

**CHAPTER-II
TRADE TAX DEPARTMENT**

2.1 Results of audit

Test check of the assessments and other records of trade tax offices conducted during 2006-07 revealed underassessment of tax, non/short levy of penalty/interest, irregular exemption of tax etc. amounting to Rs. 74.60 crore in 1,548 cases, which broadly fall under the following categories:

(Rupees in crore)

Sl. No.	Categories	No. of cases	Amount
1.	Irregular exemption	214	23.67
2.	Non/short levy of penalty/interest	702	15.55
3.	Evasion of tax	1	6.24
4.	Non-levy of additional tax/entry tax	263	4.87
5.	Misclassification of goods	17	4.14
6.	Incorrect rate of tax	109	2.47
7.	Irregularities relating to central sales tax	08	1.37
8.	Turnover escaping tax	13	0.24
9.	Computation mistake	13	0.09
10.	Other irregularities	208	15.96
	Total	1,548	74.60

During the year 2006-07, the department accepted underassessment and other deficiencies of Rs. 35.73 lakh involved in 38 cases out of which amount totalling Rs. 1.67 lakh involved in six cases had been recovered.

A few illustrative cases involving Rs. 15.63 crore, are mentioned in the succeeding paragraphs. An amount of Rs. 2.80 lakh had been recovered.

2.2 Evasion of tax in Trade Tax Department

2.2.1 Ineligible exemption

Rule 25 of the Uttar Pradesh Trade Tax (UPTT) Rules, 1948 read with the Commissioner's circular¹ of 25 June 2001 provides that in case divisional level committee does not finalise the applications for exemption/reduction in rate of tax to new industrial units within three months from the date of receipt of the report from Trade Tax Department, it loses the right to dispose off the applications. The eligibility certificate (EC) issued by such committee would not be valid and the manufacturer would not be entitled to avail the facility of exemption/reduction in tax on the basis of such EC.

During test check of the records of the office of DC (A) 4 TT Ghaziabad, it was noticed that a manufacturer of mineral water and mango pulp juice was granted exemption between March 2005 and March 2006 from payment of tax for the years 2002-03 to 2003-04 though he had not been granted EC till the date of audit (September 2006). This resulted in incorrect exemption of tax of Rs. 4.18 crore.

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

2.2.2 Irregular exemption on stock transfer

Section 6A of the Central Sales Tax Act, 1956 (CST Act) read with Rule 12 (5) of the CST Rules, provides that a selling dealer is entitled to exemption on stock transfer of goods to other States, if he furnishes to the concerned assessing authority (AA) upto the time of assessment, a declaration in form 'F' obtained from the transferee. In case the transaction is not covered by form 'F', tax is leviable at the rate of 10 *per cent* or at the rate applicable to the sale or purchase of such goods inside the State whichever is higher.

Section 7 of the CST Act, read with Rule-3 of the CST (Registration & Turnover) Rules, 1957 provides that a dealer seeking registration will specify in his application the places of business in other States along with their addresses and particulars of registration so that the same are included in the registration certificate issued by the AA.

During test check of the records in six trade tax offices it was noticed that while finalising the assessment cases, nine dealers were granted exemption from payment of tax on stock transfer of goods worth Rs. 12.06 crore to their depots of other States against declarations in form 'F'. The dealers were not entitled to the exemption as they had not disclosed their places of business in other States. The dealers were, therefore, liable to pay tax amounting to Rs. 1.29 crore treating the transactions as inter State sale instead of stock transfer as mentioned below:

¹ New unit - Jhansi Range Jhansi/176/trade tax dated 25 June 2001

(Rupees in lakh)

Sl. No.	Name of office	No. of dealer	Year Month of assessment	Name of goods	Place to which goods were transferred but not included in RC	Turnover treated as stock transfer	Rate of tax (per cent)	Tax leviable
1.	DC (A) 6 TT Lucknow	1	2003-04 (January 2006)	Tyre tube	Dehradun	265.11	12	31.81
2.	DC(A) 17 TT Kanpur	1	2003-04 (March 2006)	Matar dal	Delhi, Punjab and Assam	79.42	10	7.94
3.	DC(A) 11 TT Ghaziabad	1	2002-03 (October 2005)	Paint	Uttaranchal	44.19	12	5.30
			2003-04 (October 2005)	Paint	-do-	46.33	12	5.56
4.	DC (A) 18 B TT Kanpur	2	2003-04 (December 2005)	Medicine Plastic goods	New Delhi Jabalpur and Kashipur	96.61	10	9.66
			2003-04 (January 2006)			284.90	10	28.49
5.	DC(A) 7 TT Noida	1	2003-04 (October 2006)	Resin	New Delhi	24.15	10	2.42
		1	2003-04 (March 2006)	Electronic goods	Chennai, Mumbai and Kolkata	214.68	10	21.47
6.	DC(A) 7 A TT Noida	1	2002-03 (October 2005)	Electrical wire	New Delhi	47.90	10	4.79
			2003-04 (December 2005)	Electrical wire		30.46	10	3.05
		1	2002-03 (October 2005)	Cement paint	Punjab, Jammu and Uttaranchal	72.73	12	8.73
Total		9				1,206.48		129.22

