REPORT OF THE COMPTROLLER AND AUDITOR GENERAL OF INDIA

FOR THE YEAR ENDED 31 MARCH 2009

(REVENUE RECEIPTS)
GOVERNMENT OF MEGHALAYA

TABLE OF CONTENTS

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.

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/VAT, State Excise, Land Revenue, Taxes on Motor Vehicles, Stamp Duty and Registration fees, other Tax and Non-Tax Receipts of the State.

The cases mentioned in the Report are among those which came to notice in the course of test audit of records during the year 2008-2009 as well as those which came to notice in earlier years but could not be included in previous years' Reports.

OVERVIEW

The Report contains 45 paragraphs and two reviews relating to under assessments, non-realisation, short realisation of penalties, taxes and duties etc. the total money value involved is Rs. 1,175.55 crore. Some of the major findings are mentioned below:

1. GENERAL

- The total revenue receipts generated by the State during the year 2008-09 amounted to Rs. 2,810.64 crore as against Rs. 2,441.38 crore during 2007-08. Out of these 21.16 *per cent* comprised of State's own tax (Rs. 369.44 crore) and non-tax receipts (Rs. 225.31 crore) as against 21.24 *per cent* in the preceding year. The balance 78.84 *per cent* (Rs. 2,215.89 crore) comprised of state's share of divisible taxes and duties of Rs. 595.23 crore and grants-in-aid of Rs. 1,620.66 crore, received from the Government of India. The increase in receipts from the Government of India was 15.24 *per cent* during 2008-09 over that of the previous year as against an increase of 16.32 *per cent* in 2007-08 over the previous year.

(Paragraph 1.1)

- The percentage of expenditure on collection during 2008-09 as compared to the all India average percentage for 2007-08 was higher in the case of sales tax, state excise, taxes on vehicles and stamp duty and registration fees.

(Paragraph 1.3)

- Out of 3,07,751 cases pending for assessment during 2008-09, only 6,860 cases were disposed. The balance of cases due for assessment at the end of 2008-09 stood at 3,00,891. Thus, the percentage of pending cases at the end of 2008-09 was 97.77 *per cent*.

(Paragraph 1.4)

- Test check of the records of sales tax, state excise, motor vehicles tax, other tax receipts, forest receipts and other non-tax receipts conducted during the year 2008-09 revealed underassessment/short/non-levy/loss of revenue amounting to Rs. 1,472.93 crore in 234 cases. During the year, the departments accepted assessments/short/non-levy/loss of revenue of Rs. 1,109.48 crore in 30 cases pointed out during 2008-09 and in earlier years, and recovered Rs. 30.81 lakh. Reply has not been received in respect of the remaining cases.

(Paragraph 1.11)

2. SALES TAX

A Review of "**Transition from Sales Tax to VAT in Meghalaya** " and audit of Sales Tax department revealed the following irregularities:

- The growth rate of revenue over the previous year after implementation of VAT touched a high of 50.12 *per cent* in 2005-06. Although the rate had fallen in the subsequent years, it still recorded a healthy 24.98 *per cent* growth in 2008-09.

(Paragraph 2.2.6.1)

- The department failed to detect and register 606 dealers who sold taxable goods of Rs. 27.44 crore. This resulted in evasion of tax of Rs. 2.08 crore. Besides, penalty of Rs. 3.91 crore was also leviable.

(Paragraph 2.2.8.2)

- In the absence of a mechanism for monitoring the receipt of the returns, the assessing officers could not detect non-submission of returns by 11,816 dealers between May 2005 and March 2009 and consequently penalty of Rs. 372.21 crore could not be levied.

(Paragraph 2.2.9.4)

- In the absence of a mechanism to check input tax credit claimed by the dealers coupled with the failure to scrutinise returns effectively, the department failed to detect excess claim of input tax credit of Rs. 30.40 crore by 69 dealers.

(Paragraph 2.2.11)

- Three bottling plants sold 26,84,292 cases of liquor, but tax of Rs. 34.20 crore was not levied. Further, the State Government had to suffer loss of revenue of Rs. 4.15 crore due to the delay in implementation of VAT on liquor.

(Paragraphs 2.2.12.1 & 2.2.12.2)

- Due to the implementation of defective tax remission scheme for new industries, State Government had to pay Rs. 7.98 crore from its exchequer.

(Paragraph 2.2.14)

- There was loss of revenue of Rs. 73.56 lakh due to non-deduction of tax at source. Further, Rs. 62.09 lakh though deducted at source; was not deposited into the Government account.

(Paragraph 2.2.16.1)

- The department failed to prefer claim of compensation due to the implementation of VAT which led to loss of revenue of Rs. 247.49 crore.

(Paragraph 2.2.20)

Two companies purchased goods at concessional rate for use in manufacture of cement but utilised the goods for other purposes resulting in non-levy of tax of Rs. 63. 70 lakh and penalty of Rs. 1 crore.

(Paragraph 2.6)

Five dealers utilised fake 'C' forms and evaded tax of Rs. 19.21 lakh on which penalty of Rs. 38.42 lakh was also leviable.

(Paragraph 2.8)

Levy of tax at the rate of eight *per cent* against the leviable rate of twelve *per cent* on turnover of Rs. 1.33 crore led to short levy of tax of Rs. 4.91 lakh and interest of Rs. 3.70 lakh.

(Paragraph 2.9)

A dealer purchased cement valued at Rs. 1.05 crore at concessional rate which was not included in the certificate of registration and evaded tax of Rs. 13.09 lakh. Beside penalty of Rs. 26.18 lakh was also leviable.

(Paragraph 2.10)

Irregular grant of authorisation certificate led to undue exemption of Rs. 15.22 lakh.

(Paragraph 2.14)

Non-forfeiture of tax of Rs. 33.20 lakh irregularly collected on exempted goods.

(Paragraph 2.15)

Interstate sale of Rs. 69.88 crore not supported by declaration form was irregularly exempted resulting in non-levy of tax of Rs. 8.39 crore and interest of Rs. 6.92 crore.

(Paragraph 2.16)

Incorrect deduction of taxable turnover of Rs. 2.35 crore led to short levy of tax of Rs. 18.80 lakh.

(Paragraph 2.25)

3. OTHER TAXES AND DUTIES

Two dealers concealed turnover of Rs. 86 lakh and evaded tax of Rs. 8.60 lakh; besides interest of Rs. 3.05 lakh and penalty of Rs. 12.90 lakh was additionally leviable.

(Paragraph 3.4)

Inaction of the assessing officer led to loss of revenue of Rs. 2.87 crore.

(Paragraph 3.5)

Two lessees acquired immovable property of Rs. 3.23 crore and evaded stamp duty of Rs. 1.21 crore.

(Paragraph 3.7)

4. STATE EXCISE

A Review of "**Receipts from State Excise**" revealed the following irregularities:

- There was no mechanism to ensure that the liquor manufactured in the State conformed to prescribed standards as there was no departmental laboratory.

(Paragraph 4.2.7)

- Due to the absence of a definition of 'cost price' in the Meghalaya Excise Act, the element of import fee was not included in the price for calculating the excise duty leading to loss of Rs. 30.32 crore.

(Paragraph 4.2.8)

- The Department failed to inspect licensed premises at regular intervals and set up excise check gates which led to loss of Rs. 2.98 crore.

(Paragraph 4.2.9)

- There was abysmally low detection of excise default cases, the shortfall ranged between 79.20 and 87.48 *per cent* against targets.

(Paragraph 4.2.15)

- Excise duty of Rs. 33.10 crore was not paid by three bottling plants which indented spirits for manufacture of the IMFL.

(Paragraph 4.2.21)

5. TAXES ON MOTOR VEHICLES

Rs. 3.71 crore was deposited into Government account after a lapse of 19 months resulting in loss of interest of Rs. 44.29 lakh.

(Paragraph 5.3)

Non-levy of fine of Rs. 271.80 crore on 3,58,992 commercial trucks for carrying excess load beyond maximum permissible limit.

(Paragraph 5.4)

Delay in deployment of enforcement staff in a private weighbridge as stipulated in the agreement led to loss of revenue of Rs. 20.83 lakh.

(Paragraph 5.5)

Sale of vehicles without valid registration led to non-levy of penalty of Rs. 2.56 lakh.

(Paragraph 5.6)

6. FOREST RECEIPTS

Export of limestone without transit pass fee resulted in non realisation of revenue of Rs. 46.85 lakh.

(Paragraph 6.3)

Forest royalty of Rs. 1.11 crore collected by the Meghalaya Government construction company from contractors remained undeposited.

(Paragraph 6.4)

Illicit felling and removal of 510.769 cum of timber from reserve forests led to loss of revenue of Rs. 23.72 lakh.

(Paragraph 6.6)

Incorrect application of rate on 11,565.35 cum of sand, 20,813.71 cum of stone and 52,053.60 cum of clay led to short realisation of royalty of Rs. 10.49 lakh.

(Paragraph 6.8)

7. RECEIPTS ON MINES AND MINERALS

Lack of co-ordination between two departments led to non-realisation of revenue Rs. 68.30 lakh.

(Paragraph 7.3)

Delay in implementation of revised rate of royalty led to loss of revenue of Rs. 20.38 crore.

(Paragraph 7.5)

Failure of the Mines and Minerals Department to prevent unauthorised export of coal and lime stone led to the loss of revenue of Rs. 13.73 crore.

(Paragraph 7.6)

There was short realisation of royalty and cess on lime stone of Rs. 6.18 crore.

(Paragraph 7.7)

CHAPTER 1: GENERAL

CHAPTER 1: GENERAL

1.1 Trend of revenue receipts

1.1.1 The tax and non-tax revenue raised by the Government of Meghalaya 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:

Table 1.1

(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[1]	207.73	252.67	304.74	319.10	369.44
	• Non-tax revenue	133.49	146.01	184.37	199.35	225.31
	Total I:	**341.22**	**398.68**	**489.11**	**518.45**	**594.75**
II.	**Receipts from Government of India**					
	• State's share of divisible Union taxes	269.04	350.57	447.18	564.07	595.23
	• Grants-in-aid	935.87	997.69	1,205.90	1,358.86	1,620.66
	Total II:	**1,204.91**	**1,348.26**	**1,653.08**	**1,922.93**	**2,215.89**
III.	**Total receipts of the State government**	**1,546.13**	**1,746.94**	**2,142.19**	**2,441.38**	**2,810.64**
IV.	**Percentage of I to III**	**22.07**	**22.82**	**22.83**	**21.24**	**21.16**

The above table indicates that during the year 2008-09, the revenue raised by the State Government was 21.16 *per cent* of the total revenue receipts (Rs. 2,810.64 crore) against 21.24 *per cent* in the preceding year. The balance 78.84 *per cent* of receipts was from the Government of India.

