

CHAPTER-2: Sales Tax

2.1 Results of audit

Test check of records of the offices of the Commercial Taxes department, conducted in audit during the year 2001-2002 revealed under assessments etc., of tax amounting to Rs. 131.99 crore in 1020 cases which broadly fall under the following categories.

(Rupees in crore)

Sl. No.	Category	Number of cases	Amount
1.	Non-assessment of taxable turnover	175	1.95
2.	Under-assessment due to irregular or incorrect allowances of deductions	104	2.63
3.	Short levy of tax due to application of incorrect rate of tax	187	2.04
4.	Irregular grant of exemption	147	4.81
5.	Non-levy of purchase tax	61	0.57
6.	Non-levy of penalty/interest	93	0.51
7.	Sales Tax Exemption Scheme 1998	1	84.51
8.	Other irregularities	252	34.97
Total		1020	131.99

During the year 2001-2002, the department accepted under assessments etc. of Rs. 7.04 crore involved in 364 cases, of which 141 cases involving 1.34 crore had been pointed out in audit during 2001-2002 and the rest in the earlier years. Further the department recovered Rs. 84.52 lakh in 87 cases during the year 2001-2002 of which 53 cases involving Rs. 45.03 lakh related to year 2001-2002 and the rest to the earlier years. A few illustrative cases and findings of the review on 'Sales Tax Exemption Scheme 1998' involving Rs.117.36 crore are given in the following paragraphs:

2.2 Review on Sales Tax Exemption Scheme 1998

2.2.1 Highlights

In 6 cases units not covered by the scheme were sanctioned irregular benefit of Rs. 3.43 crore.

(Paragraph 2.2.5.2)

Exemption in tax of Units having Eligible Fixed Capital Investment (EFCI) exceeding Rs.150 lakh was sanctioned at the rate of 125 per cent of such EFCI, instead of 100 per cent thereto, as admissible for such units resulting in excess sanctions of Rs. 2.55 crore in 5 cases.

(Paragraph 2.2.5.3)

Wrong determination of EFCI, resulted in excess exemption of tax of Rs. 16.96 crore.

(Paragraph 2.2.5.4)

While computing EFCI building cost was taken in excess of appraised project cost resulting in excess sanction of benefit of Rs. 4.30 crore.

(Paragraph 2.2.5.5)

Amount refunded in the form of state capital investment subsidy was not deducted for determination from EFCI, which in turn led to grant of excess exemption of tax of Rs. 3.73 crore in 69 cases.

(Paragraph 2.2.5.6)

18 units going in for expansion were incorrectly granted benefit of Rs. 53.05 crore without fulfilling the condition of utilization of at least 80 per cent of installed capacity during the respective immediately preceding years.

(Paragraph 2.2.5.7)

2.2.2 Introduction

With a view to attract entrepreneurs for new industrial investment and to promote growth of industries in the State, the Government notified Sales Tax Exemption and Deferment Scheme from time to time. For the first time schemes were notified in 1987, followed by another scheme during 1989, which were in operation upto 31 March 1997 and 31 March 1999 respectively. Another scheme was notified on 7 April 1998, which was originally effective upto 31 March 2003, but was restricted upto 30 April 2000 by notification dated 19 January 2000. Benefit under these schemes were admissible to new

industries, sick industries and the running industries going in for expansion and diversification.

Review is based on audit scrutiny of cases covered by 1998 scheme.

Salient features of scheme

(a) Position of categorywise quantum of admissible benefit, years during which benefit can be availed and yearwise admissibility is given below:

S. No.	Category	Quantum of sales tax concession	Maximum period (Years)	Year-wise admissibility of benefit
1.	2.	3.	4.	5.
1.	New and sick units except 2 below	100 per cent of eligible fixed capital investment (EFCI) in cases where such investment exceeds Rs. 150 lakh and 125 per cent of EFCI in cases where such investment does not exceed Rs. 150 lakh.	11	1 st year 100 per cent 2 nd year 90 per cent 3 rd year 80 per cent 4 th year 70 per cent 5 th year 60 per cent 6 th and 7 th year 50 per cent 8 th and 9 th year 40 per cent 10 th and 11 th year 30 per cent
2(i)	New units of knitwears, gems and jewellery, textile, electronics and telecommunication, computer software, footwear and leather goods, glass and ceramic.	125 per cent of EFCI	13	1 st and 2 nd year 100 per cent 3 rd and 4 th year 90 per cent 5 th and 6 th year 80 per cent 7 th and 8 th year 70 per cent 9 th and 10 th year 60 per cent 11 th year 50 per cent 12 th and 13 th year 40 per cent
2(ii)	Very prestigious units.			
3.	Pioneering/prestigious units and exporting units (exporting at least 50 per cent of their production).	100 per cent of EFCI	13	1 st and 2 nd year 100 per cent 3 rd and 4 th year 90 per cent 5 th and 6 th year 80 per cent 7 th and 8 th year 70 per cent 9 th and 10 th year 60 per cent 11 th year 50 per cent 12 th and 13 th year 40 per cent

(b) Tax benefit was admissible on investment made by an industrial unit on following eligible fixed capital assets:

1.	Land	Cost of land acquired by the industrial unit which is located in approved industrial area, or converted to industrial use.
2.	Building	Cost of new buildings required for the project i.e. as appeared in approved project report. But in case of units purchased from Rajasthan Financial Corporation (RFC) or Rajasthan State Industrial Development and Investment Corporation (RIICO) cost of old building is also admissible.

