

Chapter II: Taxes on Sales, Trade etc.

2.1 Results of audit

Test check of the records of sales tax/value added tax during the year 2007-08, revealed underassessments of tax and other deficiencies amounting to Rs. 133.50 crore in 230 cases, which fall under the following categories:

(In crore of rupees)

Sr. No.	Category	Number of cases	Amount
1.	Computerisation of Value Added Tax Information System (A review)	1	Nil
2.	Non/short levy of central sales tax	167	95.28
3.	Non/short levy of sales tax	45	34.54
4.	Incorrect grant of exemption from tax	5	3.21
5.	Non/short levy of penalty	1	0.11
6.	Other irregularities	11	0.36
Total		230	133.50

During the year 2007-08, the Excise and Taxation Department recovered Rs. 33.71 lakh in 59 cases pertaining to the audit findings of previous years.

In four cases, entire amount of Rs. 33.27 lakh was recovered after the cases were reported to the Government.

A review of '**Computerisation of Value Added Tax Information System**' and a few illustrative cases involving Rs.133.53 crore are mentioned in the succeeding paragraphs.

2.2 Computerisation of Value Added Tax Information System

Highlights

Out of 19 modules envisaged to be implemented as part of COVIS, five modules could not be implemented at all. Out of the remaining 14 modules that were implemented, only five modules were being used leading to partial utilisation of COVIS despite an overall expenditure of Rs. 43.90 crore.

(Paragraphs 2.2.6 and 2.2.7)

Logical access controls were found deficient. There were no checks on password lengths as 1,360 users were having passwords of inadequate length.

(Paragraph 2.2.8)

There were instances where data of COVIS was altered at a later stage pointing towards possible leakage of revenue. Unexplained alterations were made in 14,681 entries at four information collection centres.

(Paragraph 2.2.9)

Lack of input and validation controls led to data inaccuracies like issue of multiple registration numbers to dealers, non-entry of details of dealers in the master database, entry of invalid vehicle numbers at various ICCs, and wrong entry of tax payable/due etc. As per the computerised database, there were a large number of cases where same dealer issued two or more bills bearing the same bill number in the same year during 2005-08 pointing towards possible evasion of tax by way of suppression of purchases/sales by the dealers.

(Paragraphs 2.2.10.1 and 2.2.10.2)

Lack of validation controls in the entry tax module resulted into acceptance of wrong figures of leviable entry tax.

(Paragraph 2.2.11.1)

2.2.1 Introduction

The Government of Punjab (GOP) repealed the Punjab General Sales Tax Act, 1948 and enacted the Punjab Value Added Tax Act, 2005 (PVAT Act) for implementation with effect from 1 April 2005. As per the PVAT Act, a dealer pays tax on the value added to the purchase value of a commodity. Unlike the sales tax regime, there is no compulsory assessment of dealers. Instead, the dealer makes his own assessment by filing periodical returns.

The Excise and Taxation Department (ETD) is responsible for collection of value added tax (VAT), central sales tax (CST), entry tax, entertainment tax and excise duty in the State. The Government created Excise and Taxation Technical Services Agency (ETTSA) at Patiala, a society registered under the Societies Registration Act, 1860 to oversee the task of computerisation of ETD with the objective to formulate strategies, policies, plans and to assist the ETD in maximising the collection of taxes, duties, levies and all other such sources of revenue, which the department imposes and collects.

Prior to introduction of the PVAT Act, an information technology (IT) system called Computerisation of Sales Tax Information System Project (COSTISP) had been operational since 2001 and was upgraded by way of incorporating the

statutory changes in the business rules after the introduction of VAT in 2005. The new upgraded system called Computerisation of Value Added Tax Information System (COVIS) has been in operation since April 2005. ETTSA hired the services of various agencies namely Ernst and Young (E&Y), CMC and KPMG for the purpose of system integration, consultancy and software development.

2.2.2 Organisational setup

The Financial Commissioner, Taxation and Principal Secretary is the overall incharge of the ETD and the department is headed by an Excise and Taxation Commissioner (ETC). The ETC is assisted by Additional Excise and Taxation Commissioners (Addl. ETCs), Joint Excise and Taxation Commissioners (JETCs) at Headquarters, Deputy Excise and Taxation Commissioners (DETCs) at divisional level and Assistant Excise and Taxation Commissioners (AETCs), Excise and Taxation Officers (ETOs) and other staff at district level. The Chief Executive Officer (CEO), ETTSA directly reports to the ETC and is responsible for overseeing the task of computerisation of ETD with the help of system analysts.

2.2.3 Information system set up

COVIS application was developed using Oracle 9i as RDBMS and Developer 6.0 as a front end. The operating systems in use were UNIX at the server end and Windows 2000 for the client machines. The central server at Patiala in the office of CEO, ETTSA was connected through leased lines and V-SAT to each division/district offices/sub offices/information collection centres (ICCs)/ mobile wings, etc. The data was being entered / updated from 99 locations in Punjab in a real time mode and was uploaded in the central server at Patiala.

2.2.4 Scope and methodology of audit

The IT review was conducted between January and July 2008 in the office of ETTSA, ETD and its five¹ district offices and 12² ICCs. An entry conference was held with the ETC in March 2008 bringing out the audit objectives, scope and methodology. The audit scope included examination of the database pertaining to the registration and taxation and its allied activities with the objective of evaluating the accuracy and integrity of the data and the effectiveness of its application in the management of the various functions of the department. The data pertaining to the period April 2005 to March 2008 was analysed using software namely IDEA – Interactive Data Extraction and Analysis package. Audit also focused on mapping of relevant business rules in COVIS, existence of IT security policy and its implementation and assessment of IT controls which may prevent wrong entry and processing of data. The working of ETTSA which was carrying out the computerisation for ETD was also reviewed. Audit findings as a result of test check of the records were reported to the department and the Government in July 2008.

¹ Amritsar II, Jalandhar I, Ludhiana II, Mohali and Patiala.

² Amritsar Railway Station, Banur, Balongi, Dhandari Kalan, Devigarh, Lalru, Ludhiana Railway Station, Mohali Phase VII, Ram Nagar, Shambhu Export, Shambhu Import and Zirakpur.

2.2.5 Audit objectives

The review was conducted with a view to assess whether:

- the system meets the requirements of the PVAT Act and is synchronized with the business needs of the department;
- the implementation of the system was preceded by systematic planning and adequate assessment of operational requirements and needs;
- the database provides sufficient, complete and reliable information for management action; and
- the physical and logical access controls are sufficient to guard against unauthorised access and modification.

Audit findings

It was observed that the system had deficiencies with respect to input and validation controls and security and access controls, which resulted in data errors rendering the information generated unreliable. The utility of COVIS was restricted as many of the planned modules had not been implemented at various levels in the department. The audit findings are discussed in the succeeding paragraphs.

