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REPORT OF THE COMPTROLLER AND AUDITOR GENERAL OF INDIA

FOR THE YEAR ENDED 31 MARCH 2009

(REVENUE RECEIPTS)

GOVERNMENT OF ASSAM

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PREFACE

This report for the year ended 31 March 2009 has been prepared for submission to the Governor under Article 151(2) of the Constitution of India.

The audit of revenue receipts of the State Government is conducted under Section 16 of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971. This report presents the results of audit of receipts comprising sales tax, state excise, other tax and non-tax receipts of the State.

The cases mentioned in this report are among those which came to notice in the course of test audit of records during the year 2008-09 as well as those which came to notice in earlier years but could not be included in previous year's reports.

OVERVIEW

OVERVIEW

This Report contains 29 paragraphs including four reviews relating to non/short levy of taxes, fees, interest and penalty etc., involving Rs. 1,155.59 crore. Some of the major findings are mentioned below:

I. General

- The total receipts of the State for the year 2008-09 were Rs. 18,077.04 crore against Rs. 15,324.92 crore in the previous year. Of this, 36 *per cent* was raised by the Government through tax revenue (Rs. 4,150.21 crore) and non-tax revenue (Rs. 2,271.90 crore). The balance 64 *per cent* was received from the Government of India in the form of State's share of net proceeds of divisible Union taxes (Rs. 5,189.90 crore) and grants-in-aid (Rs. 6,465.03 crore).

(Paragraph 1.1)

- The arrears of revenue as on 31 March 2009 in respect of some principal heads of revenue amounted to Rs. 722.12 crore of which Rs. 342.36 crore were outstanding for more than five years.

(Paragraph 1.4)

- In respect of taxes administered by the Finance Department, such as sales tax and other taxes, 51,132 assessments were completed during 2008-09 leaving balance of 50,726 cases pending for assessments as on 31 March 2009.

(Paragraph 1.5)

- Test check of records of sales tax, taxes on vehicles, state excise, forest receipts, other tax and non tax receipts conducted during the year 2008-09 revealed under assessment/short levy/short demand and loss of revenue amounting to Rs. 1,255.24 crore in 470 cases. The concerned departments accepted under assessment, short levy etc., of Rs. 79 lakh pointed out in 2008-09 and earlier years and recovered Rs. 2.26 lakh.

(Paragraph 1.11)

II. Sales Tax/Value Added Tax

A. Value Added Tax

A review on transition from sales tax to VAT revealed the following:

- The average growth of revenue after implementation of VAT registered a decrease of 9.66 *per cent* as compared to the pre-VAT period. Also, there was negative growth of revenue during consecutive three years from 2005-06 to 2007-08.

(Paragraph 2.2.6.1)

- Input tax credit of Rs. 55 lakh availed by the dealers without furnishing the required certificates duly signed by the chartered accountants.

(Paragraph 2.2.7.4)

- Non-detection of application of lower rate of tax resulted in leakage of revenue of Rs. 1.29 crore.

(Paragraph 2.2.8.6(a))

- Due to deficiencies in the provisions for input tax credit, the genuineness of input tax credit to the dealers could not be verified in audit.

(Paragraph 2.2.10)

- The department irregularly allowed exemption of tax of Rs. 1,026 crore on tax paid sales without any supporting documents.

(Paragraph 2.2.11.1)

- Due to lacunae in the Act prescribing discretionary provisions for levy of penalty, penalty upto Rs. 47.24 lakh though leviable, was not levied.

(Paragraph 2.2.14.1)

- Compensation claim of Rs. 278.65 crore preferred by the State Government during 2006-07 and 2007-08 was inadmissible.

(Paragraph 2.2.15)

An Information Technology Audit of Taxation Information Management System (TIMS) revealed the following:

- Neither the Government nor the CT had prepared any user requirement specification.

(Paragraph 2.3.8.1)

- Lack of input check resulted in a huge difference of Rs.91,27,460.16 crore in comparison with manual records.

(Paragraph 2.3.8.2(x))

- Though the system was designed to capture the complete workflow of the process of issuance of the registration certificate, data was entered in the system after completion of all the task manually, defeating the objective of computerisation.

(Paragraph 2.3.8.4(b))

- Non-implementation of major portion of the modules (10 out of 18) even after five years of commissioning of TIMS rendered the whole project ineffective.

(Paragraph 2.3.9)

- Lack of cross verification with TIMS data resulted in loss of Rs.1.42 crore.

(Paragraph 2.3.9(ii))

B. SALES TAX

A review on Pendency of appeals at various levels and its impact on revenue collection revealed the following:

- Revenue of Rs. 224.08 crore (as on 31 March 2008) was blocked in appeal cases pending with the appellate authorities.

(Paragraph 2.4.6)

- Due to low pace of disposal of appeal cases ranging between 25 and 52 *per cent*, 585 appeal cases involving revenue of Rs. 87.58 crore remained un-disposed at the level of DCsT (Appeals) as on 31 March 2008.

(Paragraph 2.4.7.1)

- There were delays in disposal of 755 appeal cases in three selected DCsT (Appeals) ranging from 3 to 120 months and above involving revenue of Rs.107.08 crore during 2003-04 to 2007-08.

(Paragraph 2.4.8.2)

- There were delays ranging from 1 to 12 months in 134 cases involving revenue of Rs. 19.70 crore in communicating the appeal orders to the unit offices.

(Paragraph 2.4.8.3)

- Delay in finalisation of appeals/taking follow up action on decided appeal cases resulted in loss/non-realisation of revenue of Rs. 20.57 crore.

(Paragraphs 2.4.9.1 - 5 and 2.4.10)

Incorrect allowance of concession and exemption resulted in short/ non-levy of tax of Rs.7.63 crore including interest.

(Paragraph 2.6.1.1)

Non-disclosure of taxable turnover of Rs.37.24 crore resulted in evasion of tax of Rs.11.18 crore including interest and maximum penalty.

(Paragraph 2.6.2)

Irregular and excess grant of exemption to industrial exempted units resulted in loss of revenue of Rs.2.13 crore including interest.

(Paragraph 2.6.3)

Turnover of Rs.10.24 crore escaped assessments resulting in short levy of tax of Rs.1.62 crore including interest.

(Paragraph 2.6.4)

Failure of the Assessing Officer to complete assessments within the period of limitation led to loss of Rs.1.09 crore including interest.

(Paragraph 2.6.5)

Against the leviable interest of Rs.2.12 crore, the AO levied interest of Rs.1.87 crore leading to short levy of interest of Rs.24.74 lakh.

(Paragraph 2.6.8)

Irregular allowance of exemption on account of branch transfer of goods valued at Rs.6.66 crore resulted in non-levy of tax of Rs.1.32 crore including interest.

(Paragraph 2.7.1)

Incorrect grant of concessional rate of tax on sale of goods against Form C/D resulted in short levy of tax of Rs.1.16 crore.

(Paragraph 2.7.2)

III. Other Tax Receipts

Non-reviewing the combined registers and non-issue of demands by the DTOs resulted in non-realisation of road tax of Rs.14.98 lakh including fine.

(Paragraph 3.3.1)

IV. Non-Tax Receipts

A review on receipts of Police Department revealed the following:

- Due to non-implementation of revised rates at the time of preferring claims, there was short demand of Rs. 53 lakh.

  (Paragraph 4.2.7.1)
- Due to mistake in assessment, there was non/short raising of demand of Rs.4.14 crore against the police personnel deployed in three organisations.

  (Paragraph 4.2.7.2)
- Arbitrary adjustment of cost of police guards by Railways resulted in non-realisation of Rs.7.61 crore.

  (Paragraph 4.2.8.1)
- Against deployment of police force at a cost of Rs.104.44 crore upto March 2008, Rs. 41.28 crore was realised as of November 2008 leaving Rs. 63.16 crore unrealised.

  (Paragraph 4.2.8.2)
- Due to absence of internal control mechanism and non-monitoring by the higher authorities, the department was unable to watch the correctness of demand and recovery of dues from the defaulting organisations effectively.

  (Paragraph 4.2.9)

A. FOREST RECEIPTS

Illicit felling and removal of forest produce in three Forest Divisions resulted in loss of revenue of Rs.30.94 lakh.

(Paragraph 4.3.1)

Non-settlement of forest *mahals* resulted in loss of revenue of Rs.8 lakh.

(Paragraph 4.3.2)

B. MINES AND MINERALS

Non-application of revised rate of royalty by the Department led to short realisation of royalty of Rs.12.50 crore from M/s Oil India Ltd. and M/s Oil and Natural Gas Corporation.

(Paragraph 4.4)

CHAPTER–I: GENERAL

1.1 Trend of Revenue Receipts

The tax and non-tax revenue raised by the Government of Assam during the year 2008-09, the State's share of divisible Union taxes and grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are mentioned below:

(Rupees in crore)

Sl. No.	Particulars	2004-05	2005-06	2006-07	2007-08	2008-09
I.	**Revenue raised by the State Government**					
	◦ Tax revenue	2,713.32	3,232.21	3,483.32	3,359.50	4,150.21
	◦ Non tax revenue	1,070.03	1,459.28	1,859.27	2,134.59	2,271.90
	Total	**3,783.35**	**4,691.49**	**5,342.59**	**5,494.09**	**6,422.11**
II.	**Receipts from Government of India**					
	◦ State's share of divisible Union taxes	2,584.33	3,056.78	3,898.99	4,918.21	5,189.90[1]
	◦ Grants in aid	3,569.59	4,297.12	4,425.37	4,912.62	6,465.03
	Total	**6,153.92**	**7,353.90**	**8,324.36**	**9,830.83**	**11,654.93**
III.	**Total receipts of the State (I+II)**	**9,937.27**	**12,045.39**	**13,666.95**	**15,324.92**	**18,077.04**
IV.	**Percentage of I to III**	**38**	**39**	**39**	**36**	**36**

The above table indicates that during the year 2008-09, the total revenue raised by the State Government was 36 *per cent* of the total receipts (Rs. 18,077.04 crore) which was static in comparison to preceding year. The balance 64 *per cent* of receipts during 2008-09 was from the Government of India.

[1] Note: For details, please see statement No.11 : Detailed accounts of revenue by minor heads in the Finance Accounts of Government of Assam for 2008-09. Figures under the "share of net proceeds assigned to States" under the major heads – 0020-corporation tax, 0021-taxes on income and expenditure, 0028-other taxes on income and expenditure, 0032-taxes on wealth, 0037-customs, 0038-union excise duties, 0044-service taxes and 0045-other taxes and duties on commodities and services booked in the Finance Accounts under 'A-tax revenue' have been excluded from revenue raised by the State Government and included in 'States' share of divisible Union taxes' in the above table.

1.1.1 The following table presents the details of tax revenue raised during the period from 2004-05 to 2008-09:

(Rupees in crore)

Sl. No.	Heads of revenue	2004-05	2005-06	2006-07	2007-08	2008-09	Percentage of increase (+) or decrease (-) in 2008-09 over 2007-08
1.	Sales tax	2,098.58	2,568.41	2,783.24	2691.43	3,110.58	(+) 16
2.	State excise	144.06	160.40	174.88	188.71	198.68	(+) 5
3.	Stamp duty and registration fees	72.31	85.88	97.32	109.91	111.17	(+) 1
4.	Taxes and duties on electricity	61.84	13.29	15.89	4.62	22.36	(+) 384
5.	Taxes on vehicles	134.72	155.91	151.15	138.62	145.21	(+) 5
6.	Taxes on goods and passengers	15.88	61.52	70.15	12.39	284.67	(+) 2197
7.	Other taxes on income and expenditure – Tax on professions, trades, callings and employments	94.74	99.30	108.36	124.68	137.73	(+) 10
8.	Other taxes and duties on commodities and services	27.66	5.10	5.66	6.24	8.27	(+) 33
9.	Land revenue	58.30	74.65	74.15	79.76	113.36	(+) 42
10.	Taxes on agricultural income	5.22	7.02	2.52	3.14	18.18	(+) 479
11.	Taxes on immovable properties other than agricultural land	0.01	0.23	Nil	Nil	Nil	Nil
	Total	2,713.32	3,232.21	3,483.32	3359.50	4,150.21	(+) 24

The reasons for variation in tax receipts during 2008-09 from those of 2007-08 in respect of principal heads were as follows:

Taxes and duties on electricity: The increase was due to collection of arrear duties from the Assam State Electricity Board.

Taxes on goods and passengers: The increase was due to reintroduction of entry tax from 01 June 2008.

Taxes on agricultural income: The increase was due to higher production of tea during 2008-09.

The other departments did not intimate (September 2009) the reasons for variation in receipts from those of the previous year despite being requested.

1.1.2 The following table presents the details of non-tax revenue raised during the period from 2004-05 to 2008-09:

(Rupees in crore)

Sl. No.	Heads of revenue	2004-05	2005-06	2006-07	2007-08	2008-09	Percentage of increase (+) or decrease (-) in 2008-09 over 2007-08
1.	Petroleum	885.87	1,216.16	1,385.82	1547.88	1430.12	(-) 8
2.	Interest receipts	10.06	36.41	167.49	240.72	433.16	(+) 80
3.	Dairy development	0.11	0.04	0.07	0.09	0.04	(-) 56
4.	Forestry and wild life	25.68	38.42	42.99	75.03	115.64	(+) 54
5.	Non ferrous mining and metallurgical industries	0.76	0.43	0.42	0.66	0.54	(-) 18
6.	Miscellaneous general services	Nil	(-) 0.16	(-) 0.01[2]	105.03	104.98	(-) 0.05
7.	Major and medium irrigation projects	0.26	0.21	0.38	0.36	0.56	(+) 56
8.	Medical and public health	4.77	3.50	5.50	7.15	7.91	(+) 11
9.	Co-operation	0.25	0.38	0.22	0.29	0.96	(+) 231
10.	Public works	4.62	4.17	3.09	2.89	3.84	(+) 33
11.	Police	11.65	14.90	14.91	13.16	12.69	(-) 4
12.	Other administrative services	45.05	11.11	9.61	13.57	12.77	(-) 6
13.	Coal and lignite	12.79	15.03	19.71	17.88	19.20	(+) 7
14.	Roads and bridges	20.10	42.00	32.04	44.08	66.90	(+) 52
15	Others[3]	48.06	76.68	177.03	65.80	62.59	(-) 5
	Total	**1,070.03**	**1,459.28**	**1,859.27**	**2,134.59**	**2,271.90**	**(+) 6**

The reasons for variation in non-tax receipts during 2008-09 from those of 2007-08 in respect of principal heads were as follows:

Forestry and wildlife: The increase was due to proper disposal of timber and increase in demand for minor forest produces.

Non ferrous mining and metallurgical industries: The decrease was due to realisation of arrears during 2007-08.

The other departments did not intimate (September 2009) the reasons for variation in receipts from those of the previous year despite being requested.

2 Minus is due to refund in excess of receipts during the year. There is no lottery receipt in Assam.

3 Others included 29 major head of accounts.

1.2 Variations between budget estimates and actuals

The variation between the budget estimates and actuals of revenue receipts for the year 2008-09 in respect of the principal heads of tax and non-tax revenue are mentioned below:

(Rupees in crore)

Sl. No.	Heads of revenue	Budget Estimates	Actuals	Variations increase (+) decrease (-)	Percentage of variation
Tax revenue					
1.	Sales tax	2,820.69	3,110.58	(+) 289.89	(+) 10
2.	Land revenue	90.49	113.36	(+) 22.87	(+) 25
3.	Taxes on agricultural income	2.94	18.18	(+) 15.24	(+) 518
4.	Taxes on vehicles	193.00	145.21	(-) 47.79	(-) 25
5.	State excise	223.30	198.68	(-) 24.62	(-) 11
6.	Other taxes on income & expenditure	126.38	137.73	(+) 11.35	(+) 9
7.	Stamps duty and registration fees	124.27	111.17	(-) 13.10	(-) 11
8.	Taxes on goods & passengers	414.58	284.67	(-) 129.91	(-) 31
9.	Other taxes and duties on commodities and services	6.61	8.27	(+) 1.66	(+) 25
10.	Taxes and duties on electricity	18.54	22.36	(+) 3.82	(+) 21
Non-tax revenue					
1.	Petroleum	1,727.87	1,430.12	(-) 297.75	(-) 17
2.	Forestry & wildlife	45.83	115.64	(+) 69.81	(+) 152
3.	Police	17.07	12.69	(-) 4.38	(-) 26
4.	Other administrative services	21.00	12.77	(-) 8.23	(-) 39
5.	Coal and lignite	26.74	19.20	(-) 7.54	(-) 28
6.	Roads & bridges	36.68	66.90	(+) 30.22	(+) 82
7.	Interest receipts	184.65	433.16	(+) 248.51	(+) 135
8.	Dairy development	0.15	0.04	(-) 0.11	(-) 73
9.	Non-ferrous mining & metallurgical industries	0.48	0.54	(+) 0.06	(+) 13
10	Major and medium irrigation	0.47	0.56	(+) 0.09	(+) 19
11.	Medical & public health	6.37	7.91	(+) 1.54	(+) 24
12.	Co-operation	0.31	0.96	(+) 0.65	(+) 210
13.	Public works	3.54	3.84	(+) 0.30	(-) 8

The reasons for variation in the budget estimates and actuals furnished by the departments concerned were as follows:

Taxes on agricultural income: The increase was due to higher production of tea during 2008-09.

Taxes on goods and passengers: The decrease was due to reintroduction of entry tax from 01 June 2008, whereas the estimate was prepared for whole year.

Forestry and wildlife: The increase was due to proper disposal of timber and increase in demand for minor forest produces.

The other departments did not intimate (September 2009) the reasons for variation despite being requested.

1.3 Cost of collection

The gross collection in respect of major revenue receipts, expenditure incurred on their collection and the percentage of such expenditure to gross collection during 2006-07, 2007-08 and 2008-09 along with the relevant all India average percentage of expenditure as available were as follows:

(Rupees in crore)

Sl. No.	Heads of revenue	Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average cost of collection for the year 2007-08
1.	Sales tax	2006-07	2,783.24	34.93	1.26	0.83
		2007-08	2,691.43	23.39	0.87	
		2008-09	3,110.58	39.49	1.27	
2.	State excise	2006-07	174.88	9.70	5.55	3.27
		2007-08	188.71	10.37	5.50	
		2008-09	198.68	11.62	5.85	
3.	Taxes on vehicles	2006-07	151.15	8.08	5.35	2.58
		2007-08	138.62	8.56	6.18	
		2008-09	145.21	9.03	6.22	
4.	Stamp duty and registration fees	2006-07	97.32	5.91	6.07	2.09
		2007-08	109.91	6.27	5.71	
		2008-09	111.17	10.28	9.25	

Thus, the percentage of expenditure on gross collection in respect of all the four heads were higher than the all India average cost of collection for the year 2007-08.

1.4 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2009 in respect of some principal heads of revenue, as furnished by the departments, amount to Rs. 722.12 crore, of which Rs. 342.36 crore was outstanding for more than five years as mentioned below:

(Rupees in crore)

Sl. No.	Heads of revenue	Amount outstanding as on 31 March 2009	Amount outstanding for more than five years as on 31 March 2009	Remarks
1	Sales tax, cess on specified land, other taxes on income & expenditure, professional etc., taxes on agricultural income, other taxes and duties on commodities & services	667.23	326.56	Arrears were due to non-payment of taxes by the dealers and cases pending with the Recovery Officers.
2	Forestry and wildlife	6.09	1.31	Reasons not furnished by the department, though called for.
3	Royalty on coal, lignite and limestone	3.67	2.40	The arrears relate to non-payment of royalty on coal and limestone by the Assam Mineral Development Corporation Limited and NECEM, VCL & AMDC Ltd.
4	Land revenue	45.13	12.09	The reasons for arrears were : (i) non-partition of revenue tea gardens and estates. (ii) Landowners affected by flood and erosion and unable to pay land revenue timely.
	Total	**722.12**	**342.36**	

1.5 Arrears in assessments

The details of pending assessment cases at the beginning of the year, cases becoming due for assessment during the year, cases finalised during the year and number of cases pending at the end of each year during 2006-07 to 2008-09 as furnished by the departments are mentioned below:

Year	Opening balance	Cases due for assessment during the year	Total assessment due	Cases finalised during the year	Balance at the end of the year	Arrears in percentage (against total cases)
Sales tax and other taxes						
2006-07	35,759	31,241	67,000	36,610	30,390	55
2007-08	30,390	10,853	41,243	30,135	11,108	73
2008-09	11,108	9,004	20,112	9,781	10,331	49
Profession and employment tax						
2006-07	41,572	40,734	82,306	35,630	46,676	43
2007-08	46,676	33,428	80,104	38,585	41,519	48
2008-09	41,519	37,805	79,324	40,470	38,854	51
Agricultural income tax						
2006-07	1,432	895	2,327	606	1,721	26
2007-08	1,721	895	2,616	1,109	1,507	42
2008-09	1507	915	2422	881	1541	36

1.6 Failure to enforce accountability and protect interest of the Government

Principal Accountant General (Audit) [PAG (Audit)], Assam arranges to conduct periodical inspection of the State Government departments to test check the transactions and verify the maintenance of important accounting and other records as per prescribed rules and procedures. These inspections are followed up by inspection reports (IR). When important irregularities, etc., detected during inspection are not settled on the spot, IRs are issued to the heads of offices inspected with a copy to the next higher authorities. The orders of the State Government (March 1986) provide for prompt corrective action. The heads of offices and next higher authorities are required to comply with the observations contained in the IRs and rectify the defects and omissions promptly and report their compliance to the PAG (Audit). A half yearly report of pending IRs is sent to the Secretaries of the departments to facilitate monitoring of audit observations.

Inspection reports issued upto December 2008 disclosed that 3,685 paragraphs relating to 1,364 IRs remained outstanding at the end of June 2009 as mentioned in Annexure-I. Even the first replies, which were required to be received from the head of offices within six weeks from the date of issue, were not received for 689 IRs issued between April 1994 and December 2008. As a result, irregularities pointed out in 1,968 paragraphs involving Rs. 241.85 crore had not been settled as of June 2009.

A review of the IRs which were pending due to non-receipt of replies revealed that the heads of offices/departments failed to discharge due responsibility as they did not send any reply to a large number of IRs/paragraphs, indicating their failure to initiate action in regard to the defects, omissions and irregularities pointed out. The Commissioners and Secretaries of the concerned departments, who were informed of the position through half yearly reports, also failed to ensure that concerned officers of the departments took prompt and timely action.

It is recommended that the Government may look into this matter to ensure that the replies to the IRs are sent as per the prescribed time schedule, recovery of tax/underassessment is effected in a time bound manner and the system of response to the audit observations in the departments revamped.

1.7 Departmental audit committee meetings

As per instructions (May 1994) of the Finance Department, all the departments are required to constitute Audit Objection Committee (AOC) for expeditious disposal of audit observations contained in the IRs. These committees are chaired by designated officer of the concerned Administrative Department and attended among others by the concerned officers of the State Government and the office of the PAG (Audit), Assam.

In order to expedite clearance of outstanding audit observations, it is necessary that the audit committees meet regularly and ensure that final action is taken on all audit observations outstanding for more than a year, leading to their settlement. During the year 2008-09 one (Motor Vehicles) out of the eight departments convened meetings of the audit committee in which 264 paragraphs were settled. This indicates that other departments did not make effective use of the machinery created for expeditious settlement of outstanding audit observations.