3.	Plant and machinery	Cost of new plant and machinery, actually paid for by industrial unit, except in case of units purchased from RFC or RIICO. Units making investment of Rs. 100 lakh or more on fixed assets can purchase old machinery of other unit, but benefit equal to 25 per cent of such old machinery having residual life of atleast 10 years is admissible.
4.	Miscellaneous fixed assets	<p>These include:</p> <ul style="list-style-type: none"> (i) Capitalised interest upto 5 per cent of total fixed capital assets. (ii) Technical knowhow fee paid. (iii) Rail siding, rail lines, engines etc. exclusively owned by units. (iv) Pollution control equipment and plant. (v) Quality control equipments, research and development equipments upto 2 per cent of fixed assets. (vi) Investment for creating in-house training facilities upto 1 per cent of investment in plant and machinery. (vii) Transformers, cables, starters, control panel, A.C. plant, weighing section.

2.2.3 Organisational set up

The Commissioner of Commercial Taxes is the head of the Commercial Taxes Department, Rajasthan who is assisted by 5 Additional Commissioners of Commercial Taxes (Addl. CCTs), 24 Deputy Commissioners of Commercial Taxes (DCCTs), 44 Assistant Commissioners of Commercial Taxes (ACCTs) and 91 Commercial Taxes Officers (CTOs). The ACCTs and CTOs are entrusted with the work of assessment and taking follow up action for disposal of appeal cases.

Commissioner Commercial Taxes (CCT) was responsible for implementation of the scheme in terms of benefit sanctioned by State Level Screening Committee (SLSC), in case of large industrial units and by District Level Screening Committee (DLSC) in other cases. Principal Secretary Industries and Commissioner Industries acts as Chairman and Member Secretary respectively of the SLSC. In case of the DLSC District Collector and General Manager District Industries Centre (DIC) of concerned district acts as Chairman and Member Secretary respectively. Commissioner Commercial Taxes (CCT) and Commercial Taxes officers of respective districts nominated by CCT act as a member, alongwith two other officials nominated from the 5 members of SLSC and DLSC respectively. Entrepreneur seeking benefit had to apply to Member Secretary, who processed the application for sanction.

There are 34 DLSC's and one SLSC in Rajasthan. On the basis of sanctions issued by committee, the Commercial Taxes officer having jurisdiction over beneficiary unit issues exemption certificate and allows benefits.

2.2.4 Scope of audit

This review in audit was conducted to make a general evaluation of the 1998 scheme and in particular of the degree of compliance of law and procedural requirements and the manner of implementation of the schemes by the Industries department, SLSC/DLSC and Commercial Taxes department. For this purpose, a review of records of 1102 units available in SLSC and 20 (out of 34) DLSC alongwith assessment records in concerned Commercial Taxes offices was carried out from August 2001 to April 2002. The audit findings are given in subsequent paras:

2.2.5 Industries department

A test check of the industries department, responsible for issue of sanctions revealed as under:

2.2.5.1 Quantum of benefits sanctioned under the schemes

As per the information received from SLSC and DLSCs 1210 units have been sanctioned exemption of Rs. 902.26 crore as detailed below:

(Rupees in crore)

Year	1998-99		1999-2000		2000-01		2001-02		Total	
	No.	Amount	No.	Amount	No.	Amount	No.	Amount	No.	Amount
Exemption										
(i) New units	203	88.32	260	118.02	317	151.89	185	243.85	965	602.08
(ii) Sick units	3	1.10	6	105.86	9	14.02	1	0.34	19	121.32
(iii) Expansion	20	3.07	53	27.79	61	75.80	40	31.68	174	138.34
(iv) Diversification	7	1.43	10	22.36	16	4.51	19	12.22	52	40.52
Total	233	93.92	329	274.03	403	246.22	245	288.09	1210	902.26

2.2.5.2 Exemption to ineligible units

Benefits under the scheme were admissible to those units which were involved in the manufacturing of goods for sale. Department clarified (May 1999) that mineral grinding was not a manufacturing activity. Exemption was further subject to certain conditions specified in the Act. A test check of records of 6

units in 3 DLSCs revealed that benefit of Rs. 3.43 crore was erroneously sanctioned as detailed below:

(Rupees in lakh)

S. No.	District level screening committee	Nature of observation	Excess benefit
1.	Jaipur (Urban)	Ice-cream manufacturing being in negative list of the scheme is not eligible for benefit under the Act; however, exemption of Rs. 35.09 lakh incorrectly granted to a unit on 20 September 2000.	35.09
2.	Jaipur (Rural)	Twisting of yarn is not a manufacturing activity; however, a unit engaged in twisting of yarn was erroneously sanctioned benefit of Rs. 5.62 lakh on 24 July 1999.	5.62
3.	Sirohi	3 units manufacturing mineral powder from lumps were sanctioned benefit of Rs. 131.73 lakh during 1998-99 to 2000-01 though mineral grindings is not a manufacturing activity under the Act.	131.73
4.	Sirohi	Units declared sick during operative period of schemes i.e. 1 April 1998 to 30 April 2000 alone are eligible for benefit; however, a unit though declared sick and sold on 16 March 1998 was sanctioned the benefit of Rs. 40 lakh on 25 January 1999.	40.00
5.	Jaipur (Rural)	A unit was sanctioned benefit of Rs. 79.96 lakh on 26 February 2002, though unit was declared sick on 27 October 2001, after expiry of operational period of the scheme.	79.96
6.	Jaipur (Rural)	Unit, which acquired land in July 2000 was sanctioned benefit of Rs. 51.03 lakh on 2 March 2002 though the units which had acquired land upto 30 April 2000 alone are eligible for benefit under the Act.	51.03
Total			343.43