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

2.2.3 Evasion due to concealment of turnover/false declarations

Under the provisions of the UPTT Act 1948, if the AA is satisfied that any dealer has concealed the particulars of his turnover or has deliberately furnished inaccurate particulars of such turnover or has issued a false certificate/declaration by reason of which tax on sale or purchase ceases to be leviable, he may direct that such dealer shall pay by way of penalty in addition to tax, a sum not less than 50 per cent but not exceeding 200 per cent of the amount of tax which would thereby have been avoided.

During test check of the records of 17 trade tax offices it was noticed that 18 dealers had either concealed turnover or furnished false/fake declarations on which tax amounting to Rs. 1.09 crore was levied but no penalty was imposed though the dealers were liable to pay a minimum penalty of Rs. 55 lakh.

After the cases were pointed out, the department stated in August 2007 that penalty amounting to Rs. 46 lakh in 15 cases was imposed. The reply in the remaining cases has not been received.

The matter was reported to the Government in June 2007; their reply has not been received (August 2007).

2.2.4 Irregular exemption/concession against defective forms

Under the provisions of the CST (Registration and Turnover) Rules, the selling dealer is liable to pay tax at the rate of four *per cent* if he furnishes to the concerned AA upto the time of assessment a declaration in form 'C' obtained from the purchasing dealer containing complete particulars i.e. central registration number, date of validity, number and date of purchase order etc. Tax on sale of goods (other than declared goods) not covered by declaration in form 'C' is leviable at the rate of 10 *per cent* or at the rate applicable to the sale or purchase of such goods inside the State whichever is higher. Further, a dealer transferring goods outside the State is entitled to exemption if he furnishes to the concerned AA a declaration in form 'F' obtained from the transferee.

During test check of the records in five trade tax offices it was noticed that in the assessment cases of six dealers, tax on inter State sale of goods valued as Rs. 81.92 lakh and Rs. 96.39 lakh was levied at the rate of four *per cent* and nil respectively though declarations in form C and form F did not contain the prescribed particulars. Incorrect allowance of concessional rate of tax resulted in short levy of tax of Rs. 14.02 lakh as mentioned below:

(Rupees in lakh)									
Sl. No.	Name of the office	No. of dealers	Year and month of assessment	Name of commodity	Nature of defect	Taxable turnover	Rate of tax leviable (<i>per cent</i>)	Rate of tax levied (<i>per cent</i>)	Tax short levied
Defective 'C' forms									
1.	DC(A) 3 TT Meerut	1	2003-04 November 2005	Transformer	Regn. no. and date not mentioned	11.20	10	4	0.67
		1	2003-04 February 2006	-do-	-do-	28.77	10	4	1.72
2.	DC(A) 17 TT Kanpur	1	2003-04 May 2006	Dressed hide	Registered in December 2004	26.22	8	4	1.05
3.	DC(A) 7 TT Noida	1	2003-04 June 2005	Pollution control equipment	Regn. no. and date not mentioned	15.73	10	4	0.94
Defective 'F' forms									
4.	DC(A) 2 TT Allahabad	1	2003-04 March 2006	PV yarn	Complete address, registration no. and date not mentioned	83.61	10	Nil	8.36
5.	DC(A)12 TT Lucknow	1	2003-04 March 2006	Medicine	-do-	12.78	10	Nil	1.28
	Total	6				178.31			14.02

After the cases were pointed out, the department stated in August 2007 that in one case (Sl. no. 5) tax of Rs. 1.28 lakh had been levied. The reply in the remaining cases have not been received (August 2007).

The matter was reported to the Government in June 2007; their reply has not been received (August 2007).

2.2.5 Evasion by Khadi Gramodyog institutions

Under the Government notification dated 31 January 1985, institutions certified by All India Khadi and Village Industries Commission or the UP Khadi and Village Industries Board are exempted from payment of tax on sale of self manufactured products.

During test check of the records of two trade tax offices it was noticed that three dealers were granted exemption on sale of self manufactured goods valued as Rs. 86.54 lakh treating them as certified by the Khadi Gramodyog Board whereas they did not submit the certificate either of the UP Khadi and Village Industries Board or from the All India Khadi and Village Industries Commission. The dealers were, therefore, liable to pay tax of Rs. 8.06 lakh on sale of goods as mentioned below:

(Rupees in lakh)

Sl. No.	Name of office	No. of dealers	Year and month of assessment	Name of goods	Turnover	Rate of tax (per cent)	Tax leviable
1.	DC(A) 12 TT Lucknow	1	2002-03 March 2004	Washing powder	49.96	8	4.00
		1	2003-04 March 2006	DG set assembly	8.22	8	0.66
2.	DC(A) 10 TT Lucknow	1	2003-04 October 2005	Achar, murabba	28.36	12	3.40
Total		3			86.54		8.06

After the cases were pointed out, the department stated in August 2007 that in two cases, tax of Rs. 4.82 lakh had been levied. The reply in the remaining cases have not been received (August 2007).