2.2.6 Non-implementation of five modules of COVIS

COVIS was designed to capture the information regarding business transactions of entities through various modules. The COVIS envisaged implementation of 19 different modules.

It was noticed that five modules namely “Excise”, “Audit”, “Assessments”, “Appeals & Revision” and “Arrears”, though developed by the vendor have not been implemented so far (June 2008). As the modules of the COVIS were interdependent and/or functioned in integration, the benefits from the system could not be fully derived despite incurring an expenditure of Rs. 43.90 crore.

After this was pointed out in March 2008, the ETTSA stated (March 2008) that the Audit, Assessment, Arrear, Appeal and Excise modules were deployed along with the COVIS but these modules are to be redeployed after conducting the UAT (user acceptance testing) which is pending at the level of department in view of changes in VAT procedures after introduction of PVAT Act. However, UAT of above five modules has not been conducted even after a lapse of three years of the changes made in VAT procedure by the Government.

2.2.7 Partial utilisation of the system

The system was designed to capture the complete workflow of the department. It was noticed that the department was mainly using five modules viz., Front Window, Dealer Management, Return Management, Forms Inventory and ICC Management out of 14 modules implemented by ETTSA.

The system was not being used completely in the following cases:

- refunds were being issued at district office Patiala, without generating the mismatch report through COVIS;
- all the penalties levied to the dealers were calculated manually which defeated the objective of penalty module of COVIS;
- the department could enter data of only 75.25 per cent of returns and 5.06 per cent of Annual Statements into the system in five district offices test checked. Data entry in respect of rest of the returns and annual statements was pending (August 2008); and
- in 31³ cases out of 39 cases manually checked, refunds were granted without capturing the data into computer system. No fool proof system existed in the department to avoid the double drawal of refund.

2.2.8 Data security

Application software and data should be protected from unauthorised alteration by implementing logical access controls. Although a password policy was in vogue in department to enforce logical access controls in COVIS, yet it was found deficient in view of following audit observations:

- Five hundred fifty users were using 181 distinct passwords thereby meaning that similar passwords were being used by many users;
- One thousand three hundred sixty users were using passwords having length ranging from two to seven characters against the requirement of eight alphanumeric characters as per the password policy of the department; and
- there was no locking of the password after three unsuccessful attempts.

2.2.9 Unauthorised alteration of data maintained in COVIS

- Analysis of system logs revealed that 68 dealers of Fatehgarh Sahib district office imported goods valuing Rs.9.69 crore through Doomanwali barrier which involved 209 transactions. A perusal of the logs revealed that the value of these transactions was modified from Rs. 9.69 crore to Rs. 3.32 crore. The bills of these dealers were not provided to audit for further scrutiny in absence of which further analysis could not be done.
- It was noticed that 14,681⁴ entries at four ICCs were modified, and the user ID of the creator and modifier was different. In 4,222 cases out of 14,681 the time gap in creation and in modification ranged between 11 to 1,018 days adversely affecting the reliability and integrity of the data. The prevalence of such high level of modifications happening after a considerable time gap showed a total disregard of IT security in the system rendering the data unreliable. It also points towards the possibility of revenue leakage.

³ Jalandhar (5 cases), Ludhiana II (10 cases), Mohali (10 cases) and Patiala (6 cases).

⁴ Doomanwali (9,621), Lalru (761), Ram Nagar (414) and Shambhu Export (3,885).

2.2.10 Analytical review of data

Analytical review of data was carried out in respect of data for the period April 2005 to March 2008 as maintained by three modules namely Dealer Management Module, ICC module and Return module. The findings are discussed in the succeeding paragraphs.

2.2.10.1 Dealer Management Module

Dealer management module of COVIS was designed for entering the details of the dealers of the State (as found in their application for registration with ETD) as a master data to enable the department to get all the relevant details of the dealer.

Test check of the records revealed the following deficiencies in five district offices in the data maintained by the module involving 49,064⁵ dealers:

- in the data concerning registration of dealers, the date of registration can not be prior to the date of request. However, in 1,493 cases, it was found that the registration date was prior to the request date of application of registration;
- in 229 cases of registration, the dealer name was not entered;
- in 245 cases, details about business constitution were not entered;
- in 2,989 cases, dealer's name was mentioned as "Not Available";
- permanent account number of different dealers was same in 104 cases;
- in 5,505 cases, dealer's surety details were not entered into the system;
- in 22,616 cases, the surety amount was less than Rs. 50,000 in contravention of the provisions of PVAT Act. Out of these, surety amount was shown as zero in 1,800 cases;
- in 242 cases, the bank guarantee of Rs. 1.02 crore had expired. No alerts were given by the system for such cases;
- in 201 cases, tax payers identification mark (TINs) of the dealer and the sureties were the same;
- in 8,849 cases, sureties were registered dealers, however, their TIN were not entered into the system;
- in 33 cases, dealers were having more than one TIN for the same company;
- in 35,028 cases, data entry in respect of net sales figure was wrong. The mathematical calculation regarding net sales subject to VAT should be facilitated by the system. On the contrary, the net sales figure as furnished by the dealer was entered into the system without any validations which led to errors;
- in 135 cases, input tax credit (ITC) claimed was not equal to ITC on purchase less ITC utilised;

⁵ Amritsar II (7,622), Jalandhar I (7,130), Ludhiana II (15,856), Mohali (7,636) and Patiala (10,820).

- in 797 cases, return filing date was earlier than the return period end date; and
- in 34 cases, quarter ending date is prior to quarter starting date.

The data residing in dealer management module was unreliable on account of high instance of errors. The utility of the system was restricted on account of large scale errors that were prevalent. To that extent the objective of computerisation in maximising the collection of taxes and duties was defeated.

2.2.10.2 Information collection centre module

The ICC module was meant for entering the information regarding description of goods, the details of consigner and consignee and vehicle number, etc., in respect of goods vehicles entering or leaving the State.

Section 51 (4) of PVAT Act provides that if a vehicle does not exit through the declared exit point within 48 hours, a penalty equal to 50 *per cent* of the value of goods shall be imposed by officer incharge of the concerned ICC provided the person concerned has been given an opportunity of being heard.

- It was noticed that in 62,210⁶ cases, no penalty was imposed by 10 ICCs inspite of alerts given by the system in this regard.

The MIS reports in case of such defaulters which may be generated by the system should be monitored at higher levels and a comparative analysis vis-à-vis the actual penalties levied can lead to measures taken for prevention of revenue leakage.

The registration number of vehicle, if entered incorrectly may lead to tax evasion on account of wrong declaration of destination. The vehicle numbers can not be less than four digits or more than 10 digits.

- It was noticed that in 82,902 cases pertaining to all ICCs of the State, vehicle number as captured by the system was having either less than four or more than 10 alphanumeric characters due to incorrect/invalid data entry done by the data entry operators of hired vendor.

The vehicle entry date at ICC should be prior to the exit date from ICC.