1.8 Response of the departments to draft audit paragraphs

As per the instruction issued (March 1986) by the Finance Department, all the departments are required to furnish replies to the audit objections within two months. The PAG (Audit)'s office forwards draft paragraphs prepared on the basis of audit objections to the Secretaries of the concerned departments through demi official letters drawing their attention to audit findings with the request to send their response within six weeks. The fact of non-receipt of replies from the Government is indicated at the end of each paragraph included in this Audit Report.

Draft paragraphs/reviews included in the Report of the Comptroller and Auditor General of India (Revenue Receipts) for the year ended 31 March 2009 were forwarded to the Secretaries of the departments between April and May 2009 through demi official letters with the request to furnish their replies/comments within six weeks. Out of 29 draft paragraphs/reviews incorporated in this report, replies either part or full, of the departmental officers in respect of four draft paragraphs had been received (September 2009).

1.9 Follow up on Audit Reports – summarised position

As per the instruction issued (May 1994) by the Finance Department, all the departments are required to furnish explanatory notes indicating action taken or proposed to be taken and submit action taken note (ATN) to the Assembly Secretariat with a copy to the PAG (Audit), Assam, in respect of paragraphs and reviews included in the Audit Reports within 20 days from the date of receipt of the Audit Report.

Audit Report (Revenue Receipts) for the year ended 2008 was tabled in the Legislative Assembly on 7 March 2009. Though the time limit for furnishing ATNs had elapsed, no ATNs in respect of any department had been furnished. Non-furnishing of ATNs by the departments was taken up through demi-official letters with the Commissioner and Secretary to the Government of Assam, Finance Department. Their reply is awaited (September 2009).

1.10 Compliance with the earlier Audit Reports

During the years from 2002-03 to 2007-08 the departments/Government accepted audit observations involving Rs. 79.87 crore of which only Rs. 14.36 crore had been recovered till March 2009 as mentioned below:

(Rupees in crore)

Year of Audit Report	Total money value	Accepted money value	Recovery made
2002-03	97.69	51.54	0.34
2003-04	413.82	3.35	0.22
2004-05	71.89	4.93	1.24
2005-06	920.60	1.63	0.04
2006-07	186.03	2.17	0.17
2007-08	241.77	16.25	12.35
Total	**1931.80**	**79.87**	**14.36**

The above table indicates that amount recovered was only 17.98 *per cent* of the accepted amount while the Government/departments have accepted only four *per cent* of the cases included in the Audit Reports. However, an analysis of accepted cases and recovery made in respect of Audit Reports for the years 2002-03 to 2006-07 reveals that both the position remains static as compared to those included in the Audit Report of the preceding year (2007-08).

1.11 Results of Audit

Test check of records of the sales tax, agricultural income tax, taxes on vehicles, state excise, forest receipts, other tax and non-tax receipts conducted during the year 2008-09 revealed under assessment/short levy/short demand/ loss of revenue amounting to Rs. 1,255.24 crore in 470 cases. During the course of the year, the concerned departments accepted under assessment, short levy etc., of Rs. 79 lakh pointed out during 2008-09 and earlier years of which Rs. 2.26 lakh was recovered at the instance of audit. No replies have been received in respect of the remaining cases.

This report contains 29 paragraphs including four reviews relating to non/short levy of taxes, duties, interest and penalty etc., involving Rs. 1,155.59 crore. The department accepted audit observation involving Rs. 53.96 lakh. No reply has been furnished in other cases (September 2009). These are discussed in succeeding chapters II to IV.

CHAPTER-II: SALES TAX/VALUE ADDED TAX

2.1 Results of Audit

Test check of records of the Sales Tax offices conducted during the year revealed under assessment, loss of revenue, turnover escaped assessment, irregular exemption, non/short levy of interest etc., amounting to Rs. 1,114.72 crore in 227 cases which fall under the following categories:

(Rupees in crore)

Sl. No.	Category	Number of cases	Amount
1.	**Transition from Sales tax to VAT – A review**	1	1,029.41
2.	**Pendency of appeals at various levels and its impact on revenue collection – A review**	1	20.57
3.	**IT Audit of Taxation Information Management System**	1	1.56
4.	Irregular exemption	31	13.55
5.	Turnover escaped assessment	18	9.44
6.	Under assessment	8	1.47
7.	Non/short levy of interest	16	0.69
8.	Loss of revenue	2	0.19
9.	Other lapses	149	37.84
	Total	**227**	**1,114.72**

During the course of the year, the department accepted underassessment etc., of Rs. 50.54 lakh in three cases.

Three reviews on **"Transition from Sales Tax to VAT", "Pendency of appeals at various levels and its impact on revenue collection"** and **"Information Technology Audit of Taxation Information Management System"** involving money value of Rs. 1,051.54 crore and other audit observations involving Rs. 22.81 crore are given in the following paragraphs.

A: VALUE ADDED TAX

2.2 Review on Transition from Sales Tax to Value Added Tax

Highlights

The average growth of revenue after implementation of VAT registered a decrease of 9.66 *per cent* as compared to the pre-VAT period. Also, there was negative growth of revenue during consecutive three years from 2005-06 to 2007-08

(Paragraph 2.2.6.1)

Input tax credit of Rs. 55 lakh availed by the dealers without furnishing the required certificates duly signed by the chartered accountants.

(Paragraph 2.2.7.4)

Non-detection of application of lower rate of tax resulted in leakage of revenue of Rs. 1.29 crore.

(Paragraph 2.2.8.6(a))

Due to deficiencies in the provisions for input tax credit, the genuineness of input tax credit to the dealers could not be verified in audit.

(Paragraph 2.2.10)

The department irregularly allowed exemption of tax of Rs. 1,026 crore on tax paid sales without any supporting documents.

(Paragraph 2.2.11.1)

Due to lacunae in the Act prescribing discretionary provisions for levy of penalty, penalty upto Rs. 47.24 lakh though leviable, was not levied.

(Paragraph 2.2.14.1)

Compensation claim of Rs. 278.65 crore preferred by the State Government during 2006-07 and 2007-08 was inadmissible.

(Paragraph 2.2.15)

2.2.1 Introduction

An Empowered committee of States Finance Ministers was constituted by the Government of India to monitor the implementation of Value Added Tax (VAT) in India. The Empowered Committee agreed on the broad structure and key feature of the legislation on VAT and in its meeting held on 23 January 2002 unanimously decided to introduce VAT in all states and Union Territories with effect from 1 April 2003.

A white paper on the state level VAT was presented by the Empowered Committee. It was stated that on introduction of VAT, following benefits will be achieved:

- Overall tax burden will be rationalised.
- Other taxes, such as turnover tax, surcharge, additional surcharge etc., will be abolished.
- It would eliminate cascading effect due to credit of tax paid on purchase for resale or for use in production.
- Overall tax would increase and there will be higher revenue growth.
- There would be self-assessment by dealers and set off will be given for input and tax paid on previous purchases.

The Government of Assam (GOA) repealed the Assam General Sales Tax (AGST) Act, 1993 and enacted the Assam Value Added Tax, 2003 (AVAT) for implementation from 1 May 2005.

Some of the differences between the existing AVAT and the AGST were as under:

- AVAT is a multipoint tax system while AGST was single/double point tax system.
- AGST provides compulsory assessment by department after verifying the books of accounts, document and evidences whereas AVAT Act provides for self-assessment unless selected for audit assessment.
- There is no provision of different declaration forms under AVAT which existed in AGST.

A review on "Transition from sales tax to Value Added Tax" and its status after three years of implementation was conducted to ascertain the lacunae and loopholes in the system and Act/Rules. The review revealed a number of deficiencies which are discussed in succeeding paragraphs.

2.2.2 Organisational set up

The Finance (Taxation) Department is responsible for the VAT Administration in the state. The Commissioner of taxes (CT) is the Head of the Department and responsible for administrating all taxation measures and for general control and supervision over the zonal and unit offices and staff engaged in collection of taxes and to guard against evasion of taxes. He is assisted by Additional Commissioner of Taxes, Joint Commissioner of Taxes, Deputy Commissioner of taxes (DCT), Assistant Commissioner of taxes (ACT), Superintendent of taxes (ST) at Headquarter and regional levels.

There are 36 unit offices (including two check posts), 10 zonal offices and 16 recovery offices headed by DCT/ACT/ST.

2.2.3 Audit objectives

The review was aimed to ascertain whether the

- planning for implementation and the transition from the ST Act to VAT Act was effected timely and efficiently;
- organisational structure was adequate and effective;
- provision of the VAT Act and the Rules made thereunder were adequate and enforced properly to safeguard the revenues of the state;
- internal control mechanism existed in the Department and was adequate and effective to prevent leakage of revenue; and
- checking the status after being in place for four years.

2.2.4 Scope and methodology of Audit

The review was conducted during the period from May to July 2009 covering the period from 2003-04 to 2007-08. For this purpose records of Office of the CT and 12[1] out of 36 units offices were test checked. Sample selection was made as per the method of simple random sampling with replacement method.

2.2.5 Acknowledgement

The Indian Audit and Accounts Department acknowledges the co-operation of the Taxation Department in providing the necessary information and records for audit. An entry conference was held on 15 May 2009, which was attended by the CT, Assistant Commissioner of Taxes from the Department and the Joint Secretary (Finance) from Government wherein the audit objectives and scope of audit was discussed. The finding of the review were reported to the Government in August 2009 and discussed in the exit conference held on 26 August 2009. The Commissioner and Joint Commissioner of Taxes attended the meeting. Replies of the Government/department are yet to be received (July 2009).

2.2.6 Audit findings

2.2.6.1 Pre VAT and post VAT tax collection

The comparative position of pre VAT sales tax collection (2002-03 to 2004-05) and post VAT (2005-06 to 2007-08) tax collection including VAT and growth rate in each of the years is furnished below:

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[1] Borpeta Road, Bongaigaon, Digboi, Golaghat, Guwahati Unit A, Guwahat Unit C, Guwahati Unit D, Jorhat, Karimganj, Naharkatia, Sibsagar, Tezpur.

(Rupees in crore)

Pre VAT			Post VAT		
Year	Actual collection	Percentage of growth	Year	Actual Collection	Percentage of growth
2002-03	1156.64	34[2]	2005-06	1781.38	15
2003-04	1185.81	3	2006-07	2013.32	13
2004-05	1553.52	31	2007-08	2239.15	11

Note: Assam Entry Tax not included.

The average growth rate during 2002-03 to 2004-05 was 22.66 *per cent* while the growth rate for 2005-06 to 2007-08 was 13 *per cent*. Thus, the average growth rate in the post VAT period registered a decrease of 9.66 *per cent*. It was also seen that after implementation of VAT, there was negative growth of revenue during consecutive three years from 2005-06.

2.2.6.2 Date of implementation of VAT (timely/delay)

Value Added Tax was introduced in the state after a delay of one month i.e. May 2005 from the date of implementation of VAT throughout the country i.e. April 2005.

2.2.6.3 Completion of assessments under the repealed Act

The details of pending assessment cases at the beginning of the year, cases becoming due for assessment during the year, cases finalised during the year and cases pending at the end of each year during 2005-06 to 2007-08 as furnished by the Departments are mentioned below:

Year	Opening balance	Addition during the year	Total cases due for assessment	Cases finalised during the year	Balance at the end of the year	Arrears in percentage (against total cases)
2005-06	37,388	48,567	85,955	50,196	35,759	58
2006-07	35,759	31,241	67,000	36,610	30,390	55
2007-08	30,390	10,853	41,243	30,135	11,108	73
Total		**90,661**	**1,94,198**	**1,16,941**		

It was seen that 1,16,941 assessments relating to 2004-05 and earlier years pertaining to repealed Act including assessments under the Central Sales Tax Act and Assam Entry Tax (AET) were completed during the years from 2005-06 to 2007-08. Besides, it was also seen that though the department was aware of implementation of VAT well ahead in 2003, no effective steps were taken to complete the assessment under the repealed Act in a timebound manner before transition to the VAT Act. As a result, 37,388 assessments were pending at the time of implementation of VAT which was a burden on the department and affected the day to day works relating to VAT. Further, it was seen that 11,108 assessments under the repealed Act were outstanding as on 31 March 2008.

[2] Based on actual collection of Rs. 860.12 crore in 2001-02.

2.2.6.4 Collection of arrears under the repealed Acts

The Superintendent of Taxes of the repealed Act was also functioning as Tax Recovery Officer for collection of arrears of sales tax including professional tax, luxury tax, amusement and betting taxation Act etc. Besides this, the same officers were also engaged in finalising of appeal cases and following up of cases pending in the Tribunal and High Court. These were also factors responsible for slow pace of transition from sales tax to Value Added Tax. The assessments under the repealed Acts have not been completed yet (till the date of review) though more than four years have elapsed and as such the total amount of arrears of taxes due under the repealed Acts could not be ascertained.

It was however, noticed that no steps were taken to analyse the arrears of revenue under the repealed Act before transition to the VAT Act to identify the amount recoverable and those irrecoverable. Recovery of arrears under the repealed Act will be a burden on the assessing officers and will affect smooth administration of VAT.

2.2.7 Registration and database of dealers

2.2.7.1 Periodic analysis of dealers below threshold limits

Under the AVAT Act, dealers having turnover less than Rs. 10 lakh may at their option pay composite tax at the rate of one *per cent* on the gross turnover. Above this limit, dealers are required to pay tax at prescribed rates. Thus, it is important to keep a watch on the turnover of the presumptive tax payers at periodic intervals. These dealers are required to obtain a certificate from the sales tax authorities and submit their returns quarterly in form RD 1. Scrutiny revealed that the turnover is ascertained solely on the basis of the returns submitted by dealers and no system of periodic scrutiny of books of account of the dealers has been installed to verify whether a dealer has crossed the above threshold limits.

2.2.7.2 Detection of unregistered dealers

Under the provision of section 72 of AVAT Act, the dealers who are liable to pay tax under the Act but remain unregistered shall be brought under tax net by proper survey. Without upto date survey list, it is impossible to ensure protection of revenue and to estimate the normal yield from the tax per annum.

Scrutiny revealed that though a provision for survey exists under the provisions of the VAT Act, the authority did not prescribe any specific norms regarding parameters, frequency of survey and no records of such survey are available with Apex office.

2.2.7.3 Cancellation of registered dealers

Under the provision of Rule 15 of AVAT Rules, 2005, when a registered dealer discontinues his business, he shall make an application for cancellation within fourteen days from the date of such discontinuation. If the prescribed authority

after making such enquiry, is satisfied that the business has been discontinued, he shall, by an order in writing, cancel the certificate of registration under section 72 (8).

Scrutiny of test checked units revealed that all the dealers registered under the repealed Act was brought forward under the VAT Act and were granted registration certificates. It was noticed that in some cases though the dealers had discontinued their business long ago, however, they were registered under the VAT Act. The department has not prescribed any mechanism to review the registration certificates at periodic intervals and initiate action to cancel the dormant registration certificates.

2.2.7.4 Determination of opening stock under the VAT Act

The AVAT Act and Rules provide relief or sales tax paid under AGST Act at the commencement of the Act ibid. Under the AVAT Act read with AVAT Rules, a registered dealer is entitled to claim tax credit equal to the amount of tax borne by him under the AGST Act on the closing stock held by him on 30 April 2005 and taken as opening stock in 2005-06 (May 2005 to March 2006). The dealer is required to furnish a statement in Form 77 within 31 July 2005 (as amended vide circular dated 30 December 2006). If the accounts of the dealer are required to be audited under any statutory provision, the statement shall be accompanied by a certificate signed by a chartered accountant that the tax credit claim made in time and correct. Incorrect claim of tax credit attracts penalty equal to twice the amount of tax credit so claimed.

Test check of records, relating to 12 unit offices revealed that in 30 cases the dealers availed tax credit of Rs. 53.84 lakh on opening stock without furnishing details in Form 77. In another three cases, claims of Rs. 1.17 lakh were not preferred within 31 July 2005. In all the cases the dealers availed tax credit without furnishing the required certificate duly signed by the chartered accountant. This resulted in incorrect availing of tax credit of Rs. 55.01 lakh. Due to non scrutiny of returns by the AOs, these deficiencies and loss of revenue remained unnoticed by the department. As credit of transitional relief is one time process, there should be a suitable monitoring mechanism so that the dealers cannot deceive the department while claiming the relief.

Deficiencies in Act and Rules

The review revealed a number of deficiencies in the provisions of the VAT Act and the Rules, which persisted during the period covered under the review. Some of the important deficiencies are discussed below:

2.2.8 Return

2.2.8.1 Mechanism to monitor filing of returns

Under AVAT Act, every registered dealer as well as those liable to be registered under this Act shall file returns, showing the details of total turnover, turnover on

which exemption is claimed, taxable turnover, output tax due, tax collected, input tax credit availed of, tax due including reverse tax, if any, and the tax paid separately for that return period.

Scrutiny of records revealed that the department did not prescribe any register to record the date or filing of return by the dealer. In absence of such register, late submission of return could not be monitored by the department. Cases in which late submission could not be detected and penalty levied are pointed out in paragraph 2.2.8.3.

2.2.8.2 Scrutiny and verification of returns

Under section 29 of the AVAT Act and Rule 17 of the AVAT Rules, every registered dealer is required to file monthly/quarterly tax return in Form 13 within 21 days of the succeeding month/quarter showing all his purchases and sales including interstate purchases, sales, and stock transfer during the tax period supported by a receipt of full payment of tax due on the basis of such return. In addition, every dealer shall also submit annual return in Form 14 within two months after the close of the year to which the return relates. As per section 35 of the AVAT Act, the day on which the dealer submits his return, he is deemed to have been assessed for that tax period subject to scrutiny under section 33.

Audit scrutiny revealed that the department issued instruction in January 2007 that scrutiny of return should be completed within 15 days from the filing of such return. However, no register has been prescribed for entering the details of scrutiny of returns. In absence of such registers, neither the department nor audit could ascertain the position of scrutiny of returns by the assessing officers. Test check of records of 12 selected unit offices revealed that in 307 cases of 203 dealers the prescribed time frame was not followed. The delay in scrutiny ranged from 7 days to nearly 3 years.

2.2.8.3 Delay in filing returns

Under section 30 (4) of the AVAT Act, if a dealer fails to furnish tax return by the prescribed date as required under sub-section (i) or annual return under sub-section (ii) of section 29, the authority may direct him to pay penalty of rupees one hundred per day of default subject to a maximum of rupees ten thousand.

Scrutiny revealed that in 396 assessment cases of 238 dealers, return were not filed within the prescribed date. Though the returns were filed by the dealers with delay ranging from 2 to 932 days, due to non scrutiny of these return, penalty of Rs. 29.15 lakh in these cases remained unassessed.

2.2.8.4 Acceptance of returns/revised return without docketing

In circular dated 21 May 2001, the CT, Assam instructed that no return/revised return should be accepted which were not dated/docketed properly.

Test check of assessment records of 94 dealers under AVAT Act during the period from 2005-06 to 2007-08 revealed that in 136 cases the return/revised

return submitted by the dealers were not dated/docketed as instructed in the circular. As a result, the extent of delay in submission of return/revised return could not be ascertained in audit.

2.2.8.5 Non-levy of interest on belated payment of VAT

Under section 30 (i) of the AVAT Act, if any dealer fails to pay the amount of tax due within the time prescribed for its payment under section 29, he shall be liable to pay simple interest, at the rate of one and half *per cent* per month on the amount of tax not paid or paid short for the period commencing on the day following the date of expiry of the due date to the date of payment or the date of assessment whichever is earlier.

Test check of records revealed that in sixteen cases the dealer did not furnish the tax returns with proof of payment of tax in due dates. No notice was issued by the authority to make the payment of interest. Consequently, interest amounting to Rs. 21.24 lakh (calculated till the date of audit) though leviable for non-payment of tax was not levied.

2.2.8.6 Non-detection of application of incorrect rate of tax

Rule 21 of the AVAT Rules provides that except the cases selected for audit assessment, all other cases shall be deemed to have been assessed.

(a) Scrutiny revealed that two dealers of Naharkatia and Bongaigaon filed tax return under self assessment showing the tax liability of Rs. 96.89 lakh by applying lower rate of tax, instead of Rs. 1.88 crore. Since no notice was served in Form 19 for curing the defects, the dealers were deemed to have been assessed based on the returns. Application of lower rate of tax resulted in leakage of revenue of Rs. 90.66 lakh. Interest of Rs. 37.98 lakh is also chargeable as per provision of the Act.

(b) Test check of records of ACT, Golaghat revealed that a dealer engaged in manufacturing of black tea had submitted annual return of turnover in March 2008 for the period from 2005-06 to 2007-08 with sales turnover amounting to Rs. 11.27 crore. The dealer claimed tax remission under the Assam Industries (Tax exemption for pipeline units) order 2005. But on his failure to produce eligibility certificate, the prescribed authority asked the dealer for payment of tax. However, it did not issue notice in Form 19 to the dealer for curing the defects in the return and to make the consequential payment of tax and interest, if any. It was noticed that the dealer in his return had shown output tax amounting to Rs. 0.46 lakh (0.04 *per cent* on turnover) instead of Rs. 45.08 lakh (4 *per cent* on turnover) which the assessing officer failed to detect. This resulted in non-detection of incorrect application of rate of tax involving tax of Rs. 44.62 lakh.

2.2.8.7 Inadequacy of the documentation to be given along with the return

The AVAT Act prescribes the documents to be submitted along with the returns. However, scrutiny revealed that the Act and Rules have not made it mandatory for

the dealer to furnish the details of purchases such as invoice-wise details of goods purchased and names of the registered dealers and State from whom/where the goods were purchased on payment of tax to justify claim for input tax certificate (ITC). In the absence of these details, genuineness of ITC cannot be verified as discussed in paragraph 2.2.10.

2.2.9 Tax audit

2.2.9.1 Norms/timeframe for completion of tax audit

Section 36 of AVAT Act read with Rule 22 of AVAT Rules lays down the categories of the cases in which audit assessment can be taken up. Audit scrutiny revealed that no norms were prescribed by the authority regarding percentage of cases required to be selected for audit assessment and no time frame was fixed for completion of tax audit. Besides, there is no system to monitor the completion of audit assessment.

It was noticed that most of the units did not maintain any records regarding the files identified for audit assessment and the time taken for completion of the same. However, test check of two units revealed that 145 files were identified for audit assessment. Out of which, audit assessment were completed in 19 cases only. Time taken in completion of audit assessment ranged between 132 and 464 days. Due to absence of any prescribed timelimit to complete tax audits coupled with absence of monitoring mechanism, the department remained unaware about consumption of substantial time in completion of audits.

2.2.9.2 Documents to be preserved in the case file after completion of tax audit

After completion of tax audits, the documents based on which the assessment has been made should be retained in the case records for transparency and further verification, if any.

Scrutiny revealed that the records such as list of tax paid goods, documents regarding claim of ITC, list or records cross checked, audited accounts, utilisation statement of C/F forms and statement of sales & purchases etc., during the year, were not found in many cases.