The matter was reported to the Government in June 2007; their reply has not been received (August 2007).

2.3 Non-imposition of penalty

2.3.1 Under the CST Act, if a registered dealer purchases any goods from outside the State at concessional rate of tax on the strength of declaration in form 'C' by falsely representing that such goods are covered by his registration certificate under the CST Act or if the goods purchased from outside the State at concessional rate of tax, are used for a purpose other than that for which the registration certificate is granted, the dealer is liable to be prosecuted. However, in lieu of prosecution, if the AA deems it fit, he may impose a penalty upto one and half times of the tax payable on the sale of such goods.

Test check of the records of 33 trade tax offices between December 2005 and December 2006 revealed that 34 dealers, assessed between September 2003 and March 2006, for the year 2001-02 to 2003-04, purchased goods worth Rs. 13.90 crore against declaration in form 'C' which were not covered by their certificates of registration. The dealers were, therefore, liable to pay a penalty of Rs. 2.92 crore. A few instances are mentioned below:

(Rupees in lakh)

Sl. No.	Name of unit	No. of dealer	Year/month of assessment	Name of commodity not covered by registration certificate	Purchase amount	Rate of tax (in per cent)	Penalty leviable
1.	DC(A)12 TT, Agra	1	<u>2002-03</u> May 2004	Duplex board	76.40	10	11.46
2.	DC(A) 3 TT, Meerut	1	<u>2003-04</u> March 2006	Float glass	39.25	16	9.42
3.	DC(A) TT, Mainpuri	1	<u>2003-04</u> October 2005	Rubber roller, water softner, Drail material	33.40	10	5.01
4.	DC(A)IV TT, Meerut	1	<u>2003-04</u> February-06	Panel, Washer	120.83	10	18.12
5.	DC(A) TT, Sardhana, Meerut	1	<u>2003-04</u> January 2006	LSD/HSD	433.13	20	129.94
6.	DC(A)V TT, Noida	1	<u>2003-04</u> June 2005	Nitrogen, PVC resin	93.16	10	13.97
7.	DC(A)IV TT, Noida	1	<u>2002-03</u> March 2005	Hot bitumen pressure distributor capacity and others, Edge liter (sight machine), Tata tippers, crusher equipment	94.99	10	35.26
				LDO	70.05	20	
8.	DC(A) I TT, Gorakhpur	1	<u>2003-04</u> February 2006	MS Channels, MS Angles, GI Pin, Steel channels	40.33	8	5.53
				Transformer Oil, Metal oxide	4.57	10	
9.	DC(A) 18 B TT, Kanpur	1	<u>2003-04</u> September 2005	Silica	20.73	10	3.11

After the cases were pointed out, the department stated in August 2007 that penalty of Rs. 40 lakh in 13 cases had been imposed. The department further stated that duplex board and silica were covered under paper board and PPT silica respectively (Sl. no.1 and 9). The reply in these two cases is not tenable as duplex board and silica are different from paper board and PPT silica. The reply in other cases has not been received (August 2007).

The matter was reported to the Government in June 2007; their reply has not been received (August 2007).

2.3.2 Under the UPTT Act, a person responsible for making payment to a contractor, for discharge of any liability, on account of valuable consideration payable for the transfer of property in goods, in pursuance of works contract, shall deduct an amount equal to four *per cent* of such sum payable under the Act on account of such works contract. In case of failure to deduct the amount or deposit the amount so deducted into the Government treasury before the expiry of the month following the month in which the deduction was made, the AA may direct that such person shall pay by way of penalty a sum not exceeding twice the amount so deducted.

During test check of the records of two trade tax offices, it was noticed between June 2006 and August 2006 that five dealers deducted tax of Rs. 18.05 lakh from contractors during the year 2003-04 but did not deposit it in the Government treasury within the time prescribed. The delay ranged between eight days to three months and 19 days. The AA while finalising the assessments between December 2005 and March 2006 failed to levy the penalty¹ of Rs. 36.10 lakh as mentioned below:

¹ Penalty has been worked out at the maximum rate as the minimum rate for levy of penalty is not provided in the Act.