[1] For details, please see statement No.11 : Detailed accounts of revenue by minor heads in the Finance Accounts of Government of Meghalaya 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 this table.

1.1.2 The non-plan grants received by the State from the Government of India during the period 2004-05 to 2008-09 are mentioned below:

Table 1.2

(Rupees in crore)

Year	Amount of non-plan grants
2004-05	360.82
2005-06	406.03
2006-07	472.47
2007-08	461.02
2008-09	439.92

The share of non-plan grants during 2008-09 was 27.14 *per cent* of the total grants-in-aid received from the Government of India. Compared to 2004-05, the non-plan grants of the State increased by 21.92 *per cent* mainly due to increase in the receipt of non-plan revenue deficit grants from Rs. 321.83 crore in the year 2004-05 to Rs. 355.78 crore in the year 2008-09.

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

Table 1.3

(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/VAT	106.35	159.65	187.78	216.89	271.07	(+) 25
	Central sales tax	19.84	13.72	28.04	18.01	10.76	(-) 40
2.	State excise	62.70	59.16	53.95	58.62	69.79	(+) 19
3.	Stamps and registration fees	4.56	5.48	6.49	5.99	5.54	(-) 8
4.	Taxes and duties on electricity	0.03	0.04	0.03	0.03	0.03	Nil
5.	Taxes on vehicles	7.45	8.73	9.34	11.35	13.21	(+)16
6.	Taxes on goods and passengers	2.66	2.76	2.79	3.58	3.31	(-) 8
7.	Other taxes on income and expenditure, taxes on professions, trades, callings and employments, *etc.*	1.02	1.17	9.52	1.47	(-) 6.47	(-) 540
8.	Other taxes and duties on commodities and services	2.83	1.63	1.22	1.04	1.70	(+) 63
9.	Land revenue	0.29	0.33	5.58	2.12	0.50	(-) 76
Total		**207.73**	**252.67**	**304.74**	**319.10**	**369.44**	

The reasons for increase/decrease in 2008-09 over 2007-08 as furnished by the concerned departments are mentioned below:

Sales tax/VAT: The increase was attributed to more receipts under surcharge on sales tax, sale of crude oil, trade tax and other receipts.

State excise: The increase was attributed to more receipts under malt liquor.

Taxes on goods and passengers: The decrease was attributed to decrease in receipts from tolls on roads and passenger tax collection.

Land revenue: The decrease was attributed to decrease in receipt under land revenue tax and other receipts.

The other departments did not inform (February 2010) the reasons for variation, despite being requested (October 2009).

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

Table 1.4

(Rupees in crore)

Sl. no.	Head of revenue	2004-05	2005-06	2006-07	2007-08	2008-09	Percentage of increase (+) or decrease (-) in 2008-09 over 2007-08
1.	Interest receipts	7.75	6.67	13.36	15.38	17.82	(+) 16
2.	Dairy development	1.25	0.79	0.13	0.04	0.04	Nil
3.	Forestry and wildlife	14.62	15.30	16.66	15.60	17.36	(+) 11
4.	Non-ferrous mining and metallurgical industries	90.26	97.56	109.03	123.66	132.73	(+) 7
5.	Miscellaneous general services (including lottery receipts)	4.22	7.92	17.96	18.98	24.13	(+)27
6.	Education, sports, arts and culture	0.45	0.55	0.91	0.53	0.93	(+)75
7.	Medical and public health	0.61	0.70	1.08	0.56	0.74	(+) 32
8.	Co-operation	0.56	0.57	0.38	0.93	0.09	(-) 90
9.	Public works	5.10	4.33	5.11	4.24	6.70	(+)58
10.	Police	2.26	3.65	3.54	1.48	1.59	(+) 7
11.	Other administrative services	0.75	1.21	8.91	3.58	13.53	(+)278
12.	Other agricultural programmes	0.49	0.61	0.82	0.34	1.10	(+)224
13.	Crop husbandry	1.76	1.99	2.21	2.38	3.22	(+)35
14.	Animal husbandry	1.22	1.32	1.56	1.47	1.37	(-)7
15.	Others	2.19	2.84	2.71	10.18	3.96	(-)61
Total		**133.49**	**146.01**	**184.37**	**199.35**	**225.31**	

The reasons for increase/decrease in 2008-09 over 2007-08 as furnished by the concerned departments are mentioned below:

Interest receipts: The increase was attributed to realisation of more interest from investment of cash balances and other receipts.

Non-ferrous mining and metallurgical industries: The increase was attributed to increase in receipts under mineral concession fees, rents and royalties and Mines Department.

Miscellaneous general services: The increase was attributed to more unclaimed deposits, State lotteries & other receipts.

Forestry and wildlife: The increase was attributed to increase in sale of timber and other forest produce.

The other departments did not inform (February 2010) the reasons for variation, despite being requested (October 2009).

1.2 Variations between the budget estimates and the actuals

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

Table 1.5

(Rupees in crore)

Sl. no.	Head of revenue	Budget estimates	Actuals	Variations excess (+) or shortfall (-)	Percentage of variation
1.	Land revenue	0.39	0.50	(+) 0.11	28
2.	Sales tax/VAT	285.42	281.83	(-) 3.59	1
3.	State excise	71.57	69.79	(-) 1.78	2
4.	Stamps and registration fees	9.50	5.54	(-) 3.96	42
5.	Taxes and duties on electricity	0.05	0.03	(-) 0.02	40
6.	Taxes on vehicles	11.62	13.21	(+) 1.59	14
7.	Taxes on goods and passengers	3.39	3.31	(-) 0.08	2
8.	Forestry and wildlife	19.27	17.36	(-) 1.91	10
9.	Non-ferrous mining and metallurgical industries	135.69	132.73	(-) 2.96	2

The concerned departments did not inform (February 2010) the reasons for variations despite being requested (October 2009).

1.3 Cost of collection

The gross collection in respect of principal revenue receipt heads, expenditure incurred on collection and percentage of such expenditure to gross collection during the years 2006-07 to 2008-09 alongwith the all India average percentage of expenditure on collection for 2007-08 are mentioned below:

Table 1.6

Sl. no.	Head of revenue	Year	Collection (Rs. in crore)	Expenditure on collection of revenue (Rs. in crore)	Percentage of expenditure on collection	All India average percentage for the year 2007-08
1.	Sales Tax/VAT	2006-07	215.82	3.58	1.65	0.83
		2007-08	234.89	4.09	1.74	
		2008-09	281.83	4.46	1.58	
2.	State Excise[2]	2006-07	53.96	3.95	7.32	3.27
		2007-08	58.62	4.42	7.54	
		2008-09	69.79	6.21	8.90	
3.	Taxes on vehicles	2006-07	9.34	2.41	25.80	2.58
		2007-08	11.35	6.57	57.89	
		2008-09	13.21	3.14	23.77	
4.	Stamp duty and registration fees[2]	2006-07	6.49	0.54	8.32	2.09
		2007-08	5.99	0.60	10.02	
		2008-09	5.54	0.64	11.55	

Thus, the cost of collection for all the above heads of revenue is considerably higher than the all India average. The costs in the cases of Taxes on vehicles and Stamp duty and registration fees are abnormally high and need to be viewed with concern. **The Government needs to take immediate measures to bring down the cost of collection.**

1.4 Arrears in assessments

The details of assessments pending at the beginning of the year 2008-09, cases due for assessment during the year and cases disposed during the year and number of pending cases at the end of the year, as furnished by the department in respect of sales tax and taxes on motor spirits are mentioned below:

Table 1.7

Names of tax	Opening balance of cases pending assessment	Cases due for assessment during the year	Total assess-ment due	Cases finalised during the year	Balance cases pending at the end of the year	Percentage of column 5 to 4
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Sales tax/ Central sales tax/Luxury tax	2,77,800	19,031	2,96,831	6,787	2,90,044	2.29
Motor spirits tax	10,730	190	10,920	73	10,847	0.67
Total	**2,88,530**	**19,221**	**3,07,751**	**6,860**	**3,00,891**	**2.23**

Thus, the finalisation of pending cases during 2008-09 was very low. **The Government needs to take quick action to finalise the pending assessment cases.**

[2] No minor head showing collection charges in respect of these heads available in the Finance Accounts, hence the figures are as furnished by the department.

1.5 Arrears of revenue

The arrears of revenue as on 31 March 2009 in respect of some principal heads of revenue amounted to Rs. 89.82 crore of which Rs. 7.69 crore was outstanding for more than five years as mentioned below:

Table 1.8

(Rupees in crore)

Sl. no.	Head of revenue	Amount outstanding as on 31 March 2009	Amount outstanding for more than five years as on 31 March 2009
1.	Sales tax	3.07	--
2.	Motor spirits	0.24	--
3.	Value added tax	0.30	--
4.	Central Sales Tax	38.48	--
6.	State excise	13.31	7.69
7.	State lottery	34.42	--
Total		**89.82**	**7.69**

The position of arrears of revenue at the end of 2008-09 in respect of land revenue, environment and forests, mining and geology and transport departments was not furnished (February 2010) by the concerned departments despite being requested (June 2009).

1.6 Failure to enforce accountability and protect interest of the Government

The Accountant General (Audit), Meghalaya, Shillong conducts periodic inspection of the various offices of the Government departments to test check the correctness of assessments, levy and collection of tax and non-tax receipts, and verify the maintenance of accounts and records as per the Acts, Rules and procedures prescribed by the Government. These inspections are followed up with the inspection reports (IRs) issued to the heads of offices inspected with copies to the higher authorities. Serious irregularities noticed in audit are also brought to the notice of the Government/head of the department by the office of the Accountant General (Audit), Meghalaya, Shillong. A half yearly report regarding pending IRs is sent to the Secretaries of the concerned Government departments to facilitate monitoring and settlement of audit observations raised in these IRs through the intervention of the Government.

IRs issued upto December 2008 pertaining to the offices under sales tax, state excise, land revenue, motor vehicles tax, passengers and goods tax, other taxes, forest, stamps and registration, state lottery, geology and mining departments disclosed that 281 IRs involving money value of Rs. 979.91 crore remained unsettled at the end of June 2009. Of these, 120 IRs containing 220 observations involving money value of Rs. 109.66 crore had not been settled for more than five years.

In respect of 20 IRs involving money value of Rs. 257.81 crore issued upto March 2009, even the first reply required to be received from the department/ Government has not been received (February 2010).

The report regarding position of old outstanding IRs/paragraphs was reported to the Government in July 2009; their reply has not been received (February 2010).

1.7 Response of the departments to draft paragraphs

The draft paragraphs are forwarded to the secretaries of the concerned departments through demi official letters drawing their attention to the audit findings and requesting them to send their response within six weeks. The fact of non receipt of replies from the departments is invariably indicated at the end of each such paragraph included in the Audit Report.