2.2.10 Input tax credit

2.2.10.1 Deficiencies in the provision for input tax credit

Section 35 of the AVAT Act provides for self assessment of dealers for determining tax liability and payment of tax. Rule 21 of the AVAT Rules states that except the cases selected for audit assessment, all other cases shall be deemed to have been assessed. Every return furnished under section 29 shall be subject to scrutiny under section 33 to verify the correctness of calculation, application of correct rate of tax and interest and input tax credit claimed therein. But the Act/Rules do not prescribe the submission of any document for supporting the

claim of input tax credit benefit. The CT, Assam in his circular dated 24 April 2008 stated that scrutiny has to be done on the VAT returns submitted by the dealers without involvement of the dealers or production of any document by the dealers. In case of any doubt, provisional assessment can be taken up only in selective cases. The absence of provision for production of supporting documents while claiming input tax credit which is most vital point under the VAT Act coupled with the orders of the CT left little scope for the AOs to verify the genuineness of the claims before allowing them input tax credit and in fact extended undue benefit to the dealers and ample scope of evasion of taxes for preferring false claims. Cases of irregular allowance of input tax credits are discussed below.

(a) During test check of assessment records of 12 unit offices, it was noticed that in 359 cases, 158 dealers purchased goods from VAT dealers valued at Rs. 375.47 crore during 2005-06 to 2007-08 and claimed input tax credit of Rs. 31 crore. While scrutinising the returns the prescribed authority allowed input tax credit based on the returns submitted by the dealers. However, in absence of any documented evidence that the goods were actually bought from AVAT dealers, genuineness of input tax credit allowed to the dealers could not be verified in audit.

(b) Test check of records revealed that two dealers claimed input tax credit of Rs. 46.12 lakh during the years 2005-06 to 2007-08 on purchase of goods from VAT dealers valued at Rs. 11.44 crore instead of actual amount of Rs. 9.78 crore as disclosed in the details of purchase and stock. Thus, input tax credit of Rs. 6.94 lakh was claimed in excess of admissible amount of Rs. 39.18 lakh which escaped notice of the assessing officer. This resulted in allowance of inadmissible input tax credit of Rs.6.94 lakh (Rs. 46.12 lakh - Rs. 39.18 lakh).

2.2.10.2 System of cross verification of the records of the selling dealers

In order to ensure genuineness of the transactions and to prevent evasion of tax, the Commissioner may from time to time collect information regarding sales and purchases effected by any class of dealers and cause any of such transactions of sale and purchase to be cross checked. Audit scrutiny revealed that the department did not prescribe any norm for carrying out cross verification of other dealers.

Test check of the assessment records of 12 unit offices revealed that no cross verification was done while scrutinising 575 cases of 241 dealers during 2006-07 and 2007-08 to detect evasion of VAT by claiming inadmissible input tax credit. Neither the Apex office nor the unit offices maintained any records regarding cross verification of transaction. Due to non-observance/compliance of the provision, the genuineness of purchase transaction could not be ascertained in audit.

2.2.11 Provision for grant of exemption to certain class of dealers

2.2.11.1 Deficiencies in the provisions for exemption or goods taxable at the first point

Under section 10 (1) (a) of the AVAT Act, a dealer is liable to pay tax at the first point of sale within the state at the prescribed rate in respect of goods specified in the fourth schedule. Section 19 of the Act provide that in respect of any sale or purchase effected by a dealer the burden of proving that he is not liable to pay tax under section 10, 12 or 14, shall be on the dealers.

During scrutiny it was noticed that though the AVAT Act specifically mentions that the burden of proving that a dealer is not liable to pay tax is on that dealer, no specific instruction was issued in this regard. Since under VAT Acts, there is very little scope under the Acts to intercept the dealers and take up audit assessment, such absence of instruction for furnishing supporting documents in support of claim for exemption is indeed allowing the dealers undue benefit and ample scope for evasion of tax.

Test check of records revealed that in 18 cases, seven dealers claimed exemption on turnover of Rs. 25,650.50 crore since the sales were made at subsequent points. However, in absence of any instruction for submission of proof of payment of tax at preceeding stage, the dealer did not furnish any supporting documents alongwith the claims. The assessing officers also did not insist on such documents, the absence of which would result in irregular allowance of exemption of Rs. 1,026 crore calculated at the minimum rate of four *per cent.*

2.2.11.2 Control mechanism to monitor the amount of revenue forgone due to grant of exemption to industrial units

Consequent upon implementation of AVAT, the Assam Industrial (Sales Tax Concession) scheme 1997 was replaced by Assam Industries (Tax Remission[3]) scheme, 2005 and Assam Industries (Tax exemption for pipeline units) order 2005. Under the Assam Industries (Sales Tax Concession) scheme, no tax was chargeable whereas as per replacement scheme an unit is entitled to charge the tax amount in the tax invoice/bill issued. Out of the tax collected, the dealer is entitled for remission of 99 *per cent* of the tax payable by him during the return period and 1 *per cent* should be deposited into Government account.

Test check of records of STs, Digboi and Karimganj revealed that in four cases the dealers were allowed remission of Rs. 55.34 lakh while Rs. 45,000 being one *per cent* of tax collected was deposited to Government account during 2005-06 to 2007-08. It was noticed that one dealer of Digboi has enjoyed the benefit of the remission scheme although neither eligibility certificate nor the entitlement

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[3] Under AVAT Act, the assessee, unit/individual collects tax from consumer but only credit 1 *per cent* of the tax so collected into Govt. account while the rest 99 *per cent* of the amount is kept with the individual/unit. This is termed as 'Remission'.

certificate was issued to the dealer till the date of audit (July 2009). In another case of Digboi, no authorisation certificate was issued by the department. In respect of other two dealers of Karimganj, the certificate of entitlement was not renewed even after the expiry of validity period.

Thus, exemption or concession allowed to an industry without having valid eligibility and authorisation certificates indicates lack of control mechanism to grant of exemption to industrial units. Besides, non-deposit of tax into Government accounts after realisation from consumers resulted in undue benefit to the owner of the industrial unit.

Further it was noticed that the units did not maintain any records to watch amount of remission already allowed and to be allowed.

2.2.12 Provisions governing tax deducted at source

Under section 47 (9) of AVAT Act read with Rule 28 (5), the person responsible for deduction of tax shall file a return in Form 35 within two months from the end of each year before the prescribed authority. Audit scrutiny revealed that there is no system of sending the details of works contract/purchases by the works/buying Departments to the Taxation Department for verification. Besides, no executive instruction has also been issued by the department prohibiting the works divisions/buying departments to engage unregistered dealers.

Thus, it can be inferred that there is lack of control mechanism to prevent leakage of tax on works/supply contracts.

2.2.13 Acceptance and disposal of appeal cases

As per the executive instruction issued in January 1997 under the repealed Act, appeal cases were to be disposed off by the appellate authorities within three months from the date of admitting the appeals. However, no such time frame has been prescribed under the AVAT Act.

The position of acceptance and disposal of appeal cases during the period from 2005-06 to 2007-08 is tabulated below:

Year	Opening Balance	Additional during the year	Total	Disposal during the year	Closing Balance
2005-06	418	296	714	181	533
2006-07	533	286	819	366	453
2007-08	453	552	1005	420	585

Thus, there was an increasing trend of pendency of appeal cases during 2007-08 over 2006-07 and at an average, about 37 *per cent* of appeal cases could be disposed off during the above three years. Due to absence of any prescribed time frame, the department could do little to take effective steps for reduction of arrears in the interest of revenue.

2.2.14 Deterrent measures

2.2.14.1 Absence of minimum penalty for offences

As per section 90 of the AVAT Act, if any dealer violates any provisions of the Act, Rules or departmental instructions, he shall be liable to pay a penalty not exceeding twice the tax sought to be evaded.

Thus, it can be seen that the penal measure is left at the discretion of the assessing officer instead of specific penal measures prescribed for various offences. Cases of misuse of discretionary provisions on levy of penalty are discussed below.

Under the AVAT Act, if any dealer fails to furnish a true copy of the audit report within 7 months the AO may impose on him, in addition to any tax payable, a sum by way of penalty equal to half *per cent* of the gross turnover or a sum of rupee one lakh whichever is less.

Scrutiny of test checked units revealed that 36 dealers in 62 cases having gross turnover of Rs. 40 lakh and above failed to submit audited accounts. However, the authority did not levy penalty as per provision. This resulted in non-levy of penalty upto Rs. 47.24 lakh.

2.2.15 Claim for compensation of loss due to introduction of VAT

Value Added Tax was implemented in Assam with effect from May 2005. The Government of India (GOI) agreed to compensate the State Government for loss of revenue consequent to the implementation of VAT and issued guidelines in June 2006 on the modalities for calculation of compensation claims. As per guidelines, VAT receipts were to be compared with the revenue of pre VAT period, suitably extrapolated on the basis of the average of three best growth rate of revenue of the previous five years.

2.2.15.1 Incorrect computation of VAT compensation

According to the modalities prescribed by the GOI, the revenue loss was to be worked out by excluding tax revenues generated from commodities like petrol, diesel, aviation turbine fuel, liquor, lottery tickets, which have been kept outside VAT and are subject to 20 *per cent* floor rate of tax and the credits on account of input tax under VAT adjusted against CST from the overall tax revenue of that year. The resulted net revenue was to be compared with the projected tax revenue for working out the loss on account of introduction of VAT. The rate of compensation would be 100 *per cent*, 75 *per cent* and 50 *per cent* during the first, second and third year respectively of the implementation of VAT.

The State Government preferred a compensation claim for revenue loss of Rs. 113.39 crore for the year 2006-07. The compensation claim was worked out by deducting Rs. 995.30 crore (Rs. 991.25 crore as non-VAT receipt and Rs. 4.05 crore on account of input tax credit under VAT adjusted against central sales tax) from the total AGST/VAT receipts of Rs. 2,015.36 crore for the year 2006-07 comparing on the average of the best three out of five preceding year's receipts. A scrutiny of the records, however, revealed that out of Rs. 991.25 crore, Rs. 291.95

crore only related to admissible non-VAT receipts (non-VAT goods taxable at the rate of 20 *per cent*). Thus, the actual receipts of the Government of Assam for the year 2006-07 after allowing deduction as prescribed by the GOI sum up to Rs. 1,719.36 crore (Rs. 2,015.36 crore – Rs. 291.95 crore – Rs. 4.05 crore) and was much higher than the projected tax revenue of Rs. 1,171.24 crore for the year 2006-07. Thus, the compensation claim of Rs. 113.39 crore preferred by the State Government was irregular and inadmissible.

2.2.15.2 Incorrect computation of projected VAT revenue

According to guidelines issued by Government of India, for the purpose of computing projected revenue for the year 2005-06 onwards, the tax revenue for the period from 1999-2000 to 2004-05 shall be taken into account. Thereafter average growth rate of revenue of the three out of five best preceding years should be selected for calculating average annual growth rate of tax revenue. The year 2004-05 should be adopted as the base year for the purpose of calculation. Scrutiny of records revealed that the net revenue under VAT item during the base year was shown at Rs. 815.88 crore instead of actual of Rs. 761.61 crore. This was due to inclusion of non-VAT items like food grains, liquefied petroleum gas and tea as VAT items. This resulted in projection of tax revenue of Rs. 1,537.58 crore instead of Rs. 1,452.45 crore during 2007-08 having consequential excess projection of tax revenue amounting to Rs. 85.13 crore.

Further it was noticed that the State Government preferred a compensation claim for revenue loss of Rs. 165.26 crore for the year 2007-08. The compensation claim was worked out by deducting Rs. 975.20 crore as non-VAT receipt from the total receipts of Rs. 2,238.56 crore for the year 2007-08 comparing on the average of the best three out of five preceding year's receipts. A scrutiny of the records, however, revealed that out of Rs. 975.20 crore, Rs. 285.91 crore only related to admissible non-VAT receipts (non-VAT goods taxable at the rate of 20 *per cent*). Thus, the actual receipts of the Government of Assam for the year 2007-08 after allowing deduction as prescribed by the GOI sum up to Rs. 1,896.36 crore (total tax revenue Rs. 2,238.56 crore – admissible non-VAT receipt Rs. 285.90 crore – ITC adjusted against CST Rs. 3.24 crore – VAT on tobacco Rs. 53.05 crore) and was much higher than the projected tax revenue of Rs. 1,452.45 crore for the year 2007-08. Thus, the compensation claim of Rs. 165.26 crore preferred by the State Government during the year was irregular and inadmissible.

2.2.16 Internal audit

Internal Audit is an integral part of the internal control mechanism and functions as the eyes and ears of the organisation. The internal audit is responsible in safeguarding the interest of the organisation and the Government through periodical check of records of the entire organisation both at the Headquarter and the field level and highlighting the deficiencies to help the organisation in plugging the loopholes.

Audit scrutiny revealed that though an internal audit wing exists in the department, it did not carry out any inspection of the unit offices after implementation of VAT.

2.2.17 Conclusion

The review revealed a number of deficiencies in the system and the Act and Rules governing VAT in the State. Non-initiation of timely action resulted in huge accumulation of assessments under the repealed Act which consumed substantial time and hampered the day to day work under the VAT Act. There was deficiency in the system of monitoring the receipt of returns and their scrutiny due to which the department remained unaware of late receipt of returns/delay in completion of scrutiny of returns. There is no system to verify tax deposited by the selling dealers before allowing input tax credit to the dealers to ascertain the genuineness of the claims. Despite issue of departmental instruction, scrutiny of returns was not completed within time frame. No norms/timeframe for completion of tax audit has been prescribed by the department. In absence of any provision for furnishing supporting documents for claiming exemption on tax paid sales, tax of atleast Rs. 1,026 crore was irregularly exempted without any documentation. The department has not devised any report/return to be submitted by the works divisions/buying departments furnishing the details of works/purchases undertaken/made during the period. The internal audit wing did not carry out any inspection during the course of the review due to which the department remained unaware of the deficiencies pointed out above.

2.2.18 Recommendations

The Government may consider implementing the following recommendations to rectify the system defects and lacunae in the Act and Rules.

- Install a system of periodic scrutiny of books of account of the dealers under threshold limit to verify whether a dealer has crossed the threshold limits.
- Prescribe specific norms mentioning the periodicity and frequency of conducting survey to detect unregistered dealers;
- Prescribe a system of reviewing the dormant registration certificates for initiating action for cancellation;
- Issue guidelines on various points to be checked compulsorily before acceptance and during scrutiny of return;
- Prescribe norms/timeframe for taking up tax audits and disposal of appeal cases;
- Make it mandatory for assessing officers to retain the documents in the case records based on which the assessments are finalised;
- Prescribe norms for carrying out cross verification of records of other dealers before allowing input tax credits;
- Make it mandatory for the dealers to submit list of purchase from VAT dealers alongwith evidence of proof for claiming exemption/tax free sales;
- Amend the AVAT Act to prohibit engaging unregistered dealers for works/supply contracts and also prescribe periodic reports/returns by the works divisions/buying departments to the Taxation Department;
- Prescribe specific penalty for every offences to act as a deterrent measure instead of discretionary provisions; and
- Strengthen the internal audit wing.

2.3 INFORMATION TECHNOLOGY AUDIT OF TAXATION INFORMATION MANAGEMENT SYSTEM (TIMS)

Highlights

Neither the Government nor the CT had prepared any user requirement specification.

(Paragraph 2.3.8.1)

Lack of input check resulted in a huge difference of Rs.91,27,460.16 crore in comparison with manual records.

(Paragraph 2.3.8.2(x))

Though the system was designed to capture the complete workflow of the process of issuance of the registration certificate, data was entered in the system after completion of all the task manually which defeated the objective of computerisation.

(Paragraph 2.3.8.4(b))

Non-implementation of major portion of the modules (10 out of 18) even after five years of commissioning of TIMS rendered the whole project ineffective.

(Paragraph 2.3.9)

Lack of cross verification with TIMS data resulted in loss of Rs.1.42 crore.

(Paragraph 2.3.9(ii))

2.3.1 Introduction

Government of Assam (GOA) started computerisation of Sales Tax check gates and related monitoring and compliance activities in December 2003. The Commissionerate of Taxes (CT), GOA introduced (December 2003) a fully integrated Taxation Information Management System (TIMS) to improve the effectiveness of its operations relating to taxation functions (primarily for monitoring interstate movements of taxable goods through vehicles, revenue collection, compliance monitoring and vigilance/surveillance operations) and quality and timely availability of management reports. Total expenditure involved (upto March 2008) in the entire project was Rs.10.03 crore.

2.3.2 Organisational setup

The Commissionerate consisted of the offices viz., (i) Head Office, headed by Commissioner of Taxes (ii) Thirty four unit offices[4] each headed by an Assistant

[4] A unit office consists of a number of circles each headed by a Superintendent of Taxes with assistance from one or more Inspector of Taxes.

Commissioner of Taxes; (iii) Eleven Check Posts and Sixteen Recovery Offices headed by Superintendent of Taxes and assisted by a number of Inspector of Taxes; (iv) Ten Zonal offices consisting of unit offices and Check Gates and also Five independent Appellate Offices headed by Deputy Commissioner of Taxes.

2.3.3 TIMS system structure

A. Physical architecture: TIMS is a three tier architecture i.e. client browser, web server and a centralised database server. It uses two application servers and two database servers and a separate web server to host the CT web site which also serves as presentation layer for TIMS application.

B. Network architecture: It operates on a wide area network. Using V-sat and Leased line for connectivity and Bandwidth provided by Bharti and BSNL. Different locations including circle offices, unit offices, zonal offices, recovery offices and check gates were linked up with the Central Server situated at Kar Bhawan, Dispur. All locations within Guwahati has 64 kbps leased line connectivity with Head Office (HO). Each of these locations have ISDN backup in auto fail-over mode. Locations outside Guwahati were connected with HO through VSAT. Few VSAT locations had PSTN dial-up as back up option where fail-over was manual.

C. Application/Software: TIMS is a web based application based on Oracle9i (later upgraded in January 2008 to Oracle10g). PL/SQL developer and Tools for Application Developers (TOAD) is used as back end tools. The vendor created 18 modules[5] to incorporate the provisions of 11 Acts and the office procedures relating to the taxation laws of the state. The CT, however, has implemented only eight modules (Registration, Stat forms, GIS (Check post), Payment, Return, General, Field Enquiry and Admin) so far.

D. Human resource: The System Requirement Specification (SRS), a basic requirement for any computerised system, was prepared by the vendors without providing any User Requirement Specification (URS) by the department though some inputs were provided at the time of testing and acceptance by the departmental officers. Only 160 of the 1,196 employees were given training at departmental headquarters at Guwahati on use of the TIMS by the vendors. However, two persons were engaged temporarily for three months as Information Technology Officers for TIMS application w.e.f. 1 November 2006. No order defining the role or allocating the types of work they were required to perform was issued. The services of those persons are still being utilised by retaining them temporarily, through issuance of periodical appointment orders.

The department stated (March 2009) that a few other officials were also trained in basics of computer viz. word, excel etc. But no records relating to training on application of TIMS and its use was furnished to audit.

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[5] Registration, return, GIS (Goods information system), Statutory Form, Payment, Field Enquiry, General Admin, Recovery, refund, Vigilance, Penalty, Appeal, Assessment, Law Branch, Sales Tax Branch, Audit Branch and Planning.

2.3.4 Objectives of computerisation

The main objectives of computerisation under TIMS were (i) recording of the movement of goods carrying vehicles through the check gates, (ii) capturing detailed information of potential taxpayers, (iii) registration of potential tax payers under relevant taxation acts, (iv) obtaining/capturing of periodic returns from dealers/assesses, (v) online issue of dispatch notes, delivery notes, road permit, tax concession forms and other forms, (vi) PC based software for dealer returns for local data entry, (vii) capturing return details and verifying payment details with returns filed, (viii) assessment of tax and verification of accounts and (ix) refunds of taxes.

2.3.5 Audit objectives

The objectives of audit were:

- to verify how far the related taxation rules were incorporated in the TIMS;
- to assess the accuracy and reliability of the information generated out of the system;
- to assess the adequacy of controls to ensure the integration of data; and
- to ascertain the efficiency and effectiveness of the system in achieving its stated objectives.

2.3.6 Scope of audit and audit methodology

The scope of IT audit of TIMS was limited to scrutiny of files/records/information/data provided by the office of the CT; analysis of data stored at the Central Data Server and also data in respect of three unit offices and six check gates[6] for the period from December 2003 to March 2008. Monetary aspect of tax assessment is not considered as these were still being carried out manually. Structured Query Language (SQL) was used to export data from the TIMS database to Interactive Data Extraction Analysis (IDEA) package and audit analysis was done using this package.

2.3.7 Acknowledgement

Indian Audit and Accounts Department acknowledges the co-operation of the Taxation Department in providing necessary information and records for the IT audit. An entry conference was held in April 2008 wherein the scope and methodology of audit was conveyed to the department/Government. The finding of the IT audit was forwarded to the department/Government in February 2009 and discussed (March 2009) in the exit conference. The replies of the department were taken into consideration while finalising the report. Reply of the Government has not been received (September 2009).

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[6] Guwahati Unit A C & D and six check gates *viz* Boxirhat, Digorkhal, Jalukbari, Kabaitary, Khanapara and Srirampur.

2.3.8 Audit findings

2.3.8.1 Project proposal, planning and documentation

(a) Project planning: The department did not follow a discernable IT strategy for development, implementation and use of TIMS. Information Technology plans related to hardware changes, capacity planning, testing and implementation and disaster recovery planning were not available on record. TIMS was implemented partly, as only eight modules out of 18 could be implemented with no schedule or specific targets chalked out for implementing the rest.

(b) Project documentation: The SRS was prepared by the vendor, M/s Tata Consultancy Services Limited without any documented user requirements specifications prepared by the department. There was no documentation relating to feasibility study, user requirements/specifications, data flow charts, input/processing/output requirement, operational requirement, change management, data conversion.

(c) Project initiation: The computerisation exercise took off with an official note (9 July 2001) from the Minister of State, Home & Finance Department, Government of Assam, followed by meetings of steering committee for selection of vendors and decision about appointment of consultant relating to TIMS by the Government. The agreement with the software vendors was entered into by the CT in July 2002. Scrutiny of records revealed that:

- Implementation of the system *vis-à-vis* incorporation of the provisions of the relevant Taxation Acts and the Rules was completely vested on the vendor.
- A consultant, (an expert in computer science) was engaged (November 2001) without any predetermined criteria of the department or GOA, to provide consultation for tendering and evaluation of quotations, negotiation and recommendation of a software vendor, evaluation of SRS and certification of the completion of the various stages of the project by the vendors.
- No letter/communication from the IIT, Guwahati recommending anyone to act as a consultant in the TIMS project could be produced to audit.
- A total payment of Rs. 4.66 lakh was made to the consultant as consultancy fee (2002-08).
- No record relating to completion of the items of work mentioned in the consultant's communication (September 2001) with their period of completion was maintained by the CT. Thus, there were serious weaknesses in the manner in which the project was taken up and supervised. The department also reiterated about computer competency of the consultant and mentioned (March 2009) that at initial stage of implementation persons having combined competency were not available.

2.3.8.2 Module analysis

Of the eight modules implemented, registration, returns and GIS (check gates) covered the important aspect of revenue realisation. On examination of the implemented modules the following irregularities were noticed.