(Rupees in lakh)

Sl. No.	Name of Office	No. of dealers	Year/Month of assessment	Amount of tax/dates of deposit	Period of delay	Amount of penalty
1.	AC Sector III TT Bhadohi	3	2003-04 / January 2006	4.48 / 18 August 2003 to 17 May 2004	17 days to 1 month	8.96
			2003-04 / December 2005	2.29 / 29 August 2003 to 29 July 2004	14 days to 2 months and 29 days	4.58
			2003-04 / March 2006	1.02 / 08 May 2003 to 19 March 2004	8 days to 3 months and 19 days	2.04
2.	AC Sector I TT Saharanpur	2	2003-04 / February 2006	9.30 / 26 July 2003 to 31 March 2004	18 days to 2 months and 5 days	18.60
				0.96 / 23 July 2003 to 17 May 2004	17 days to 1 month and 26 days	1.92
Total		5		18.05		36.10

After the cases were pointed out, the department stated in August 2007 that penalty of Rs. 8.71 lakh in three cases has been imposed. The reply in other cases has not been received (August 2007).

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

2.3.3 Under the UPTT Act, if the AA is satisfied that any dealer or other person has, without reasonable cause, failed to furnish the return of his turnover or fails to deposit the tax under the provision of this Act, he may direct the dealer to pay by way of penalty in addition to tax, if any, payable by him, a sum which shall not be less than 10 per cent but not exceeding 25 per cent of the tax due, if the tax due is upto Rs. 10,000 and 50 per cent if it is above Rs. 10,000.

Test check of the records of three trade tax offices between September 2005 and January 2006 revealed that three dealers, whose cases were assessed between October 2004 and March 2005 for the period 2002-03, had not deposited their admitted tax of Rs. 1.96 crore in time. The delay ranged from one to 10 days. The belated payment of admitted tax attracted penalty amounting to Rs. 19.57 lakh, which was not imposed by the assessing officers. The details are mentioned below:

(Rupees in lakh)

Sl. No.	Name of office	No. of dealers	Year/Month of assessment	Amount of admitted tax/date of deposit	Period of delay	Minimum amount of penalty leviable
1.	DC(A) TT Gautam Budh Nagar	1	2002-03/ February 2005	59.62/ 21 March 2003 to 24 March 2003	1 to 4 days	5.96
2.	DC(A)-IX, TT Lucknow	1	2002-03/ March 2005	38.69 / 25 March 2003	5 days	3.87
3.	DC(A)-IV, TT, NOIDA	1	2002-03/ October 2004	97.37/ 7 June 2002 to 10 January 2007	1 to 10 days	9.74
Total		3		195.68		19.57

After the cases were pointed out, the department stated in August 2007 that penalty amounting to Rs. 3.87 lakh in one case has been imposed. Reply in other cases has not been received (August 2007).

The matter was reported to the Government between November 2005 and July 2006; their reply has not been received (August 2007).

2.3.4 Under the UPTT Act, read with the Government notification dated 21 May 1994, a manufacturer is allowed to purchase raw material and packing material etc. at concessional rate of tax, required for use in the manufacture of such goods, which he is authorised to manufacture, for sale within the State or in the course of inter State sale or export out of India. In case, the raw material or goods are disposed off for a purpose other than that for which the recognition certificate¹ was granted, the dealer shall be liable to pay by way of penalty, a sum which shall not be less than the amount of relief in tax so secured by him, but not more than three times of such relief.

Test check of the records of the Deputy Commissioner (A), TT, Sardhana, Meerut revealed in November 2006 that during the year 2004-05, a dealer holding recognition certificate for the manufacture of certain specified goods², purchased raw material (timber) worth Rs. 106.49 lakh at concessional rate of tax. Though the raw material was disposed of otherwise (in sports goods) than those mentioned in recognition certificate, he got relief in tax of Rs. 14.38 lakh. The dealer was, therefore, liable to pay minimum penalty of Rs. 14.38 lakh which was not imposed.

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

2.4 Incorrect grant of exemption to new industrial units

Under the UPTT Act, read with the CST Act, the State Government notified a scheme to grant exemption from or reduction in the rate of tax to new industrial units and the existing units undertaking expansion or modernisation and diversification on or after April 1995. To avail of the facility of exemption or reduction of tax, the applicant is required to file an application in the prescribed form before the district/zonal/state level committees. Though the Industries Department is the authority to issue EC it does so on the recommendation of the Trade Tax Department (TTD). The committee also has a representative of TTD. The TTD issued instructions on 18 March 1986 prescribing certain checks to be exercised while recommending the case for issue of EC so that only eligible units were allowed the benefit. Further, if the Commissioner is of the opinion that new unit to which the EC has been granted is not entitled to the facility, he may, by an order in writing, cancel or amend the EC from a date specified in the order and such date may be prior to the date of such order.

2.4.1 Under the provisions of the UPTT Act read with the Government's instructions issued on 31 March 1995, exemption or reduction in the rate of

¹ A certificate issued by the department to the manufacturer stating the names of goods to be manufactured and its raw material.