On this being pointed out department replied (September 2002) in case of twisting of yarn, (S. No. 2) that the unit was involved in production of yarn. Reply is not tenable as the unit has been registered as tiny unit for twisting of yarn. In case of mineral grinding units, department did not furnish reply in two cases, and stated in other case that the unit was sanctioned benefit during February 1999 before coming into force of the departmental circular of May 1999. The contention of department is not acceptable, as the departmental

Circular was of clarificatory nature and the exemption should have not been granted at all.

In other cases department accepted audit contention and cancelled the benefit sanctioned (September 2002).

2.2.5.3 Excess grant of exemptions

Under the scheme industrial units were eligible to benefit of 125 per cent of eligible fixed capital investment (EFCI), in cases, where such investment was up to Rs. 1.50 crore and 100 per cent, in cases, where it exceeded Rs.1.50 crore.

A test check of the record of 5 units in 2 DLSCs revealed that benefit of Rs.2.55 crore was sanctioned in excess as detailed below:

(Rupees in crore)

S. No.	District level screening committee	Eligible fixed capital investment	Benefit sanctioned	Benefit admissible	Excess benefit
1.	Jaipur (Urban)	2.06	2.58	2.06	0.52
2.	Jaipur (Urban)	2.27	2.84	2.27	0.57
3.	Bhiwadi	5.87	7.33	5.87	1.46
Total		10.20	12.75	10.20	2.55

On this being pointed out (August and September 2001), DLSC Jaipur (Urban) accepted audit contention in two cases and reduced benefit by Rs. 1.09 crore (February and August 2002). The replies from Bhiwadi were awaited.

2.2.5.4 Improper determination of eligible fixed capital investment

Benefit of tax exemption equal to 100 per cent of eligible fixed capital investment (EFCI) was admissible in cases where EFCI exceeds Rs. 150 lakh and 125 per cent of EFCI was admissible for EFCI upto Rs.150 lakh.

EFCI included cost of land, new building, new plant and machinery, except under certain circumstances and miscellaneous fixed assets (MFA).

(A) Land

Land meant industrial land and included consideration paid for its purchase and registration charges. However, it did not include the expenditure incurred on non-capital assets. A test check of records of 36 units in 8 DLSCs revealed

that excess benefit of Rs. 0.63 crore was sanctioned by inclusion of non-capital items etc. as detailed below:

(Rupees in lakh)

S. No.	No. of units	No. and name of DLSCs	Period/ date of sanction	Nature of observation	Excess benefits
(i)	30	Ajmer (2), Bhiwadi (6), Bikaner (11), Jaipur Urban (3), Jaipur-Rural (2), Kota (4) and Udaipur (1), SLSC (1)	1998-99 to 2000-01	Economic rent, security deposit and interest of Rs.26.59 lakh paid on economic rent were incorrectly included in EFCI, though these were not capital items.	26.59
(ii)	1	Bikaner	28 March 2000	As per registration deed value of land was Rs. 1.56 lakh against which Rs. 5.06 lakh was allowed, resulting in excess benefit of Rs. 4.40 lakh.	4.40
(iii)	1	Ajmer	15 March 1999	The unit bought land measuring 4001 square metres valued Rs. 1.25 lakh against which benefit of Rs. 1.67 lakh for 5665 square metres was included in EFCI.	0.53
(iv)	2	Kota (1), SLSC (1)	28 April 2000 and 20 March 2002	Expenditure of Rs. 18.93 lakh incurred on leveling of soil filling was erroneously included in EFCI.	18.93
(v)	1	Jodhpur	13 August 2001	Unit was allowed benefit on cost of land Rs. 39.53 lakh against actual cost of Rs. 37.65 lakh adopted by registration authorities.	1.88
(vi)	1	Jaipur (Urban)	7 November 1998	Cost of land amounting to Rs. 10.30 lakh, on which benefit was already allowed, under 1985 dispensation scheme was again adopted for calculation of EFCI of Rs. 24.89 lakh. Thus benefit was sanctioned twice on same investment.	10.30
Total	36				62.63

Department accepted audit contention in all the cases.