Out of 45 audit paragraphs and two reviews proposed to be included in the Report of the Comptroller and Auditor General of India for the year ended March 2009 were forwarded to the Secretaries of the respective departments between April 2009 and October 2009 through demi official letters. They furnished replies to only twelve paragraphs and two reviews up to February 2010. The remaining 33 paragraphs have been included without the response of the Government.

1.8 Recovery of revenue of accepted cases

During the years 2003-09, the departments/Government accepted audit observations involving Rs. 2,330.80 crore of which only Rs. 4.63 crore had been recovered till January 2010 as mentioned below:

Table 1.9

(Rupees in crore)

Year of AR	Total money value	Accepted money value	Recovery made
2003-04	276.79	3.20	0.26
2004-05	83.32	23.02	0.24
2005-06	262.43	10.90	0.05
2006-07	6,847.81	736.18	3.98
2007-08	829.85	729.73	--
2008-09	1,175.55	827.77	0.10
Total	**9,475.75**	**2,330.80**	**4.63**

1.9 Follow up on Audit Report – summarised position

With a view to ensuring accountability of the executive in respect of all the issues dealt with in the various Audit Reports, the Public Accounts Committee (PAC) issued instructions in July 1993 for submission of *suo motu* replies by the concerned departments from 1986-87 onwards. The PAC specified the time frame as six weeks upto 32nd Report and six months in the 33rd Report for submission of action taken notes (ATN) on the recommendations of the PAC.

A review of outstanding ATNs as of October 2009 on the paragraphs included in the Reports of the Comptroller and Auditor General of India disclosed that the departments of the State government had not submitted *suo motu* explanatory notes on 239 paragraphs of Audit Reports for the years from 1992-93 to 2007-08 in respect of revenue receipts as mentioned below:

Table 1.10

Year of Audit Report	Date of presentation of the Audit Report to the Legislature	Number of para-graphs/reviews included in the Audit Report		Number of para-graphs/reviews for which *suo motu* replies are awaited	
		Para-graphs	Reviews	Para-graphs	Reviews
1992-93	16 September 1994	6	...	6	...
1993-94	08 September 1995	8	...	...	...
1994-95	20 September 1996	10	...	4	...
1995-96	07 April 1997	14	2	3	2
1996-97	12 June 1998	21	1	17	1
1997-98	09 April 1999	8	1	1	...
1998-99	12 April 2000	8	1	8	1
1999-2000	07 December 2001	23	2	22	2
2000-01	01 April 2002	20	1	18	1
2001-02	20 June 2003	25	...	8	...
2002-03	11 June 2004	30	1	30	1
2003-04	14 October 2005	29	...	27	...
2004-05	27 March 2006	23	...	5	...
2005-06	19 April 2007	33	1	6	1
2006-07	12 May 2008	34	3	30	3
2007-08	24 June2009	41	1	41	1
Total		**333**	**14**	**226**	**13**

The departments failed to submit ATN on 29 out of 30 paragraphs pertaining to revenue receipts for the years from 1982-83 to 1997-98 on which recommendations had been made by the PAC in their 16th to 33rd Reports presented before the State Legislature between December 1988 and June 2000, as mentioned below:

Table 1.11

Year of Audit Report	Number of paragraphs on which recommendations were made by the PAC but ATNs are awaited	Number of PAC Report in which recommendations were made
1982-83	2	16th
1984-85	9	26th 19th
1987-88	1	26th
1988-89	1	20th
1989-90	1	20th
1990-91	11	26th 20th
1991-92	3	26th 20th
1997-98	1	33rd
Total	**29**	

Thus, failure of the concerned departments to comply with the instructions of the PAC, defeated the objective of ensuring accountability of the executive.

1.10 Audit committee meetings

In order to expedite the settlement of the outstanding audit observations contained in the IRs, departmental audit committees have been constituted by the Government. These committees are chaired by the secretaries of the concerned administrative department and their meetings are attended by the concerned officers of the state Government and officers of the AG.

In order to expedite clearance of the outstanding audit observations, it is necessary that the audit committees meet regularly. During the year 2008-09, no audit committee meeting was held, despite being requested. Thus, the concerned departments failed to take advantage of the arrangement of audit committees.

1.11 Results of audit

Test check of the records of sales tax, state excise, motor vehicles tax, other tax receipts, forest receipts and other non-tax receipts conducted during the year 2008-09 revealed underassessment/short/non-levy/loss of revenue amounting to Rs. 1,472.93[3] crore in 234 cases. During the year, the departments accepted assessments/short/non levy/loss of revenue of Rs. 1109.48 crore in 30 cases pointed out in 2008-09 and earlier years, and recovered Rs. 30.81 lakh.

This Report contains 45 paragraphs and two reviews involving Rs. 1,175.55 crore. The departments/Government accepted audit observations involving Rs. 827.77 crore, of which Rs. 10.28 lakh had been recovered. Audit observations with a total revenue effect of Rs. 18.91 crore have not been accepted by the departments, but their contention have been found to be at variance with the facts or legal position and these have been appropriately commented upon in the relevant paragraphs. No reply has been received in the remaining cases (February 2010). These are discussed in succeeding chapters II to VII.

[3] 232 paras money value = Rs. 649.99 crore
2 reviews money value = Rs. 822.94 crore

CHAPTER II: SALES TAX/VAT

CHAPTER II: SALES TAX/VAT

2.1 Results of audit

Test check of the assessment cases and other records relating to the Taxation Department during the year 2008-09 revealed evasion, underassessment, non/short levy of tax and concealment of turnover, irregular grant of exemption etc., amounting to Rs. 809.92 crore in 102 cases which can be categorised as under.

(Rupees in crore)

Sl. no.	Category	Number of cases	Amount
1.	**Transition from Meghalaya Sales Tax to VAT**	01	754.28
2.	Irregular grant of exemption	13	16.37
3.	Non/short levy of penalty	12	12.13
4.	Evasion of tax	13	9.05
5.	Turnover escaped assessment	09	5.18
6.	Loss of revenue	08	1.35
7.	Underassessment of tax	09	1.34
8.	Non/short levy of interest	06	0.70
9.	Other irregularities	31	9.52
Total		**102**	**809.92**

During the year 2008-09, the department accepted irregularities in 15 cases and one review amounting to Rs. 765.02 crore pertaining to 2008-09. The department recovered Rs. 11.13 lakh in four cases during the year.

A review on **'Transition from Meghalaya Sales Tax to VAT'** involving Rs. 754.28 crore and a few illustrative audit observations involving Rs. 30.71 crore are mentioned in the succeeding paragraphs.

2.2 Transition from Sales Tax to VAT in Meghalaya

Highlights

- The growth rate of revenue over the previous year after implementation of VAT touched a high of 50.12 *per cent* in 2005-06. Although the rate had fallen in the subsequent years, it still recorded a healthy 24.98 *per cent* growth in 2008-09.

(Paragraph 2.2.6.1)

- The department failed to detect and register 606 dealers who sold taxable goods of Rs. 27.44 crore. This resulted in evasion of tax of Rs. 2.08 crore. Besides, penalty of Rs. 3.91 crore was also leviable.

(Paragraph 2.2.8.2)

- In the absence of a mechanism for monitoring the receipt of the returns, the assessing officers could not detect non-submission of returns by 11,816 dealers between May 2005 and March 2009 and consequently penalty of Rs. 372.21 crore could not be levied.

(Paragraph 2.2.9.4)

- In the absence of a mechanism to check input tax credit claimed by the dealers coupled with the failure to scrutinise returns effectively, the department failed to detect excess claim of input tax credit of Rs. 30.40 crore by 69 dealers.

(Paragraph 2.2.11)

- Three bottling plants sold 26,84,292 cases of liquor, but tax of Rs. 34.20 crore was not levied. Further, the State Government had to suffer loss of revenue of Rs. 4.15 crore due to the delay in implementation of VAT on liquor.

(Paragraphs 2.2.12.1 & 2.2.12.2)

- Due to the implementation of defective tax remission scheme for new industries, State Government had to pay Rs. 7.98 crore from its exchequer.

(Paragraph 2.2.14)

- There was loss of revenue of Rs. 73.56 lakh due to non-deduction of tax at source. Further, Rs. 62.09 lakh though deducted at source; was not deposited into the Government account.

(Paragraph 2.2.16.1)

- The department failed to prefer claim of compensation due to the implementation of VAT which led to loss of revenue of Rs. 247.49 crore.

(Paragraph 2.2.20)

2.2.1 Introduction

The empowered committee of State Finance Ministers constituted by the Government of India in its meeting held on 23 January 2002 unanimously decided to introduce VAT in all the States and Un ion Territories with effect from 1 April 2003. The empowered committee issued a white paper (January 2005) defining the basic designs of the state level VAT. The white paper, however, allowed the states to adopt appropriate variations in their VAT Acts, consistent with the basic design. The VAT system which is a destination/consumption based tax system and has provisions for set-off of the tax paid on the previous purchases seeks to address problems of double taxation of commodities, multiplicity of taxes, surcharge and additional surcharge on sales tax etc., in the sales tax structure that resulted in a cascading tax burden.

The MVAT Bill was passed by the State Assembly in March 2003 and got the Presidential assent in February 2005. The Government of Meghalaya repealed the Meghalaya Sales Tax (MST) Act, Meghalaya Finance (Sales Tax) (MFST) Act, Meghalaya Purchase Tax (MPT) Act and enacted the Meghalaya Value Added Tax (MVAT) Act 2003 from 1 May 2005.

Under MVAT Act, goods are classified into five schedules based on their social and economic importance and are taxable at the rates of 'nil', one, four, 12.5 *per cent* and non-VATable goods at the rates as prescribed in the schedule (at first point).

The transitional process from Meghalaya Sales Tax to VAT was reviewed by audit which revealed a number of deficiencies as discussed in the succeeding paragraphs.

2.2.2 Organisational set up

The Principal Secretary, Excise, Registration, Taxation and Stamps Department is the overall incharge of the Taxation Department at the Government level. The Commissioner of Taxes (COT) is the administrative head of the Taxation Department. He is assisted by a Deputy Commissioner of Taxes (DCT) and two Assistant Commissioners of Taxes (ACT). The ACT also functions as the Appellate Authority. At the district level, the Superintendents of Taxes (ST) are entrusted with the work of registration, scrutiny of the returns, collection of tax, levy of interest/penalty, issue of road permit/declaration forms etc. The STs are assisted by the Inspectors of Taxes (IT) for surveys, inspection and other ancillary works in relation to registration, assessments and collection of the taxes. With a view to checking evasion of taxes, the Government has constituted an enforcement branch comprising of one ST and some ITs with jurisdiction over the entire State.