² Agricultural implements, Iron Doors, Windows, Bogis, Iron Grills, timber and timber products, stone and hardware.

tax is to be allowed to such existing units which had undertaken diversification of goods of a nature different from those manufactured by the units earlier.

During test check of the records of four trade tax offices it was noticed that four dealers were granted EC between 9 December 1997 and 8 December 2005 for diversification of industries to manufacture such goods which were similar and identical to the goods, which were already being manufactured by these units. Thus, grant of EC for diversification in violation of the existing provisions of the Act/notification resulted in incorrect exemption of Rs. 1.57 crore as mentioned below:

(Rupees in crore)

Sl. No.	Name of office	No. of dealers	Assessment year	Period of exemption	Name of goods manufactured previously by the dealer	Name of goods manufactured under diversification	Amount of exemption availed through eligibility certificate
1.	DC(A) IV TT Ghaziabad	1	1999-2000 to 2003-04	24 October 1998 to 23 October 2006	Acetic acid (chemical)	Butyl acetate (chemical)	0.55
2.	DC(A) IV TT Kanpur	1	2002-03	7 February 1999 to 6 February 2011	Billet	SS Billet	0.12
3.	DC(A) VII A TT Noida	1	2002-03	31 December 1999 to 30 December 2007	Metallised polyester film	Embossed polyester film	0.40
4.	DC(A) V TT Kanpur	1	2002-03 to 2003-04	31 March 2000 to 30 March 2008	Multilayer film	Karona treated multilayer film	0.50
	Total	4					1.57

After the cases were pointed out, the department stated in August 2007 that the above items were of different nature. The reply is not tenable as the goods are similar in nature to the ones being already manufactured, applying the analogy of departmental circular¹ of 13 August 2001 which considered black and white and colour TV as goods of similar nature.

The matter was reported to the Government in June 2007; their reply has not been received (August 2007).

2.4.2 The Government notification dated 27 July 1991, provides that a dealer manufacturing hard coke is not entitled to avail of the facility of exemption or reduction in the rate of tax for the establishment of a new industrial unit under section 4A of the UPTT Act. Further, the Government notification dated 17 October, 1994 provides that a dealer manufacturing smokeless fuel is also not entitled to avail of the facility of exemption or reduction in rate of tax.

During test check of the records in the office of DC(A), TT Chandauli, it was noticed that three dealers who sold self manufactured hard coke and another dealer who sold smokeless fuel, were allowed the facility of reduction in tax on the strength of EC for establishment of new industrial units although they were not entitled to the benefit. Thus, due to irregular grant of EC, the Government was deprived of tax amounting to Rs. 76.43 lakh, as mentioned below:

¹ Letter no. New unit-Sarva Shri new box system/254/TT Lucknow dated 13 August 2001.

(Rupees in lakh)

Name of office	No. of dealers	Year/Month of assessment	Goods manufactured	Period of exemption	Amount of exemption availed
DC(A) TT Chandauli	1	2001-02 to 2002-03 (May 2004)	Hard coke	3 July 1995 to 2 July 2003	10.07
	1	2001-02 to 2002-03 (March 2005)	-do-	14 June 1995 to 13 June 2003	7.68
	1	2001-02 (November 2004) to 2002-03 (January 2005)	-do	14 March 1996 to 13 March 2008	18.03
	1	1993-94 to 1999-2000 (March 2002)	Smokeless fuel	1 January 1993 to 31 December 2002	40.65
Total	4				76.43

After the cases were pointed out, the department stated in August 2007 that hard coke and smokeless fuel were different from coal. The reply is not tenable in view of the notifications of July 1991 and October 1994 mentioned above.

The matter was reported to the Government in June 2007; their reply has not been received (August 2007).

2.5 Irregular grant of deferring of the CST

Under the UPTT Act, rules and notification, the Commissioner may grant deferring of payment of state trade tax admittedly payable by the manufacturer on the sale of goods within the State in lieu of exemption/reduction in tax. Under the CST Act, the State Government is competent to exempt from payment of tax or levy tax at lower rate. However, there exists no provision for deferring of tax under the CST Act.

Test check of the records in three trade tax offices revealed that four dealers were granted moratorium from payment of tax for the period from 2001-02 to 2003-04. The department had issued orders for deferring the tax on the basis of ECs issued under Section 4-A of the UPTT Act and not under the CST Act. The assessing authorities while finalising assessments for the years from 2001-02 to 2003-04, between November 2003 and September 2006, allowed deferring of Rs. 1.25 crore under the CST Act, which was irregular as mentioned below:

(Rupees in lakh)

Sl. No.	Name of office	No. of dealers	Period of moratorium	Year of deferral	Date of assessment	Amount of deferral of CST
1.	DC(A)7 TT Noida	1	9 February 2000 to 8 February 2008	2003-04	28 September 2006	36.40
2.	DC(A)7 A TT Noida	1	24 January 1996 to 23 January 2004	2001-02	8 November 2003	12.02
				2002-03	15 October 2004	26.10
		1		2003-04	28 November 2005	23.53
				2002-03	7 December. 2004	7.43
3.	DC(A)5 A TT Kanpur	1	23 April 2000 to 22 April 2008	2002-03	21 December 2004	8.62
				2003-04	30 May 2005	10.48
	Total	4				124.58

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

2.6 Short levy of tax due to misclassification of goods

Under the UPTT Act, tax is leviable as per schedule of rates notified by the Government from time to time. In case of goods not classified elsewhere, tax is leviable at the rate of 10 *per cent* with effect from 1 December 1998.