(B) Building

Under the scheme, cost of new buildings (other than units purchased from RFC and RIICO) required for the project was to be included in EFCI. Benefit was also admissible (w.e.f. 22 June 1999) to units established in rented buildings taken on rent for at least 15 years, through a registered deed. Test check of record of 3 units in 2 DLSCs and SLSC revealed that benefit of Rs. 2.75 crore was sanctioned erroneously as detailed below:

(Rupees in lakh)

S. No.	No. of units	No. and name of DLSCs	Period/ date of sanction	Nature of observation	Excess benefits
(i)	1	Churu	17 June 1999	Cost of old building purchased was taken for calculation of EFCI, contrary to the provisions of the scheme where the benefit was admissible to new buildings.	1.75
(ii)	1	Sirohi	2 November 1998	A unit established in a building taken on rent for 5 years against norm of 15 years was erroneously sanctioned benefit of Rs. 7.80 lakh.	7.80
(iii)	1	SLSC Jaipur	19 April 1999	The capitalised value was Rs.97.59 lakh in audited accounts, against which Rs. 363.17 lakh was accounted for in EFCI.	265.58
Total	3				275.13

Department accepted audit contention in all cases except in case at S. No. (ii), wherein it was stated that Commissioner's circular dated 22 June 1999 for obtaining registered lease deed for 15 years was much after the benefit had been sanctioned to industry established in rented building. Reply is not tenable as prior to Commissioner's circular, decision of SLSC dated 20 September 1998 was in force, according to which no benefit was admissible to units established in rented buildings.

(C) Plant and machinery

Investment made on purchases of new plant and machinery was admissible in computation of EFCI. Benefit of investment made on purchase of old imported or dismantled plant and machinery of a unit which had not availed benefit under any other scheme was also admissible. In case of old dismantled plant and machinery, the beneficiary unit should have made investment of Rs. one crore or more in total fixed assets, and benefit was admissible upto 25 per cent of cost of such dismantled machinery. A test check of 14 DLSCs and SLSC

revealed that benefit of Rs. 11.70 crore was sanctioned in excess as detailed below:

(Rupees in lakh)

S. No.	No. of units	No. and name of DLSCs	Period/ date of sanction	Nature of observation	Excess benefits
1.	2.	3.	4.	5.	6.
(i)	1	Jaipur (Urban)	22 June 1999	The unit purchased old dismantled machinery and invested Rs. 99.16 lakh in the fixed assets. However, due to incorrect arithmetic calculation (i.e. by adding an item twice) his capital assets exceeded Rs. 1 crore and benefit of Rs.21 lakh was incorrectly allowed.	21.00
(ii)	1	DLSC Jaipur (Rural)	20 August 1999	Cost of machinery valued Rs. 20 lakh was included twice i.e. in the cost of machinery and under miscellaneous fixed assets, resulting in excess benefit in computation to that extent.	20.12
(iii)	84	SLSC Jaipur (9 cases) and 12 DLSC*	1998-99 to 2001-02	84 units, availed MODVAT/CENVAT credit of Rs. 1043.89 lakh of specified duty paid on purchase of plant and machinery, but this was incorrectly allowed in the capitalised value of assets, while computing EFCI.	1043.89
(iv)	71	10 DLSC**	July 1998 to December 2001	Subsidy to small scale industries (SSI) on purchase of Diesel Generating Sets (DG sets) was allowed under "The Rajasthan Grant of Subsidy for Purchase of Diesel Generating Sets Regulations 1990". This refunded subsidy amount was incorrectly included in the capital cost while calculating EFCI.	85.39
Total	157				1170.40

Department accepted audit contention in cases at serial number (i) to (iii). In case of (iv), department stated (September 2002), that in absence of specified provisions of disallowance of subsidy from EFCI, no deductions were made. Subsidy to the unit was allowed after it came into production. Reply is not tenable as benefits under these schemes and subsidy were sanctioned by the same office i.e. DIC and refunded amount in any form cannot be part of the capital investment.

* Alwar-5, Bhiwadi-13, Bikaner-3, Dholpur-2, Jaipur (urban)-20, Jaipur (rural)-3, Jodhpur-7, Kota-4, Sirohi-5, Sriganganagar-2, Tonk-1 and Udaipur-10.

** Ajmer (2), Alwar (7), Bikaner (18), Bhiwadi (8), Chittorgarh (10), Dausa (1), Dholpur (6), Jodhpur (8), Rajsamand (9) and Sriganganagar (2).

(D) Miscellaneous fixed assets

Miscellaneous fixed assets included capitalised interest (upto 5 per cent of total fixed assets), technical knowhow fee (upto 5 per cent of total value of plant and machinery), investment on purchase of quality control equipments (equal to 2 per cent of investment in plant and machinery), but did not include cost of material, furniture and fixture, air conditioner (for office), gear oil and unclassified expenses.

A test check of 20 units revealed that excess benefit of Rs. 1.88 crore was sanctioned by 6 DLSCs and SLSC as detailed below:

(Rupees in lakh)

S. No.	No. of units	No. and name of DLSCs	Period/ date of sanction	Nature of observation	Excess benefits
1.	2.	3.	4.	5.	6.
(i)	1	SLSC	19 April 1999	One unit did not capitalise the interest of Rs. 62.02 lakh paid, in audited accounts (Balance sheet), but capitalised interest was incorrectly allowed while computing EFCI.	62.02
(ii)	4	SLSC-2, Jaipur Rural-1 Udaipur-1	8 December 1998 to 5 December 2000	Interest of Rs. 21.84 lakh was paid even after commencement of production, in contravention of the provisions that it should be paid for the construction period only.	21.84
(iii)	1	SLSC Jaipur	10 June 1999	A unit was allowed benefit of Rs. 44.92 lakh against admissible amount of Rs. 12.58 lakh (5 per cent of Rs. 251.67 lakh cost of plant and machinery) on account of technical knowhow fee.	32.34
(iv)	6	Bhiwadi, Jaipur, Jodhpur and Kota	5 July 1998 to 14 March 2001	Benefit of Rs. 40.98 lakh was allowed against admissible amount of Rs. 13.90 lakh (2 per cent of cost of plant and machinery) on account of quality control equipments.	27.08
(v)	8	DLSC Bikaner, Jaipur (Urban), Jodhpur and SLSC Jaipur	21 July 1998 to 21 May 2001	Benefit was allowed on purchase of raw material and ineligible items such as furniture and fixtures, air conditioner, Gear oil.	45.21
Total	20				188.49

Department accepted audit contention in all cases.