2.2.3 Audit objectives

The review was conducted to ascertain whether

- there was proper planning for implementation of the MVAT Act and the transition from sales tax to VAT wa s effected timely and efficiently.

- organisational structure was adequate and effective.
- the provision of the MVAT Act and the Rules made thereunder were adequate and enforced properly to safeguard the revenue of the state.
- internal control mechanism existed in the department and was adequate and effective to prevent leakage of revenue, and
- the system which has been in place for four years was working efficiently.

2.2.4 Scope of audit

The review was conducted through test check of the records for the years 2005-06 to 2008-09 of the COT and seven out of 10 district STs[4] and two checkposts[5] between May and July 2009. Selection of the assessment records was made after dividing the records in four strata on the basis of the gross turnover[6] of the dealers and 50, 30, 20 and 10 *per cent* of the assessment records were selected from the four strata respectively. Besides, records of the Forest Department, State Legislative Assembly and North Eastern Indira Gandhi Regional Institute of Health and Medical Science were cross checked with the assessment records of the concerned dealers.

2.2.5 Acknowledgement

Indian Audit and Accounts Department acknowledges the cooperation of the Taxation Department in providing the necessary information and records for audit. An entry conference was held on the 11 August 2009 which was attended by the Commissioner and Secretary, Government of Meghalaya, Excise, Registration, Taxation and Stamps (ERTS), the COT and the DCT in which the objective, scope and methodology of audit was explained. The draft review report was sent to the Government/department on the 16 October 2009 for their response. An exit conference was held on the 14 December 2009 with the Commissioner and Secretary, ERTS, the COT and the ACT in which the results of audit and the recommendations were discussed. The Government/department has accepted most of the audit findings/recommendations and assured to take action. The cases in which they have furnished specific replies or have countered the contention of audit, have been appropriately included in this report under the respective paragraphs.

---

4 ST Shillong Circles I, II, III, IV, VI, Purchase Tax, Nongpoh, Nongstoin and Jowai.

5 Byrnihat and Umkiang.

6 1st stratum-Rs. 10 crore and above.
2nd stratum-Rs. 1 crore and above but below Rs. 10 crore.
3rd stratum-Rs. 50 lakh and above but below Rs. 1 crore.
4th stratum-below Rs. 50 lakh.

Audit findings

2.2.6 Financial analysis

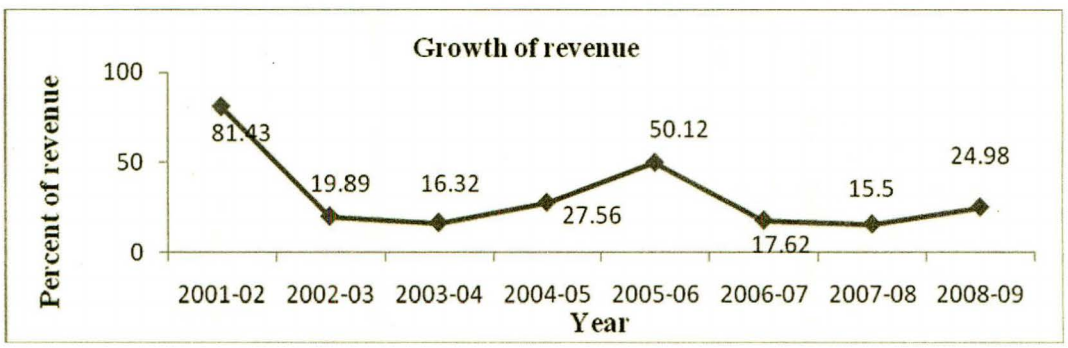
2.2.6.1 Pre-VAT and post-VAT tax collection

The comparative position of pre-VAT (200 1-02 to 2004-05) and post-VAT (2005-06 to 2008-09) tax collection and the growth rate in each year is furnished below.

Table No. 1

Sl. no.	Pre-VAT			Post-VAT		
	Year	Actual collection[1] (Rs. in crore)	Percentage of growth	Year	Actual collection[2] (Rs. in crore)	Percentage of growth
1.	2001-02	59.78	81.43	2005-06	159.65	50.12
2.	2002-03	71.67	19.89	2006-07	187.78	17.62
3.	2003-04	83.37	16.32	2007-08	216.89	15.50
4.	2004-05	106.35	27.56	2008-09	271.07	24.98
Average growth			**36.30**			**27.06**

Chart No. 1



Thus, the average growth rate during 2001-02 to 2004-05 was 36.30 *per cent* while the average growth rate for 2005-06 to 2008-09 was 27.06 *per cent*. The growth rate of revenue over the previous year after implementation of VAT touched a high of 50.12 *per cent* in 2005-06. Although the rate had fallen in the subsequent years, it still recorded a healthy 24.98 *per cent* growth in 2008-09.

2.2.6.2 Reconciliation of revenue collected

The Budget manual stipulates periodical reconciliation of the receipts as per the books of the department with those booked by the Accountant General (Accounts and Entitlements) by the controlling office.

It was, however, noticed that no reconciliation was carried out during the last 10 years and as such, there was wide variation between the departmental figures and figures booked by the AG (A&E). As an instance, the variations between the

7 Collection under Sales Tax (MST+MFST+PT), and Motor Spirits and Lubricants Acts.

8 Collection under Sales Tax (MST+MFST+PT) upto 30.4.2009 and collection of arrears thereafter, VAT and Motor Spirits and Lubricants Acts.

figures relating to collection under the minor head 'sales of motor spirits and lubricants' as reflected in the Departmental records and Finance Accounts are shown below.

Table 2

(Rs. in crore)

Year	Departmental records	Finance Accounts	Difference
2004-05	50.05	43.21	6.84
2005-06	74.19	89.98	(-)15.79
2006-07	77.29	1.83	75.46
2007-08	92.06	72.74	19.32
2008-09	76.83	27.46	49.37

The Government needs to issue suitable guidelines, making it mandatory for the controlling offices to carry out reconciliation as per the extant orders.

2.2.7 Preparedness and transitional process

2.2.7.1 Computerisation of the Taxation Department and the check gates and their interlinking

Before implementation of VAT, computerisation of the Department was completed and the necessary hardware, power backup facilities and VSAT connectivity were put in place in all the unit offices. Provision of Disaster Recovery System was installed at the National Data Centre of the National Informatics Centre.

Scrutiny revealed that though more than four years have elapsed, all the modules of the software could not be implemented. The registration, return, *challan* and way bill modules have been operationalised while other modules for capturing data on the tax deducted at source, online connectivity with other offices, e-filing of the returns were yet to be implemented. Online connectivity of only one check post at Byrnihat with the Commissionerate and the unit offices has been completed while interlinking of the remaining check posts was still being executed. Due to this, the department could not effectively track the interstate movement of the goods and check evasion of tax.

The Government may initiate steps to expedite interlinking of the remaining checkposts with the commissioner and other unit offices. Also, the remaining modules of software may be developed and made operational at the earliest.

2.2.7.2 Creation of manuals

Although the MVAT Bill was passed by the State Legislature in March 2003 and VAT has been in place for more than four years, the department is yet to prepare a VAT manual. As a result, the various wings of the department do not have a reference point for effective practices.

The Government may expedite the preparation of the VAT manual.

2.2.7.3 Completion of assessments under the repealed Acts

Audit observed that though the department was aware of the implementation of VAT well in advance, no time limit has been prescribed for completion of the assessments under the repealed Acts. It was noticed that out of a total of 99,643 pending assessments, only 20,245 assessments were completed upto 31 March 2009. In addition to these pending assessments, large number of assessments, scrutiny of the returns have also become due under the MVAT Act and unless the department takes immediate concerted action, it will be difficult for it to cope with the huge backlog. Also, a large quantum of revenue may be remaining to be collected because of the pending assessments.

The Government may consider prescribing specific timeframe for completion of the assessments under the repealed Acts.

2.2.8 Registration and database of the dealers

2.2.8.1 Carrying forward of the database of the dealers under the repealed Acts and confirmation of the securities provided by them

Under the MVAT Rules, in case of the dealers registered under the repealed Acts, the appropriate registering authority shall issue a fresh certificate of registration in lieu of the existing certificate. However, in cases where fresh certificate of registration cannot be granted immediately, the registering authority may permit such dealer to continue to remain registered under the MVAT Act till the dealer is registered formally within 121 days from the date of receipt of such application and beyond that with the permission of the higher authority. **It was noticed that there is no mechanism to check the status of continuity of business of the unregistered dealers and the dealers who had opted not to register under the MVAT Act. Absence of it may lead to evasion of tax.**

Scrutiny of the records revealed that out of 5,658 dealers registered under the repealed Acts, 2,232, 449, 974 and 517 dealers were registered under the MVAT Act during 2005-06, 2006-07, 2007-08 and 2008-09 respectively and the remaining 1,486 dealers neither applied for registration nor did the registering authority initiate any action to register them. Further, 1,940 dealers were irregularly registered belatedly after a period ranging between 11 and 47 months without the permission of the higher authority as required under the provision of the Act. Though in these cases, any sales made by the dealers and tax realised on such sales before the registration under the MVAT Act was irregular and liable for penal action, yet the STs did not initiate any action to ascertain the sales made during the intervening period. Thus, evasion of tax in these cases cannot be ruled out.

After this was pointed out, the Government stated (November 2009) that the cases of the dealers who had not applied for registration would be looked into after conducting necessary inquiry. The Government added that in respect of the dealers registered under the repealed Act and who were granted MVAT registration certificates belatedly; their cases would be reviewed for penal action.

The Government may quickly investigate the turnover of these dealers during the intervening period and levy tax, interest and penalty as per the provisions of the MVAT Act.

2.2.8.2 Registration of new dealers

Under the MVAT Act, no dealer liable to pay tax shall carry on his business as a dealer unless he has been registered and possesses a certificate of registration (RC) within 30 days from the date of liability. If any dealer, liable to pay tax, fails to get himself registered, the prescribed authority shall register him and direct him to pay, by way of penalty, in addition to the amount of tax so assessed, a sum equal to the amount of assessed tax and not less than Rs. 5,000. To identify the unregistered dealers, the COT has ordered the ITs to conduct regular surveys and maintain a survey register. This register is to be verified by the concerned ST periodically and note his remarks. While conducting inspection of the office, the ACT/DCT concerned should verify the register. A monthly report of the results of the surveys conducted should be submitted to the COT for reviewing the performance of the ITs. Besides, the enforcement branch is also responsible for detection of the unregistered dealers and bring them under the tax net.

Audit scrutiny, however, revealed that the department has not prescribed any definite time frame and target for conducting survey for detection of unregistered dealers.