Test check of the records of nine trade tax offices revealed that in the assessment cases of 12 dealers, correct rate of tax on sale of goods worth Rs. 15.46 crore was not applied due to misclassification. This resulted in short levy of tax amounting to Rs. 81.98 lakh as mentioned below:

(Rupees in lakh)

Sl. No.	Name of the office	No. of dealers	Year and month of assessment	Nature of misclassification	Taxable turnover	Rate of tax leviable (<i>per cent</i>)	Rate of tax levied (<i>per cent</i>)	Tax short levied
1.	DC(A) 3 TT Meerut	1	2003-04 March 2006	Toughened glass treated as plain glass	53.07	16	12	2.12
2.	DC(A) 17 TT Kanpur	1	2002-03 June 2004	Naphthalene balls treated as insecticide	22.90	10	5	1.15
			2003-04 May 2005	-do-	50.65	10	5	2.53
3.	DC(A) 7 TT Noida	1	2003-04 February 2006	Water proofing compound treated as chemical	46.73	12	4	3.74
		1	2003-04 August 2005	Textile auxiliaries treated as chemical	21.57	10	4	1.29
4.	AC TT Sec 14 Agra	1	2002-03 October 2004	Float glass treated as plain glass	11.68	16	10	0.70
5.	DC(A) 12 TT Lucknow	1	2003-04 March 2006	Printer and its parts treated as electronic goods	38.92	8	4	1.56
6.	DC(A) I TT Agra	1	2000-01 December 2002	Float glass treated as unclassified	167.37	15	10	54.06
		1	2001-02 to 2003-04/ December 2003 to February 2006	Float glass and glass mirror treated as unclassified	761.56	16	10	
7.	DC(A) II TT Kanpur	1	2002-03 to 2003-04/ March 2004 and May 2005	Float glass treated as unclassified	121.24	16	10	7.27
8.	DC(A) III TT Kanpur	1	2003-04/June 2005	Disposable glass (thermo) treated as plastic goods	100.87	10	8	2.02
9.	DC(A) III TT Saharanpur	1	2002-03 to 2003-04/ January 2006	Thermowares (vacuum flasks) treated as plastic goods	127.26	12	8	5.54
		1			22.45 (Central)	12	10	
Total		12			1,546.27			81.98

The matter was reported to the department and the Government between August 2006 and June 2007; their replies have not been received (August 2007).

2.7 Acceptance of irregular declaration forms

2.7.1 Under the UPTT Rules, as amended from 21 April 2001, any single declaration form shall cover transactions upto Rs. 5 lakh and that too of only one assessment year.

Test check of the records of six trade tax offices revealed that seven dealers were granted concessional rate of tax on sale of goods of Rs. 17.16 crore against declarations in form-3 B though the monetary limit of forms exceeded Rs. 5 lakh. This resulted in short levy of tax of Rs. 41.65 lakh as mentioned below:

(Rupees in lakh)

Sl. No.	Name of office	No. of dealers	Year and month of assessment	Name of commodity	Taxable turnover	Rate of tax leviable (per cent)	Rate of tax levied (per cent)	Tax short levied
1.	DC(A) 4 TT Ghaziabad	1	2001-02 December 2003	Ferro alloys	484.81	4	2.5	7.27
2.	DC(A) 3 TT Meerut	1	2001-02 September 2004	Liquid detergent	38.00	8	2.5	2.09
3.	DC(A) 7 A TT Noida	1	2002-03 January 2005	Exerciser	55.43	10	2.5	4.16
4.	AC Sec. 14 Agra	1	2002-03 March 2005	PVC soles	33.35	10	2.5	2.50
		1	2002-03 January 2005	Corrugated boxes	2.20	10	2.5	0.17
5.	DC(A) 2 TT Allahabad	1	2003-04 March 2006	Coal	932.00	4	2	18.64
6.	DC(A) TT Bhadohi	1	2002-03 November 2004	Woollen yarn	170.60	4	Exempt	6.82
	Total	7			1,716.39			41.65

After the cases were pointed out, the department stated in August 2007 that tax amounting to Rs. 22,000 had been levied in one case of Agra. A reply in the remaining cases has not been received (August 2007).