Registration modules

For the registration of dealers, registration certificate is required to be issued in Form 3 containing TIN (Tax Identification Number) of 11 characters. Neither the Act nor the department specified any coding pattern with respect to the 11 character TIN number. Also, registration certificate for the dealer opting for registration under composite scheme is issued in Form 5 assigning a GRN (General Registration Number) of eight characters divided into nomenclature GRN followed by seven characters. Thus, as per Act, registration numbers could be either 11 character TIN or an eight character GRN. However, scrutiny revealed that in all the cases registration numbers consisted of 14 characters divided into nomenclature GRN followed by 11 characters (alphanumeric). Further, SRS stated that there was no prescribed format for the application for amendment of registration certificate although as per VAT Act, Form 8 was provided for the same. This clearly shows that Act/rules were not thoroughly followed at the time of development of the software. The department also accepted that there is a scope to improve the coding system of GRN registration number and TIN numbers. The following irregularities were noticed in the data maintained under Registration module:

(i) Father's name of dealer recorded differently in the system and in the manual files.

(ii) The name of the same dealer appears in the system differently under VAT and CST registration.

(iii) In cases of 35,344 out of 1,95,983 VAT dealers, details of section under which the dealers were registered was not captured in the system inspite of a specific field provided in the system and availability of the same in manual records. The department assured that a system will be designed to update these details very soon.

(iv) In 36 records, the period of liability to pay accrued tax fell in the future dates, ranging from 1 April 2008 to 8 June 2995. This showed absence of validation check in the system.

(v) As per AVAT Act 2003, any dealer registered under VAT whose primary business is transportation must be registered under section 28 of AVAT Act. However, on scrutiny it was found that 132 transporters were registered under sections other than the section 28 of VAT Act. The department stated (March 2009) that for transporter, whose data was migrated from AGST period, section is shown other than 28, the same will be corrected soon.

(vi) Vital data like applicant's first_name, middle_name etc were blank in 52 out of 1,95,983 records.

Return modules

(vii) **Returns**: The Act and Rules provide for submission of monthly/quarterly returns based on amount of turnover, within the prescribed time frame. Scrutiny of the table capturing the details of returns submitted by the dealers revealed that in most of the cases the return submitted by the dealers are verified and approved manually and input in the database at a later date. Details of some cases are shown in Annexure-1I. This reveals that though the return module is stated to have been implemented, in reality it is not utilised.

The department stated (March 2009) that returns are entered in TIMS and accepted in the database after validation by the system only. Computer generated returns are not used for tax assessment. The department also did not mention anything about the time and period of entering returns.

(viii) Different roles are allotted to different users. However, it was noticed that superior authorities do not use the system for verification or authorisation and instead delegate their function to the DEOs by way of disclosing the passwords to them. Absence of verification of returns data and the manual returns as submitted by the dealers, was manifested from the fact that there was a difference of Rs.1,856.26 crore as detailed below:

(Rupees in crore)

Sl. No.	Dealer name	Registration number	Period of return	Tax liability as per TIMS	Tax liability as per manual return submitted by the dealer	Excess shown in the system
1.	M/s TATA Motors	18420032312	September 2008	31.66	3.96	27.70
2.	M/s Carrit Moran & Co. Pvt ltd.	18740025249	November 20005	22.37	0.22	22.15
3.	M/s R. L. Industrial Stores	18050033534	December 2007	1805.00	0.01	1804.99
4.	M/s Daya Engineering Works (P) Ltd	18090022842	May 2006	1.62	0.20	1.42
Total				**1860.65**	**4.39**	**1856.26**

GIS modules

(ix) **Goods Information System (Check gates)**: The GIS (check gates) module records the interstate movement of vehicles at the border check gates and no person shall transport goods across or beyond a check post or barrier except after filing the documents referred to in section 75(3) of the Act (i.e such documents as prescribed, a goods vehicle record, trip sheet or a log book). The success of the GIS module largely depends upon the correct entry of the vehicle number. The system asks for the owner's name, address and telephone number, which is saved in the Vehicle Master File.

Audit observed that in 308 cases (out of 18,52,144), the first digit of the vehicle registration number was a numeric which is not possible. Moreover, in 22 cases,

the last digit was an alphabet, another impossibility; In 13 cases, same number was assigned to two different types of vehicles and in 97 cases, number in a series was in five digit i.e. was more than 9,999. In addition to this, in 15,08,103 out of 18,52144 cases, the names and addresses of the owners of the vehicles were not entered. Thus, input control is weak and would require strengthening.

In absence of such important details, how the department could identify the defaulters could not be understood in audit. The department stated (March 2009) that validation check while capturing vehicle number details will soon be implemented in the system.

(x) The system captures detailed information about the commodities in each consignment crossing the Check Post. These information are used for verification of figures included in the respective returns submitted by a dealer. Cross verification of annual returns maintained in the case files with the data of the above tables relating to seven dealers, who received consignment from outside the state, revealed that there was a difference of Rs.91,27,460.16 crore as shown below:

(Rupees in crore)

Sl. No	Name & registration number of the dealer	Invoice no & date	Value of single consignment (as per TIMS)	Total amount of outside purchase/stock receipt (as per Annual Return of the dealer)	Difference
1	M/s Saraf Glass Agency 18160051467	3603 & 29900 dt. 5-10-07	360.53	6.24	354.29
2	M/s Harnam Motors Co 18650007790	980/81981 dt. 19-7-07	141.03	19.06	121.97
3	M/s Plylam Distributors 18710009697	12 dt 9-8-06	70514.17	0.11	70514.06
4	M/s sanitary Centre 18850009135	789, 791 dt 4-3-08	9053849.80	0.14	90,53,849.66
5	M/s canteen Stores Dept 18550038309	1763 to 1765 dt 2-11-06	656.35	47.77	608.58
6	M/s Anil Agency 18120011040	438 & 444 dt 4-3-08	813.00	3.23	809.77
7	M/s Samsung India 18710028515	469 dt 14-11-08	1255.13	53.30	1201.83
		Total			**91,27,460.16**

Thus, lack of input control resulted in entry of unrealistic data into the system. The department stated (March 2009) that necessary corrections have been made in TIMS and steps are being taken to prevent absurd data entry. However, the manner in which the corrections were made in the database was not intimated to audit.

(xi) **Lieu Transit pass:** The TIMS had provision for a Lieu Transit pass for which there was no provision in the Act/rules. This Pass is issued to a transporter when he has to unload a portion of consignment within the state and reload in smaller vehicles for dispatch to different destinations. Information like new vehicle number, transporter's details, transit details and consignment allotted to

each vehicle are to be input in the system. Scrutiny revealed that in 21,865 out of 64,217 records, lieu transit passes were issued without capturing the details of outgoing vehicle ID as a result of which tracking of these vehicles/transporters was not possible. Use of the term Lieu Transit Pass in the system was beyond the scope of the VAT Act/Rules. Department stated (March 2009) that the term was not in Act, but was used on their own and did not obtain any approval from the Government.

In 53 records, under the table which captures all the details of commodities under any consignment, the 'invoice dates' were later than the 'create date'. The field 'created_by' is also blank in all those records. The department stated (March 2009) that validation rules will soon be implemented in the system while capturing invoice date details.

In the table capturing details of all the vehicles detained for lack of valid documents etc., fields like blue book number, vehicle chassis number etc., were kept blank rendering the objective of the table unfulfilled as without these details no one could identify the detained vehicle.

The Department stated (March 2009) that steps are being taken to ensure detail data entry in future.

(xii) Scrutiny of data relating to transit pass issued to transporters revealed that the exit dates were blank in 1,76,713 out of 3,30,960 records and exit check post and the transit pass issuing check post were same in 78 records.

The department stated (March 2009) that the issue will be resolved soon by ensuring compulsorily endorsement of transit passes in TIMS.

The above errors could happen because of lack of proper validation control at input level. The scope of verification at supervisory level was also not utilised by the supervisors. Absence of various input controls led to presence of incorrect data in the database which made the system unreliable and prone to risk. Due to unreliability of the system, the CT was fully dependent on the manual system.

2.3.8.3 Business continuity planning

Business Continuity Planning (BCP) is an interdisciplinary concept used to create and validate a logistical plan on how an organisation will recover and restore partially or completely interrupted critical function(s) within a predetermined time after a disaster or extended disruption.

(a) Visit to Jalukbari check post revealed that online connectivity with the Central Server has remained disrupted for the last two years, due to lack of infrastructure. No remedial action has so far been initiated nor is there any plan for doing so. At present all the work at the check post is therefore done manually.

(b) In all the six test checked check posts, it was noticed that though one generator set each was procured as an alternative arrangement, these could not be utilised due to absence of fund for fuel etc.. This caused disruption of online connectivity.

(c) There is a provision of a stand alone application in the system which, in case of link failure, will capture minimum data with minimum validations and later synchronise it with the main database when the link is restored. However, it was noticed that this application was not installed in any location and whenever there is link failure the data capturing work in the system is kept pending till the line is restored. The department also confirmed that the stand alone application is non-functional due to data updation and synchronisation issues.

2.3.8.4 Processing control

(a) Alert function in TIMS is designed to indicate the users the task that is yet to be completed. Unless the task is finally disposed off the alert status remains open. Scrutiny of the table consisting of 10,16,566 records which captures details of all tasks generated by a user for another user revealed that in 37 records the date of generation of alerts were prior to the date of inception of TIMS (December 2003). Further, in 88,470 records the alert status was open, out of which 30,315 alerts remained open for a period ranging from 3 months to 5 years (17/07/2002 to 31/12/2007), which manifest that either the system does not automatically close the alerts or the task is still unattended. The above errors indicate faulty design and absence of validation among respective input fields due to improper processing controls in the system. The department stated (March 2009) that reasons for such happening will be ascertained by studying some sample cases.

(b) The system was designed to capture the complete workflow of the process of issuance of the registration certificate, like the assignment of officer for site survey, scrutiny of documents etc. But the system allowed issuing of registration certificate on the same day of receipt of the application for registration in 83,897 cases without entering the step by step processes for issuance of registrations. Further, on scrutiny of return register table it was found that 3,971 returns were submitted, acknowledged and entered into the system on holidays like Sundays, second and fourth Saturdays and on other public holidays. It reveals that data was entered in the system after all the required procedures were completed manually which defeated the objective of computerisation. Department stated (March 2009) work flow process of issuance of registration certificate is not being used in TIMS. Steps are being taken to make it mandatory.

2.3.8.5 IT security

Physical and logical access controls

(a) User log tables, are tables which keep the details of all the log history of user login and logout. Scrutiny of user log tables in the central database revealed that in 30,70,409 out of 50,44,867 records of log in and logout, empty fields were noticed either in location ID (27,93,205 records), User ID (27,93,184) or date of login/logout (24,49,822); in 10,354 records, users had logged in on holidays e.g. on second or fourth Saturdays, Sundays or other public holidays. As a result, a

meaningful audit trail of access into the system could not be maintained. The department stated (March 2009) that the errors will be resolved soon.

(b) As a part of the security measure, every user of the TIMS has been provided with a USER ID and a default password by the administration which, under a prudent IT security policy, must be changed by the user immediately and also regularly thereafter. Scrutiny of master table capturing the details of users of the system revealed that out of 1,092 users, 828 users were still using the default password provided by the administration and 131 users never updated their password. This lapse may cause security threats to the system from unauthorised users and hackers. The department stated (March 2009) that a policy for changing password will be formulated.

The above observation manifest that the management does not make use of these access controls for their monitoring purpose rendering the system vulnerable against any sort of manipulation. The department stated (March 2009) that tax liability in TIMS needs modifications as suggested.

2.3.9 Delay in implementation and partial/non-utilisation of implemented modules

(i) As per provision of Entry Tax Act, a dealer dealing in items on which entry tax is leviable is required to be registered under the Act for depositing the tax due on the goods imported. If a unregistered dealer imports taxable goods, due tax amount should be realised before issuing a gate pass. Test check of manual as well as computerised records revealed that one dealer (M/s Nizara Traders) who was not registered under Entry tax Act, imported goods liable for entry tax and also did not submit returns. There is a provision in the GIS module of TIMS, in which the officials during issue of gate pass at the check post can verify the eligibility of a dealer regarding import of goods, which is entered in the system at the time of registration of the dealer. However, this scope was not utilised by the check post officials enabling the dealer to import taxable goods worth Rs. 29.72 lakh and evading tax of Rs.2.38 lakh.

(ii) Scrutiny also revealed that four dealers imported total taxable goods amounting to Rs. 55.62 crore during the period from 1 April 2004 to 31 March 2006 as per dealer utilisation kept in the individual case file, whereas as per the return submitted by the dealer imported purchase was shown as Rs. 38.81 crore. The assessing officer also accepted the turnover as disclosed by the dealers in the return and completed assessments accordingly. Thus, the dealers succeeded in suppressing taxable turnover of Rs. 16.81 crore and evaded tax of Rs.1.42 crore. Due to non/partial implementation of the modules, the records relating to imported purchase could not be verified through TIMS data.

(iii) As per provision of AGST Act and rules made there under, every registered dealer, whose turnover of taxable goods in any assessment year exceeds Rs. 3 lakh, shall before the expiry of succeeding month submit a monthly statement in Form V to the assessing officer. Such statement shall be

accompanied by a receipt from the government treasury and a crossed cheque or cross demand draft for the full amount of tax payable on his taxable turnover during the month to which the statement relates. Under Section 29 read with Rule 17 of the VAT Act, every registered dealer liable to pay tax shall furnish a correct and complete tax return within 21 days from the end of the relevant month supported by a copy of the treasury challan/bank receipt as proof of full payment of tax for the period covered under the return.

Scrutiny revealed that one dealer (M/s. Nizara Traders) failed to pay full amount of tax payable by him and did not disclose correct position of taxable imported purchase. Due to non-implementation of all the modules, the check post records were not available online. Thus, the assessing officer had to take up the matter through a written communication with the check post authority for furnishing particulars of imported goods. The check post authority also expressed their inability to furnish the particulars from the online system. In the meantime the dealer closed the business evading tax of Rs.13.96 lakh[7].

The department stated (March 2009) that the above matters are being examined.

(iv) As per provision of the TIMS all details of returns submitted by the dealer should be entered in the TIMS. Scrutiny of records revealed that the following dealers have submitted their monthly and annual returns to the concerned unit, but the same were not found entered in the TIMS. As a result, taxable turnover amounting to Rs. 482.14 crore involving tax of Rs. 28.58 crore remained out of TIMS making the TIMS unreliable.

(Rupees in crore)

Dealer's name	TIN No.	Year	Total turnover	Total tax involved
M/s Sagar Steels	18320001036	2005-06	75.83	2.82
		2006-07	100.98	3.73
		2007-08	112.13	4.19
M/s Asian Paints Ltd	18090028759	2006-07	29.16	2.20
M/s Sanitary Hardware Centre	18580009138	2005-06	5.96	0.60
		2006-07	7.34	0.63
M/s Indo Foreign Surgico	18270023719	2005-06	5.20	0.37
		2006-07	6.68	0.50
M/s Gupta's	18900013036	2005-06	12.78	0.25
		2006-07	1.21	0.34
M/s Lafarage India Pvt Ltd.	18570023645	2006-07	100.25	11.61
M/s Cadila Pharmcitical Ltd	18250011114	2005-06	10.78	0.61
		2006-07	13.84	0.73
Total			**482.14**	**28.58**

(Rupees in lakh)

Period	Date of assessment	Tax amount
2004-05	1.10.2005	Rs.5.31
2005-06	1.10.2005	Rs.2.48
2005-06	1.10.2005	Rs.6.17
	Total	**Rs.13.96**

Department also agreed (March 2009) that return module was not used and further stated that due to some system problem many returns were not entered in the year 2005-06 and 2006-07.

(v) As per provision of TIMS, all the goods imported in Assam from outside the state should be recorded in the TIMS at the entry check post to enable the assessing officer to verify all these, online, at the time of assessment of the dealer. Test check of records revealed that in seven cases involving goods valued at Rs. 314.03 crore the details were not recorded in TIMS as shown in the table below:

(Rupees in crore)

SL. No.	Name of the Dealer	TIN no.	Period	Value of goods imported from outside the state	Value of goods imported from outside the state (as per TIMS)
1.	M/s Sanitary Hardware Centre	18580009138	2005-06	5.76	Not recorded
			2006-07	6.74	Not recorded
2.	M/s Asian Paints Ltd	18090028759	2005-06	0.16	Not recorded
			2005-06 (Stock transfer)	22.47	Not recorded
			2006-07	28.10	Not recorded
3.	M/s Sagar Steels	18320001036	2005-06	40.24	Not recorded
			2006-07	28.53	Not recorded
			2007-08	43.40	Not recorded
			2007-08 (Stock transfer)	0.96	Not recorded
4.	M/s Indo Foreign Surgico	18270023719	2005-06	3.74	Not recorded
			2006-07	4.37	Not recorded
5.	M/s Gupta's	18900013036	2005-06	11.37	Not recorded
			2006-07	11.58	Not recorded
6.	M/s Lafarage India Pvt Ltd.	18570023645	2006-07	77.02	Not recorded
7.	M/s Cadila Pharmcitical Ltd	18250011114	2005-06	13.21	Not recorded
			2006-07	16.38	Not recorded
Total				**314.03**	

As a result, the assessing officer had no other alternative but to rely on the returns submitted by the dealer defeating the very purpose of the TIMS. The department stated (March 2009) that the above matters are being examined. Further reply has not been received (September 2009).

(vi) Though there is a provision for generating different types of reports/returns in the system, it was found that the reports and returns that are submitted by the unit offices as well as check posts to the HO were done manually. The department admitted that the submission of report is not done online, but many reports are generated for use in monitoring of vehicles movements, issue of forms etc.

2.3.10 Conclusion

Even after six years of procurement & installation of TIMS application, the department continues to work on manual system in the absence of a fully implemented, efficient and effective computerised taxation system. The department also did not draw up any plan and documented strategy about switching over from the manual to the computerised system. The data/information so far entered, are incomplete, inaccurate, unreliable and thus adequate assurance cannot be reposed in the system. The modules are used/partially used/kept unused

even after five/six years of procurement without drawing up any definitive schedule of implementation of various modules of TIMS. There is no documentation regarding the target for implementation of the rest of the modules. Moreover, the provisions of VAT Act and Rules relating to the implemented modules viz. registration, returns and GIS were not incorporated fully into the TIMS resulting in various irregularities such as acceptance of wrong entries, acceptance of invalid registration number, vehicle number, *etc.* Completeness and integrity of the data is also questionable in the absence of validation and input control as well as lack of access and security control. The system in the present shape is thus, merely an acquisition of the department and not yet, in a position to fulfill the objectives of computerisation.

2.3.11 Recommendations

- Data so far entered needs to be sanitised prior to any use by the department;
- Stringent input and validation controls should be built into the system;
- The system being spread all over the state, the online connectivity should be upgraded for uninterrupted data flow among check gates and field offices;
- Distinct user identification and authentication should be provided to all the users;
- The department needs to urgently draw up a strategy and work plan to address the issue of incomplete implementation; and
- The department may also urgently draw up a business continuity plan to be in preparedness.

B - SALES TAX

2.4 Review on Pendency of appeals at various levels and its impact on revenue collection

Highlights

Revenue of Rs. 224.08 crore (as on 31 March 2008) was blocked in appeal cases pending with the appellate authorities.

(Paragraph 2.4.6)

Due to low pace of disposal of appeal cases ranging between 25 and 52 *per cent*, 585 appeal cases involving revenue of Rs. 87.58 crore remained un-disposed at the level of DCsT (Appeals) as on 31 March 2008.

(Paragraph 2.4.7.1)

There were delays in disposal of 755 appeal cases in three selected DCsT (Appeals) ranging from 3 to 120 months and above involving revenue of Rs.107.08 crore during 2003-04 to 2007-08.

(Paragraph 2.4.8.2)

There were delays ranging from 1 to 12 months in 134 cases involving revenue of Rs. 19.70 crore in communicating the appeal orders to the unit offices.

(Paragraph 2.4.8.3)

Delay in finalisation of appeals/taking follow up action on decided appeal cases resulted in loss/non-realisation of revenue of Rs. 20.57 crore

(Paragraphs 2.4.9.1 - 5 and 2.4.10)

2.4.1 Introduction

The Assam General Sales Tax (AGST) Act, 1993 and the Agricultural Income Tax (AIT) Act, 1939 and Rules made thereunder govern the law relating to assessment, levy and collection of tax on purchase and sale of goods and tax on agricultural income. The Acts contain provisions which deal with appeals against the assessments which are finalised by the assessing authorities. Both the Acts provide that a dealer/person/assessee who is aggrieved by any order passed by assessing officer may appeal to the appellate authority against such order within thirty days from the date on which the said order was served on him. The Acts, however, provide that the appellate authority may admit an appeal after expiry of the aforesaid period if it is satisfied that the appellant has sufficient cause for not presenting the appeal within that period.

A review on pendency of appeals at various stages and its impact on revenue collection was conducted which revealed a number of deficiencies as mentioned in the succeeding paragraphs.

2.4.2 Organisational set up

The Sales Tax Department is under the control and supervision of the Commissioner of Taxes (CT) who is assisted by two Additional Commissioners of Taxes and five Joint Commissioners of Taxes at Headquarters (apex office). The State is divided into 10 taxation zones and each zone is headed by a Deputy Commissioner of Taxes (DCT). There are five DCsT (Appeals) in charge of the appellate offices located at Guwahati, Jorhat, Nagaon, Tinsukia, and Silchar to deal with appeal cases relating to sales tax, agricultural income tax etc.

2.4.3 Scope of Audit

Test check of records pertaining to the years from 2003-04 to 2007-08 was conducted during October 2008 to February 2009 at the apex office and three[8] out of five appellate offices selected through random sampling to ascertain the position of pendency of appeal cases at various levels and its impact on revenue collection.

2.4.4 Audit objectives

The review was conducted with a view to ascertain whether

- a system is in place and adequate to ensure timely disposal of appeal cases;
- appropriate action is taken after disposal of appeals;
- internal control mechanism and system of monitoring and evaluation are in existence and effective; and
- an internal audit system had been set up and functioned to the desired level.

2.4.5 Acknowledgement

The Indian Audit and Accounts Department acknowledges the co-operation of the Taxation Department in providing the necessary information and records for audit. An entry conference was held on 10 December 2008 which was attended by the Joint Secretary, Taxation Department, Joint Commissioner of Taxes and the Deputy Commissioner of Taxes (Statistics) wherein the audit objectives and scope of audit was conveyed to the Government/department. The findings of this review were reported to the Government and department on 8 June 2009 and discussed in the exit conference held on 26 August 2009. The Commissioner of Tax and the

[8] Guwahati, Jorhat and Nagaon.

Joint Commissioner of Tax attended the meeting. Reply of the department has been incorporated in the respective paragraphs. No reply has been received from the Government so far (September 2009).