- In 13 cases at ICC Zirakpur, exit date from ICC was prior to entry date at some other ICC. There were no validation controls in the system to ensure prevention of wrong data entry. Such a system was fraught with the risk of evasion of penalties by the transiting goods vehicles as they were supposed to exit from the State within 48 hours in case of inter state trade.

The software should have inbuilt checks to detect and not to allow a vehicle which has violated the provisions of the PVAT Act.

- It was noticed that 59,332 vehicles taking transit through the State did not report at any of the ICC exit barriers. Further analysis of the database revealed that such carriers continued transporting goods

⁶ Amritsar Railway Station (322), Banur (9,670), Balongi (10,879), Devigarh (246), Lalru (7,231), Ludhiana Railway Station (393), Mohali Phase VII (318), Ram Nagar (688), Shambhu Export (14,827) and Zirakpur (17,636).

in/out of the State and made 15,70,996 to and fro rounds in the State during 2005-06 to 2007-08. Due to non-monitoring of exception reports that may be generated by the system and owing to lack of checks in the software, there was no effective vehicle tracking system for timely detection/impounding of vehicles violating the provision of the Act.

- Due to lack of input control in software, the system accepted 8,96,409, 14,40,579, and 13,23,604 cases of bill numbers from all ICCs during 2005-06, 2006-07 and 2007-08, respectively where a same dealer issued two or more bills bearing the same number in the same year. Even the amount figure matched in many of the bills. Such bills point towards the possibility of tax evasion by suppression of purchases/sales by the dealers.

2.2.10.3 Return module

Section 26(3) of the PVAT Act requires payment of tax, if due, before submission of return by the dealer. However, in 324 cases, the system accepted payment of tax after the return was filed due to lack of validation control.

2.2.11 Deficiencies in system design

2.2.11.1 Lack of validation checks in entry tax module

COVIS was designed to capture the data of transactions of the dealers to improve the detection rate of tax evasion. The GOP levied entry tax at the rate of four *per cent* on certain goods entering the state from 21 November 2007. The data of entry tax paid by the dealers is captured in entry tax module of COVIS.

The table below shows the difference in tax noticed at Ludhiana I and Ludhiana II district offices:

(In crores of rupees)

Name of district	No. of bills	Amount of bills	Amount of entry tax received	Entry tax leviable	Difference in tax
Ludhiana I	76	22.79	0.46	0.91	0.45
Ludhiana II	19	67.73	0.82	2.71	1.89
Total	95	90.52	1.28	3.62	2.34

It was noticed that due to lack of validation controls, wrong data regarding entry tax at four *per cent* on the amount of bills were fed into the system after calculating it manually and the system did not generate the value of tax automatically on amount of bills entered into the system. This led to not only inaccuracies in data but also leakage of revenue on account of incorrect levying of tax.

2.2.11.2 Loss of revenue due to non-capturing of trading account figures

As per Section 13 of PVAT Act, ITC is available to a dealer against tax paid on purchases. However, purchase return and cash/trade discount, *inter-alia*, is deductible from such purchases. COVIS system has been designed to capture the details of sales and purchases as disclosed by the dealer in his return. No

provision, however, exists for capturing the figures of trading account in respect of sales and purchases directly so that any variation between the book figure and return figure may be detected by the system.

During test check of VAT 20 return of a dealer at Jalandhar I district office, it was noticed that the net purchase of dealer was Rs. 27.20 crore as per the trading account. However, the dealer availed ITC on purchases of Rs. 27.82 crore without deducting the incentive/discount of Rs. 62.01 lakh leading to excess claim of ITC of Rs. 7.75 lakh.

Thus, non-existence of provision for capturing trading account details and linking the same with figures declared in the return form resulted into non-detection of excess claim of ITC of Rs. 7.75 lakh by the dealer.

2.2.12 Other points of interest

- It was noticed that user requirement specifications (URS) for the computerised system that was designed and implemented was not prepared at all. This led to design deficiencies and absence of IT controls resulting into unreliable data residing in the system.
- ETTSA entered into an agreement with CMC Limited which *inter alia*, provides that wide area network (WAN), a mix of land optical fiber and VSAT network, shall be provided with minimum uptime of 99.50 *per cent* and shared minimum bandwidth of 64 Kbps for each linkage of landlines and 64 Kbps shared for VSAT connectivity.
- It was noticed that the system was slow in processing of the data. It was further observed that there was no mechanism to record the bandwidth availability for the network provided by the CMC. Thus, in absence of any system to record the bandwidth, the veracity of WAN payments of Rs. 9.59 crore made to CMC during 2004-07, could not be verified in audit.
- In the absence of any documented policy, the backups of data were being taken at irregular intervals till August 2006. There were no records to suggest that stored backups were ever tested for restoration. It was also observed that backed-up data was not being stored in fire proof cabinets in the test checked offices. There was no monitoring of recorded logs of backup procedures by any officer of the department or ETTSA.
- Punjab Financial Rules provides that physical verification of all stores should be made by the head of the office or any other officer entrusted for this purpose at least once in a year.
- It was noticed that physical verification of IT assets had not been carried out since the formation of ETTSA.

After this was pointed out ETTSA stated (March 2008) that the physical verification was conducted once by the consultant (E&Y). However, the responsibility of physical verification of all stores rests with the custodian or head of the store, as the case may be. The reply is not tenable as the ETTSA, is the custodian of all the stores and it can not be absolved of its responsibility of carrying out physical verification of its IT assets on a regular basis.

- Under PVAT Act, tax payer himself assesses the tax liability in terms of submission of returns after setting off the ITC and deposit the tax so assessed. The ETD under the Act, is empowered to check the correctness of self assessment necessitated by admissibility of ITC and various claims including documents, statements and statutory forms through VAT audit.
- It was noticed in test checked district offices that the department had neither evolved any criterion/procedure for selection of dealers for VAT audit nor any methodology of audit was devised.
- Internal Auditors have an important role in protecting the IT systems by detecting deviations in prescribed procedure and identifying threats to information system. There is an Internal Audit Branch in ETD whose main function is to carry out the internal audit of income and expenditure of the department's various wings at the Head Office, Division and District Level.
- It was noticed that neither internal inspection teams were trained in working with COVIS nor the department devised any methodology of auditing in the computerised environment. As such, no internal audit of IT System was ever conducted.

2.2.13 Conclusion

Computerisation was undertaken with a view to enhance the efficiency of the organisation in implementing the PVAT Act and rules made there under. It was expected that COVIS system would assist in maximising the collection of taxes, duties and levies which the department imposes and collects. However, the utility of COVIS was restricted on account of non-implementation of all the modules and partial utilisation of rest of the implemented modules. The availability of unreliable and inaccurate data in the system further hampered its utility in monitoring the defaulters and preventing the leakage in revenue. Lack of input and validation controls resulted in various irregularities such as acceptance of wrong entries of vehicle number, unreliable master data of dealers, unauthorised alteration of data etc. Besides, logical access controls for preventing unauthorised alteration of data were found weak. Due to incomplete, inaccurate and unreliable data residing in the system, no assurance can be derived from the functioning of the system in its present status of implementation. The monitoring by department was deficient to the extent that COVIS was not being used for generation of MIS reports and exception reports which was otherwise expected after implementation of COVIS.