Deficiencies noticed in the system of detection of unregistered dealers are discussed below.

- Data collected from 10 unit offices revealed that only 382 dealers were registered on the basis of surveys conducted by the ITs during 2005-06 to 2008-09.
- Survey registers were not verified by the concerned ST and the ACTs/DCTs never visited the unit offices during the last four years.
- No monthly report was sent to the COT. As such, the performance of the ITs was not reviewed at all.
- The EB during 2005-2006 to 2008-09, could not detect even a single dealer who was not registered. This is inexplicable as audit had found through cross verification of records of two forest divisions and scrutiny of the records of five unit offices that though 606 dealers/works contractors did not apply for registration and carried out works contract/sold taxable goods, the concerned officer-in-charge of the units could not detect the dealers and register them. This resulted in non/short realisation of tax of Rs. 5.99 crore including penalty as mentioned in the table below.

Table 3

(Rs. in lakh)

Sl. no.	Number of dealer Name of unit	Item	Turnover Period of transaction	Tax/penalty	Total dues
1.	1 ST, Jowai	Lime stone	213.00 May 2005 to June 2006	8.51 8.51	17.02
The Divisional Forest Officer, Jaintia Hills Division sold 4,73,040 MT of lime stone to the permit holders, but did not apply for registration under the VAT Act. Th e concerned ST also did not initiate any action to register the division.					
2.	575[9] ST, Shillong and Jowai	Sandstone and clay	368.00 August 2005 and December 2008	45.66 45.66	91.32
3.	15 STs, Circle I, III, IV, VI, Shillong and Jowai.	Taxable goods	1157.00 May 2005 and March 2009	145.00 145.00	290.00
590 unregistered dealers supplied/sold sand stone, clay and other taxable goods. The concerned STs could not detect this and register them.					
4.	13 Circle I, Shillong	Works contract	333.00 March 2006 and March 2007	8.79 33.27	42.06
13 unregistered dealers constructed retail outlets of M/s Numaligarh Refinery Limited which escaped notice of the concerned ST. The Numaligarh Refinery Limited, however, deducted tax of Rs. 24.48 lakh instead of Rs. 33.27 lakh.					
5.	2 Circles III and IV, Shillong	Works contract	673.00 May 2005 and October 2007	-- 159.00	159.00
Though the dealers were registered, the item 'works contract' was not included in their certificates of registration. Thus, the dealers while executing works contract, falsely represented that the item 'works contract' was covered by their RCs and thus, liable to pay penalty.					
Total					**599.40**

The Government needs to fix targets for EB and ITs for detection of unregistered dealers through regular surveys and gathering of information from different sources.

2.2.8.3 Periodic analysis of the dealers below the threshold

Under the MVAT Act, every dealer whose turnover exceeds Rs. 1 lakh is liable to pay the tax. Dealers/works contractors with turnover not exceeding Rs. 5 lakh can opt to pay the tax at one *per cent* of the gross turnover under the Composition Scheme. Above this limit, the dealers are required to be registered and pay the tax at the prescribed rate.

Scrutiny of the records, however, revealed that the eligibility for tax liability under the composition scheme was ascertained on the basis of the returns submitted by the dealers only. **There was no system instituted for periodic scrutiny of the books of accounts to verify whether a dealer/contractor has crossed the above threshold.**

After this was pointed out, the Government stated (November 2009) that the composition scheme for Works contract was being amended. The reply was silent regarding the dealers other than the works contractors.

---

9 Detected from verification of the records of the Divisional Forest Officers, Khasi Hills and Jaintia Hills Division.

The Government may consider prescribing a system for periodic verification of the books of accounts of the dealers to detect cases of crossing the threshold.

2.2.8.4 Database of dubious/risky dealers

To prevent evasion of tax, a database of dubious dealers needs to be prepared based on their past history on fraud/concealment/usage of fake forms and updated at regular intervals. The database should be made online in the Department's website/TINXSYS, which will facilitate a watch on the dealers. Such a database, if available, can be used while selecting the dealers for audit assessments and consulted before finalising any assessment/scrutinising the returns for effective risk analysis.

2.2.9 Deficiencies in the Act and the Rules

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

2.2.9.1 Deficiencies in the forms for submission of returns

Under Rule 30 of the MVAT Rules, all registered dealers paying the composite tax shall submit a correct and complete return in Form 5 quarterly within 21 days from the close of a quarter. Any other dealer liable to pay tax, but not composite tax, shall submit monthly return and pay due tax within 21 days from the end of the month.

It was, however, noticed that Form 5 is a quarterly return applicable to the dealers making payments of composite tax. No monthly tax return form for the other dealers has been prescribed. Further, in addition to the tax return, a correct and complete annual return has been prescribed in Form 6, but that form also applies to the dealers opting for the composite tax. Due to these anomalies, no dealer submitted the monthly/annual returns during the period 2005-09.

After this was pointed out, the Government stated (November 2009) that a different format for the dealers who opted for the composition scheme would be prescribed.

The Government may immediately prescribe the monthly/annual return forms for the general dealers.

2.2.9.2 Mechanism to monitor filing of the returns

Under the MVAT Act, all the registered dealers shall file returns showing the details of the total turnover, exemption claimed, taxable turnover, output tax due, tax collected, input tax credit availed of, tax due including reverse tax credit, if any, and the tax paid separately for that return period. The return period is monthly in majority of the cases and in some cases quarterly to be filed within 21 days from the end of the month or the close of the quarter as the case may be. In

case of discovery of an error in a return, revised return may be furnished within 60 days from the date of submission of the original return.

Deficiencies noticed in the mechanism for monitoring the filing of the returns are mentioned below:

- Registers for receiving the returns have neither been prescribed nor maintained by any of the STs test checked. As such, it was not possible to ascertain the timely receipt of the returns/filing of the revised returns.
- There was no system of monitoring timely receipt of returns in the unit offices and action taken by the AOs for belated submission of the returns by the COT.
- There was no mechanism to ascertain whether notices were issued to the dealers who had not submitted the returns.

The Government may take appropriate steps for regular monitoring of timely receipt of the returns and prompt action against the defaulters.

2.2.9.3 Scrutiny and verification of the returns

Deficiencies in the scrutiny and verification of the returns noticed in course of this review are discussed below.

- There is no record prescribed to ascertain whether scrutiny of the returns has been carried out and the result of such scrutiny.
- As per the information furnished by the department, during 2005-06, 2006-07, 2007-08 and 2008-09, scrutiny of the returns of only 'nil', 59, 79 and 284 cases respectively had been completed.
- Since none of the dealers furnished the monthly returns or annual returns in case of turnover of more than Rs. 40 lakh alongwith the audit report certified by a CA, the statistical data of the scrutiny of the return as furnished by the department cannot be considered correct.
- No provision was made in the MVAT Rules for submission of the monthly/quarterly and annual report showing scrutiny of the return due, scrutiny completed, returns pending for scrutiny.

Immediate action needs to be taken by the Government to fix norms quantifying the number of scrutiny to be completed by each AO during a particular period including a mechanism for monitoring the compliance of such orders.

2.2.9.4 Result of scrutiny of the returns conducted by audit

Result of independent scrutiny of some selected files of eight STs in Shillong, Jowai and Nongpoh during the course of this review brought out many instances of short levy, excess availing of input tax credit, non/short levy of interest etc. Instances of excess input tax credit are included in the paragraph relating to input tax credit. Remaining cases are discussed in the succeeding paragraphs.

- Under the MVAT Act, any dealer, who without reasonable cause, fails to furnish monthly or annual tax returns within the stipulated time shall be liable to pay penalty of Rs. 100 per day subject to a maximum of Rs. 10,000. Also, the AO will proceed to assess the dealer on best judgment basis.

Test check of the records revealed that 11,816 dealers failed to furnish monthly and annual returns during 2005-06 to 2008-09, but the concerned AOs neither served notices in form 54 nor proceeded to assess them on best judgment basis for the aforesaid period. For non-submission of the returns, penalty of Rs. 372.21 crore was leviable at the minimum rate, but was not levied.

- Under section 40 of the MVAT Act, if a dealer fails to pay the admitted tax within the due date, interest at the rate of two *per cent* per month is leviable on the amount by which the tax paid falls short for the entire period of the default.

It was noticed that 87 dealers paid the admitted tax of Rs. 20.51 crore as disclosed in 490 returns for the period between April 2005 and March 2009 belatedly after delays ranging between 5 days and 35 months. For belated payment of the tax, interest of Rs. 81.03 lakh was leviable at the minimum rate, but was not levied.

- Under the MVAT Act, if a registered dealer fails to pay the amount of the due tax and interest alongwith the return or the revised return, the COT may direct him to pay, in addition to the tax and the interest payable by him, penalty at the rate of two *per cent* per month on the tax and interest so payable.

It was noticed that 87 dealers defaulted in paying the tax and interest of Rs. 21.32 crore as per the returns. For default in payment of the tax, penalty of Rs. 84.23 lakh calculated at two *per cent* on the tax and interest though leviable was not levied.

- Under the MVAT Act, if a dealer conceals the particulars of his turnover or deliberately furnishes inaccurate particulars of such turnover, the COT may accept, by way of composition of offence, a sum not exceeding Rs. 5,000 or double the amount of tax, whichever is greater.

Cross verification of the records of 11 dealers registered under five sales tax units with the particulars of two cement manufacturing units revealed that the dealers purchased 'cement' valued at Rs. 33.63 crore between May 2005 and March 2009. But the dealers neither disclosed the turnover in their returns nor paid any tax. The dealers thus concealed purchase turnover of Rs. 33.63 crore and evaded tax of Rs. 3.69 core. Besides, penalty of Rs. 7.38 crore was also leviable.

- Under Section 61 of the MVAT Act, if a registered dealer collects any amount by way of tax in excess of the tax payable by him, he shall be liable to pay, in addition to the tax, a penalty of an amount equal to twice the sum so collected by way of tax.

It was noticed that though seven dealers collected tax of Rs. 15.13 crore in excess of their tax liability, the AOs did not take any action to forfeit it and deposit in the Government account and levy penalty of Rs. 30.26 crore. This resulted in non-recovery of tax of Rs. 45.39 crore as mentioned in the table below.

Table 4

(Rs in crore)

Sl. No.	Number of dealers Name of the unit	Turnover item	Tax collectible Tax collected	Tax collected in excess Penalty leviable	Total due
1.	A cement manufacturing unit ST, Jowai	147.93 clinker	5.91 18.49	12.58 25.16	37.74
2.	Three dealers ST, Circles III, IV and VI, Shillong	8.44 Taxable goods	1.06 1.51	0.45 0.90	1.35
3.	Three oil companies ST, Circle I,III, Shillong	46.70 lubricants	3.74 5.84	2.10 4.20	6.30
Total					**45.39**

- Under the MVAT Act, if a dealer fails to submit the returns and pay the tax, the AO shall complete the assessment on best judgment, after allowing the dealer an opportunity of being heard.