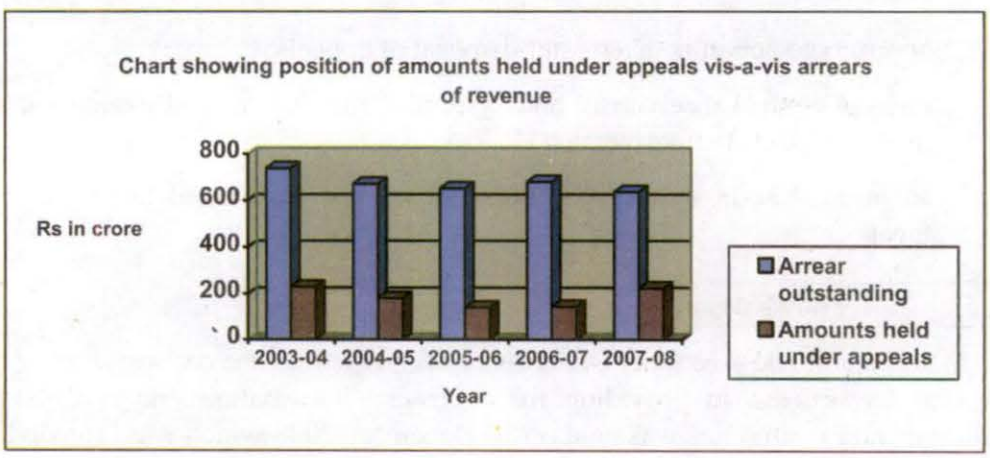
Audit findings

2.4.6 Analysis of tax blocked in appeals

The arrears of revenue under Sales Tax, Agricultural Income Tax etc. and pendency of amounts held in appeals at various levels at the end of each year from 2003-04 to 2007-08 as furnished by the department, is tabulated below:

(Rupees in crore)

Year	Balance outstanding at the end of the year	Amount held under appeals as on 31 March (at the end of the year)					Percentage of Col. 7 to Col. 2
		DCs T (Appeals)	Revisions	Total Col. 3 + Col. 4	Supreme Court/High court/Assam Board of Revenue	Total Col. 5 + Col. 6	Col. 7 to col. 5
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
2003-04	736.88	131.13	25.25	156.38	73.65	230.03	31/68
2004-05	670.84	78.12	21.80	99.92	82.21	182.13	27/55
2005-06	652.29	70.59	21.05	91.64	49.54	141.18	22/65
2006-07	680.53	76.50	25.88	102.38	42.58	144.96	21/71
2007-08	638.12	87.58	23.10	110.68	113.40	224.08	35/49



Thus, it is seen from the table above that the amount of revenue blocked due to pendency of appeals ranged between 21 and 35 *per cent* of the total arrears at the end of the year. And, the cases held under appeals with the DCsT (Appeals) and revisions consisted major portion ranging between 49 and 71 *per cent* of the overall cases pending under appeals.

Further, it can be seen from the chart above that the position of arrear outstanding vis-à-vis amounts held under appeals remained almost same during all the years except 2007-08.

2.4.7. Pendency in disposal of appeal cases

The Assam General Sales Tax and Agricultural Income Tax Acts do not prescribe any norm for disposal of appeal cases by the DCsT (Appeals)/CT. However, in order to hasten the process of finalisation, the CT, Assam in a circular dated January 1997 instructed all the DCsT (Appeals) to dispose of the appeal cases within three months from the date of filing. It was noticed in audit that neither any targets were prescribed for disposal of appeal cases, nor any control mechanism was devised to monitor observance of the aforesaid order by the DCsT and also to monitor the overall position of the pendency of appeals at various levels. Due to non-fixation of specific targets for settlement of appeal cases and absence of monitoring mechanism, the number of appeal cases accumulated year after year and stood at 585 cases involving revenue of Rs. 87.58 crore as of 31 March 2008 as discussed in the succeeding paragraph.

The department accepted the facts and stated (July 2009) that the time limit for disposal of appeal cases has been prescribed in the Assam Value Added Tax Act, 2003 introduced in the State with effect from 1 April 2005.

2.4.7.1 Cases pending with DCsT (Appeals)

The position of disposal of appeal cases under sales tax and agricultural income tax etc., covering five DCsT (Appeals) for the period from 2003-04 to 2007-08, as furnished by the department are mentioned below:

(Rupees in crore)

Year	Opening Balance of appeal cases as on 1st April No. of cases Amount)	Addition during the Year No. of cases Amount	Total No.of cases Amount	Disposal during the year No. of cases Amount	Closing Balance as on 31 March each year No. of cases Amount	Percentage of disposal of appeal cases vis-a-vis total
(1)	(2)	(3)	(4)	(5)	(6)	(7)
2003-04	567 64.06	251 78.55	818 142.61	215 11.48	603 131.13	26
2004-05	603 131.13	271 41.93	874 173.06	456 94.94	418 78.12	52
2005-06	418 78.12	296 6.09	714 84.21	181 13.62	533 70.59	25
2006-07	533 70.59	286 48.81	819 119.40	366 42.90	453 76.50	45
2007-08	453 76.50	552 116.98	1005 193.48	420 105.91	585 87.58	42

Thus, the percentage of disposal of appeal cases during 2003-04 to 2007-08 ranged between 25 and 52 *per cent* as compared to the total appeal cases. As a result, 585 cases involving revenue of Rs. 87.58 crore remained unrealised as on March 2008.

A detailed analysis of the pending appeal cases with the three test checked DCsT (Appeals) revealed that 313 appeal cases involving Rs. 40.99 crore were lying undisposed as of 31 March 2008. Pendency of these undisposed cases ranged from more than 3 to 120 months as mentioned below:

(Rupees in crore)

Period of Pendency from date of filing to 31/3/2008 (Age-wise break -up)	Name of DCST (Appeals) Offices			
	DCT (A), Guwahati	DCT (A), Jorhat	DCT (A), Nagaon	Total
	No. of cases Amount	No. of cases Amount	No. of cases Amount	No. of cases Amount
Above 3 months and up to 6 months	12 5.31	5 0.85	2 2.33	19 8.49
Above 6 months and up to 12 months	22 1.47	28 4.19	4 0.09	54 5.75
Above 12 months and up to 60 months	63 9.02	33 8.03	8 0.55	104 17.60
Above 60 months and up to 120 months	82 3.86	2 0.51	4 0.01	88 4.38
Above 120 months	46 4.76	2 0.01	-Nil-	48 4.77
Total	**225 24.42**	**70 13.59**	**18 2.98**	**313 40.99**

2.4.7.2 Cases pending with the Assam Board of Revenue/High Court/ Supreme Court

Assam Board of Revenue (ABR) is a statutory organisation functioning independently in dealing with the appeal cases. There is no Constitutional bar to approach the highest appellate authority of the State to file an appeal under relevant provisions of both the Acts.

It was noticed that the department do not have proper record management in respect of appeals held with ABR, HC and SC. For numbers of cases pending at different levels, the department could supply calendar year wise details, however, for revenue blocked in the cases, financial year-wise data was available. It was also noticed that the unit offices do not have records of cases pending and amount involved. Neither any periodic report/return has been prescribed to be furnished by the unit offices for monitoring the timely settlement of these cases.

The financial yearwise position of revenue blocked in pending appeal cases during 2003 04 to 2007-08 and the calendar yearwise position of pending appeal cases, with ABR, HC and SC as furnished by the department are shown below:

Sl. No.	Financial yearwise position of revenue blocked in pending appeal cases		Calendar yearwise position of pending appeal cases	
	Year	Amount involved (Rupees in crore)	Calendar Year	Number of pending cases at the end of the year
1.	2003-04	73.65	2003	73
2.	2004-05	82.21	2004	81
3.	2005-06	49.54	2005	103
4.	2006-07	42.58	2006	181
5.	2007-08	113.40	2007	251

Thus, cases involving revenue of Rs. 113.40 crore which is 51 *per cent* of the total cases pending under appeals at various stages i.e. Rs. 224.08 crore (table under paragraph 2.4.6) were pending with ABR, HC and SC. Due to non-maintenance of proper data, the department could not furnish the financial yearwise position of addition, disposal and pendency and the amount of revenue involved in appeal cases with ABR, HC and SC during the period from 2003-04 to 2007-08 which highlights that the department is unaware of the revenue blocked in these cases. This has adversely affected the system of reviewing the pending cases and submission of appeal before the ABR and HC/SC for expeditious disposal of the cases in the interest of the cash strapped State.

2.4.7.3 Cases pending under revision

Whenever a dealer feels dissatisfied with the result of an appeal to the appellate authority/ABR, he can prefer to contest the result again under a process of revision. The position of disposal and pendency of appeal cases held under revision during 2003-04 to 2007-08 as furnished by the department is mentioned below:

Year	Opening balance at the beginning of the year (in number)	Addition during the year (in number)	Total	Number of cases disposed during the year	Closing Balance at the end of the year (31st March)	Percentage of disposal (col. 5 to col. 4)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
2003-04	6	Nil	6	Nil	6	0
2004-05	6	6	12	6	6	50
2005-06	6	1	7	1	6	14
2006-07	6	17	23	11	12	48
2007-08	12	12	24	12	12	50

It would be seen from the above that the percentage of disposal of appeal cases under revision ranged between 0 and 50 *per cent.*

2.4.8 Delay in finalisation of appeal cases – statistical analysis

Under the provisions of the Acts, if a dealer is aggrieved by any final order passed by the assessing officer he may appeal to the appellate authority against such order. Undue delay in disposal of appeal cases may result in unnecessary payment of interest, in case of refunds and leaves scope for revenue becoming irrecoverable due to cases of runaway dealers/dealers becoming untraceable.

During the course of the review, instances of substantial delay in the process of finalization of appeal cases, including delay in admitting the appeals and delay in communicating the orders of appellate authority to the respective assessing officer were noticed which are discussed in the succeeding paragraphs.

2.4.8.1 Delay in admitting the appeal petitions

As highlighted in the preceding paragraphs, though the CT, Assam has issued an instruction in January 1997 for disposal of appeal cases within three months by the DCsT (Appeals), it was noticed from the records of three selected DCsT (Appeals) that 446 cases involving Rs. 79.23 crore were not even admitted in the first three months from the dates of filing of these appeals, and in some cases it took more than 120 months as mentioned in the table below:

(Rupees in crore)

Age-wise break-up of delay between date of filing and date of admission of appeals	Number of cases	Amount involved
Above 3 months and up to 6 months	110	32.49
Above 6 months and up to 12 months	114	20.19
Above12 months and up to 60 months	178	19.84
Above 60 months and up to 120 months	38	2.36
Above 36 months and up to 60 months	6	4.35
Total	**446**	**79.23**

2.4.8.2 Delay in disposal of appeal cases

Scrutiny of records in the three selected DCsT (Appeals) revealed that, in as many as 755 cases involving revenue of Rs. 107.08 crore, there were significant delays in disposal of appeal cases (cases disposed during 2003-04 to 2007-08). The delays ranged from 3 to 120 months and above as shown below:

(Rupees in crore)

Period of delay (date of filing to date of disposal)	Number of cases	Amount involved
Above 3 months and up to 6 months	56	17.29
Above 6 months and up to 12 months	114	38.47
Above12 months and up to 60 months	375	43.13
Above 60 months and up to 120 months	163	5.97
Above 120 months	47	2.22
Total	**755**	**107.08**

2.4.8.3 Delay in communicating orders of the appellate authority

After an appeal is decided, the decision is to be forwarded to the unit office to enable the authority to take action as per the order. It was noticed that no time limit has been laid down in the Act/Rules nor has any instruction been issued by the department prescribing any time limit for communication of the appeal orders to the concerned unit office.

Scrutiny of records of three selected DCsT (Appeals) revealed that the orders passed by the appellate authorities in 134 cases (out of 755 cases mentioned in previous paragraph) involving revenue of Rs.19.70 crore were issued after 1 to 12 months (after allowing one month as reasonable period for communication of orders) resulting in delayed consequential action as detailed below:

(Rupees in crore)

Period of Delay between the date of disposal and the date of communication of appellate authority's orders to the assessing authorities		
Age-wise break-up of delay	Number of cases	Amount involved
31 days-3 months	97	16.67
3 months-6 months	23	2.65
6 months-12 months	14	0.38
Total	**134**	**19.70**

It can be inferred that that there were substantial delays in various stages of settlement of appeal cases which had detrimental effect on revenue of the State. No valid reasons justifying such delays at various stages, in the process of finalisation of appeals, were on records.

2.4.9 Delay in finalisation of appeal cases and follow up action - impact on revenue

As per the provisions of the Acts, any dealer/person/assessee who is aggrieved by any order passed by the assessing officer may appeal to the appellate authority against such order within thirty days from the date on which the said order was served on him.

Further, under section 37 of the AGST Act (applicable to CST Act also), the assessing officers are required to make assessment on the basis of orders passed by the appellate authorities at any time within three years from the end of the financial year in which such order was passed. However, no time limit has been laid down in the Act/Rules nor has any instruction been issued by the department prescribing any time limit for communication of the appeal orders to the concerned unit office.

During the course of the review, instances of significant delay in finalization of appeal cases and initiating follow up action on the decided cases resulting in loss/non-realisation/blocking of revenue were noticed which are discussed in the following paragraphs.

2.4.9.1 Scrutiny of records in three DCsT (Appeals) revealed that 16 appeal cases were disposed between 2 March 2005 and 24 March 2008 by setting aside the original assessment orders and the assessing officers concerned were directed between 26 April 2005 and 24 March 2008 to reassess the dealers in the light of appeal orders. But no follow up action was taken by the assessing officers concerned till the date of audit (February 2009) to reassess the dealers. This resulted in non-realisation of disputed tax of Rs.10.97 crore in these 16 cases of 12 dealers.

2.4.9.2 Scrutiny of records of ACT, Unit-D Guwahati revealed that tax interest and penalty of Rs.4.82 crore was levied (November 2003) upon a dealer on suppressed turnover of Rs.13.85 crore for the period from April 1999 to August 2003. The dealer, being aggrieved filed appeal on 17 January 2004. The appellate authority set aside (14 July 2004) the assessment order and directed (27 August 2004) the concerned assessing officer to make a fresh assessment after giving opportunity to the appellant for production of documents. The assessing officer finalised assessment on 28 November 2005 and levied tax including interest and penalty of Rs.5.66 crore which was subsequently raised to Rs.5.75 crore in July 2006. But the amount could not be realised as the appellant became untraceable as reported (November 2006 and June 2007) by the Area Inspector of Taxes and Certificate Officer of the Recovery Wing respectively.

Thus, delay in disposal (6 months), delay in communicating appeal order to unit office (44 days) and delay in reassessment (15 months) provided opportunity to the appellant to become untraceable leading to non-realisation of tax of Rs.5.75 crore.

2.4.9.3 Scrutiny of appellate orders and records of unit offices in ACsT, Unit - A, B, C & D, Guwahati, ACsT, Mangaldoi, Jorhat & AITO revealed that

the appellate authority took 6 to 167 months in rejecting/dismissing appeal petitions of 34 cases of 16 dealers. Besides, in eight cases, the appellate authority took 11 to 250 days to issue orders of disposal of cases to unit offices. It was further seen that the unit offices also did not take necessary and effective steps to realise revenue in respect of these decided cases.

Thus, due to delay in rejection/dismissal of appeals, delay in communication with unit offices and lack of proper action by unit offices, revenue of Rs.2.99 crore remained unrealised against 34 cases in respect of 16 dealers.

2.4.9.4 Scrutiny of records of ACT, Unit-B Guwahati & AITO revealed that appeal petitions in three cases were filed between 26 December 1989 and 28 December 2001 and these cases were disposed of in the form of rejection/dismissal of appeal after a lapse of period between 74 months and 218 months. The appellate authorities rejecting/dismissing their appeal petitions directed the assessing authority to realise revenue. But, during this long period of pendency of appeals the appellants became untraceable. Thus, delay in disposal of appeal resulted in loss of revenue of Rs. 32.03 lakh.

2.4.9.5 A dealer of Unit A, Guwahati was assessed for the assessment year 1999-2000 under AGST Act on 31 March 2003. The dealer being aggrieved filed appeal petition with the DCT (Appeals), Guwahati on 28 November 2003. By setting aside (31 August 2004) the assessment order, the DCT (Appeals), Guwahati directed (15 April 2005) the assessing officer to make fresh assessment in the light of the appeal orders, after granting the dealer a reasonable and proper opportunity of being heard. The assessing officer received order of appellate authority on 15 April 2005 but did not reassess the dealer promptly in the interest of Government revenue. The dealer was reassessed on 5 January 2008, after a lapse of 32 months, fixing liability of Rs. 21.83 lakh.

Thus, there was delay in disposal (9 months), issue of appeal orders to unit office (7 months, 15 days) and in reassessment (32 months). However, revenue of Rs.21.83 lakh remained unrealised till the date of audit (February 2009).

2.4.10 Loss of revenue due to time barred assessments

Scrutiny of records of ACsT, Unit-B, C & D Guwahati & ACT, Nagaon revealed that six assessment cases of four dealers were disposed of by the appellate authorities between 13 March 2003 and 03 October 2004 but assessments had not been completed till the date of audit (February 2009). These cases were thus barred by limitation of time for not completing assessments within the time period of three years from the date of disposal of appeal cases. This has resulted in loss of revenue of Rs.32.31 lakh.

2.4.11 Internal control mechanism and monitoring system

Internal control is a management tool which provides reasonable assurance in discharging the organisation's functions and achieving its objectives in an efficient, effective and adequate manner. It ensures that the financial interests and resources of the organisation and the Government are safeguarded, reliable

information is available to the management and the activities of the entity comply with the applicable Acts/Rules.

2.4.11.1 Variation in figures of Commissionerate and DCsT (Appeals)

Audit scrutiny revealed that there is neither any provision in the Rules nor any departmental instruction prescribing the appellate authorities to send any periodical statement to the higher authority showing position of disposal and pendency of appeal cases. This points to lack of internal control mechanism to monitor the true and authentic position of pendency and disposal of appeal cases. In absence of such mechanism, the DCsT (Appeals) sent their returns of their own volition to the CT, Assam without showing age-wise break-up of pending cases. There is no uniform format showing the status of the pending cases.

On cross examination of the list of pending cases along with amounts involved against those as furnished by the CT, Assam in respect of five DCsT (Appeals) with those collected by audit from the three DCsT (Appeals) offices, it was observed that there was discrepancy between the figures as shown in table below:

(Rupees in crore)

Year	Pendency of appeal cases with three selected DCsT (Appeals) at the end of the year				Over all pendency of appeal cases with five DCsT (Appeals) as furnished by Apex Office		Discrepancy between column 3 and 5
	Information submitted by three DCsT (Appeals)		Information furnished by Apex Office				
	Number of cases	Amount	Number of cases	Amount	Number of cases	Amount	Number of cases Amount
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
2003-04	386	113.26	388	126.02	603	131.13	2 12.76
2004-05	254	95.75	249	72.80	418	78.12	5 22.95
2005-06	341	107.23	328	63.92	533	70.59	13 43.31
2006-07	289	99.28	276	69.42	453	76.50	13 29.86
2007-08	356	48.24	364	69.87	585	87.58	8 21.63
Total							**41** **130.51**

Thus, as regards the number and amount of revenue blocked in appeal cases, during 2003-04 to 2007-08, there were discrepancies of 41 cases involving revenue of Rs. 130.51 crore between the figures furnished by three DCsT (Appeals) and the Apex Office. It was also seen that the amount of revenue blocked in appeal cases for the entire state (five DCsT/Appeals) during 2004-05, 2005-06 and 2006-07 was far less than those of the three DCsT (Appeals) offices test checked. This indicated that either of the records maintained by the CT, Assam and the DCsT(Appeals) were incorrect and not based on the actual status of pending appeal cases. It shows lack of co-ordination and ineffective monitoring system.

2.4.11.2 Internal audit

Internal Audit is an integral part of the internal control mechanism and functions as the eyes and ears of the organisation. The internal audit is responsible in safeguarding the interest of the organisation and the Government through periodical check of records of the entire organisation both at the Headquarter and the field level and highlighting the deficiencies to help the organisation in plugging the loopholes.

Audit scrutiny revealed that the internal audit wing though in existence in the department, did not inspect any of the DCsT (Appeals) offices during the entire period covered by this review.

The department while accepting the facts stated (July 2009) that steps would be taken to make the internal audit wing functional.

2.4.12 Manpower management

Manpower management is a key factor for smooth and efficient management of the working of the department. Absence of required manpower proportionate to the volume of work in a department limits the scope of efficient functioning of the department.

Records revealed that DCsT (Appeals) offices at Silchar and Nagaon have no staff of their own. Appeal cases of these two offices are dealt with by the staff of the zonal offices in addition to their normal works. There are no separate establishments at Nagaon and Silchar where the zonal DCsT are assigned to function as DCsT (Appeals). In respect of the DCsT (Appeals) offices at Guwahati, Jorhat and Tinsukia, sanctioned strength are based on pre 2003-04 requirements. In the subsequent years, sanctioned strength was not revised on the basis of increased volume of work.

The department accepted the facts and stated (July 2009) that steps would be initiated to deploy necessary manpower in the appellate offices.

2.4.13 Conclusion

The review revealed deficiencies in the process of finalisation of the appeal cases, resulting in huge accumulation of cases and consequent blockage of revenue. Though the CT, Assam has issued instruction to the DCsT (Appeals) for disposal of cases within three months from the date of filing, yet the department did not set any norms/target regarding disposal of appeal cases. Besides, no periodical report/return showing the year-wise status of disposal and pendency of appeal cases was prescribed to monitor the position of pendency of appeal cases at various stages. The internal control mechanism was weak as evidenced by discrepancy in figures between the Commissionerate and the DCsT (Appeals). Requirement of manpower was not reviewed in the department during the period covered in this review and was based on pre 2003-04 norms resulting in some DCsT (Appeal) being run by the zonal DCT staff. Internal audit wing was non-

functional due to which the department remained unaware about the aforesaid deficiencies.

2.4.14 Recommendations

Government of Assam may consider adopting the following steps to strengthen the system for compliance leading to streamlining the process of speedy disposal of the cases.

- Prescribe specific targets for disposal of appeal cases and install a control mechanism to effectively monitor the overall position of the pendency of appeals at various levels;
- prescribe time limit at various stages of disposal of appeal cases to lessen the scope of undue delay resulting in blockage of revenue;
- increase accountability of the officers at all levels by fixing responsibility for any loss occurring due to undue delay on their part; and
- streamline the internal control mechanism for its effective functioning and make the internal audit functional by strengthening the system of maintenance of records/registers relating to appeal cases and submission of report/returns by the DCsT (Appeals).

2.5 Other audit observations

Scrutiny of assessment records of sales/value added tax (VAT) in the Taxation Department revealed several cases of non-observance of provisions of Acts/Rules/departmental orders and other cases as mentioned in the succeeding paragraphs. These cases are illustrative and are based on a test check carried out in audit. Such omissions on the part of assessing officers (AO) are pointed out in audit each year, but not only the irregularities persist; these remain undetected till an audit is conducted. There is need for the Government to improve the internal control system including strengthening of internal audit so that such omission can be detected, corrected and avoided.