2.2.14 Recommendations

- The department should plan for implementing all the modules under COVIS. There should be adequate focus on training of end users so that all functionalities of COVIS are used by users as well as managerial cadres for detecting the defaulters;

- access controls need to be strengthened to avoid unauthorised modifications to data. The department should periodically review the level of IT security and presence of controls in the system for optimal utilisation of IT resources;
- the issue relating to presence of duplicate bill numbers in the system should be investigated by the department with a view to establish whether dealers are resorting to the practice of tax evasion;
- the input control problems of ICC module needs immediate rectification as erroneous data and invalid data is rendering COVIS ineffective in putting a check on defaulter vehicles; and
- refund should be allowed only after the entry is made into computer. The refund order should be generated through COVIS. System of manually issuing refund orders should be discouraged.

2.3 Non-payment of tax

Supplying of electric meters and service lines is transfer of right to use the goods within the meaning of sale under Section 2(zf)(iv) of the Punjab Value Added Tax Act, 2005 (PVAT Act). The Punjab State Electricity Board (PSEB) supplies meters and service lines to the consumers for supplying electric energy, for which it collects rental charges, which constitute sales and the PSEB becomes a person/dealer under Section 2(t) of the Act.

Scrutiny of the annual statements of the accounts of the PSEB and information collected from the Chief Electrical Inspector (CEI) in November 2007 revealed that rental charges on electric meters and service lines amounting to Rs. 218.95 crore were collected by the PSEB from consumers during the years 2005-06 to 2006-07. As rental charges on account of electric meters and service lines collected from the consumers for supply of electrical energy is a sale, the PSEB was liable to pay tax. However, neither did the dealer (PSEB) pay VAT on the rental charges nor did the Excise and Taxation Department make any effort to levy/collect tax on these charges. This resulted in non-levy of tax of Rs. 27.37 crore by the PSEB.

After the case was pointed out in November 2007, the Excise and Taxation Commissioner intimated in April 2008 that the Assistant Excise and Taxation Commission (AETC) has been directed to complete the proceedings in a time bound manner. Further report has not been received (August 2008).

The matter was reported to the Government in January 2008; their replies have not been received (August 2008).

2.4 Non-recovery of tax and penalty from closed units

Under the Punjab General Sales Tax (Deferment and Exemption) Rules, 1991 (PGST (D&E) Rules), deferment/exemption certificate granted to a unit is liable to be cancelled, if the unit discontinues its business at any time for a period exceeding six months or closes its business during the period of deferment/exemption. On cancellation of the exemption/eligibility certificate, the entire amount of tax deferred/exempted shall become recoverable immediately in lumpsum. The provisions of levy of interest and imposition of penalty under the Punjab General Sales Tax (PGST) Act, 1948 would also be applicable in such cases.

During test check of the records of two⁷ AETCs, it was noticed between May 2006 and January 2007 that three dealers engaged in the business of agricultural implements, steel wire and rubber goods closed their business between 1997-98 and 2002-03 after availing partial exemption of Rs. 2.85 crore before the expiry of the exemption period/limit. The department cancelled their registration certificates between October 2005 and February 2006 without initiating any action to recover the amount of exemption of tax of Rs. 5.71 crore availed including interest and penalty.

The matter was reported to the department and the Government in July 2007; their replies have not been received (August 2008).

⁷ Gurdaspur (ward-10): two dealers and Hoshiarpur (ward-1): one dealer.

2.5 Short levy of purchase tax

The goods mentioned in schedule 'C' to the PGST Act are liable to purchase tax in the hands of the last dealer. Cotton of all kinds (when used in the manufacture of taxable products) is included in schedule 'C' and purchase tax is leviable at the rate of four *per cent*.

During test check of the assessment records of AETC Gurdaspur, it was noticed in June 2007 that while finalising in September 2006 the assessment for the years 2002-03 to 2004-05 of a dealer engaged in the business of manufacture of cotton yarn and availing the benefit of exemption from payment of tax, the assessing authority levied tax on the purchase of cotton valued as Rs. 26.06 crore at the rate of two *per cent* instead of four *per cent*. This resulted in short levy of purchase tax of Rs. 52.12 lakh.

After the case was pointed out in June 2007, the assessing authority intimated in January 2008 that an additional demand of Rs. 15.73 lakh for the year 2002-03 had been raised and adjusted against the exemption limit of the unit. A report on recovery of Rs. 36.39 lakh pertaining to the years 2003-04 and 2004-05 has not been received (August 2008).

The matter was reported to the department and the Government in September 2007; their replies have not been received (August 2008).

2.6 Non-levy of purchase tax

Under the provision of the PGST Act, if a dealer purchases taxable goods from any source without the payment of tax and uses them in the manufacture of tax free goods, he is liable to pay tax on the purchase of such goods. Further, the State Government vide its notification dated 17 July 2002 made the sale of rice bran and de-oiled rice bran taxable at the rate of four *per cent*.

During test check of the assessment records of AETC (Ward 5 to 8 pendency⁸) Gurdaspur, it was noticed in May 2007 that while finalising, in August 2006, the assessments for the years 2002-03 to 2004-05 of a dealer engaged in the business of manufacture and sale of cattle feed (a tax free item), the assessing authority did not levy tax on the purchase value of de-oiled rice bran and rice bran of Rs. 12.65 crore used in the manufacture of cattle feed. This resulted in non-levy of purchase tax of Rs. 50.59 lakh.

The matter was reported to the department and the Government in September 2007; their replies have not been received (August 2008).

2.7 Incorrect allowing of exemption

Under the provision of the PGST Act and the rules framed thereunder, tax at the rate of four *per cent* is leviable at the first stage of sale of cotton yarn and cotton waste.

During test check of the assessment records of AETC⁹, Gurdaspur it was noticed in June 2007 that while finalising in September 2006, the assessment for the years 2002-03 to 2004-05 of a dealer engaged in the business of cotton

⁸ Ward which deals with the pending assessment under PGST Act.

⁹ Pendency ward 1 to 4 Batala.

yarn/cotton waste and enjoying exemption from payment of sales tax under the PGST (D&E) Rules, the assessing authority incorrectly allowed deduction of Rs. 8.65 crore on account of sale of cotton yarn and cotton waste made to the registered dealers in the State against the prescribed declarations. As the dealer was a manufacturer enjoying the benefit of exemption and had sold the goods to other dealers in the state, he was liable to be assessed for such sale. The incorrect allowing of exemption resulted in non-levy of tax of Rs. 40.19 lakh.

The matter was reported to the department and the Government in September 2007; their replies have not been received (August 2008).