The matter was reported to the Government in June 2007; their reply has not been received (August 2007)

2.7.2 Under the provisions of the UPTT Rules, exemption/reduction in the rate of tax is admissible on submission of original copy of the declaration forms.

Test check of the records of the Deputy Commissioner (Assessment)-XVII, Trade Tax, Kanpur, revealed in November 2005 that a dealer sold betblue (leather) worth Rs. 6.43 crore against 135 duplicate copy of declaration forms during the assessment year 2002-03. The AA accepted these declaration forms and allowed exemption instead of levying tax at the rate of four *per cent* which resulted in incorrect grant of exemption amounting to Rs. 25.70 lakh.

The matter was reported to the department and the Government in March 2006; their replies have not been received (August 2007).

2.8 Non/short charging of interest

Under the UPTT Act, every dealer, liable to pay tax, is required to deposit the amount of tax into the Government treasury before the expiry of the month following the month in which the tax was due. The tax admittedly payable by the dealer, if not paid by the due date, attracts interest at the rate of two *per cent* per month upto 11 August 2004 and thereafter at the rate of 14 *per cent* per annum on the unpaid amount, till the date of deposit.

Test check of the records of six trade tax offices, conducted between September 2004 and August 2006 revealed that in case of six dealers, assessed between July 2003 and March 2006 for the assessment years 2000-01, 2002-03 and 2003-04, admitted tax of Rs. 45.01 lakh was deposited late. The delay ranged from 555 days to 1,105 days. Interest of Rs. 19.68 lakh was chargeable on the delay but not charged by the department. The cases are mentioned below:

(Rupees in lakh)

Sl. No.	Name of office	No. of dealers	Year Month of assessment	Amount of admitted tax	Period of delay for which interest was not charged	Amount of interest
1.	DC(A) TT Etah	1	2002-03 March 2005	6.32	893 days	3.29
2.	DC(A) XVIII A TT Kanpur	1	2000-01 July 2003	5.41	555 to 1,105 days	1.08
3.	DC(A) TT Najibabad	1	2002-03 and 2003-04 December 2004	1.58 1.12	1,078 days, 734 days	1.36
4.	DC(A) TT Raebareli	1	2003-04 March 2006	27.26	970 days	12.50
5.	DC(A) TT Sonebhadra	1	2002-03 March 2005	1.21	1,053 days	0.71
6.	AC Sec IX TT Lucknow	1	2003-04 February 2006	2.11	665 to 728 days	0.74
Total		6		45.01		19.68

After the cases were pointed out, the department stated in August 2007 that in five cases interest of Rs. 17.12 lakh was levied and in one case the recovery certificate was revised. Of these, in two cases interest of Rs. 2.80 lakh had been recovered.

The matter was reported to the Government between November 2004 and November 2006; their reply has not been received (August 2007).

2.9 Non-levy of purchase tax

Under Section 3 AAAA of the UPTT Act, every dealer who purchases any taxable goods from any person other than a registered dealer, shall be liable to pay purchase tax at the same rate at which the tax is payable on the sale of such goods. It has been judicially held¹ that 'bagasse'² is taxable if purchase tax on sugarcane has not been paid.

¹ S/Shri SMC Foods Ltd., Saharanpur Vs. Commissioner of Trade Tax, UP decided by member of Trade Tax Tribunal, Bench: Saharanpur on 14.10.2005.

² Residue of sugarcane

During test check of the records of two trade tax offices¹ it was observed between November 2006 and January 2007 that two dealers purchased 'bagasse' valued as Rs. 176.10 lakh from unregistered dealers during the year 2003-04. Purchase tax on its sugarcane had not been paid. The AA at the time of finalising the assessments in January 2006 did not levy purchase tax of Rs. 17.61 lakh on 'bagasse'.

After the cases were pointed out, the AA stated in November 2006 that no tax was leviable on purchase of 'bagasse' from unregistered dealers. The reply is not tenable because tax was leviable as per the above decision.

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

2.10 Short levy of tax due to application of incorrect rate of tax

Under the UPTT Act, tax on classified goods at different rates is leviable as prescribed in the schedule of rates notified by the Government from time to time. The goods which are not classified in the prescribed schedule of rates are taxable at the rate of 10 *per cent* with effect from 1 December 1998.