2.6 Non-observance of provisions of Acts/Rules

As per the provision of the Assam General Sales Tax (AGST) Act, 1993, the AO while finalising the assessment of a dealer has to observe the relevant provisions of the Act and Rules and verify the records submitted by the dealer as mentioned below:

i. Complete the assessment within the period of limitation;

ii. Levy tax/interest as per prescribed rate;

iii. Adjust tax on the basis of evidence such as challans, cheques etc;

iv. Utilisation statement of declaration form;

v. *Audited accounts of the dealer;*

vi. *Authorisation certificate while allowing exemption to an industrial unit;*

vii. *Declaration forms; and*

viii. *other ancillary records as required.*

It was observed that the AOs while finalising assessments did not follow some of the provisions of Act and Rules and verify records resulting in non/short levy of tax as shown in paragraphs 2.6.1 to 2.6.13.

2.6.1 Incorrect allowance of concession/exemption against Form A

As per section 8 (1)(b) & (c) of AGST Act and Rule 19 (b) made thereunder, a registered dealer may sell goods falling under Schedule III[9] & IV[10] of AGST Act to another registered dealer free of tax or at concessional rate of tax, if such sales are supported by valid declaration in Form A for either resale in the State or for packing of such goods for resale. The price of goods which are purchased after furnishing declaration Form A and used by the dealer for purpose other than those specified in such declaration shall be included in his taxable turnover. As per Rule 19(b) of the AGST Rules, no single declaration Form A shall cover more than one transaction of sale except in case where total amount of sale made in a financial year and covered by one declaration is equal to or less than Rs. 1 lakh or such other amount as the Government may notify in the official gazette. The Government of Assam vide notification dated 8 September 2004 made an amendment that a single declaration Form A may cover all transactions of sale in one financial year.

2.6.1.1 Test check of records of the Assistant Commissioner of Taxes (ACT), Guwahati Units - B, & C and Barpeta Road between January and April 2008 revealed that the AOs while finalising the assessments of six dealers for the assessment years 2002-03 and 2003-04 allowed concession and exemption on Rs.89.84 crore though the declaration Form A submitted by the dealers contained multiple transactions of sale and covered goods more than Rs. 1 lakh in each form. This incorrect allowance of concession and exemption resulted in short/non-levy of tax of Rs. 7.63 crore including interest.

The cases were reported to the Government/department in May and June 2008; replies have not been received (September 2009).

2.6.1.2 Test check of records of the ACT, Guwahati Unit B in January - March 2008 revealed that while finalising assessment of a dealer dealing in yeast for the year 2003-04, the AO exempted a turnover of Rs. 39.94 lakh on account of sales to registered dealer against Form A. The exemption allowed was incorrect since the item yeast was to be treated as chemical (schedule II goods) as held[11] by the Taxation Tribunal of Gujarat which was taxable at the rate of 13.2 *per cent* and

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[9] Goods taxable at last point.

[10] Goods taxable at first and last point.

[11] State of Gujrat Vs Bhagarathi General Agency (Import) (1991) 83 STC 347 (Gujrat).

thus can not be sold against Form A. This resulted in incorrect exemption of tax of Rs. 6.27 lakh including interest.

The case was reported to the Government/department in May 2008; reply has not been received (September 2009).

2.6.1.3 Test check of records of the ACT, Guwahati Unit B in November - December 2007 revealed that a cement dealer was originally assessed for the assessment year 1999-2000 under AGST Act and turnover of Rs. 1.95 crore was allowed at concessional rate of tax as supported by Form A. The assessment was rectified under section 18 of the AGST Act when the AO noticed that 14 Forms A valued at Rs. 64.57 lakh were invalid. The dealer being aggrieved filed appeal petition before the DCT (Appeals) who by setting aside (August 2006) the assessment directed the AO to make fresh assessment after allowing the appellant a reasonable opportunity to re-submit the required Form A.

Further, scrutiny by audit revealed that, though the dealer produced Form A for Rs. 1.57 crore only, the AO allowed concessional rate of tax on entire turnover of Rs. 1.95 crore. This resulted in irregular allowance of concessional rate of the differential turnover of Rs. 38.26 lakh involving tax effect of Rs. 5.26 lakh including interest.

The case was reported to the Government/department in May 2008; reply has not been received (September 2009).

2.6.2 Concealment of turnover

Under Section 18 of the AGST Act read with Central Sales Tax Act, 1956, if a dealer has concealed or failed to disclose fully and truly the particulars of his turnover, the AO may within eight years from the date of the relevant year make a reassessment of the dealer. When a dealer conceals the particulars of his turnover, he shall pay by way of penalty, in addition to tax, additional tax and interest, a sum not exceeding one and half times the amount of tax sought to be evaded.

Cross verification of records of 18 dealers registered in different unit offices of Sales Tax Department with the records of Central Excise Department/utilisation statement of declaration forms (A,C and F) between November 2007 and October 2008 revealed that the dealers did not disclose total purchase made by them/actual value of goods sold by them after manufacturing. The AOs while finalising the assessments could not detect such omission which resulted in non-detection of concealment of turnover of Rs. 37.24 crore and consequent evasion of tax of Rs. 11.18 crore including interest and penalty as mentioned below:

(Rupees in crore)

Sl. No.	Name of unit offices/ No. of dealer	Assessment year	Turnover assessable	Turnover brought to assessment	Turnover concealed	Tax/ interest/ maximum penalty leviable	Total
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1.	Guwahati Unit-D/ eight	2004-05	144.33	126.63	17.70	1.68/ 1.31/ 2.52	5.51
2.	Bongaigaon/ one	2004-05	9.07	3.19	5.88	0.78/ 0.53/ 1.16	2.47

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
3.	Guwahati Unit-B/ one	2003-04	10.68	7.49	3.19	0.28/ 0.25/ 0.42	0.95
4.	Diphu/ one	2003-04	36.71	35.42	1.29	0.17/ 0.17/ 0.26	0.60
5.	-do-/ two	2002-03 & 2003-04	10.73	7.19	3.54	0.16/ 0.15/ 0.24	0.55
6.	Jorhat/ one	2004-05	2.21	0.25	1.96	0.17/ 0.10/ 0.26	0.53
7.	Guwahati Unit-C/ one	2003-04 & 2004-05	3.45	Nil	3.45	0.15/ 0.12/ 0.23	0.50
8.	-do-/ three	2002-03 & 2003-04	6.05	5.82	0.23	0.02/ 0.02/ 0.03	0.07
		Total	**223.23**	**185.99**	**37.24**		**11.18**

The cases were reported to the Government/department between March and December 2008; reply has not been received (September 2009).

2.6.3 Excess allowance of tax exemption/irregular grant of exemption to industrial exempted unit

Under the Assam Industrial (Sales Tax Concessions) Scheme 1997, certain new industrial units are exempted from payment of tax for a period of seven years on the purchase of raw materials and on the sale of finished products manufactured by them subject to maximum of 150 *per cent* of capital investment whichever is earlier. Further, existing industrial units undergoing expansion/diversification are also exempted from payment of tax for a period of seven years or upto the extent of capital investment whichever is earlier.

2.6.3.1 Test check of records of the ACT, Guwahati Unit-B in January - March 2008 revealed that an existing manufacturing industrial unit undergoing expansion/diversification was granted authorisation certificate under aforesaid scheme of 1997 for a period of seven years from 24 October 2000 to 23 October 2007 or maximum tax exemption limit of Rs. 1.05 crore (being 100 *per cent* on fixed capital investment) whichever is earlier. Scrutiny revealed that the AO while finalising the assessments for the years 2000-01 (with effect from November 2000) to 2005-06 allowed exemption from payment of tax of Rs. 1.52 crore instead of restricting it to the maximum ceiling of Rs. 1.05 crore. This resulted in excess grant of exemption from payment of tax of Rs. 88.54 lakh including interest.

The case was reported to the Government/department in May 2008; reply has not been received (September 2009).

2.6.3.2 Under the Assam Industrial (Sales Tax Concession) Scheme 1997, the exemptee units may claim exemption from payment of tax on their inter state sales provided the sales are made to registered dealer/Government departments and supported by declaration in Form C/D. Otherwise, tax is leviable at the rate of 10 *per cent* or at the rate applicable under the State Act, whichever is higher.

Test check of records of the ACT, Jorhat in November-December 2007 revealed that the AO while finalising the assessment of a dealer for the years 2003-04 and 2004-05 exempted turnover of inter state sales of Rs. 2.94 crore from levy of tax though the sales were not supported by declaration Form C/D. Thus, irregular exemption resulted in non-levy of tax of Rs. 67 lakh including interest.

The case was reported to the Government/department in March 2008; reply has not been received (September 2009).

2.6.3.3 Test check of records of the ACT, Dhubri in April-June 2008 revealed that the AO while finalising assessment of a new industrial unit for the years falling between 2001-02 and 2004-05 allowed exemption of tax of Rs. 1.62 crore against the maximum limit of Rs. 1.39 crore being 150 *per cent* of capital investment of Rs. 92.11 lakh. This resulted in excess allowance of tax exemption of Rs. 23 lakh.

On this being pointed out, the department stated (December 2008) that the dealer was reassessed levying tax and interest of Rs. 36 lakh. The report on realisation is awaited (September 2009).

The case was reported to the Government in August 2008; reply has not been received (September 2009).

2.6.3.4 Under the Assam Industries (Sales Tax Concession) Scheme, 1997, {Para 9 (a) (iv)}, if any industrial unit holding the authorisation certificate, after purchase of raw materials for use in manufacture misuses in any way or leaves them unused beyond 12 months from the date of their purchase, it shall be liable to pay tax in respect of such goods at the price of the goods sold.

Test check of records of the ACT, Guwahati Unit - B in January-March 2008 revealed that the AO while finalising the assessments of two dealers for the year 2003-04 irregularly allowed concessional rate of tax on raw materials for Rs. 39.63 lakh though these goods were sold to other registered dealers. This resulted in short levy of tax of Rs. 3.34 lakh.

The cases were reported to the Government/department in May 2008; reply has not been received (September 2009).

2.6.3.5 Under the Assam Industries (Tax Remission) Scheme, 2005, industrial units are entitled to remission of 99 *per cent* of the tax payable in respect of sales of manufactured goods until the amount of such remission exceeds the un-availed quantum of monetary ceiling or unexpired period of eligibility whichever is earlier. Under the CST Act as it stood during the relevant period, inter state sales made to registered dealer/Government departments are liable to concessional rate of tax at four *per cent* provided the sales are supported by declaration in Form C/D. Otherwise, tax is leviable at the rate of 10 *per cent* or at the rate applicable under the State Act, whichever is higher.

Test check of records of the ACT, Karimganj in July 2009 revealed that two industrial units engaged in manufacture of stone chips from stone boulder were issued Eligibility and Entitlement Certificate by the Industry and Sales Tax Department respectively. Based on these certificates, remission of tax of

Rs. 24.15 lakh on the gross turnover of Rs. 1.95 crore was allowed during the years from 2005-06 to 2007-08. However, as held by the Supreme Court[12], crushing of stone boulder into smaller stones does not amount to manufacture as the identity of the used raw material and the processed finished products remains same in both the cases. Thus, the entitlement certificate granted by the Sales Tax Department was irregular and resulted in undue remission of tax of Rs. 24.15 lakh.

2.6.3.6 Test check of records of ACT, Jorhat in July 2009 revealed that a dealer claimed tax remission of Rs. 37.81 lakh (99 *per cent* of tax payable) and paid Rs. 18,000 (1 *per cent*) during 2006-07 and 2007-08 under CST Act. While finalising the assessment, the AO allowed tax remission of Rs.37.81 lakh treating the gross sales of Rs. 10.72 crore supported by Form C. Scrutiny revealed that the dealer submitted Form C for Rs. 8.67 crore lakh only against the gross turnover of Rs.10.72 crore. Thus, there was non-levy of tax of Rs. 6.72 lakh.

The case was reported to the department in July 2009; reply has not been received (September 2009).

2.6.4 Turnover escaping assessment

Under the AGST Act, if any part of the turnover of a dealer in respect of any period escaped assessment to tax, the AO may within eight years from the end of the relevant year make a reassessment of the dealer. If a dealer fails to pay the full amount of tax payable by him by the due date, he is liable to pay interest at the rate prescribed on the amount of tax due.

Test check of records of four ACsT between January and October 2008 revealed that the AOs while completing assessments of 18 dealers determined taxable turnover at Rs. 142.49 crore. But, scrutiny of records, such as, Form A, Form C, annual returns, check gate records etc., available in the case records/unit office revealed that the dealers sold goods valued at Rs. 152.73 crore. Thus, turnover of Rs. 10.24 crore escaped assessments. This resulted in short levy of tax of Rs. 1.62 crore including interest as shown below:

(Rupees in crore)

Name of Unit/number of dealers	Assessment years	Nature of irregularity	Turnover escaped assessment	Tax and interest involved
(1)	(2)	(3)	(4)	(5)
Guwahati Unit-B/two dealers	2002-03, 2003-04, 2004-05	The AO determined turnover at Rs.65.43 crore against Rs. 67.11 crore as per Form A available in case records.	1.68	0.26
-do-/two dealers	2003-04 and 2004-05	The AO determined imported purchase/stock receipt on transfer for Rs.6.13 crore against Rs.6.72 crore as per the utilisation statement of Form C and F available in the case records.	0.59	0.05
Guwahati Unit-D & B/Eleven dealers	2002-03, 2003-04, 2004-05	The AO determined the turnover of the dealers at Rs.50.73 crore against Rs. 56.51 crore as per the annual returns available in the case records.	5.78	1.11

[12] Commissioner of Sales Tax, U.P. Vs Lal Kunwa Stone Crusher (P) [2003] 2 SCC 525 : [2000] 118 STC 287 (SC-2 Judges).

(1)	(2)	(3)	(4)	(5)
Dhubri/ One dealers	2003-04	The AO allowed concessional rate of tax on a turnover of Rs.19.35 crore supported by five Forms C against turnover of Rs. 21.04 crore included in these forms.	1.69	0.14
Barpeta Road/Two dealers	2005-06	The AO determined turnover of jute of the dealers at Rs.85 lakh against Rs.1.35 crore as per records of Boxirhat check gate of West Bengal.	0.50	0.06
		Total	**10.24**	**1.62**

The cases were reported to the Government/department between May and December 2008; reply has not been received (September 2009).

2.6.5 Loss of revenue due to assessment becoming time barred

As per Section 16 of the AGST Act, every registered dealer is required to submit monthly statement of turnover/annual return of turnover, pay the admitted tax within the prescribed date and produce books of accounts for verification by the AO at the time of finalisation of assessments. Otherwise, the AO shall complete the assessment on the best judgment basis within three years and determine the tax payable by the dealer. The Act further provides that no assessment shall be made after the expiry of three years from the end of the year in respect of which the assessment is made.

Test check of assessment records of the two ACsT, Superintendents of Taxes between January and May 2008 revealed that assessments of two dealers were not completed with the period of three years on best judgment basis and the assessments became barred by limitation of time. Failure of the AA to complete assessments within the period of limitation led to loss of Rs. 1.09 crore including interest as shown below:

(Rupees in crore)

Name of Unit office	Period of assessments	Nature of irregularities	Amount of tax including interest
Guwahati Unit-D	2002-03	The dealer filed annual return showing turnover of Rs.1.23 crore under AGST and CST Acts in part B and C of the annual return but scrutiny of Annexure-I attached to the annual return revealed that the dealer had a turnover of Rs.4.48 crore. Thus, the dealer evaded payment of tax on a turnover of Rs.3.45 crore.	0.98
Nalbari	2003-04 to 2005-06	The dealer was registered under AGST Act in November 2001. The dealer had neither filed monthly statement of turnover/annual returns nor paid any tax since commencement of his business in 2001. It was seen from the records of another dealer of the same unit that the dealer purchased cement worth Rs.1.45 crore by utilising five Form A which were issued to him on 31 December 2003. Thus, for non-initiating any action to assess the dealer, the Government had incurred a loss of Rs.11.19 lakh including interest. On this being pointed out in audit, the department stated in November 2008 that the dealer was assessed and served demand notice and due to non-compliance, arrear certificate was issued. Report on recovery has not been received (July 2009).	0.11
		Total	**1.09**

The cases were reported to the Government/department in May and July 2008; replies of the department (in one case) and the Government have not been received (September 2009).

2.6.6 Incorrect grant of concessional rate of tax against Form B

As per notification dated 3 December 2003, published in Assam Gazette on 22 November 2003 applicable with retrospective effect from 1 May 2001, goods (cement, electrical goods etc.) mentioned in the notification when sold by a dealer to Government department/undertakings for the purpose of their own use against Form B are taxable at the rate of four *per cent*. The said notification was in force from May 2001 to April 2004 and thereafter no such concession was allowed by the Government. Cement was taxable at the rate of 13.2 *per cent* including additional tax.

2.6.6.1 Test check of records of the ACT, Guwahati, Unit B in January-March 2008 revealed that while finalising assessments of a cement dealer for the years 2002-03 and 2003-04, the AO levied tax at the concessional rate of four *per cent* on the taxable turnover of Rs. 28.32 crore. Cross check of assessment orders with the certificate of audit of accounts revealed that the dealer sold cement worth Rs. 2.86 crore to the Government departments which were not supported by Form B.

Thus, allowance of concessional rate of tax on turnover of Rs. 2.86 crore without Form B was incorrect. This resulted in short levy of tax of Rs. 50.98 lakh including interest.

The case was reported to the Government/department in May 2008; reply has not been received (September 2009).

2.6.6.2 Test check of records of the ACT, Guwahati Unit-B in January-March 2008 revealed that the AO while finalising assessment of a dealer for the year 2004-05 levied tax at the concessional rate of 4.4 *per cent* on a turnover of Rs. 51.83 lakh on account of sales to Government departments against Form B. Scrutiny of monthly returns revealed that the turnover for the month of April 2004 was of Rs. 1.51 lakh only and the balance turnover of Rs. 50.32 lakh pertained to the period beyond April 2004 to March 2005 and thus was inadmissible for concessional rate of tax. This resulted in short levy of tax of Rs. 7.04 lakh including interest.

The case was reported to the Government/department in May 2008; reply has not been received (September 2009).

2.6.7 Excess allowance of credit of tax

Under the AGST Act and rules made thereunder, every registered dealer is required to submit a copy of treasury challan as a token of full payment of tax paid on his taxable turnover along with the monthly statement/annual return of turnover.

Test check of records of two ACsT between November 2007 and June 2008 revealed that the AOs while completing assessment of two dealers allowed excess credit of tax of Rs. 37.58 lakh as detailed below:

(Rupees in lakh)

Name of Units	Assessment year	Nature of excess adjustment	Amount adjusted excess
Dhubri	2004-05	The AO while completing assessment, credited tax of Rs.64.50 lakh on the basis of Tax Deduction Certificate and Treasury challans. Scrutiny revealed that eighteen challans involving Rs.32.58 lakh belong to other dealers. Thus, tax of Rs.32.58 lakh was excess adjusted.	32.58
Jorhat	2002-03	The AO while completing assessment, credited tax of Rs.1.99 crore involving fifty six challans. Scrutiny revealed that two challans for Rs.5 lakh bearing numbers 14 and 34 dated 29 March 2003 were not furnished by the dealer. Thus, two challans of Rs.5 lakh was irregularly adjusted.	5.00
Total			**37.58**

The cases were reported to the Government/department in March and August 2008; replies have not been received (September 2009).

2.6.8 Short/non-levy of interest

Under the provisions of the AGST Act read with CST Act, if a dealer fails to pay the full amount of the tax payable by him by the due date, he is liable to pay interest at the rate of two *per cent* for each month on the amount by which the tax paid falls short.

Test check of records of the ACT, Guwahati units - B, C, D and Dhubri during January - March 2008 revealed that 14 dealers failed to pay the full amount of the tax payable by them for the years from 2001-02 to 2005-06. The AOs while finalising the assessments of these dealers levied interest of Rs. 1.87 crore against leviable interest of Rs. 2.12 crore resulting in short levy of interest of Rs. 24.74 lakh.

After this was pointed out, the department levied interest of Rs. 16.54 lakh in case of two dealers, replies in respect of other dealers have not been received (September 2009).

The cases were reported to the Government/department in May and December 2008; reply has been received (September 2009).

2.6.9 Non-levy of tax on sale of containers/packing materials

Under the AGST Act and Rules made thereunder, sale price of containers or packing materials used in the sale of exempted goods where no accounts of such sales of containers or packing materials are maintained or where such sales are shown at a price lower than the market price, shall be determined at the rate of one *per cent* of the sale value of the exempted goods. Since containers or packing materials are not mentioned in any of the schedule attached to the AGST Act, the item is taxable at the rate of eight *per cent* as in case of other goods.

Test check of records of the ACT, Guwahati unit-B in January-March 2008 revealed that while finalising the assessments of two dealers for the years falling between 2003-04 and 2005-06, the AO did not levy tax on the containers valued at Rs. 93.31 lakh being one *per cent* of the turnover of exempted goods worth Rs. 93.31 crore.

Thus, incorrect exemption allowed by the AO resulted in non-levy of tax of Rs. 14.22 lakh including interest.

The cases were forwarded to the Government/department in August 2008; reply has not been received (September 2009).

2.6.10 Incorrect allowance of concession during interstate sales against Form E-1

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 or Government departments shall be exempted from levy of tax provided such sale is supported by a declaration in Form E-1 duly filled and signed by selling dealer alongwith Forms C/D.

Test check of records of the ACT, Guwahati Unit- B in January - March 2008 revealed that while finalising the assessments of a dealer for the year 2001-02, 2002-03 and 2003-04, the AO allowed concessional rate of tax on a turnover of Rs. 62.68 lakh. The concession allowed by the AO was irregular since E-1 Form was not produced. This resulted in non-levy of tax of Rs. 11.74 lakh including interest.

The case were reported to the Government/department in June 2008; reply has not been received (September 2009).

2.6.11 Incorrect deduction of value of declared goods

Under the AGST Act, taxable turnover in respect of contractor of civil work is determined after reducing the gross turnover by the turnover relating to declared goods purchased locally in Assam and thereafter deducting 25 *per cent* towards labour and other charges, if labour accounts are not maintained. No deduction is allowed in respect of declared goods purchased from outside the State.

Test check of records of the ACT, Guwahati Unit-B in January-March 2008 revealed that while finalising the assessment of a dealer for the year 2004-05, the AO allowed deduction of Rs.64.95 lakh towards the value of declared goods used in the works contract. Further, scrutiny of list of declared goods furnished by the said dealer revealed that the purchases were made from Kolkata. This incorrect deduction of value of declared goods purchased from other state, resulted in short levy of tax of Rs. 9.49 lakh including interest.

The case was reported to the Government/department in August 2008; their replies have not been received (September 2009).

2.6.12 Application of incorrect rate of tax

Under the provision of the AGST Act, a dealer dealing in suitcases and yeast (chemical) is liable to pay tax at the rate of 13.2 *per cent* at the point of first sale to a person other than registered dealers.

Test check of records of the ACT, Guwahati, Unit-B in January-March 2008 revealed that the AO while finalising assessments of two dealers dealing in

suitcases and yeast for the years 2002-03 and 2003-04 levied tax at the rate of 4.4 and 8.8 *per cent* on suitcases and yeast respectively on a turnover of Rs. 94.18 lakh. This resulted in short levy of tax of Rs. 8.37 lakh including interest as shown below:

(Rupees in lakh)

Name of unit office	Item dealt in	Turnover	Rate of tax leviable/ levied	Tax short levied including interest
Guwahati Unit B	Suitcase	11.80	13.2/4.4	2.10
Guwahati Unit B	Yeast (chemical)	82.38	13.2/8.8	6.27
Total				**8.37**

The cases were reported to the Government/department in May 2008; their replies have not been received (September 2009).