2.8 Non-levy of tax at the first stage of sale

Under the provisions of the PGST Act and the rules framed thereunder, tax is leviable at the first stage of sale of paper, duplex board, pipe, pipe fittings, concrete reinforced cement (CRC) sheets, auto parts, packing material, lubricants and adhesives, crockery of all kinds, paints, plastic moulding and iron sheets. The first stage in the case of a dealer, who brings into the State of Punjab the said goods, from any place outside the State, is the stage when such dealer sells the said goods for the first time within the State.

During test check of the assessment records of six¹⁰ AETCs between November 2005 and September 2007, it was noticed that while finalising between July 2005 and May 2007, the assessments of 11 dealers for the years 2000-01 to 2004-05, the assessing authorities allowed deduction of Rs. 5.72 crore on account of sales of paper, duplex board, pipe, pipe fittings, CRC sheets, auto parts, packing material, lubricants and adhesives, crockery of all kinds, paints, plastic moulding and iron sheets made to the registered dealers in the state against the prescribed declarations. Since these goods were taxable at the first stage of sale, the deductions allowed against these declarations were not correct. This resulted in non-levy of tax of Rs. 34.45 lakh.

The matter was reported to the department and the Government between July 2007 and February 2008; their replies have not been received (August 2008).

2.9 Short computation of turnover

Turnover as defined in the PGST Act includes the aggregate of sales and purchases actually made by any dealer during a given period.

2.9.1 During test check of the records of three¹¹ AETCs, it was noticed between March 2006 and May 2007 that while finalising, between November 2004 and November 2006, the assessment of three dealers, for the years 2001-02 and 2003-04 to 2004-05, engaged in the business of manufacture and sale of beer, Indian made foreign liquor, country liquor, glass, plywood and confectionery goods, the assessing authorities computed gross turnover as Rs. 48 crore on the basis of returns filed by the dealers instead of Rs. 50.42 crore as shown in the trading account. This resulted in non-levy of tax of Rs. 21.81 lakh.

¹⁰ Amritsar I, II, Jalandhar II, Ludhiana I, II and III.

¹¹ Gurdaspur (ward 10), Patiala (ward 3) and Patiala (inspection).

The matter was reported to the department and the Government in September 2007; their replies have not been received (August 2008).

2.9.2 During test check of the records of AETC Ludhiana I (Pendancy ward), it was noticed in August 2007 that while finalising, in May 2006 the assessment for the year 2002-03 of a dealer engaged in the business of resale of ball bearings, the assessing authority assessed/levied tax at rate of four *per cent* on the sale of Rs. 9.74 crore on the basis of returns filed by the dealer though sale of Rs. 11.63 crore was shown in the trading account. This resulted in short computation of turnover of Rs. 1.89 crore and short levy of tax of Rs. 8.33 lakh.

The matter was reported to the department and the Government in January 2008; their replies have not been received (August 2008).

2.10 Non-levy of tax on sale of duty entitlement pass book

It has been judicially¹² held that import replenishment, exim scrips/duty entitlement pass book (DEPB) licences are goods and premium or price received by the holders by transfer thereof to another person is liable to sales tax at the prescribed rate. Additional tax at the rate of 10 *per cent* of the tax assessed is also leviable.

During test check of the assessment records of AETC, Hoshiarpur, it was noticed in January 2007 that while finalising in January 2006 the assessment for the year 2002-03 of a dealer engaged in the business of manufacture and sale of sewing thread/yarn/steel, etc., the assessing authority had not included the receipts of Rs. 2.43 crore on account of sales benefit under DEPB. This resulted in non-levy of tax of Rs. 21.38 lakh.

The matter was reported to the department and the Government in July 2007; their replies have not been received (August 2008).

2.11 Short levy of additional tax

Under the PGST Act and the rules made thereunder, additional tax at the rate of 10 *per cent* of the tax assessed is leviable, in addition to tax.

During test check of the assessment records of the AETC, Ludhiana III (pendancy), it was noticed in September 2007 that while finalising, in March 2007, the assessment for the years 2002-03 of two dealers engaged in the business of yarn and enjoying the benefit of exemption from payment of tax under PGST (D&E) Rules, the assessing authority assessed tax of Rs. 148.50 lakh on the turnover of Rs. 37.11 crore but levied additional tax of Rs. 6.54 lakh instead of Rs. 14.85 lakh. This resulted in short levy of additional tax of Rs. 8.31 lakh.

The matter was reported to the department and the Government in January 2008; their replies have not been received (August 2008).

¹² M/s Vikas Sales Corporation v/s Commissioner of Commercial Taxes 102 STC-106 (1996) (SC).

2.12 Application of incorrect rate of tax

Under the provisions of the PGST Act and the Rules made thereunder, tax on the sale of cutlery is leviable at the rate of 13.2 *per cent* including additional tax.

During test check of the records of AETC, Ludhiana II (Ward-13A), it was noticed in March 2007 that while finalising, in May 2005, the assessment for the year 2003-04 of a dealer engaged in the business of sale of cutlery, the assessing authority levied tax at incorrect rate on the sale of Rs. 37.30 lakh. This resulted in underassessment of tax of Rs. 4.10 lakh.

The matter was reported to the department and the Government in July 2007; their replies have not been received (August 2008).

2.13 Incorrect allowing of refunds

Under the PVAT Act and Rules made thereunder, a person claiming refund and availing concessional rate of central sales tax (CST) shall attach the documentary evidence with the annual statement in the form of statutory declaration in form C prescribed under the Central Sales Tax Act, 1956 (CST Act). The net tax payable by a taxable person would be computed by subtracting the input tax credit (ITC) from the output tax liability. Furnishing of form 'C' is mandatory with effect from May 2002.

2.13.1 During test check of the records of refunds of three¹³ designated officers for the years 2005-06 and 2006-07, it was noticed that while allowing refunds to 12 dealers between February 2005 and March 2007, the designated officers calculated output tax liability on inter state sale (ISS) of Rs. 879.47 crore at the concessional rate without the prescribed declarations in form C. This resulted in incorrect allowance of refunds of Rs. 62.55 crore as mentioned below:

(In crore of rupees)

Sr. No.	Name of the district/ (No. of dealers)	Value of ISS	Tax leviable	Tax levied	Tax short levied
1.	Amritsar II (3)	561.62	56.12	15.35	40.77
2.	Ludhiana I (1)	119.20	11.92	2.83	9.09
3.	Ludhiana III (8)	198.65	19.84	7.15	12.69
Total		879.47	87.88	25.33	62.55

After the cases were pointed out, the designated officer Amritsar II stated that statutory declarations have been received in most of the cases of refunds pertaining to the year 2005-06 and the Government had extended the date of submission of declarations for the year 2006-07 upto 31 March 2008. The reply is not tenable as there is no provision in the CST Act under which the State Government can grant extension in production of declaration in form C. Reply in the remaining cases has not been received (August 2008).