Test check of the records of the ST, Circle VI, Shillong revealed that a registered dealer purchased taxable goods valued at Rs. 1.63 crore between October 2005 and September 2006 from outside the State. The dealer disclosed turnover of Rs. 40 lakh in his return during the aforesaid period. Thereafter, the dealer neither submitted any return nor paid any tax. Further scrutiny revealed that the dealer was not traceable. Thus, due to non-initiation of the assessments on best judgment there was loss of revenue of Rs. 15.43 lakh.

After the cases were pointed out, the Government while accepting the audit observations stated (November 2009) that necessary steps were being taken to amend the MVAT Rules pertaining to the period of submission of the returns, the returns format, scrutiny of the returns etc.

The Government may consider issuing guidelines, prescribing the points to be checked while scrutinising the returns.

2.2.9.5 Documents to be furnish alongwith the return

Audit scrutiny revealed that though the MVAT Act and the Rules specify the records to be submitted alongwith the monthly and annual returns, these do not provide for submission of vital details like purchases made (inside and outside the State), opening and closing stock/trading and manufacturing accounts as applicable, utilisation of the declaration forms under State/Central Acts etc.

Since majority of the case will be scrutinised on the basis of the returns only, in the absence of these basic documents no meaningful scrutiny would be possible.

The Government may amend the Act and the Rules to make the returns self sufficient.

2.2.10 Tax audit

As per the MVAT Act, the COT shall randomly select dealers for audit assessments by 31 January every year and send the list to the appropriate audit authority. The concerned audit officer shall issue a notice in form 21 and complete the audit assessments with copies to the concerned dealer and the COT.

The Act also provides that no audit assessment shall be made after the expiry of five years from the end of the tax period to which the assessment relates.

Audit scrutiny revealed that although more than four years have elapsed after introduction of the VAT in the State, neither the percentage of the dealers to be selected for audit assessment nor the criteria for such selection have been prescribed. No time frame has also been fixed for completion of the audit assessment.

Cases for the year 2005-06 will be barred by limitation of time by 31 March 2011 and it may not be possible for the department to complete the entire process of prescribing the criteria for selection of dealers, percentage of dealers to be selected, framing the VAT manual/audit team and complete the audit assessments of 2005-06 by March 2011.

After this was pointed out, the Government while admitting the facts stated (November 2009) that an audit team with the DCT as its head had been constituted recently and audit assessments would be taken up only in those cases where the tax period to which the assessments relate are not more than five years old. The reply is not tenable as the Government should gear up to ensure that none of the cases gets time barred leading to non-detection of evasion of taxes.

The Government may immediately prescribe the criteria, timeframe and percentage of the dealers and frame the VAT manual so that the audit assessments can be started immediately in the interest of revenue.

2.2.11 Input tax credit

Under the MVAT Act, input tax credit (ITC) shall be allowed to a registered dealer on the purchase of the taxable goods (other than the goods specified in Schedule V[10] of the Act) within the State from another registered dealer for the purpose specified therein. For this, a dealer has to submit a statement of the purchase in which the invoice number, date, TIN of the dealer effecting sale, description and the value of the goods, VAT charged etc., are required to be entered alongwith the supporting documents. **However, it was observed that there is no column for description of the goods purchased making it difficult to check correct application of rate of tax.**

System of cross verification of the records of selling dealers

Though the MVAT Act provides for submission of tax invoices alongwith the claims for input tax credit, **it was noticed that the tax invoices in support of ITC were not attached with the returns in majority of the cases.** No action was taken by the concerned AOs to obtain the tax invoices before allowing the claims. **Also, neither the Act/Rules nor the department has prescribed any system of cross verification of the input tax credit claims.** Thus, the department was allowing ITC without any supporting documents and further checks.

---

10 Liquor, lottery tickets, molasses, rectified spirit, medicine and drugs.

Cases of irregular allowance of input tax credit detected during the review are mentioned below.

- Test check of eight sales tax unit offices revealed that 66 dealers in their 552 quarterly returns submitted between May 2005 and December 2008 disclosed purchase of goods taxable at four *per cent* and 12 *per cent* amounting to Rs. 247.80 crore from within the state and showed the element of VAT as Rs. 15 crore. The ITC was adjusted against the output tax of Rs. 49.64 crore on the turnover of Rs. 517.64 crore. Further scrutiny of the records, however, revealed that the supporting documents like tax invoice, name of the selling dealer alongwith TIN, value, amount of VAT etc., were not furnished in support of the claim of ITC. The allowance of ITC of Rs. 15 crore without supporting documents was not correct.
- Test check of the records of ST, Jowai revealed that a manufacturing unit purchased goods valued at Rs. 147.93 crore between April 2007 to March 2009 from another unit registered in the same office but claimed ITC of Rs. 18.49 crore instead of Rs. 5.91 crore as admissible. The AO failed to detect the lapse resulting in excess allowance of ITC of Rs. 12.58 crore.
- Scrutiny of the records of the ST, Circle VI showed that a dealer sold lubricants valued at Rs. 19.50 crore during 2005-06 to 2008-09 and collected tax of Rs. 2.44 crore. The dealer claimed ITC of Rs. 2.31 crore against the output tax of Rs. 2.44 crore. Since lubricant is taxable under the Petroleum Taxation Act and, therefore, non-VATable, ITC claim of Rs. 2.31 crore was not admissible.
- A manufacturing unit registered under ST, Nongpoh claimed an ITC of Rs. 2.06 crore on the purchase of raw material valued at Rs. 51.57 crore within the State between October 2006 and July 2008. After adjustment of the output tax and liability of CST of Rs. 1.47 crore, the dealer was entitled to claim a refund of Rs. 59 lakh. But he claimed a refund of Rs. 1.10 crore resulting in excess claim of refund of Rs. 51 lakh which was also allowed by the AO.

The Government may prescribe a system of cross verification of the records of the selling dealers on a random basis before allowing the ITC. They may also consider amending the format of the return to provide for the particulars of the goods in the form.

2.2.12 Deficiencies in the provision relating to goods taxable at the first point

2.2.12.1 Before introduction of the VAT, the sales tax on liquor was being collected as a part of the state excise duty. There was no separate sales tax levied on the liquor. After introduction of the VAT, liquor because taxable at the rate of 20 *per cent* at the point of first sale within the State with effect from 1 May 2005. However, VAT on liquor remained merged with the excise duty till 30 August 2005. The State Government authorised separate collection of VAT on liquor by delinking it from the excise duty from 31 August 2005.

After delinking, VAT was chargeable on the cost of liquor plus the excise duty. This was greater than the component of sales tax when it was part of the excise duty. The loss of revenue due to the delay in delinking VAT from the excise duty, varied between Rs. 14 and Rs. 1,222.60 per case of different brands of liquor. Test check of the records revealed that 21 bonded warehouses sold 6,83,050 cases of different brands of liquor between May and August 2008. Due to the delay in delinking the VAT from the excise duty, there was loss of revenue of Rs. 4.15 crore.

2.2.12.2 In Meghalaya, liquor is taxable at the rate of 20 *per cent* at the point of first sale within the State with effect from 1 May 2005.

Test check of the records, however, revealed that three manufacturers of liquor (bottling plants) sold 26,84,292 cases of liquor between May 2005 and March 2009. Since bottling plant is the first seller within the State, tax of Rs. 34.20 crore was leviable, but the AO did not levy the tax resulting in loss of Rs. 34.20 crore.

2.2.12.3 Medicine is taxable at six *per cent* on the maximum retail price under the MVAT Act. The rate of tax on the sale of the stock of medicines purchased by the retailers between May 2004 and April 2005 and lying in stores as on 1 May 2005, however, continued to be at eight *per cent* with surcharge at the rate of 20 *per cent*. The transitional arrangement was limited to two months from 1 May 2005.

Since the retailers were neither registered under the repealed Act nor under the MVAT Act, it was not possible to ascertain the transitional stock of these dealers. Thus, during the aforesaid period of two months, there was every possibility that the retailers purchased goods at six *per cent* and sold them at 9.6 *per cent* including surcharge and retained the tax so collected. Thus, there was loss of revenue at the rate of 3.6 *per cent* due to the issue of defective notification by the Government.

2.2.13 Forms for claiming exemption on sale of tax paid goods

Goods under Schedule V of the MVAT Act are taxable at the point of first sale. Subsequent sales within the State are then exempted from the payment of tax. But no form has been prescribed for claiming exemption from tax for the subsequent sales within the State. In the repealed Act, for claiming exemption, the dealers were required to furnish a statement showing the dealers from whom the goods were purchased alongwith the bill and date, description of the goods purchased and tax paid. No such executive instruction has also been issued till date in case of the sales made in the post-VAT period. As a result, cross verification of the purchase and sale of the tax-paid goods was not possible.

After this was pointed out, the Government stated (November 2009) that the dealers making subsequent sales were not liable to be registered and hence claim of exemption from tax did not arise. The reply is not tenable as there are a number of dealers dealing in both VATable and non-VATable items and they claim exemption on the tax-paid sales.

The Government may consider making it mandatory for the dealers to furnish the details while claiming exemption on account of first point taxable goods. Provisions may be made in the MVAT Act and Rules accordingly.

2.2.14 Irregular grant of incentives to exempted industrial units

After introduction of the MVAT Act, the State Government implemented the Meghalaya Industries (Tax Remission) Scheme, 2006 substituting the Meghalaya (Sales Tax Concession) Scheme, 2001 from 1 October 2006. Under the new scheme, total exemption from the payment of tax was withdrawn and the units were allowed remission of 99 *per cent* of the tax payable and the balance was to be deposited in the Government account. However, in respect of the cement/clinker manufacturing units having output capacity of 600 tonnes per day, the remission was to be limited to 96 *per cent.* Besides, the units were also allowed ITC on their purchases.

Test check of the records of the ST, Jowai and Nongpoh revealed that four manufacturing units collected tax of Rs. 14.40 crore on the sale of goods between October 2006 and March 2009 and deposited Rs. 47 lakh in Government account and the balance Rs. 13.93 crore was retained by them as subsidy under the new scheme. **Thus, by allowing the dealers to collect and retain the output tax, the Government had allowed undue financial benefit to the incentive holders at the cost of the general public. Besides, due to the grant of ITC in addition to the remission of the output tax, the State had to pay Rs. 7.98 crore to two manufacturers from its own coffers.**

After this was pointed out, the COT stated that the benefit of the input tax credit was withdrawn with effect from 9 July 2009. The reply was, however, silent regarding the loss of revenue suffered by the State government between October 2006 and June 2009 due to the introduction of the defective Industrial Remission Scheme and also why retrospective effect was not given to the order.