During test check of the records of six trade tax offices, it was noticed between March 2006 and December 2006 that while finalising the assessments of six dealers for the period from 2002-03 to 2003-04 assessed between March 2005 and March 2006 the AAs levied tax at incorrect rates on goods valued as Rs. 376.65 lakh. This resulted in short levy of tax of Rs. 12.36 lakh as mentioned below:

Sl. No.	Name of the unit	Year	Name of commodity	Turn over	Rate of tax leviable (<i>per cent</i>)	Rate of tax levied (<i>per cent</i>)	Tax short levied
		Month of assessment					
1.	DC(A) I A TT, Ghaziabad	2002-03	Voltage stabilizer	46.65	12	10	0.93
		March 2005					
2.	DC(A) I TT, Kanpur	2003-04	Moped tyres and tubes	41.38	12	8	1.66
		March 2006					
3.	DC(A) VIII TT, Lucknow	2003-04	Auto tyres and tubes	20.12	12	8	0.80
		January 2006					
4.	DC(A) IV TT, Meerut	2003-04	Stationery	173.57	10	8	3.47
		December 2005					
5.	AC Sec V TT, Allahabad	2002-03	Solder rod	20.00	10	5	1.00
		March 2005					
6.	AC Sec II TT, Varanasi	2002-03	Invertor	74.93	10	4	4.50
		June 2005					
Total				376.65			12.36

After the cases were pointed out between March 2006 and December 2006, the department stated in May 2006 and August 2007 that tax of Rs. 2.74 lakh in three cases of Allahabad, Ghaziabad and Lucknow had been levied. The reply in remaining cases has not been received (August 2007).

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

¹ DC(A) TT Sardhana (Meerut) and DC(A)-I TT Allahabad.

2.11 Short levy of central sales tax

Under the CST Act, tax on inter State sale of goods (other than declared goods) not covered by declaration in form 'C' is leviable at the rate of 10 per cent or at the rate applicable on sale or purchase of such goods inside the appropriate State, whichever is higher.

Test check of the records of three trade tax offices¹ revealed that during the year 2003-04 three dealers made inter State sale of duty entitlement pass book (DEPB), *achar*, *murabba* and leather goods worth Rs. 70.16 lakh without declaration in form C. While assessing these dealers between March 2005 and November 2005, the AA exempted/levied tax at lower rate instead of 10 and 12 per cent. This resulted in short levy of tax amounting to Rs. 6.87 lakh.

After the cases were pointed out, the department stated in August 2007 that tax of Rs. 88,000 had been levied in one case. Reply in the remaining cases has not been received (August 2007).

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

2.12 Misuse of declaration forms

Section 3 B of the UPTT Act provides that if a person issues a false or wrong declaration, by reason of which tax on sales or purchase ceases to be leviable or becomes leviable at the concessional rate, the dealer shall be liable to pay a sum equal to the amount of relief in tax secured by him on purchase of such material.

Test check of the records of three trade tax offices, conducted between January 2006 and October 2006 revealed that three dealers purchased goods valued as Rs. 44.18 lakh at concessional rate of tax by issuing prescribed declaration forms. As the dealers were not authorised to purchase these goods at concessional rate as per their recognition certificates², they were liable to pay tax of Rs. 6.80 lakh equal to the relief in tax secured by them against these purchases as mentioned below:

(Rupees in lakh)

Sl. No.	Name of office	Year/Month of assessment	Goods purchased	Value of goods purchased	Differential rate of tax (in per cent)	Amount of tax involved
1.	DC(A) X TT Agra	2003-04 April 2005	PVC compound	4.96	7.5	0.53
			Lubricant oil	0.89	17.5	
2.	DC(A) TT Hasanpur	2002-03 February 2005	LDO [↑]	31.80	17.5	5.56
3.	DC(A) VI TT NOIDA	2003-04 November 2005	Cooling tower	3.71	13.5	0.71
			Panel	1.04	7.5	
			Chanel	1.54		
			Gas R 22	0.24		
Total				44.18		6.80

After the cases were pointed out, the department stated in August 2007 that tax

¹ (i) DC(A) 11 TT, Agra, (ii) DC(A) TT Khurja, (iii) DC(A) 10 TT Lucknow

² A certificate issued by the department to manufacturer stating the names of goods to be manufactured and its raw material.

[↑] Light diesel oil.

at differential rate amounting to Rs. 16,000 in one case has been levied. The reply in other cases has not been received (August 2007).

The matter was reported to the Government between June 2006 and December 2006; their reply has not been received (August 2007).

2.13 Irregular exemption

Section 8 (5) of the CST Act, amended from 13 May 2002 (read with the Commissioner's circular dated 27 May 2002) provides that benefit of exemption from or reduction in rate of tax on inter State sales of goods is admissible only on submission of declarations in form 'C' or 'D'. Further, such benefit on inter State sale is admissible to new units covered by notification issued under Section 4-A of the UPTT Act.

Test check of the records of the Deputy Commissioner (A)-II, TT, Moradabad revealed in June 2006 that during the year 2003-04, a dealer holding valid EC made inter State sale of paper worth Rs. 80.27 lakh without declaration in form 'C'. The AA assessed the tax and allowed exemption under Section 4-A amounting to Rs. 5.66 lakh. This resulted in irregular allowance of exemption of Rs. 5.66 lakh.

The matter was reported to the department and the Government in June 2006; their replies have not been received (August 2007).