2.6.13 Non-levy of tax

As per the AGST Act, cereals are taxable at the rate of two *per cent* with effect from 28 December 2004. Besides, an additional tax at the rate of ten *per cent* on the amount of tax is also leviable.

Test check of records of the ACT, Guwahati unit-D between August and October 2008 revealed that the AO while finalising assessment of a dealer for the assessment years 2004-05 and 2005-06, did not levy tax on sale of cereals (wheat and wheat product) on turnover of Rs. 1.36 crore. This resulted in non-levy of tax of Rs. 5.20 lakh including interest.

The case was reported to the Government/department in December 2008; reply has not been received (September 2009).

2.7 Non-compliance of departmental orders

The CT, Assam vide circular dated 6 May 1999 and 25 March 1999 instructed all the AOs to cross verify central sales tax declaration forms submitted by the dealer specially of North Eastern States and to verify the transactions made under stock transfer for arresting evasion of taxes and curbing malpractice of evasion of central sales tax respectively. Failure of the AOs to act upon the circular issued by the CT, Assam resulted in short levy of tax/incorrect grant of exemption as shown in the succeeding paragraphs 2.7.1 and 2.7.2.

2.7.1 Irregular grant of exemption

Under the CST Act, when any dealer claims exemption of tax in respect of any goods by reason of transfer of such goods to any other place of his business out of the state, he may furnish to the AO a valid declaration in Form F duly filled in and signed by the transferee alongwith evidence of despatch of such goods failing which tax at the prescribed rate is to be charged. As per rule, one Form F should cover the transaction of one calendar month. Furnishing of Form F is mandatory with effect from 11 May 2002.

2.7.1.1 Test check of records of six ACsT/Superintendents of Taxes between January and October 2008 revealed that in 13 cases, the AOs irregularly allowed

exemption on account of branch transfer of goods valued at Rs. 6.66 crore resulting in non-levy of tax amounting to Rs. 1.22 crore including interest as detailed below:

(Rupees in crore)

Sl. No	Name of Unit Number of dealer	Period of assessment	Turnover exempted incorrectly	Nature of irregularities	Amount
(1)	(2)	(3)	(4)	(5)	(6)
1	Diphu one	2002-03	1.03	The AO allowed exemption on stock transfer of Rs. 6.42 crore. Scrutiny revealed that two Forms F covering transaction of Rs. 1.03 crore were invalid with effect from June 2001 as intimated by the CT, Nagaland to CT, Assam.	0.30
2	Mangaldoi One	2004-05	2.84	The AOs allowed exemption of Rs. 2.84 crore as stock transfer but such stock transfer was not supported by Form F.	0.34
	Tangla Six	2004-05 & 2005-06			
3	Diphu One	2002-03 & 2003-04	1.05	The AOs allowed exemption of stock transfer of Rs. 11.53 crore. Scrutiny revealed that stock transfer of Rs. 1.05 crore covered by five Form F involved transaction of more than one calendar month.	0.22
	Guwahati Unit – D One	2003-04			
4	Guwahati Unit – B One	2003-04	0.41	The AO allowed exemption of stock transfer of Rs. 61.94 lakh. Scrutiny revealed that 19 declaration Form F covering transaction of Rs. 40.99 lakh were defective as the purchasing dealers did not mention the registration number and date since when the registration was valid.	0.10
5	Guwahati Unit – D One	2003-04	1.33	The AOs allowed exemption of stock transfer of Rs. 24.41 crore. Scrutiny revealed that stock transfer valued at Rs. 1.33 crore covered by Form F related to earlier periods.	0.26
	Barpeta Road one	2003-04			
Total			**6.66**		**1.22**

The cases were reported to the Government/department between May and December 2008; reply has not been received (September 2009).

2.7.1.2 Test check of records of the ST, Mangaldoi in June 2008 revealed that the AO finalised an assessment under the AGST Act (purchase tax) for the year 2004-05 on a turnover of Rs.1.49 crore and observed that the dealer despatched jute of Rs.1.49 crore outside the State of Assam as stock transfer. Scrutiny of records further revealed that the AO however, failed to finalise assessment and levy tax under the CST Act. Turnover of stock transfer of Rs. 1.49 crore was not supported by Form F. As per report dated 13 August 2007 of Area Inspector of Taxes, the dealer has closed his business with effect from 31 July 2007 and also surrendered his Registration Certificate. Thus, non-finalisation

of assessment considering the turnover as stock transfer which were not supported by Form F resulted in loss of revenue of Rs. 9.67 lakh including interest.

The case was reported to the Government/department in July 2008; their reply has not been received (September 2009).

2.7.2 Incorrect grant of concessional rate of tax on sale against Form C/D

Under the CST Act, interstate sale of goods, other than declared goods, to the registered dealers/Government departments if supported by valid and duly filled in declaration in Form C/D are taxable at the concessional rate of four *per cent.* Otherwise, tax is payable at the rate of 10 *per cent* or at the rate of tax applicable under the State Act, whichever is higher. In addition, interest at the prescribed rate is also leviable.

2.7.2.1 The CT, Nagaland in his letter dated February 2002 intimated the CT, Assam regarding cancellation of a series of declaration Forms C with effect from 11 June 2001. The CT, Mizoram intimated (October 1999) to the CT, Assam regarding cancellation of a series of declaration in Form C with effect from September 1999.

Test check of records of the ACT, Guwahati Units-B, D and Jorhat between November 2007 and October 2008 revealed that twelve dealers were assessed to tax for the years falling between 2001-02 and 2004-05 at the concessional rate of four *per cent* on the turnover of Rs. 44.55 crore. Scrutiny of Form C revealed that interstate sales amounting to Rs. 5.84 crore were supported by declaration Forms C which were declared invalid by the Government of Mizoram and Nagaland. Irregular allowance of concessional rate on the turnover covered by invalid declaration forms resulted in short levy of tax of Rs. 1.07 crore including interest.

The case was reported to the Government/department between March and December 2008; reply has not been received (September 2009).

2.7.2.2 Test check of records of the ACT, Guwahati unit - C in January - March 2008 revealed that the AO, while finalising the assessments of two dealers for the year 2004-05 allowed concessional rate of tax on interstate sales valued at Rs. 51.11 lakh though the declaration Form C and D furnished by the dealers were defective as registration number of the purchasing/selling dealer, invoice number, date etc., were not mentioned on the forms. Irregular allowance of concessional rate against the defective Form C/D resulted in short levy of tax amounting to Rs. 5.52 lakh including interest.

The case was reported to the Government/department in June 2008; reply has not been received (September 2009).

2.7.2.3 Cement is taxable at the rate of 12.5 *per cent* under AVAT Act, 2003 effective from May 2005. If a dealer fails to pay full amount of tax payable by him by the due date, he is liable to pay interest at the rate of one and half *per cent* per month on the amount of tax remaining unpaid.

Test check of records of the ACT, Dhubri in April June 2008 revealed that the AO while finalising assessment of a dealer for the year 2005-06, levied tax on Rs. 42.84 lakh at the rate of eight *per cent* on interstate sales of cement not supported by Form C. Thus, due to levy of tax at lower rate, there was short levy of tax of Rs. 2.65 lakh including interest.

The case was reported to the Government/department in August 2008; reply has not been received (September 2009).

CHAPTER-III : OTHER TAX RECEIPTS

3.1 Results of audit

Test check of records in the offices dealing with the following revenue receipts during the year 2008-09 revealed, non/short realisation of revenue amounting to Rs. 16.47 crore in 162 cases as shown below:

(Rupees in crore)

Sl. No.	Category	Number of cases	Amount
1.	Land Revenue	57	12.51
2.	Taxes on Motor Vehicle	27	2.18
3.	State Excise	17	1.21
4.	Agricultural Income Tax	5	0.17
5.	Stamp duty and Registration fee	44	0.17
6.	Professional tax	11	0.17
7.	Specified land	1	0.06
Total		**162**	**16.47**

During the course of the year 2008-09, the department accepted one case involving Rs. 3.42 lakh.

A few illustrative audit observations involving Rs. 46.86 lakh are mentioned in the following paragraphs.

3.2 Audit observations

Scrutiny of records of Transport, State Excise, Registration and Stamps and Taxation Department revealed several cases of non-observance of provisions of Acts/Rules/departmental orders as mentioned in the succeeding paragraphs. These cases are illustrative and are based on a test check carried out in audit. Such omissions on the part of the departmental officers are pointed out in audit each year, but not only the irregularities persist; these remain undetected till an audit is conducted. There is need for the Government to improve the internal control system including strengthening of internal audit.

A. TAXES ON MOTOR VEHICLES

3.3 Non-observance of provisions of Act

As per the provisions of Assam Motor Vehicles Taxation (AMVT) Act, 1936, District Transport Officers (DTOs) are required to maintain a combined register to watch the recovery of tax. He is also required to review the register at periodic intervals and issue demand notices to defaulters.

Audit scrutiny revealed that the combined registers were not reviewed at periodic intervals by three DTOs due to which they were unaware of cases of non-payment of tax/non-assignment of new registration numbers as discussed in paragraphs 3.3.1 and 3.3.2.

3.3.1 Non-realisation of tax

Under the AMVT Act as amended from time to time, taxes on motor vehicles are to be paid in advance on or before 15 April of each year or at the option in four equal instalments payable on or before 15 April, July, October and January respectively. Under Section 5A of AMVT Act inserted with effect from 9 May 2002, every owner of a motor vehicle who fails to pay the appropriate road tax in time shall be liable to pay a fine at a rate of Rs. 5 per day for every day of such delayed payment.

Test check of records of DTOs, Dhemaji and Tezpur between May and September 2007 revealed that in 186 cases, taxes on motor vehicle amounting to Rs. 11.51 lakh were not paid by the owners of the vehicles. Besides tax, fine of Rs. 3.47 lakh was also realisable for non-payment of dues within the stipulated time. Due to non-reviewing of the combined registers at periodic intervals, the DTOs remained unaware of such non-payment of tax. Cosequently, demand notices for recovery of dues were not issued by the DTOs. This resulted in non-realisation of road tax of Rs. 14.98 lakh including fine.

The cases were reported to the Government/Department in August 2007 and February 2009; reply has not been received (September 2009).

3.3.2 Non-assignment of new registration marks

Section 47 of the Motor Vehicles (MV) Act, 1988 stipulates that a motor vehicle registered in one State and kept in another State for a period exceeding 12 months, must be registered in the latter State. Rule 81 of the Central Motor Vehicle Rules, 1989 prescribes the rates of registration fee for different categories of motor vehicles. The Assam Motor Vehicle Rules, 2003 prescribe that if the owner of the vehicle of other States fails to apply for assignment of new registration mark under section 47 of the MV Act, he/she shall be liable to pay a fine of Rs. 100 for the first seven days after detection. If even after this period, the person does not apply for reassignment, the fine is raised to Rs. 300 for every succeeding seven days till the vehicle is assigned a new registration number.

Test check of combined register of DTO, Barpeta in April 2008 revealed that in nine cases, the owners of the vehicles had not applied for new registration numbers although the vehicles had been plying under the jurisdiction of the DTO for more than 12 months. Due to non-reviewing of the combined register at periodic intervals, the DTO remained unaware of such irregular plying of vehicles. Consequently no demand notices were issued to the vehicle owners for assignment of new registration marks. This resulted in non-realisation of reassignment fee of Rs. 5,000. Besides, fine of Rs. 6.60 lakh were leviable too.

The case was reported to the Government/Department in July 2008; replies have not been received (September 2009).

B. STATE EXCISE

3.4 Non-realisation of establishment cost

Although three bottling plants did not pay establishment charges, no demand was raised by the department for recovery of dues of Rs. 9.49 lakh.

Under Rule 6 of Assam Distillery Rules 1945, the Commissioner of Excise shall appoint such official as he thinks fit to the charge of a distillery. The distillery shall pay to the Government at the end of each calendar month, establishment charges which shall include pay as well as leave salary and pension contribution in respect of the excise official attached to the distillery.

Test check of records of Superintendents of Excise (SE), Diphu, Jorhat and Silchar between November 2006 and February 2008 revealed that though three bottling plants did not pay the establishment charges amounting to Rs. 9.49 lakh in respect of the officials appointed to the charge of the bottling plants for the period from April 2005 to January 2008, yet no demand was raised by the department to recover the dues from the licensees. This resulted in non-recovery of establishment charges of Rs. 9.49 lakh.

After this was pointed out, the Superintendent of Excise, Diphu stated (May 2008) that demand notices have been issued to the defaulter. Report on recovery in this case and replies in respect of the remaining cases have not been received (September 2009).

The case was reported to the Government/Department in April and June 2008; reply has not been received (September 2009).

C. STAMP DUTY AND REGISTRATION FEES

3.5 Short levy of stamp duty

In 873 conveyance deeds, stamp duty of Rs. 13.52 lakh was levied instead of Rs. 17.96 lakh realisable resulting in short levy of stamp duty of Rs. 4.44 lakh.

The Indian Stamp (Assam Amendment) Act, 2004 modified the rate of stamp duty which became effective from 18 September 2004 as mentioned below:

Value of property	Stamp duty leviable
Rs. 1,000 to Rs. 10,000	Rs. 60 per Rs. 1,000
Rs. 10,001 to Rs. 50,000	Rs. 65 per Rs. 1,000
Rs. 50,001 to Rs. 1,00,000	Rs. 80 per Rs. 1,000
For every Rs. 1,000 or part thereof in excess of Rs. 1,00,001	Rs. 12 per Rs. 1,000

Test check of records of five Sub-Registrars (SRs)[1] between March and May 2008 revealed that 873 conveyance deeds/sales deeds registered between 20 September 2004 and 29 December 2004 on which stamp duty of Rs. 17.96 lakh was realisable. It was, however, noticed that stamp duty of Rs. 13.52 lakh was levied and realised on these documents due to application of pre-revised rates. This resulted in short levy of stamp duty of Rs. 4.44 lakh.

After this was pointed out, three SRs[2] stated between May 2008 and March 2009 that short levy of stamp duty was due to late receipt of circular relating to revised rates. The replies were silent regarding action taken/to be taken to recover the balance duty. Replies of other two SRs have not been received (September 2009).

The cases were reported to the Government/Department in May and July 2008; replies have not been received (September 2009).

[1] Biswanath Chariali, Bokakhat, Dhemaji, Lakhipur (Cachar) and Patharkandi.
[2] Biswanath Chariali, Dhemaji and Lakhipur (Cachar).

D. PROFESSIONAL TAX

3.6 Non-realisation of professional tax

Owners of 160 commercial vehicles continued with their profession without any registration with the Taxation Department resulting in non-realisation of professional tax of Rs. 11.30 lakh.

Under the Assam Professions, Trade, Callings and Employments Taxation Act 1947, every person who carries on a trade or a profession or calling or who is in employment within the State is liable to pay, for each financial year, tax at the prescribed rates. In case of non-payment of tax within the due date, the assessee shall be liable to pay assessed tax together with simple interest at the rate of two *per cent* of the amount due for each month or part thereof for the period for which the tax remain unpaid. The Commissioner of Taxes, Assam issued instructions (April 1995, July 1997 and July 1998) for conducting intensive survey to bring all potential tax payers within the tax net.

Cross verification of records of the Assistant Commissioner of Taxes, Dhubri and Silchar with those of the respective DTOs between April and December 2008 revealed that though the owners of 160 four wheelers holding commercial vehicle permits paid motor vehicle tax to the Transport Department during the year 2005-06 to 2007-08, they did not get enrolled with the Taxation Department and pay professional tax. Despite specific orders of the Commissioner of Taxes to conduct intensive survey to detect unregistered dealers, these cases remained undetected by the Taxation Department. This resulted in non-realisation of professional tax of Rs. 11.30 lakh including interest.

The cases were reported to the Government/Department in August 2007; reply have not been received (September 2009).

CHAPTER-IV: NON-TAX RECEIPTS

4.1 Results of audit

Test check of records in the offices dealing with the following revenue receipts during the year 2008-09 revealed loss of revenue due to delay in disposal of timber/non-settlement/delay in settlement of *mahal*/illegal felling and removal of timber, blocking up of revenue due to non-disposal of offence cases, non/short payment of royalty etc., amounting to Rs. 124.05 crore in 81 cases which fall under the following categories:

(Rupees in crore)

Sl. No	Category	Number of cases	Amount
1.	**Receipts of Police Department – A review**	1	67.83
2.	Mines and Minerals Receipts	10	44.83
3.	Forest Receipts	70	11.39
	Total	**81**	**124.05**

A review on '**Receipts of Police Department**' involving Rs. 67.83 crore and a few illustrative audit observations involving Rs. 12.95 crore are mentioned in the following paragraphs.

4.2 REVIEW ON RECEIPTS OF POLICE DEPARTMENT

Highlights

Due to non-implementation of revised rates at the time of preferring claims, there was short demand of Rs. 53 lakh.

(Paragraph 4.2.7.1)

Due to mistake in assessment, there was non/short raising of demand of Rs.4.14 crore against the police personnel deployed in three organisations.

(Paragraph 4.2.7.2)

Arbitrary adjustment of cost of police guards by Railways resulted in non-realisation of Rs.7.61 crore.

(Paragraph 4.2.8.1)

Against deployment of police force at a cost of Rs.104.44 crore upto March 2008, Rs. 41.28 crore was realised as of November 2008 leaving Rs. 63.16 crore unrealised.

(Paragraph 4.2.8.2)

Due to absence of internal control mechanism and non-monitoring by the higher authorities, the department was unable to watch the correctness of demand and recovery of dues from the defaulting organisations effectively.

(Paragraph 4.2.9)

4.2.1 Introduction

The receipts of the Police Department mainly comprise recovery of cost of the police forces for deployment to central Government departments including Railways, State/Central public sector undertakings, banks, private companies and individuals etc., as well as fees, fines and forfeitures and miscellaneous receipts such as sale proceeds of condemned vehicles, tyres and tubes etc. The receipts of the department are credited to the Government account under head of account "0055–Police".

The system of assessment, collection and accounting of receipts are mainly governed by three principal Acts, viz., The Police Act, 1861, Indian Arms Act, 1959 and Assam Police Manual and regulations made thereunder, besides, Government orders issued from time to time and provisions of the Assam Treasury Rules.

A review on receipts of the Police Department covering the period from 1995-96 to 1999-2000 was included in the Report of the Comptroller and Auditor General of India for the year ended 31 March 2001, Government of Assam which

is yet to be discussed by the Public Accounts Committee. The present review covering the period from 2003-04 to 2007-08 revealed a number of deficiencies which are discussed in the succeeding paragraphs.

4.2.2 Organisational setup

The Director General of Police (DGP), Assam is the head of the department, who is assisted by four Additional Director General of Police (ADGP), 12 Inspectors General of Police (IGP), 15 Deputy Inspectors General of Police (DIGP) and an Assistant Inspector General of Police (at Headquarters), and 88[1] Superintendents of Police (SPs)/Commandants in charge of districts/battalions.

Besides, the DGP is also assisted by one ADGP (Special Branch) and one IG, and one DIG, Bureau of Investigation (Economic Offences).

The responsibilities for deployment, assessment and collection of cost in respect of police personnel deployed in Railways lies with the DGP while each SP is responsible for assessment and collection of cost of police guards deployed to different Governments/private institutions and individuals in the districts concerned.

4.2.3 Audit Objectives

The review on receipts of the Police Department was conducted to ascertain whether

- a system was in place and observed for proper assessment, levy and collection of cost for deployment of police personnel;
- the provisions of the Act/Rules and the departmental instructions were properly observed;
- adequate internal controls were in place to monitor assessment and collection and to check leakage of revenue; and
- internal audit system had been set up and functions effectively.

4.2.4 Scope of Audit

With a view to evaluating the efficiency and effectiveness of the system and procedures relating to assessment and collection of receipts of the Police Department, records of the DGP, IGP (Special Branch), IGP and Director of Police (Communication), IGP (Bureau of Investigation and Economic offences), 13[2] out of 29 SPs and 10[3] out of 28 Commandants covering the period from

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1 Of these 88 SPs/Commandants, 57 SPs/Commandants functioned as drawing and disbursing officers.

2 S.P, Bongaigaon, Dibrugarh, Dhubri, Guwahati (City), GRP Pandu, Hailakandi, Jorhat, Kamrup, Karbi-Anglong, Kokrajhar, Nagaon, Lakhimpur, and Tinsukia.

3 Commandant, 16th (IR) Bn., Bormonipur, Commando Bn., Mandakata, 15th (IR) Bn., Karimganj, 4th APTF, Howly, 4th AP Bn., Kahilipara, 8th AP Bn., Abhayapuri, 2nd APTF, Lumding, 2nd APBN, Makum, 1st APTF, Dakurvita, 6th AP Bn., Kathal.

2003-04 to 2007-08 were test checked between October 2008 and February 2009. For this, the units were first divided into three stratums based on their revenue earnings and then 33 *per cent* of units were selected from each stratum.

4.2.5 Acknowledgement

The Indian Audit and Accounts Department acknowledges the co-operation of the Police Department in providing the necessary information and records for audit. The entry conference was held on 10 December 2008 wherein the audit objectives and scope of audit was conveyed to the department. The IGP (Administration) represented the department while no officials from the Government attended the meeting despite specific requests from audit (November 2008). The findings of this review were reported to the Government and department on 8 June 2009 and discussed in the exit conference on 25 August 2009. The Principal Secretary (Home) to the Government of Assam and the Director General of Police attended the meeting.

Audit findings

4.2.6 Trend of revenue

The budgetary procedure of Government departments provide that the estimates of revenue receipts should show the amounts expected to be realised within the year. In estimating the revenue for the ensuing year, the collection should be based on the previous year's receipts and anticipated demand including any arrears due and the probabilities of their realisation during the year.

The budget estimates and actual receipts during the years from 2003-04 to 2007-08 were as under:

(Rupees in crore)

Year	Budget estimates	Receipts as per Finance Accounts[4]	Variations Excess (+) Shortfall (-)	Percentage of variations Excess (+)/ Shortfall (-)
2003-04	9.88	11.95	(+) 2.07	(+) 21
2004-05	12.67	11.65	(-) 1.02	(-) 08
2005-06	13.43	14.90	(+) 1.47	(+) 11
2006-07	13.59	14.91	(+) 1.32	(+) 10
2007-08	14.54	13.16	(-) 1.38	(-) 09

The position of receipts of the Police Department as compared to the non-tax revenue earned by the State Government during the corresponding years was as follows:

[4] Including receipts under the Motor Vehicles Act, 1988.