The Government stated (November 2009) that since the Meghalaya Industries (Tax Remission) Scheme 2006 has been challenged in the court by some industrial units, no comments could be made. The reply is not tenable as the operation of the scheme was not stayed by the court.

The Government may review the issue and consider retrospective amendment of the provisions of the scheme so that the loss can be made good.

2.2.15 Deficiencies in the provision for cross verification of the records of other departments/sources like Central Excise, Income Tax Department, Tax Information Exchange System (TINXSYS) etc.

With a view to checking the evasion of tax, the Government has established an Enforcement Branch (EB) under the COT with one ST and some ITs having jurisdiction over the entire State. The EB has been entrusted with the functions like intelligence gathering, interception of the vehicles carrying goods on transit

between the entry and exit check gates and effective liaisoning with other departments like Central Excise and Customs etc.

2.2.15.1 Mention was made in ***paragraph 6.2.17*** of the Audit Report for the year ended March 2008, Government of Meghalaya regarding evasion of tax due to delivery of the goods in the State of Meghalaya which are actually meant for other States leading to loss of revenue of Rs. 20.51 crore. Further verification during this review revealed the following:

- Test check of the TP Register of the ST, Byrnihat check post revealed that out of 402 TPs issued between November 2007 and March 2008, 56 TPs had not been received back till September 2008. Thus, these vehicles carrying taxable goods actually delivered the goods within the State which escaped the notice of the EB. Out of 56 vehicles, 11 vehicles did not furnish detailed particulars of the value of the goods carried. The remaining 45 vehicles carried taxable goods valued at Rs. 1.64 crore and evaded tax of Rs. 12.43 lakh.

- Similarly, test check of the record of the ST, Umkiang check post revealed that 24 vehicles carrying taxable goods valued at Rs. 74.51 lakh obtained the TPs from the entry check post but did not deliver these passes to the officer-in-charge of the exit check post at Byrnihat and thus, evaded tax of Rs. 9.08 lakh.

The Government may consider a mechanism for effective monitoring of the vehicles carrying goods meant for other States passing through the State to arrest this persistent problem.

2.2.15.2 Though the EB was strengthened for intelligence gathering and cross checking the information of the dealers with other records/sources, **it was noticed that the department has not prescribed the periodicity, number of cases etc., for cross verification of the turnover with the records of the Income Tax and Central Excise Departments.**

After this was pointed out, the Government stated (November 2009) that the concerned IT might take up the case when any doubt arises regarding turnover disclosed by the dealer. The reply is not tenable as the department failed to show a single case which was cross verified with the two departments during the period of review. Besides, putting in place a regular system of cross verification of the records instead of a discretionary provision to check the cases on pick and choose basis would certainly be more effective.

Mandatory provisions may be made in the MVAT Act/Rules to cross verify the records of the IT, CE Departments on the basis of specified criteria like high turnover, past instances of irregularities committed by a dealer including suppression of turnover, misuse of forms to wrongly claim exemption etc.

2.2.15.3 The empowered committee had instituted a database on interstate dealers commonly known as TINXSYS (Taxation Information Exchange System) intended to serve as a centralised repository of all interstate transactions. Apart from verification of the dealers' accounts, the information available in TINXSYS

can also be used for verification of the central statutory forms issued by other State Taxation Departments and submitted by the dealers in support of the claim for concessions/exemptions.

Scrutiny of the records, however, revealed that the department has not issued any instructions for verification of the details given in the statutory forms filed by the dealers from the information available in the TINXSYS while allowing concessional rate/exemption of tax. As such, cross verification of the statutory forms issued by the dealers of other states could not be carried out. Cases of availing of concessional rate of tax by utilising fake declaration forms have been reported in previous Audit Reports[11].

After this was pointed out, the COT stated (November 2009) that inter-operability software for online exchange of information between north eastern states was being developed. The Government endorsed the views of the COT. The reply is not relevant to the issue raised by audit as the software referred to is limited to the north eastern dealers while the TINXSYS is a national database.

The Government may consider issuing instructions making it mandatory to cross verify the details given in the statutory forms filed by the dealers with reference to the data available in TINXSYS before allowing reduction/ exemption of tax.

2.2.16 Provisions governing tax deducted at source

2.2.16.1 System of sending the details of works contract/purchases by the works/buying departments to the Taxation Department

Under the MVAT Act, the person deducting tax shall issue a certificate of tax deduction to the payee in form 24. He shall maintain an account in the prescribed format and furnish a return to the concerned AO periodically. If a Government department fails to deduct tax at source, it is an offence and the COT may accept from the person charged with such offence, by way of composition of the offence, a sum not exceeding Rs. 5,000 or double the amount of tax, whichever is greater.

Test check of the records revealed that no accounts in form 25 and return in form 26 were furnished to the Taxation Department by any of the Government Departments. No action was also taken by the AOs against the defaulting departments. It was also noticed that there was no system for periodic verification of the records of the works/buying departments by the AOs to detect issues of non/short deduction of tax at source.

Cross-verification of the records of the Government departments with those of the dealers in respective circles revealed the following.

- Three dealers registered in Circle III, Shillong executed lease transaction with the Government departments valued at Rs. 2.02 crore between January 2006 and January 2007. The departments neither deducted tax at source nor did the

[11] Paragraph 6.26 of AR 2005-06; paragraph 6.23 of AR 2006-07; paragraph 6.22 of AR 2007-08; paragraph 2.7 of AR 2008-09.

dealers deposit the tax. Thus, due to non-deduction of tax at source, the dealers concealed the turnover and evaded tax of Rs. 25.25 lakh.

- Six dealers registered in Circle III & IV, Shillong sold goods valued at Rs. 2.23 crore to the Government departments between June 2005 and January 2008 but the departments did not deduct tax at source. The dealers also concealed the turnover in their returns and evaded tax of Rs. 17.30 lakh.

- Eighteen dealers sold taxable goods/executed works contract of Rs. 3.38 crore to North East Indira Gandhi Regional Institute of Health and Medical Sciences between May 2005 and March 2008, but the department did not deduct tax of Rs. 31.01 lakh at source.

- Two dealers registered in Circle III, Shillong sold taxable goods valued at Rs. 5.61 crore to the Government departments between May 2005 and October 2007 and tax of Rs. 62.09 lakh was deducted at source. The amount deducted has not been deposited into the Government accounts (February 2010).

The Government may prescribe a system for periodic verification of the records of the works/buying departments by the AOs to detect cases of non/short deduction of tax at source.

2.2.16.2 Bar on purchase/engagement from/with unregistered dealers by buying Departments

Under the MVAT Act, deduction of tax at source is applicable even in the case of the unregistered dealers. There is no bar on buying departments for awarding works/supplies contracts to the unregistered dealers.

In view of the evasion of tax by the dealers coupled with non-submission of the returns by the Government departments as pointed out in the preceding paragraph, works contracts/supplies awarded to the unregistered dealers are fraught with the risk of leakage of revenue.

The Government may consider making necessary amendment in the Act/Rules banning the Government departments from entering into works/supplies contracts with unregistered dealers.

2.2.17 Deterrent measures

2.2.17.1 Deficiencies in the deterrent measure

As per the MVAT Act, non-submission of the audit certificates by the dealers having turnover of more than Rs. 40 lakh attracts maximum penalty of Rs. 10,000. Though the Act provides for suspension of the registration certificate in case of recurrence of the offence, this provision was not seen to have been invoked. Since the audited account is the sole basis on which the actual turnover of a dealer can be ascertained, the nominal penalty in these cases may be misused by the dealers to evade tax. **Thus, the quantum of penalty for first, subsequent or continued offence may be separately fixed to make the deterrent measure more effective.**

The Government accepted (November 2009) the audit observation and stated that necessary action would be taken to make penal provisions more deterrent.

2.2.17.2 Absence of minimum penalty for offence

- Under the MVAT Act and the Rules, an assessee has the option to file a revised return, alongwith the interest, penalty etc., in addition to the differential tax and interest. However, the Act does not provide for levy of the minimum amount of penalty in cases where best judgment assessment is resorted to. Though, a penalty of a sum not exceeding one and half times of tax can be levied under Section 45, it is left to the discretion of the assessing authority. In such cases, it was noticed that either no penalty or only a small amount of penalty was levied on the ground that *mens rea* was not proved.

- Under the MVAT Act, if a dealer himself detects an omission before the initial scrutiny and submits a revised return showing an increase in the liability of the tax, in addition to the payment of the balance tax, he is also liable to pay interest under Section 40 and two *per cent* of the tax and interest as penalty under Section 36(3). But if a return is rejected during the initial scrutiny under Section 39(2) only interest is payable. Thus, there is inconsistency in the penal measures in similar types of offences which needs to be rectified.

- The MVAT Act, *inter alia,* stipulates two types of penal provisions for serious offences like carrying business without being registered, failing to furnish the returns and pay the tax without reasonable cause, furnishing false returns, concealing the particulars of the turnover, evading payment of tax etc. While Section 90 provides for imposition of fine not exceeding Rs. 10,000, Section 96 provides for compounding of the offences for a sum of Rs. 5,000 or double the amount of tax, whichever is higher. Thus, two types of penal provisions exist for the same kind of offence and discretion in levy of any of these penalties may be beneficial to some dealers and detrimental to others.

In the interest of revenue and to increase transparency, the Government may make provisions in the Act/Rules to fix minimum penalty for each type of offence based on its magnitude. It should not be left to the discretion of AO. There must be specific distinction between the amount of penalty leviable for the first offence and subsequent offences as well as for wilful default.

2.2.18 Internal control

Internal controls are intended to provide reasonable assurance of orderly, efficient and effective operations, adherence to the laws, regulations and management directives and maintenance of reliable data. Effective internal controls both in the manual and computerised environment are pre-requisites for efficient functioning of any department. Following deficiencies were noticed in the internal control mechanism:

2.2.18.1 Maintenance of registers in unit offices

It was noticed that there was no register for recording the receipt of the returns/revised returns in any of the test checked units. Even in cases where the returns were available in the assessment files, the date of submission/receipt was neither mentioned by the dealer nor by the AO. No register had been prescribed to record the names of the dealers whose returns were scrutinised. Road permits/way bills registers were not being maintained by most of the AOs.

Further, neither the MVAT Act/Rules nor any departmental circular prescribes recording of the details in a separate register of the total turnover, taxable turnover, output tax, input tax credit, tax payable etc. In case of any requirement, these have to be compiled from the information in respective assessment files which are not kept systematically.

2.2.18.2 Reports and Returns

The COT, Meghalaya prescribed that a monthly report on the survey of the dealers by the ITs shall be submitted by the ITs to the COT.