2.2.5.5 Allowing of benefit in excess of appraised project cost

As per the scheme, the cost incurred on the building required for the project including administrative building was to be included in EFCI for the purpose of exemption. While approving the project, the cost of building required for project was to be appraised by financial institutions in cases where finance was sought by the unit. In other cases, project cost was to be appraised by General Manager, DIC.

A test check of records of 24 units in 7 DLSC* and SLSC revealed that benefit of Rs. 4.30 crore was sanctioned in excess by taking higher cost of building than given in appraised project report.

On this being pointed out the department stated that a clarification was issued by Director Industries during August 1999 that cost of building was not restricted to project report. The departmental circular is not in conformity with the provisions of the scheme.

2.2.5.6 Irregular determination of investment

State Government notified (September 1990) State Capital Investment subsidy scheme for new Industries 1990, for providing subsidy on investment made by industrial units till 31 March 1998 and coming in production by 31 March 2000.

Audit scrutiny of records of 11** DLSCs, however, revealed that 69 industrial units which were availing benefit under tax exemption scheme 1998, were also sanctioned subsidy on the same investment and eligible investment in fixed assets was not reduced by amount refunded in form of subsidy. This resulted in grant of excess benefit of Rs.3.73 crore.

Department stated (August 2002) that there were no specific provisions in the schemes for deduction of subsidy from EFCI and that sanctions under these schemes were issued, prior to sanction of subsidy. The reply is not acceptable as sanctions under these schemes as well as for subsidy were issued by same office. Also amount refunded in any form cannot be treated as capital investment, under general commercial principles.

2.2.5.7 Grant of incorrect benefit to units for expansion

As per clause 2(g) of the scheme, an industrial unit desirous of availing benefit in investment for expansion should satisfy the condition of having achieved and actually utilised at least 80 per cent of installed capacity during immediately preceding one completed year before making investment on expansion.

* Alwar, Bharatpur, Bikaner, Jaipur (Rural), Jaipur (Urban), Jhalawar and Udaipur.

** Ajmer, Alwar, Bhiwadi, Chittorgarh, Churu, Dausa, Dholpur, Jaipur (R), Rajsamand, Sriganganagar and Sirohi.

A review of the records of 6 DLSCs (Bikaner, Churu, Dausa, Jodhpur, Kota and Sirohi) and SLSC revealed that in case of 18 units the benefits of irregular exemption of Rs. 53.05 crore were extended to units which could utilise only 27.65 to 77.31 per cent of the installed capacity during immediate preceding one completed year before making investment in expansion. Few illustrative cases are given in table below:

(Rupees in lakh)

S. No.	DLSC and unit	Period preceding one year of making investment for expansion and actual production	Original installed capacity/ Actual production/ percentage utilisation	Benefit sanctioned
1.	2.	3.	4.	5.
1.	SLSC Jaipur M/s Hindustan Fibres Ltd. Tapukera	1995-96	3000 M.T. 1904.6 M.T. 63.49	1302.51
2.	SLSC Jaipur M/s EID Perry, Alwar	November 1995 to October 1996	6600 M.T. 4293.87 M.T. 65.06	3168.76
3.	DLSC, Jodhpur M/s Chetan Metals Jodhpur	June 1998 to May 1999	3600 M.T. 2645.12 M.T. 73.47	152.36
4.	DLSC, Churu M/s Goyal Plaster Udyog, Churu	April 1996 to March 1997	3840 M.T. 2250.837 M.T. 58.62	10.88
5.	DLSC, Bikaner M/s Arora Textile Pvt. Ltd.	November 1997 to October 1998	360 M.T. 263.92 M.T. 73.31	40.99

2.2.5.8 Exemption to sick industrial unit

Benefit to industries declared sick by DIC or Board for Industrial and Financial Reconstruction during operational period of the scheme is admissible on depreciated value of eligible fixed assets on date of declaration as sick and on investments made thereafter. No depreciation rates had been laid down in the scheme.

An industrial unit was declared sick on 10 April 1997 by General Manager, DIC, Sirohi. Depreciated value of Rs. 48.82 lakh as on 31 March 1996, instead of Rs. 42.62 lakh as on 31 March 1997 was considered for computation of EFCI. This resulted in excess computation of EFCI by Rs. 6.20 lakh and sanction (22 January 1999) of excess benefit of Rs. 7.75 lakh (6.20 X 125 per cent). Department accepted the point (August 2002) and rectified the sanctions.

2.2.6 Commercial taxes department

2.2.6.1 Shortcoming in execution of the scheme

Benefits sanctioned by DLSC/SLSC are conveyed to Commercial Taxes officer (CTO) of unit concerned who issues eligibility certificate (EC) indicating therein the date of commencement, amount, quantum of benefit in a year and period upto which benefit could be availed. The assessee avails benefit as per EC.