(Rupees in crore)

Year	Actual receipts	Non-tax receipts for the year	Percentage of police receipts to non-tax receipts
2003-04	11.95	945.80	1.26
2004-05	11.65	1070.03	1.09
2005-06	14.90	1459.28	1.02
2006-07	14.91	1859.27	0.80
2007-08	13.16	2134.59	0.62

However, audit scrutiny of the actual receipts in five selected units[5] revealed that the department is depositing the collection of fees and fines under the Motor Vehicles Act, 1988, under the head "0055–Police" which was not only irregular but also depicted inflated figures of actual receipts of the department by Rs. 6.13 crore during the above five years as mentioned below:

(Rupees in crore)

Year	Receipts as furnished by the department	Fees and fines on vehicles collected under the MV Act	Actual receipts	Percentage of actual receipts vis-à-vis total receipts
2003-04	2.63	1.17	1.46	56
2004-05	1.51	1.44	0.07	5
2005-06	2.86	1.42	1.44	50
2006-07	2.22	0.83	1.39	63
2007-08	1.71	1.27	0.44	26
Total	**10.93**	**6.13**	**4.80**	**43.92**

In order to verify the actual receipts under police head, an analysis of receipts of five selected units revealed that 43.92 *per cent* of the total receipts represented the actual receipts of police department and the rest were receipts under MV Act. Thus, the receipts shown under police head is highly inflated due to inclusion of motor vehicle receipts. The state-wise position of motor vehicle receipts vis-à-vis the total receipts during the years under review could not be furnished by the department though called for (September 2009).

4.2.7 Assessment of cost of police guards

As per the provision of the Assam Police Manual, police guards are to be provided to the Government departments and other organisations on request and cost thereof is to be realised from the beneficiary departments or organisations on the basis of statement of cost submitted at the time of supply of guards which is subject to revision from time to time. The Assam Financial Rules provide that

[5] IGP (Bureau of Investigation and Economic Offences), Guwahati; SPs, Kamrup, Nagaon and Tinsukia and Senior SP (City), Guwahati.

controlling officer concerned has to see that the dues of the government are correctly and promptly assessed, collected and deposited in the Government accounts.

Audit scrutiny of the assessment, levy and collection process of cost of police guards revealed cases of mistake in assessments leading to non/short raising of demand which are discussed in the subsequent paragraphs. Due to absence of any monitoring mechanism coupled with non-conduct of regular inspection by the internal audit wing as highlighted in subsequent paragraphs, these deficiencies remained unnoticed to the higher authorities.

4.2.7.1 Short raising of demand due to non-implementation of revised rates

The Security Review Committee in their meeting held on 2 June 2005, approved the revision of rates of deployment of guards from June 2005 as mentioned below:

Category of police guards deployed	Pre-revised rate per month (effective from 1998)	Revised rate per month (from June 2005)
	(In rupees)	
Constable Naik, Lance Naik	6,000	9,000
ASI/Havilder/Head constable	7,000	12,000
Sub-Inspector	9,000	15,000
Inspector	12,000	15,000

- Scrutiny of records revealed that in offices of SPs, Dibrugarh, Jorhat, Nagaon, North Lakhimpur, Tinsukia and IGP (SB), Guwahati, the demand for cost of deployment of police guards of Rs.1.32 crore were to be raised against Indian Oil Corporation, Gammon India Ltd, Post Offices and Tea Estates, etc., during the period from June 2005 to March 2008 as per the revised rates. However, it was noticed that demands for an amount of Rs. 86 lakh based on the pre-revised rates was made as of March 2008. Thus, non-implementation of revised rates at the time of preferring claims resulted in short raising of demand by Rs. 46 lakh.

- It was noticed that SP, Tinsukia deployed two to five constables to Head Post Office, Tinsukia during the period from April 2003 to March 2008. As per the prescribed rates fixed at Rs. 6,000 per month upto May 2005 and Rs. 9,000 thereafter, an amount of Rs. 8 lakh was realisable. Against this, the department raised a demand for Rs. 1 lakh only resulting in short raising of demand of Rs. 7 lakh. Reasons for raising demand at such lower rates were neither on records nor stated by the department.

4.2.7.2 Non/short raising of demands for pensionery charges

Sub-rules 4 and 5 of Rule 84 of Assam Police Manual-II, stipulates that contributions for leave salary and pension at the rate of 25 *per cent* and

contingency at 10 *per cent* on average pay (including special pay) are also to be taken into account while calculating the cost of police guards.

During the course of the review, it was noticed that in the following cases the department has assessed the cost of police guards taking into consideration only the pay and special pay, if any, of the police personnel, without taking into account the rate/correct rate of leave salary and pension contributions. This resulted in non/short raising of demand on account of leave salary and pension contribution.

- During scrutiny of office records of Commandant, 2nd Assam Police Battalion, Makum and SP, Jorhat it was noticed that while raising the demand for the cost of police personnel deployed in various organisations during 2003-04 to 2007-08, the cost of pensionery charges of Rs.1.73 crore and contingency charges of Rs.0.68 crore were not claimed. This resulted in non-raising of demand of Rs. 2.41 crore as detailed below:

(Rupees in crore)

Sl. No	Name of Organisation	Period of claim	Total Average pay	Twenty five *per cent* pensionery charges	Ten *per cent* contingency charges	Total
1.	IOC, Digboi	4/03 to 3/08	3.04	0.76	0.30	1.06
2.	ONGC, Nazira, Sibsagar	7/04 to 3/08	1.96	0.49	0.20	0.69
3.	ONGC, Jorhat	9/04 to 3/08	0.62	0.15	0.06	0.21
4.	ONGC, Silchar	7/04 to 3/08	1.29	0.32	0.12	0.44
5.	Assam Agricultural University, Jorhat	2/06 to 3/08	0.02	0.005	0.0002	0.0052
Total			**6.93**	**1.73**	**0.68**	**2.41**

The reason for non-raising of claims towards pensionery/contingency charges to the above organisation was neither found on record nor stated.

- During examination of records of offices of DGP and SP, GRP, Pandu, it was noticed that the total expenditure on pay of GRP personnel for the period from 2003-04 to 2006-07 was Rs.18.04 crore on which amount of leave salary and pension contribution at the rate of 25 *per cent* worked out to Rs. 4.51 crore. Of this, though 50 *per cent*[6] amounting to Rs. 2.26 crore was recoverable from the Railways, the department raised a demand for Rs. 52.36 lakh only. This resulted in short-raising of demand of pensionery charges of Rs.1.73 crore.

[6] As per the agreement between the Railway Board and the Ministry of Home Affairs, cost of Government Railway Police is to be shared between the State Government and Railways on 50:50 basis.

4.2.8 Realisation/payment of assessed dues

Assam Police Manual provides for charging cost of supply of police force to central and state departments including Railways. Audit scrutiny revealed that though the Police Manual stipulates that the statement of cost of police guards is to be submitted to the beneficiary departments/organisations at the time of supply of guards, there was substantial delay in preferring the demands. It was noticed that the department issued demand notices to the Railways for the years 2004-05, 2005-06, 2006-07 and 2007-08 in March 2006, April 2007, December 2007 and February 2009 respectively. Besides, neither any time limit for recovery of dues nor any penal measure for delay in payment is prescribed in the Assam Police Manual. As a result, there was considerable delay in realisation of dues as mentioned in the following paragraphs.

4.2.8.1 Irregular adjustment of cost of police guards by Railways

As decided by the Railway Board in consultation with the Ministry of Home Affairs, Government of India, the cost of Government Railway Police (GRP) will be shared between State Government and Railways on 50:50 basis, provided the strength is determined with the approval of Railways. Share of cost of police will include pay and allowances in respect of GRP staff including office and supervisory staff upto the level of SP provided they are exclusively incharge of GRP, office expenses and contingencies, cost of pensionery charges, cost of rent of building occupied by GRP staff, apart from medical reimbursement and medical allowances payable to staff.

During the course of the review, it was noticed from the records of the office of DGP, Assam that against the claim of Rs.20.41 crore (being 50 *per cent* cost of police guard deployed for protection of Railways) for the periods from 2003-04 to 2007-08 raised by the State Government to the railway authority, no payment was made by the Railways as of March 2009. Instead, the railway authority unilaterally adjusted Rs.7.61 crore payable for the years 2003-04 and 2005-06 against their claims such as maintenance of level crossings, clearance of dead bodies and building rents etc. The department did not accept such unilateral adjustments against the claims and brought this issue to the notice of the State Government between June 2006 and September 2008 for taking up the matter with the railway authority. Further development in the matter has not been reported (July 2009). Thus, due to delay in raising demand, absence of any time-limit for payment of dues coupled with absence of any penal measure for non-payment, no concrete action could be taken by the Police Department for recovery of Rs. 20.41 crore pending for such long time.

4.2.8.2 Arrear recovery mechanism

As per Assam Police Manual, police guard is to be provided to the Government departments and other organisations on request and cost thereof is to be realised from the beneficiary departments or organisations on the basis of statement of cost submitted at the time of supply of guards which is subject to revision. The

Assam Financial Rules provides that controlling officer concerned has to see that the dues of the Government are correctly and promptly assessed, collected and deposited in the treasury. Further, the department issued (May 2003) instruction to all SPs to withdraw police guards immediately if the organisation fails to pay the dues and initiate *bakijai*[7] cases against the defaulters.

In view of the above instruction, the department withdrew police guards from 15 organisations against which revenue of Rs. 1.51 crore[8] was outstanding and initiated *bakijai* proceedings in two cases involving revenue of Rs. 47.85 lakh during 2003-04 to 2007-08. However, the reasons for not initiating *bakijai* proceedings against the remaining 13 organisations despite specific instruction issued in May 2003 could not be furnished to audit.

The periodical progress reports of realisation of the cost of deployment of police forces to the Government departments, Public Sector Undertakings and Private Organisations obtained from the SPs of the districts concerned revealed that against deployment of police forces at a cost of Rs.104.44 crore up to March 2008, the department could realise Rs.41.28 crore only leaving a balance of Rs.63.16 crore yet to be recovered as of November 2008. As mentioned previously, due to absence of any prescribed timeframe for payment of dues coupled with absence of any penal measure, the department could do little to recover the arrears from the defaulting departments.

4.2.9 Internal Control Mechanism

Internal control is intended to provide reasonable assurance of proper enforcement of laws, departmental rules and orders. Assam Financial Rules provide that controlling officer concerned has to see that the dues of the Government are correctly and promptly assessed, collected and deposited in the treasury. To monitor the recoveries, a demand, collection and balance register (DCB Register) is required to be maintained wherein all demands raised, recovered and outstanding balance is to be mentioned.

Absence of internal control mechanism has been pointed out in the preceding paragraphs which resulted in non-monitoring of the higher authorities on various issues. Scrutiny of records of DGP and the selected unit offices further revealed that in none of the offices test checked, DCB register was maintained properly. Thus, in absence of such vital control register, the department was unable to watch the progress of recovery of dues from the defaulting organizations effectively which resulted in huge accumulation of arrears.

4.2.10 Internal audit

Internal audit, a component of internal control, functions as eyes and ears of the management and is a vital tool which enables an organisation to assure itself that prescribed systems are functioning reasonably well.

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7 Arrear recovery mechanism.

8 Includes two *bakijai* cases.

Records revealed that though there was an Internal Audit wing (IAW) having three Internal Auditors at the Police Headquarters, no specific guidelines have been issued from the department laying down the principles/fundamentals of working of the IAW. Besides, units audited, Inspection Reports issued and position of outstanding paragraphs pending settlement including remedial measures taken by the department on the basis of findings of the wing were not being maintained by the department/wing. Also, reports/returns to be submitted either by the internal audit wing or the unit offices to the higher authorities has not been prescribed for monitoring the functioning of the wing.

4.2.11 Management Information System

Management Information System (MIS) is a key factor for smooth functioning of an organisation. The Department did not put in place the information technology system to maintain the details of police personnel deployed, cost recoverable, cost recovered and balance to be recovered. As a result, the department was not in a position to effectively monitor the deployment of police personnel and the recovery of cost of police guards from beneficiaries.

4.2.12 Conclusion

Audit scrutiny of the assessment, levy and collection of police receipts revealed a number of deficiencies. Due to irregular remittance of receipts under the Motor Vehicles Act into the police receipts head, the amount of police receipts depicted an inflated picture. Due to absence of monitoring mechanism, the DGP, Assam was unaware of mistakes in assessment of realisable dues leading to non/short raising of demand. Absence of prescribed time-limit coupled with absence of any penal measures for recovery of dues resulted in huge accumulation of arrears. Internal control mechanism was weak as evidenced by absence of control/monitoring mechanism of higher authorities on various issues and non-maintenance of vital control register like DCB Register. The internal audit wing though existed in the department was almost non-functional which resulted in the aforesaid deficiencies remaining undetected.

4.2.13 Recommendations

The Government may consider implementation of the following recommendations for streamlining the system of assessment, levy and collection of police receipts.

- Deposit the receipts collected under the MV Act, 1988 to the head "0041" - taxes on motor vehicles;
- Set up mechanism for the unit offices to raise the demands at the time of supplying police personnel as per the provisions of the Assam Police Manual;

- Amend the Assam Police Manual for prescribing fixed time limit for payment of dues by the beneficiaries and penal measures for non-payment of dues within the period so fixed;
- Introduce information technology system to maintain the district wise data on police personnel deployed, cost recoverable, cost recovered and balance to be recovered;
- Strengthen the internal control mechanism by prescribing specific periodic reports/returns from the unit offices; and
- Streamline the functions of the internal audit wing by fixing specific targets for audit of units and time bound action on the finding of the internal audit wing by the unit offices.

4.3 Other Audit Observations

Scrutiny of records of Forests and Geology and Mining Departments revealed several cases of illicit felling and removal of forest produce, loss of revenue due to non-settlement of mahal, short realisation of revenue as mentioned in the succeeding paragraphs. These cases are only illustrative and are based on a test check carried out in audit. Such omissions on the part of the departmental officers are pointed out in audit each year, but not only the irregularities persist; these remain undetected till an audit is conducted. There is need for the Government to improve the internal control system so that recurrence of such lapses in future can be avoided.

A. FOREST RECEIPTS

4.3.1 Illicit felling and removal of forest produce

Under the provision of Assam Forest Regulation (AFR), 1891 and Rules framed thereunder, felling/removal of forest produce from the forest area without valid authority constitutes an offence punishable with fine. Forest produce removed unauthorisedly is also liable to be confiscated by the forest officials. To prevent such illegal felling and removal of forest produce, the department has forest protection squads and forest protection force deployed in forest areas. Further, if an offence is apprehended, the forest officer on seizure of such forest produce should report to concerned magistrate for trial or compound the cases.

Test check of records of three Divisional Forest Officers (DFO) between November 2007 and March 2008 revealed that 2,162.15 cum of timber had been illegally felled during 2002-03 to 2007-08. Of this, 1,718.32 cum of timber were recovered by the department and the remaining 443.83 cum of timber valued at Rs. 30.94 lakh were removed by miscreant as tabulated below:

Sl. No.	Name of the Division	Period of removal	Qty of timber illegally felled	Timber recovered by the department	Timber removed by the miscreants	Value (Rs. in lakh)
			(in cum)			
1.	Kamrup West Division	2006-07 to 2007-08	423.469	249.795	173.674	21.85
2.	Nawgaon Forest Division	2006-07 to 2007-08	613.376	497.719	115.657	5.05
3.	Doom Dooma Forest Division	2002-03 to 2006-07	1,125.304	970.803	154.501	4.04
Total			**2,162.15**	**1,718.32**	**443.83**	**30.94**

It was further noticed that the DFO, Nowgaon and Kamrup West had filed first information report on illegal removal of timber with the local police station, but DFO Doomdoma did not file any FIR as of April 2009.

After this was pointed out, the DFO, Nagaon stated (February 2009) that due to adverse climate condition and lack of adequate infrastructure the forest staff were not in a position to move to every nook and corner of the forest area. The DFO, Doomdooma stated (February 2009) that it was not possible to exercise regular patrolling. The reply of DFO, Doomdooma was, however, silent regarding the reasons for non-filing of FIR with the police.

The matter was reported to Government/Department in February 2008; replies have not been received (September 2009).

4.3.2 Loss of Government revenue due to non-settlement of *mahal*

Accumulation and depletion of sand/stone in the river bed due to river current is a constant process. If a riverine *mahal*[9] is not worked during its specified working period, the sand/stone is carried away by the river current and would not be available later. The working period so lost, results in loss of revenue. It is, therefore, necessary to ensure timely action to extract sand/stone during the working periods so as to safeguard Government revenue.

Test check of records of the DFO, Sivasagar in August 2008 revealed that Bihubor Stone Quarry No. II and V were put to sale four times and six times respectively but no tender was received. In the mean time, two petitioners expressed their willingness (July 2007 and April 2008) for negotiated settlement for 3,000 cum and 5,000 cum of stone respectively for the above mentioned two *mahals* on Government valuation. Accordingly, CCF (T), Guwahati requested the Government for decision (October 2007 and June 2008). But the Government did not communicate any decision in this regard to the Division till August 2008. As a result, the *mahals* could not be settled. Thus, apathy on the part of the Government to take timely action resulted in non-settlement of two quarries leading to loss of revenue of Rs. 8 lakh calculated on Government valuation of Rs. 100 per cum.

The case was reported to the Government/department in December 2008; replies have not been received (September 2009).

4.3.3 Short realisation of revenue due to sale of forest produce at the pre-revised rate

The Government of Assam, Mines and Minerals Department in its notification dated 7 March 2005 revised the rate of royalty for various forest produce with immediate effect.

Test check of records of the DFO (T), Karimganj Forest Division, Karimganj in August 2007 revealed that 18,569.50 cum of stone/boulder/gravel and 1,096 cum

[9] A well defined area wherefrom certain types of forest produce are sold

of sand were sold by the division between 7 March to 31 March 2005 on realisation of royalty at the pre-revised rates. This resulted in short realisation of revenue of Rs. 5.79 lakh.

After the case was pointed out, the department stated in March 2009 that the short realisation of royalty on minor forest produce was not intentional; it was due to late receipt of the revised rate notification. The reply was silent regarding steps taken/to be taken for recovery of the balance amount of royalty.

The case was reported to the Government in November 2007; replies have not been received (September 2009).

B. MINES AND MINERALS

4.4 Short realisation of royalty on natural gas

Due to non-scrutiny of returns by the Directorate of Geology and Mining (DGM), Assam, there was short realisation of revenue of Rs. 12.50 crore.

The Ministry of Petroleum and Natural Gas, Government of India, revised the rate of royalty on natural gas from Rs. 192 to Rs. 230.4 per 1000 SCUM for north east consumer with effect from 5 June 2006.

Audit scrutiny of records of the Directorate of Geology and Mining (DGM), Assam in July 2007 revealed that though M/s Oil India Limited (OIL) and M/s Oil and Natural Gas Corporation (ONGC) submitted the monthly statement of production and payment of royalty to the DGM. However, these were not reviewed with the prevalent rates of royalty to ensure realisation of royalty at correct rates. Resultantly, there was short payment of realisation as discussed below.

4.4.1 Test check of monthly statement of production and payment of royalty of M/s OIL in respect of natural gas for the period from January 2006 to March 2007 revealed that OIL was continuing to pay royalty on natural gas at rates ranging from Rs. 93.18 to Rs. 143.28 per 1,000 SCUM instead of the prevalent rate of Rs. 192 per 1,000 SCUM upto 4 June 2006 and Rs. 230.40 per 1,000 SCUM from 5 June 2006. This resulted in short realisation of royalty of Rs. 11.45 crore.

4.4.2 Test check of monthly statement of production and payment of royalty of M/s ONGC in respect of natural gas for the period from June 2006 to March 2007 revealed that ONGC was continuing to pay royalty on natural gas at rates ranging from Rs. 179.20 to Rs. 181.84 per 1,000 SCUM instead of Rs. 230.40 per 1,000 SCUM from 5 June 2006. This resulted in short realisation of royalty of Rs. 1.05 crore.

The matters was reported to Government/Department in October 2007; replies have not been received (September 2009).

GUWAHATI **(MUKESH P. SINGH)**
THE **Principal Accountant General (Audit), Assam**

28 OCT 2009

Countersigned

NEW DELHI **(VINOD RAI)**
THE 12 NOV 2009 **Comptroller and Auditor General of India**

Annexure-I

Statement showing the Inspection Reports (IRs) and paragraphs at the end of June 2009.
Reference : Paragraph–1.6

Sl. No.	Name of Department	Total number of outstanding IRs/Paragraphs at the end of June 2009			Total number of outstanding IRs/Paragraphs not settled for more than 10 years			Total numbers of IRs against which initial replies not received			
		Year of issue	No. of IRs	No of paragraphs	Year of Issue	No. of IRs	No of paragraphs	Year of issue	No of IRs	No. of paragraphs	Amount (Rupees in crore)
1	Taxation	1994-95 to December 2008	176	841	1994-95 to June 1999	18	32	2007-08 upto December 2008	Nil	Nil	Nil
2	Agricultural Income Tax	1996-97 to December 2008	7	22	1996-97 to June 1999	3	7	2007-08 upto December 2009	Nil	Nil	Nil
3	Land Revenue	1994-95 to December 2008	582	1373	1994-95 to June 1999	1	1	1994-95 to December 2008	511	1322	193.60
4	Mines and Minerals	1997-98 to December 2008	9	40	1997-98 to June 1999	1	1	2007-08 upto December 2009	Nil	Nil	Nil
5	Registration	1996-97 to December 2008	148	291	1996-97 to June 1999	26	47	2001-02 to December 2008	43	160	6.31
6	Transport	1994-95 to December 2008	95	227	1994-95 to June 1999	9	16	2003-04 to December 2008	17	54	2.73
7	State Excise	1998-99 to December 2008	45	96	1998-99 upto June 1999	1	1	2003-04 to December 2008	18	60	1.25
8	Forest and Wild life	1994-95 to December 2008	248	733	1994-95 to June 1999	35	67	2003-04 to December 2008	76	346	36.67
9	Other Taxes	1995-96 to December 2008	54	62	1995-96 to June 1999	2	2	2005-06 to December 2008	24	26	1.29
		Total	**1364**	**3685**		**96**	**174**		**689**	**1968**	**241.85**

Annexure-II

Reference: Paragraph 2.3.8.2 (vii)

Cases where number of returns submitted by dealers are verified and approved manually and input in the database at a later date

Registration No.	Create date	No. of returns entered	Users
18090061836	07/11/2007	17	AKRAM
18920060125	07/11/2007	7	KARTIK
1836003622	8/11/2007	15	PRATIM
18820060125	8/11/2007	8	KARTIK
18080020471	12/11/2007	11	KARTIK
18270041076	12/11/2007	14	KARTIK
18470071424	12/11/2007	13	AKRAM
18290016136	13/11/2007	13	GOPKAK
18450050580	13/11/2007	11	PRATIM
18470042324	13/11/2007	17	UCD
18660034896	13/11/2007	13	RANJAN
18640036556	14/11/2007	15	PRATIM
18670012629	14/11/2007	12	DIPEND
18510008837	18/11/2007	18	DL
18860002970	19/11/2007	11	SEUTI
18350042293	20/11/2007	12	SEUTO
18620039089	20/11/2007	10	ARJUN
18070037597	21/11/2007	15	PRATIM
18330026978	21/11/2007	18	UCD
18440025317	23/11/2007	17	UCD
18320006468	24/11/2007	14	SEUTI
18610041083	24/11/2007	12	KARTIK
18290000713	28/11/2007	13	SEUTI
18740018071	28/11/2007	17	KARTIK
18660000752	30/11/2007	13	SEUTI