2.13.2 Under the PVAT Act, ITC on the goods liable to purchase tax when sold in the course of inter state trade or commerce shall be available only to the extent of tax chargeable under the CST Act. Tax at the rate of two *per cent* is leviable on ISS of cotton yarn.

¹³ Amritsar II, Ludhiana I and III.

During test check of the records of AETC Ludhiana III for the fourth quarter of 2005-06 of a dealer, it was noticed that the designated officer allowed (November 2006) ITC on the purchase of cotton corresponding to ISS of yarn valued as Rs. 13.70 crore at the rate of four instead of two *per cent*. This resulted in excess allowance of refund of Rs. 9.32 lakh.

2.13.3 Under the PGST Act and the Rules framed thereunder, a dealer may deduct from his gross turnover, purchase value of goods, which had already been subjected to tax at the first stage, used or consumed by him in the manufacture of goods other than those declared tax free under the Act.

During test check of the assessment records of AETC, Ropar, it was noticed in October 2006 that while finalising in March 2005, the assessment for the year 1999-2000 of a dealer engaged in the business of manufacture and sale of yarn, the assessing authority allowed rebate of tax of Rs. 23.23 lakh paid on the purchase value of raw material of Rs. 9.10 crore consumed in the manufacture of yarn. Thus, allowing rebate of tax instead of deduction of the purchase value of the raw material from the gross turnover, resulted in excess allowance of refund of Rs. 3.21 lakh.

The matter was reported to the department and the Government between February 2007 and April 2008; their replies have not been received (August 2008).

2.14 Incorrect levy of concessional rate of tax

Under the CST Act, on ISS of goods made to registered dealers and supported by prescribed declaration, CST is leviable at the concessional rate of four *per cent* or at such lower rate as applicable to the sale or purchase of such goods within the State. Tax on goods not covered by such declaration, in the case of declared goods, shall be calculated at twice the rate applicable in the state and in respect of other goods at 10 *per cent* or at the rate applicable to the sale of such goods inside the state whichever is higher.

2.14.1 Test check of the assessment records of 15 AETCs¹⁴ revealed that while finalising assessments of 96 dealers between April 2005 and March 2007 for the years 1999-2000 to 2004-05, the assessing authorities levied concessional rate of tax on ISS of Rs. 186.72 crore made to other registered dealers without the prescribed declarations and incomplete/duplicate declarations in form C. This resulted in short levy of tax of Rs. 10.95 crore.

¹⁴ Amritsar I, II, Bathinda, Ferozepur, Fatehgarh Sahib, Gurdaspur, Hoshiarpur, Jalandhar I, II, Ludhiana I, II, III, Moga, Ropar and Sangrur.

A few illustrative cases are mentioned below:

(In lakh of rupees)

Sr. No.	Name of the district/ (No. of dealers)	Assessment year/month & year of assessment	Commodity	Rate of tax leviable/ levied (rate in percentage)	Value of ISS	Tax leviable/ levied	Tax short levied
1.	Ludhiana I (5)	<u>2004-05</u> March 2007	Hand tools	$\frac{10}{4}$	2,870.77	<u>287.08</u> 114.83	172.25
		<u>2004-05</u> March 2007	Tools	$\frac{10}{4}$	1,979.12	<u>197.91</u> 79.16	118.75
		<u>2000-01</u> September 2006	Iron and steel	$\frac{8}{2}$	558.51	<u>44.68</u> 11.17	33.51
		<u>2000-01</u> March 2007	Cycle parts	$\frac{10}{2}$	370.58	<u>37.06</u> 7.41	29.65
		<u>2003-04</u> August 2006	Sewing machine parts	$\frac{10}{4}$	438.46	<u>43.85</u> 17.54	26.31
2.	Ludhiana III (1)	<u>2004-05</u> February 2007	Iron and steel	$\frac{8}{2}$	2,401.62	<u>192.13</u> 48.03	144.10
3.	Ferozepur (1)	<u>2003-04</u> September 2005	Ginning of cotton	$\frac{10}{4}$	859.35	<u>85.94</u> 34.37	51.57
4.	Sangrur (1)	<u>2003-04</u> August 2005	ERW ¹⁵ pipe	$\frac{8}{4}$	990.42	<u>79.23</u> 39.62	39.61

2.14.2 Under the CST Act, a dealer can purchase goods of the class or classes specified in the certificate of registration as being intended for resale by him or for use by him in the manufacture or processing of goods for sale. The purchasing dealer shall be liable to pay tax at a concessional rate of tax if such transaction is supported by the prescribed declaration in form C.

During test check of the records of AETC Hoshiarpur for the year 2006-07 of a dealer engaged in the business of construction of roads, it was noticed that the dealer made inter state purchases of material for the construction of roads valued as Rs. 87.72 crore by using the prescribed declaration in form C and consumed the material on construction of roads. Scrutiny by audit revealed that no sale was shown in the return filed by the dealer under the PVAT Act. As the goods were not used for resale or in the manufacturing of goods for sale, as laid down in the CST Act, the dealer was liable to pay tax on the purchase of material used in the state on the construction of roads. The assessing authority, however, failed to detect the irregularity and assess the tax liability correctly. This resulted in undue benefit of tax of Rs. 3.51 crore (calculated at VAT rate of four *per cent* on Rs. 87.72 crore) to the dealer.

2.14.3 Under the PGST Act, if the Government is satisfied that it is necessary and expedient to do so in public interest, it may direct, that the assessment in respect of any class of dealers for any prescribed period, shall be deemed to have been made as per the returns already furnished, on payment of such amount and subject to such conditions as may be prescribed. The concession under deemed assessment scheme as envisaged in the PGST Act and Rules made thereunder is not admissible to the assessee under the CST Act. Tax at

¹⁵ Electric resistance welded.

the rate of four *per cent* is leviable on the sale of sewing machine and its parts, if supported with declaration in form C, and 10 *per cent* without the declaration in form C.

During test check of the assessment records of AETC Ludhiana III, it was noticed that while finalising in June 2005 the assessment of a dealer for the year 1997-98 under deemed assessment, the assessing authority incorrectly levied concessional rate of tax on ISS of Rs. 7.81 crore without production of declarations in form C. As the concession under deemed assessment scheme was not admissible under the CST Act, allowing concessional rate resulted in short levy of tax of Rs. 46.85 lakh.

2.14.4 Under the CST Act, any subsequent sale of goods during their movement from one state to another effected by transfer of documents of title to such goods to a registered dealer is exempt from the levy of tax provided such sale is supported with declaration in form EI¹⁶ and form C.

Test check of the records of AETC Amritsar (ward 10 A) revealed that while finalising in April 2006 the assessment of a dealer for the year 2002-03, the assessing authority allowed the deduction of transit sale of Rs. 24.13 crore¹⁷ on the production of declaration in form EI and C. Cross verification of the transactions by the audit disclosed that one declaration involving transit sale of Rs. 1.42 crore was not issued to the dealer by the assessing authority. Thus allowing of deduction of Rs. 1.42 crore on false declaration resulted in non-levy of tax of Rs. 14.19 lakh, besides penalty of Rs. 7.10 lakh.