A review of assessment files, in Commercial Taxes offices revealed following shortcomings:

(A) Irregular benefit on expanded capacity

As per explanation 2 to clause 2(g) of the scheme, benefit of tax exemption in cases of expansion is admissible only on sales of production in excess of 80 per cent of the original installed capacity.

However, in five cases dealt with in 5 circles CTO Churu, Jaipur 'C', Jodhpur Special-II, Sirohi and Udaipur 'A', benefit of tax exemption was allowed on total sales instead of on sales of production beyond 80 per cent of original capacity. This resulted in short adjustment of tax and interest amounting to Rs. 13.86 lakh.

CTO 'C' Jaipur, 'A' Udaipur and Jodhpur Special-II accepted audit contention and rectified the mistake by orders dated 3 August 2002, 8 January 2002 and 30 April 2002 respectively.

(B) Short adjustment of tax

(i) Surcharge on sales tax was made applicable at the rate of 12 per cent with effect from 1 August 1998 and at the rate of 15 per cent with effect from 15 October 1999. In the case of 9 units availing benefit under the scheme, surcharge of Rs. 12.84 lakh on the tax leviable on sales was not levied and adjusted against EC, by CTOs. CTO Jaipur 'C' accepted audit contention and rectified mistake (19 July 2002).

(ii) Application of incorrect rate of tax in 6 cases dealt with in 6 Circles* resulted in short levy/adjustment of Rs. 7.16 lakh.

In one case, CTO 'C' Circle Jaipur stated that acid slurry is a chemical and is liable to be taxed at the rate of 4 per cent instead of 10 per cent as pointed out by audit. Reply is not tenable as acid slurry is used as foaming agent by soap industries. It is also classified under Chapter 34 (soaps and detergents) of the schedule to the Central Excise Tariff Act, 1985, as surface active agent which are taxable at 10 per cent.

* Alwar Special, Bhiwadi, Bikaner 'B', Kishangarh, 'C' Circle, Jaipur and Special-IV, Jaipur.

(iii) In case of five units dealt with in 5 Circles (Udaipur 'B' and Special, Bhiwadi, Nimbaheda and 'A' Jaipur) covered by this scheme, tax of Rs. 6.50 lakh was not levied.

The result of review was communicated to the Industries and Commercial Taxes departments and Government in May 2002. Replies of the Commercial Taxes department and Government wherever, received have been incorporated.

2.2.7 Conclusion

There is laxity in application of provisions of the scheme. The lapses point to insufficient internal control in the department. The functioning of the department thus needs strengthening. The Government should introduce a system for collecting regular feedback on the implementation of the scheme and also the correctness of fixation of the exemption limits granted to various units.

2.3 Non-withdrawal of benefits on breach of condition

Under the Rajasthan Sales Tax Act, 1954 and the Central Sales Tax Act, 1956, the Government notified (23 May 1987) the 'Sales Tax Incentive Scheme, 1987' whereunder industrial units were entitled to the exemption of 100 per cent of their tax liability subject to the maximum quantum and period of benefit prescribed in the scheme. Accordingly the beneficiary industrial unit after having availed benefit of the Incentive Scheme was continue its production atleast for the next five years not below the level of the average production generated during the preceding 5 years. In case of breach of any condition the dealer was liable to tax on the finished goods not taxed under the Incentive Scheme as if there was no exemption and treating it as an escapement of tax. Further the dealer was also liable to pay interest on the amount of tax so evaded at the rate of 2 per cent per month.

In 12 Commercial Taxes offices^{*}, it was noticed (between June 2001 and January 2002) that 38 industrial units which were granted Exemption Certificates between 1988-89 and 1996-97, after having availed the benefit of tax exemption of Rs. 11.01 crore during the year between 1988-89 and 1997-98 under the Incentive Scheme, stopped their production between 1994-95 and 1999-2000. Although these units were required to continue their production even after fully availing benefit upto the level of average production generated during the preceding 5 years for the next five years, no action was taken to withdraw the exemption availed by these units. This resulted in non-recovery of tax Rs. 28.67 crore including interest of Rs. 17.66 crore.

^{*} Special Alwar (6), Banswara (7), Beawar (3), Chittorgarh (1), 'B' Jaipur (1), 'G' Jaipur (1), Special-II Jodhpur (1), Kishangarh (1), 'B' Makarana (2), Nagaur (3), Rajsamand (2) and Sirohi (10).

On this being pointed out (between June 2001 and January 2002) in audit, the two assessing authorities at Chittorgarh and Rajsamand intimated (April/July 2002) that in respect of 3 units the cases had been referred to Commissioner Commercial Taxes for approval for levying tax. Reply in remaining cases had not been received (August 2002).

The omission was pointed out to the department (between March 2001 and February 2002) and reported to Government (March 2002); their replies have not been received (August 2002).

2.4 Revenue foregone due to non-finalisation of auction of check post

Under the Rajasthan Sales Tax Act, 1994, the Commissioner may direct the setting up of a check post at such place and for such period as may be specified. Further the Act provides that if it is in the interest of the State to collect a fixed sum of tax on contract basis, in respect of all kinds of building stone, marble and granite in all their forms, *gitti*, *bajri* at a particular point or for a specified area, he may, through a contract, permit a contractor to collect such tax at such point or for such area, on fixed contract amount for a period not exceeding two years at a time.

