST Act. The reply is not tenable as the assessed turnover was the purchase price of imported goods which did not include the element of tax as contended. Further reply has not been received (November 2007).

The matter was reported to the Government in April 2006 and March 2007; their reply has not been received (November 2007).

### **6.13 Non-levy of penalty for misuse of 'C' forms**

#### **Penalty of Rs. 2.87 lakh was not levied on goods purchased by false declaration.**

Under the CST Act, if any person who is not a registered dealer, falsely represents that he is a registered dealer while purchasing goods in the course of interstate trade, the registering authority may impose by way of penalty a sum not exceeding one and a half time the tax due under Section 10 A of the Act.

Test check of the records of the ST, Kolasib in March 2006 revealed that though a dealer was registered under the CST Act only on 24 June 2003, he purchased iron and steel worth Rs. 47.90 lakh prior to the date of registration from outside the state at concessional rate by utilising declaration in form 'C'. Since the dealer falsely represented that he was a registered dealer at the time of purchase of goods he was liable to pay a penalty not exceeding Rs. 2.87 lakh which was not levied and realised.

After the case was pointed out, the ST stated in March 2007 that registration was granted while the goods were in transit and sale of goods was not completed prior to the date of granting registration and hence imposition of penalty under Section 10 A of the CST Act was not applicable. The reply is not tenable as the goods were purchased from a Delhi based dealer prior to the date of registration and while purchasing the goods the dealer falsely represented that he was a registered dealer and hence the dealer was liable to pay penalty.

<sup>6</sup> Mild Steel rod

The matter was reported to the Government in April 2006 and March 2007; their reply has not been received (November 2007).

#### **6.14 Irregular deduction allowed towards credit sale**

**Deduction of Rs. 32.65 lakh towards credit sale was irregularly allowed to a dealer which led to the underassessment of tax of Rs. 2.61 lakh.**

Under the provisions of the MST Act, 'sale' means any transfer of property in goods by any person for cash, deferred payment and other valuable consideration.

Test check of the records of the ACT, South Zone, Aizawl in November 2006 revealed that a dealer purchased cement valued as Rs. 1.04 crore from outside the State for the period from April 2004 to March 2005. As the dealer failed to produce the books of accounts, the assessment was completed in July 2005 on best judgment basis and a demand notice of Rs. 8.55 lakh including interest and penalty was issued. The dealer thereafter prayed for deduction of turnover of

Rs. 32.65 lakh towards credit sale and the assessment was accordingly revised in September 2005. Since there is no provision in the Act to grant deduction on credit sale, the deduction granted was irregular and resulted in underassessment of tax of Rs. 2.61 lakh.

After the case was pointed out, the ACT stated in February 2007 that action had been initiated to rectify the assessment. Further report regarding rectification of assessment and realisation of dues has not been received (November 2007).

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

#### **6.15 Evasion of tax by fictitious dealers**

**Building material valued as Rs. 24.68 lakh was imported by a fictitious dealer from outside the State leading to evasion of tax of Rs. 2.37 lakh.**

Under the MST Act, no person shall transport taxable goods across or beyond a check post except after filing a declaration in form XX before the officer-in-charge of the check post. The officer-in-charge of the check post on being satisfied about the correctness of the particulars furnished in the declaration shall countersign the declaration.

Test check of the assessment records of the ACT, Lunglei Zone, in June 2006 revealed that a registered dealer imported building material worth Rs. 35.29 lakh during the period from April 2004 to March 2005 by filling 98

declarations in form XX at Vairengte check gate. Of these, the dealer claimed that taxable goods valued as Rs. 29.68 lakh shown in the declaration were not imported by him as he had no trade relation with the consignors. The AO neither investigated the matter nor reported it to the officer-in-charge of the check gate and higher authorities to trace out the fictitious dealers who imported the taxable goods but accepted the claim and assessed the dealer accordingly in August 2005 after deducting Rs. 29.68 lakh as 'benami' transactions. Thus, inaction of the department to take appropriate action against the dealers involved in *benami* transactions of Rs. 29.68 lakh led to evasion of tax of Rs. 2.37 lakh.

The case was reported to the department/ Government in July 2006 and March 2007; their reply has not been received (November 2007).

### **6.16 Mistake in computation of tax**

**Turnover of Rs. 26.15 lakh escaped assessment due to mistake in computation, resulting in underassessment of tax of Rs. 2.09 lakh.**

Under the provisions of MST Act, the authority which made an assessment may at any time within three years from the date of such assessment, rectify any mistake apparent from the records of the case and when any such rectification has the effect of enhancing the assessed tax, a notice of demand shall be issued for the sum payable.

Test check of the records of the ST, Kolasib in March 2006 revealed that two dealers sold 2,26,290 bags of cement during the period between April 2003 and March 2005 and disclosed turnover of Rs. 83.68 lakh in the returns. The AO rejected the turnover disclosed and considered Rs. 230 as the sale price of cement per bag prevailing during that period. However, instead of arriving at Rs. 5.20 crore, the AO wrongly computed the turnover as Rs. 4.94 crore. Thus, due to mistake in computation, turnover of Rs. 26.15 lakh escaped assessment resulting in underassessment of tax of Rs. 2.09 lakh.

After the case was pointed out, the AO stated in March 2007 that there was no mistake in computation as the local market rate as stated in the assessment order was the estimated price. The reply is not tenable as the AO himself mentioned about the sale price of cement as Rs. 230 per bag in the assessment records, but failed to apply it and compute the turnover correctly.

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