2.14.5 During the course of audit of the records of AETC Ludhiana III, it was noticed that the assessing authority finalised the assessment of a dealer in December 2006 for the year 2001-02 on the strength of declaration in form C without verification. Cross verification by audit of two transactions of ISS of Rs. 46.82 lakh revealed that these declarations were not issued by the assessing authority of the purchasing dealer. Thus allowing of concessional rate of tax on false declarations resulted in short levy of tax of Rs. 2.81 lakh besides minimum penalty of Rs. 1.40 lakh.

The matter was reported to the department and the Government in April 2008; their replies have not been received (August 2008).

2.15 Underassessment of tax

Tax on the sale of fibre and yarn is leviable at the rate of four *per cent* under the PGST Act. Under the CST Act, sale or purchase of goods shall be deemed to take place in the course of inter state trade or commerce if the sale or purchase occasions the movement of goods from one state to another.

Under the CST Act, if a purchasing dealer made a subsequent ISS by transfer of documents of title to the goods during their movement from one state to another, no tax shall be leviable subject to the production of the prescribed certificate in form EI or EII along with declarations in form C to be issued by the selling and purchasing dealer.

¹⁶ EI form is required to be produced to avail deduction on transit sale.

¹⁷ Out of total deduction of Rs. 364.07 crore against 4 declarations in E-I form and 134 declarations in form C.

2.15.1 During test check of the assessment records of two AETCs (Hoshiarpur and Ludhiana II), it was noticed that while finalising the assessments between December 2005 and December 2006 for the years 2002-03 and 2003-04 of two dealers, the assessing authorities incorrectly treated intra state sale of Rs. 275.46 crore made to a dealer of Amritsar as ISS and assessed to tax at concessional rate of tax at two *per cent*. This resulted in under assessment of tax of Rs. 6.61 crore.

After the case was pointed out, the AETC Hoshiarpur intimated in May 2008 that under section 3(a) & (b) read with Section 6(2) of the CST Act, intra state sale can be treated as ISS, if goods are further meant for sale out of state. The reply of the AETC is not tenable as the above provisions of the Act pertain to transit sale and transit sale shall be treated as ISS if it is occasioned by transfer of documents of title during movement of goods from one State to another. No such transaction has taken place in this case. Further reply has not been received (August 2008).

2.15.2 During test check of the records of five AETCs¹⁸, it was noticed that while finalising the assessments of 15 dealers for the years 2000-01 to 2004-05, the assessing authority incorrectly allowed, between July 2006 and March 2007, deduction of Rs. 27.79 crore on ISS from the gross turnover on account of sale of goods in transit on production of the prescribed declaration form E I or E II furnished by dealers of the other states and C forms produced by the dealer of Punjab. Since the movement of goods had taken place within the State, the exemption from the levy of tax was not admissible. The incorrect allowing of deduction resulted in under assessment of tax amounting to Rs. 2.23 crore.

The matter was reported to the department and the Government in April 2008; their replies have not been received (August 2008).

2.16 Non/short levy of tax on stock transfers

Under the CST Act, where any dealer who claims that he is not liable to pay tax, in respect of any goods, on the ground that the movement of such goods, from one state to another was occasioned by transfer of such goods by him to any other place of his business or to his agent or principal as the case may be and not by reason of sale, the burden of proving it shall be on that dealer. For this purpose he may furnish to the assessing authority a declaration in form F duly filled and signed by the principal officer of the other place of business or his agent or principal as the case may be. Under the PGST Act and PGST (D&E) Rules, notional sales tax liability on the branch transfer or the consignment sales outside the State shall be computed at the rate of four *per cent* on the production of the certificate in form F and at the rate of 10 *per cent* in the event of non-production of certificate in form F specified in the CST Act.

2.16.1 During test check of the records of three AETCs¹⁹, it was noticed that the assessing authorities while finalising the assessments of four dealers between February 2006 and January 2007 for years 2002-03 to 2004-05

¹⁸ Amritsar II, Ludhiana I, II and III and Ropar.

¹⁹ Ludhiana II, Ludhiana III and Moga.

allowed deductions on account of branch transfer of goods valued as Rs. 46.35 crore against declarations in form F. Scrutiny of the declarations in form F revealed that information like registration number and date of registration, quantity and proof of dispatch of goods, etc. were not found recorded in form F as required under the rules. Incorrect grant of deduction on incomplete declaration in form F resulted in non-levy of tax of Rs 4.56 crore.

2.16.2 During test check of the assessment records of AETC Inspection, Ludhiana I for the year 2002-03 of a dealer engaged in the business of manufacture and sale of cycle/auto tyres and tubes and availing the benefit of exemption under PGST (D&E) Rules, it was noticed that the dealer had made consignment sale of Rs. 41.14 crore supported by declarations in form F. The assessing authority while finalising the assessment in March 2007 incorrectly levied notional tax at the rate of two *per cent* instead of the correct rate of four *per cent* on the transfer of stock. Thus, application of incorrect rate of tax resulted in under assessment of tax of Rs. 82.28 lakh.

2.16.3 During test check of the assessment records of two AETCs (Amritsar II and Mansa) for the year 2002-03 and 2003-04 of two dealers engaged in the business of health care products and oil, it was noticed that while finalising the assessments between September 2005 and March 2007, the assessing authorities allowed deduction of Rs. 4.78 crore on stock transfer of goods against 32 F forms. The value of the declarations worked out to Rs 2.48 crore instead of Rs. 4.78 crore. This resulted in short levy of CST of Rs. 23.05 lakh.

The matter was reported to the department and the Government in April 2008; their replies have not been received (August 2008).

2.17 Irregular exemption on export

Under the CST Act and Rules made thereunder, a dealer may in support of his claim that he is not liable to pay any tax under the Act in respect of any sale of goods on the ground that the sale of such goods is a sale in the course of export of these goods out of territory of India furnish to the prescribed authority the original certificate in form H duly filled in and signed by the exporter alongwith evidence of export of such goods.

Test check of the assessment records of six²⁰ AETCs revealed that exemption of Rs. 31.22 crore was granted to 21 dealers on account of export of goods outside the territory of India without the production of prescribed declarations in form H, evidence of export or incomplete/duplicate forms H. This resulted in under assessment of tax of Rs. 3.04 crore. A few illustrative cases are

²⁰ Amritsar I, II, Ludhiana I, III, Moga and Sangrur.

mentioned below:

(In lakh of rupees)

Sr. No.	Name of districts/ (No. of dealers)	Assessment year/ month & year of assessment	Commodity	Rate of tax leviable	Value of indirect export	Tax leviable but not levied
1.	Ludhiana III (3)	2004-05 January 2006	Hosiery	10	504.32	50.43
		2003-04 July 2005	Hand tool		480.01	48.00
2.	Ludhiana I (7)	2004-05 March 2007	Hand tool	8	364.10	36.41
		2004-05 March 2007	Scrap		373.11	29.85
		2003-04 March 2007	Hand tool	10	102.02	10.20
3.	Amritsar II (7)	2003-04 May 2006	Bardana		303.02	30.30

The matter was reported to the department and the Government in April 2008; their replies have not been received (August 2008).