In two Commercial Taxes offices^{*}, it was noticed (June/July 2001) that offers for setting up of tax collection check posts were invited by Deputy Commissioner (Admn.) Kota, in April 1999. The highest bids offered by a contractor for these check posts were Rs. 33.11 lakh, Rs. 15 lakh and Rs.12.51 lakh per annum respectively. After obtaining requisite deposit in cash and in the form of FDR as advance, the matter was referred to the Additional Commissioner for his approval but it was rejected by him on the ground that the contract money offered was inadequate. Thereafter, neither were departmental check posts established nor were contracts given. This resulted in loss of revenue aggregating to Rs. 1.31 crore for the period from May/June 1999 to June/July 2001 calculated on the basis of annual contract money offered by the contractors.

On this being pointed out (July/August 2001) in audit, the department stated (May 2002) that contracts were given in February/March 2002. However, the fact remains that amount due to be collected from May/June 1999 to January/February 2002 amounting to Rs. 1.67 crore could not be collected.

The matter was reported to Government in March 2002; their reply has not been received (August 2002).

* Kota 'A' and Kota 'B'.

2.5 Excess grant of exemption from tax to cement plants

Government notified (23 May 1987) 'Sales Tax Incentive Scheme for Industries, 1987' under the Rajasthan Sales Tax Act 1954 and Central Sales Tax Act, 1956, whereunder tax exemption benefit was linked with fixed capital investment (FCI), in the manner and to the extent and for the period as prescribed in the Scheme. Maximum exemption for small scale units was 125 per cent and for medium and large scale units 100 per cent of FCI subject to the maximum limit of Rs. 1 crore and Rs. 4 crore for small scale industries and medium and large scale industries respectively. Further the State Government amended (10 December 1996) the extent of exemption from tax in respect of cement units to 75 per cent, 50 per cent and 25 per cent of their total tax liability for small, medium and large scale units respectively.

(a) In Bikaner, it was noticed (February 2002) that 3 mini cement plants having capital investment of small scale industry were granted eligibility certificates between 1993-94 and 1995-96 and were granted exemption of Rs.1.21 crore, Rs. 1.17 crore and Rs. 1.24 crore against the available maximum exemption limit of Rs. 1 crore each. This resulted in excess grant of tax exemption amounting to Rs. 62 lakh.

The omission was pointed out to the department and reported to Government (March 2002); their replies have not been received (August 2002).

(b) In two Commercial Taxes offices*, it was noticed (August 2000 and February 2002) that 7 industrial units (six small scale and one medium scale) sold cement valued at Rs. 652.22 lakh in the course of inter-State trade and commerce and within the State during 1997-98 and 1998-99. The assessing authorities while finalising the assessments (between August 1999 and March 2001) of the dealers for the relevant years incorrectly allowed exemption from tax to the extent of 100 per cent of their tax liability instead of admissible tax exemption of 75 per cent of Rs. 55.75 lakh to SSIs and 50 per cent of Rs. 5.99 lakh to medium scale industrial unit. This resulted in excess grant of tax exemption of Rs. 16.93 lakh besides interest chargeable thereon.

On this being pointed out (September 2000 and March 2002) in audit, the department intimated (October 2000 and August 2002) that in case of one medium scale unit of Jaipur and 4 SSI units of Bikaner a demand of Rs. 28.47 lakh (including interest) had been raised in October 2000 and May 2002 respectively. Reply in respect of remaining 2 SSI units of Jaipur and report on recovery has not been received (August 2002).

The matter was reported to Government (April/May 2002); their replies have not been received (August 2002).

* Special Bikaner and Special-V, Jaipur.

2.6 Excess grant of exemption to medium scale units

By issue of two notifications 23 May 1987 under the Rajasthan Sales Tax Act, 1954 and the Central Sales Tax Act, 1956, the State Government notified a 'Sales Tax Incentive Scheme, 1987' whereunder certain specified industrial units were exempted from payment of tax on the sale of goods manufactured by them within the State or in the course of inter-State Trade or commerce subject to certain condition specified therein. Further, new medium scale industrial units were eligible for maximum quantum of sales tax exemption to the extent of 90 per cent of their fixed capital investment (FCI) and for expansion/diversification the limit was 75 per cent of their FCI as determined by the DLSC.

In 4 Commercial Taxes offices^{*}, it was noticed (between July 2000 and November 2001) that 4 medium scale industrial units (2 new and 2 for their expansion/diversification) were found eligible by DLSC for exemption under incentive scheme. However, test check of the assessments of the above units for the years 1996-97 to 1998-99 finalised between October 1998 and January 2001 revealed that the assessing authorities incorrectly issued eligibility certificates for 100 per cent of FCI instead of admissible exemption of 90 per cent of FCI for new and 75 per cent of FCI for expansion/ diversification. This resulted in excess grant of exemption of Rs. 72.67 lakh.

On this being pointed out (between August 2000 and December 2001) in audit, the department intimated (March/May 2002) that eligibility certificates of these three units had been revised and the amount of exemption has been restricted to the prescribed limit. Reply in respect of the remaining unit had not been received (August 2002).

Government to whom the matter was reported in March 2002, confirmed (August/September 2002) the reply of the department in respect of 2 units.