2.18 Excess allowing of rebate on sale of rice

The CST Act provides that where a tax has been levied in the state on paddy, the tax leviable on rice procured out of such paddy shall be reduced by the amount of tax levied on such paddy. Further the export of goods is exempted from levy of tax. For the purpose of export of rice, paddy and rice shall be treated as a single commodity.

2.18.1 During test check of the records of AETC Amritsar II, it was noticed that while finalising between May 2005 and March 2007 the assessments for the years 2000-01 to 2003-04 of five dealers engaged in the business of rice shelling, the assessing authority allowed (between May 2005 and March 2007) rebate on Rs. 44.67 crore against admissible rebate on Rs. 32.66 crore (purchase value of paddy) on account of ISS of rice of Rs. 45.19 crore and deduction of Rs. 17.77 crore (purchase value of paddy) against admissible deduction of Rs. 8.78 crore (export value of rice). This resulted in short levy of tax of Rs. 84.01 lakh.

2.18.2 Under the CST Act, the last sale or purchase of any goods preceding the sale or purchase occasioning the export of those goods out of territory of India is exempt from tax. It has been judicially²¹ held that the purchase of paddy used for manufacture of rice to be exported out of India indirectly, is liable to purchase tax in the hand of rice miller notwithstanding that rice procured out of it is exported out of India.

During test check of the records of AETC Moga, it was noticed that while finalising in December 2006 the assessment of a dealer for the year 2004-05, the assessing authority allowed deduction of Rs. 2.79 crore from the purchase turnover of paddy on account of indirect export of rice procured from it. The paddy out of which rice was procured and exported was liable to purchase tax in view of the above judicial pronouncement. Thus, allowing of deduction resulted in non-levy of purchase tax of Rs. 11.16 lakh.

²¹ M/s Veeru Mal Monga & Sons V/s State of Haryana and Others (STI-2000-Punjab & Haryana High Court-52).

The matter was reported to the department and the Government in April 2008; their replies have not been received (August 2008).

2.19 Mistake in computation of tax

During test check of the assessment records of AETC Gurdaspur, it was noticed that while finalising in September 2006, the assessment for the year 2002-03 of a dealer engaged in the business of manufacturing of yarn and also enjoying the benefit of exemption from payment of tax under PGST (D&E) Rules, the assessing authority incorrectly worked out tax of Rs. 7.80 lakh instead of Rs. 78.02 lakh on ISS of Rs. 7.80 crore. This resulted in short levy of CST of Rs. 70.22 lakh.

After the case was pointed out, the department intimated in February 2008 that additional demand of Rs. 70.22 lakh had been raised. A report on recovery has not been received (August 2008).

The matter was reported to the department and the Government in April 2008; their replies have not been received (August 2008).

2.20 Loss of revenue due to non-verification of returns with the records of information collection centres (ICC)

The consolidated computerised dealer wise list of ISS is required to be sent to the districts through Excise and Taxation Commissioner every fortnightly, quarterly and yearly. Such lists would not only be utilised at the time of final assessments of cases of the dealers but would also be cross verified by the concerned assessing authorities with the returns filed by the dealers.

During test check of the assessment records of four AETCs for the years 2002-03 to 2004-05, it was noticed that while finalising the assessments of five dealers between October 2005 and October 2006, the assessing authorities did not account for the ISS of Rs. 6.02 crore made by these dealers as per the data supplied by the ICC. This resulted in evasion/escapement of tax of Rs. 54.16 lakh and minimum penalty of Rs. 27.08 lakh as mentioned below:

(In lakh of rupees)							
Sr. No.	Name of districts/ (No. of dealers)	Assessment year/month & year of assessment	Sale/purchase as per returns/ commodities	Purchase as per ICC data	Taxable turnover suppressed	Tax leviable (in per cent)	Under assessment/ penalty
1.	Patiala (1)	2004-05 March 2006	<u>7.97</u> Corrugated boxes	27.22	19.25	10	<u>1.93</u> 0.97
2.	Muktsar (1)	2004-05 October 2005	<u>18.57</u> Gur (import)	57.01	38.44	4.4	<u>1.69</u> 0.85
3.	Ludhiana II (1)	2002-03 December 2005	<u>8.08</u> Tractor and tractor parts	356.37	348.29	10	<u>34.83</u> 17.42
4.	Ludhiana I (2)	2002-03 April and October 2006	<u>1,267.13</u> Forging & iron	1,463.55	196.42	8	<u>15.71</u> 7.86
Total			1,301.75	1,904.15	602.40		<u>54.16</u> 27.08

The matter was reported to the department and the Government in April 2008; their replies have not been received (August 2008).

2.21 Incorrect allowing of exemption

Under the CST Act, goods exempted from payment of tax under the PGST Act are also exempted from payment of CST. Under the PGST (D&E) Rules, the amount of tax payable under the CST Act on the sale of finished products of the eligible units made in the course of inter state trade or commerce shall be computed at the rate applicable under the aforesaid Act.

During test check of the assessment records of the AETC Amritsar II, it was noticed that while finalising the assessment between December 2006 and March 2007, for the years 2002-03 to 2004-05, of a dealer enjoying the benefit of exemption from payment of tax under the PGST (D&E) Rules, the assessing authority exempted the ISS of animal driven vehicle tubes of Rs. 1.64 crore treating the sale as tax free. Incorrect allowing of exemption resulted in non-levy of CST of Rs. 16.44 lakh.

The matter was reported to the department and the Government in April 2008; their replies have not been received (August 2008).

2.22 Short levy of tax

Under the CST Act, a dealer, who in the course of inter state trade or commerce sells to the Government departments, any goods, is liable to pay tax at the concessional rate of four *per cent* if the sales are supported by certificates in form D. Tax on the goods not covered by such declarations, in case of declared goods shall be calculated at double the rate of tax applicable in the state and in respect of other goods at rate of 10 *per cent* or at the rate applicable to the sale of such goods inside the state whichever is higher.

During test check of the records of AETC Inspection, Ropar (Mohali), it was noticed that while finalising in January 2007 assessment for the year 2001-02 of a dealer engaged in the business of manufacture and sale of computer stationery and availing the benefit of exemption under PGST (D&E) Rules, the assessing authority levied tax at the rate of four *per cent* on the ISS of Rs. 1.44 crore made to the Government departments not supported by declarations in form D. Application of incorrect rate of tax resulted in short levy of tax of Rs. 8.65 lakh.

The matter was reported to the department and the Government in April 2008; their replies have not been received (August 2008).