2.7 Incorrect grant of exemption from tax

By issue of a notification of 23 March 1989 under the Rajasthan Sales Tax Act, 1954 the State Government exempted the sale or purchase of Handmade woollen Pile Carpets from tax. However, handloom carpets were not exempted and were liable to tax at the general residuary rate of 10 per cent during 1995-96 and 1996-97 and 12 per cent during 1997-98.

In Bikaner, it was noticed (September 2000) that a dealer sold Handloom Carpets valued at Rs. 187.45 lakh during 1995-96 to 1997-98 and claimed exemption thereon by treating these as hand made woollen pile carpets. While finalising the assessments (March 1998 to March 2000) of the dealer for the relevant years, the assessing authority also incorrectly allowed exemption on

^{*} Special Bhilwara, Special-I Jaipur, 'F' Jaipur and 'G' Jaipur.

sale of handloom carpets as claimed. This resulted in non-levy of tax/interest amounting to Rs. 46.55 lakh.

On this being pointed out (October 2000) in audit the department intimated (August 2002) that a demand of Rs. 48.74 lakh (including interest) had been raised in August 2002. Report on recovery has not been received.

The matter was reported to Government (March 2002); their reply has not been received (August 2002).

2.8 Non-levy of interest

Under the Rajasthan Sales Tax Act, 1994 if any dealer has not paid the tax due as per returns within the prescribed period, he is liable to pay interest on such tax at the rate of 2 per cent per month from the date he was required to pay the tax until the date of payment.

In Nagaur, it was noticed (September 2000) that while finalising (between August 1999 to March 2000) the assessments of 9 dealers for the year 1997-98, the assessing authority levied differential tax of Rs. 38.99 lakh on sales not supported by requisite declarations but did not levy interest chargeable thereon. This resulted in non-levy of interest amounting to Rs. 14.79 lakh.

On this being pointed out (September 2000) in audit the department intimated (March 2002) that a demand of Rs. 14.79 lakh had been raised between October 2000 and March 2001. Report on recovery has not been received (August 2002)

The matter was reported to Government (January 2002); their reply has not been received (August 2002).

2.9 Non-levy of Central Sales Tax

Under the Central Sales Tax Act, 1956 if any dealer claims that he is not liable to pay tax under the Act, in respect of any goods, on the ground that the movement of such goods from one State to another was occasioned by reason of 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 that the movement of those goods was so occasioned shall be on the dealer and for this purpose he may furnish to the assessing authority a declaration in form 'F' duly filled and signed.

In Jodhpur, it was noticed (August 2001) that one dealer claimed exemption of tax on transfer of cement valued at Rs. 4.63 crore to other States but produced 'F' forms for the amount of Rs. 1.14 crore in support thereof. The assessing

authority while finalising the assessment (November 1998) failed to levy tax on balance sale of Rs. 3.49 crore by treating it as inter-State sales which resulted in short levy of tax of Rs. 55.78 lakh.

On this being pointed out (October 2001) in audit, the department intimated (December 2001) that a demand of Rs. 82.06 lakh including interest of Rs.26.78 lakh had been raised in October 2001. Report on recovery has not been received (August 2002).

The matter was reported to Government in April 2002; their reply has not been received (August 2002).

2.10 Excess grant of exemption due to computation error

Under the provisions of 'Sales Tax New Incentive Scheme for Industries, 1989' small scale industrial units were eligible for maximum quantum of sales tax exemption to the extent of 125 per cent of their eligible fixed capital investment (EFCI).

In Kishangarh, it was noticed (August 2001) that a small scale industrial unit having EFCI of Rs. 71.99 lakh was eligible for tax exemption to the extent of 125 per cent of FCI which worked out to Rs. 89.98 lakh. However, the assessing authority incorrectly issued eligibility certificate by computing the amount as Rs. 99.98 lakh. This resulted in grant of excess exemption of Rs. 10 lakh.

On this being pointed out (September 2001) in audit, the department intimated (May 2002) that the eligibility certificate of the unit had been revised.

Government to whom the matter was reported in March 2002, confirmed (August 2002) the reply of the department.

2.11 Non-recovery of deferred tax on default

Under the provisions of 'Sales Tax Deferment Scheme for Industries 1987' if an assessee defaults in payment of any instalment of the deferred tax the total outstanding deferred amount otherwise payable in instalments was recoverable in lumpsum alongwith interest chargeable thereon.

In Jhunjhunu, it was noticed (March 2001) that after having availed benefit of Rs. 10.45 lakh under tax deferment scheme the dealer was required to re-pay the tax in 10 half-yearly instalment of Rs. 1.04 lakh each with effect from 19 February 1999. As against Rs. 3.12 lakh payable by February 2000, the dealer paid Rs. 1.94 lakh upto March 2000. Thus, on non-payment of instalments in time the total outstanding deferred amount of Rs. 8.33 lakh was recoverable

immediately which the assessing authority failed to demand alongwith interest chargeable thereon.

On this being pointed out (April 2001) in audit, the department intimated (August 2002) that a demand of Rs. 12.37 lakh (including interest) raised in September 2001, for recovery under Land Revenue Act had been stayed (June 2002) by the Additional Commissioner till further order.

The matter was reported to Government in April 2002; their reply has not been received (August 2002).