Test check revealed that the monthly report on the survey of the dealers by the ITs has never been submitted to the COT. The review of the performance of the ITs could not, therefore, be carried out by audit.

2.2.18.3 Inspection by supervisory officers

Regular inspection of the unit offices/check gates by the ACT/DCT/COT is essential to ensure satisfactory functioning of all the offices.

Scrutiny revealed that no inspection had ever been carried out by the aforesaid officials which is yet another instance of lack of internal control mechanism.

2.2.19 Internal audit

Internal audit is one of the most vital tools of the internal control mechanism and functions as the 'eyes' and 'ears' of the management and evaluates the efficiency and effectiveness of the mechanism. It also independently appraises whether the activities of the organisation are being conducted efficiently and effectively.

It was observed that the Taxation Department has no independent internal audit wing. The Examiner of Local Accounts (ELA) is responsible for conducting the internal audit of the department. The Government stated that internal audit of Taxation Department was taken up annually by the ELA. The reply is not tenable as cross verification of the records of the ELA revealed that no internal audit had been conducted by the ELA since the introduction of VAT.

The Government may consider strengthening the mechanism for internal control including internal audit.

2.2.20 Claims for compensation of loss due to introduction of VAT

The VAT Act was implemented in Meghalaya 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 mentioning the modalities for compensation claims. As per the guidelines, VAT receipts were to be co mpared with the revenue of the pre-VAT period, suitably extrapolated on the basis of the average of three best growth rate of revenue of the previous five years. According to the norms prescribed by the GOI, the revenue loss was to be worked out by including the tax revenue generated from the commodities like petrol, diesel, aviation turbine fuel, liquor, lottery brands which had been kept outside the VAT and were subject to 20 *per cent* floor rate of tax and the credits on account of the input tax under VAT adjusted against the CST from the overall tax revenue of the VAT year. The resultant net revenue was to be compared with the projected tax revenue for working out the loss on account of introduction of VAT. The rates of compensation were to be 100, 75 and 50 *per cent* during the first, second and third year respectively of the implementation of VAT.

Scrutiny of the records of the COT revealed that the State Government did not prefer any such claim for the year 2005-06 to 2007-08. Further scrutiny revealed that against the projected revenue of Rs. 115.12 crore, Rs. 210.13 crore and Rs. 389.85 for the year 2005-06, 2006-07 and 2007-08, the actual collection was Rs. 75.81 crore, Rs. 151.13 crore and Rs. 101.97 crore respectively. The Government did not prefer any claim for compensation of loss of revenue of Rs. 247.49 crore due to the introduction of VAT. The loss of revenue would be even more if the amount of input tax adjusted against the interstate sales and the arrear of sales tax revenue collected during the VAT period could be ascertained. Audit also could not collect the figures due to the non-completion of the assessments and non-submission of the arrears of sales tax revenue collected during the post-VAT period.

2.2.21 Conclusion

Analysis of the transitional process from sales tax to VAT revealed various deficiencies in the process and lacunae in the MVAT Act and Rules. Even after four years of implementation of VAT in the State, the VAT manual has not been finalised due to which neither the audit assessments could be started nor could the working of other functional areas of the department streamlined. Though computerisation has been initiated, all the modules of the software were yet to be implemented and the check posts, except one, were not inter-linked with the Commissionerate/unit offices. There was no system for periodic verification of the books of accounts to detect whether a dealer had crossed the threshold. Delayed and inadequate scrutiny of returns left enough scope for leakage of revenue. No monitoring system existed regarding surveys made by the ITs to detect unregistered dealers and scrutiny of the return by the STs. The procedure prescribed for the incentives under the MVAT law resulted in undue enrichment of the incentive holders. The department has not instituted a system of cross verification with the records of other dealers/IT, CE Department/TINXSYS while scrutinising returns/audit assessments. Internal control mechanism was weak. There was no internal audit. No inspection had also been conducted by departmental officers and no reports were submitted to the prescribed authority.

2.2.22 Summary of recommendations

The Government may consider implementing the recommendations noted under the paragraphs included in the review with special emphasis on the following for rectifying the deficiencies.

- Preparing a VAT manual to streamline the working of the department.
- Taking appropriate steps to ensure monitoring of the timely receipt of the returns and prompt action against the defaulting dealers.
- Prescribing the norms/guidelines for scrutiny of the returns by the AOs and monitoring its' progress.
- Prescribing the criteria, timeframe, and percentage of dealers and frame the VAT manual for starting the audit assessments immediately.
- Prescribing cross verification of information in the returns with various other sources to increase the control over evasion of tax.
- Retrospectively amend the provisions on input tax credit to the incentive holders so that the loss of revenue could be made good.
- Fixing separate quantum of penalty for first, subsequent or continued offence to make the deterrent measure more effective, and
- Strengthening the internal control mechanism including internal audit.

2.3 Other audit observations

Scrutiny of the assessment records of the Taxation Department indicated cases of non-observance of the provisions of the Acts/Rules, non-short levy of tax, turnover escaping assessment, concealment of turnover etc., which are mentioned in the succeeding paragraphs of this chapter. These cases are illustrative and are based on test check carried out in audit. Such omissions on the part of the AOs are pointed out in audit each year but not only do 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 the internal audit to ensure that such omissions are detected, rectified and avoided in future.

2.4 Short levy of tax due to incorrect application of rate

Short levy of tax of Rs. 6.76 lakh and interest of Rs. 2.78 lakh due to incorrect application of rate

Under the Meghalaya (Sale of Petroleum etc.) Taxation Act, tax shall be levied at the first stage of sale of the taxable goods in the State. As per entry 3 of the Act, diesel oil is taxable at the rate of 12.5 *per cent* with effect from 21 September 2004.

Scrutiny of the records of the Superintendent of Taxes (ST), Jaintia Hills District, Jowai revealed (June 2008) that two dealers disclosed turnover of Rs. 1.50 crore for the period from October 2004 to March 2007 and paid tax of Rs. 12.01 lakh at the pre-revised rate of eight *per cent* instead of Rs. 18.77 lakh at 12.5 *per cent.* The AO assessed the dealers accordingly between May and October 2007. Thus, due to the application of incorrect rate, tax of Rs. 6.76 lakh was short levied. Besides, interest of Rs. 2.78 lakh was also leviable.

After the cases were pointed out, the Government while admitting the facts stated (January 2010) that the dealers had been reassessed and Rs. 8.78 lakh had been recovered from them. Realisation of the balance amount has not been intimated (February 2010).

2.5 Concealment of turnover

Thirteen registered dealers concealed turnover of Rs. 54.96 crore and evaded tax of Rs. 2.74 crore on which penalty of Rs. 5.48 crore was also leviable

Under the Meghalaya Value Added Tax (MVAT) Act, 2003, if any dealer conceals the particulars of his turnover or evades in any way the liability to pay tax, he shall be liable to pay, in addition to the tax, penalty not exceeding Rs. 5,000 or double the amount of the tax payable on the sale turnover, whichever is greater. The provision of the Act applies *mutatis mutandis* in case of the assessment and reassessment under the Central Sales Tax (CST) Act, 1956. Further, sale of the declared goods in the course of interstate trade is taxable at the concessional rate of four *per cent* upto 31 March 2007 and three *per cent* thereafter, if such sale is supported by a declaration in form 'C', otherwise such sale is taxable at the rate of eight *per cent* upto 31 March 2007 and four *per cent*

thereafter. The Commissioner of Taxes (COT), Meghalaya in his notification dated March 2002 fixed the rate of advance tax at Rs. 1,800 for 15 MT coal based on its prevailing market price ranging between Rs. 1,400 and Rs. 1,500 per MT.

Scrutiny of the records of the ST, Jaintia Hills District, Jowai revealed (June 2008) that 13 dealers sold 8.74 lakh MT of coal in the course of interstate trade between October 2005 and December 2007. The dealers disclosed turnover of Rs. 67.47 crore in their returns for the aforesaid periods duly supported by 'C' forms instead of Rs. 122.43 crore calculated at the minimum rate of Rs. 1,400 per MT as fixed by the COT. The AO while completing the assessments between April 2007 and March 2008 also ignored the rate fixed by the COT. This resulted in non-detection of concealment of turnover of Rs. 54.96 crore and consequent evasion of tax of Rs. 2.74 crore. Besides, penalty of Rs. 5.48 crore was also leviable for the concealment of turnover.

After this was pointed out, the Government stated (January 2010) that the sales turnover was determined as per books of accounts of the concerned dealers and not on the estimated price fixed by the COT. The reply is not tenable as minimum turnover should have been determined based on the prevailing market price of Rs. 1400 per MT of coal as intimated by the COT.

2.6 Non-levy of tax and penalty on misuse of 'C' form

Two companies purchased goods at concessional rate for use in manufacture of cement but utilised these for other purposes resulting in non-levy of tax of Rs. 63. 70 lakh and penalty of Rs. 1 crore

Under the CST Act, a registered dealer may purchase goods from a registered dealer of another State at a concessional rate by utilising declaration in form 'C'. Further, if any person after purchasing the goods for any of the purposes specified in the declaration form fails to make use of the goods for any such purpose, he is liable to pay penalty not exceeding one and half times the amount of tax. It was judicially held[12] by the Supreme Court that the expression "in the manufacture of goods" should encompass the entire process carried out by the dealer for converting raw materials into finished goods.

2.6.1 Scrutiny of the records of the ST, Jowai revealed (June 2008) that a company[13] engaged in the manufacture of cement, purchased motor spirit valued at Rs. 5.10 crore on 18 October 2006 from outside the state by utilising one declaration in form 'C' for use in manufacture/processing of goods for sale, but the company started commercial production from 11 May 2007 only. Thus, goods so purchased at concessional rate were not used in the manufacture of cement and the company was liable to pay tax of Rs. 63.70 lakh. Besides, penalty not exceeding Rs. 95.55 lakh was also leviable for misuse of form 'C' but not levied.

12 J.K. Cotton Spinning and Weaving Mills Co. Ltd. Vs. The STO Kanpur (1965) 16 STC.563 (SC)

13 Megha technical and Engineering Pvt. Ltd.

2.6.2 Another cement manufacturing company[14] registered under ST, Jowai imported motor cars, GC sheets, air conditioner, electronic goods, tent and accessories etc valued at Rs. 43.93 lakh between April 2002 and January 2008 at the concessional rate against declarations in form 'C' for use as raw material for the manufacture of cement. Since the goods so purchased at the concessional rate could not be used as raw material for manufacture of cement, the company was liable to pay penalty upto Rs. 4.93 lakh for misuse of 'C' forms which was, however, not levied and realised by the AO.

After this was pointed out, the Government stated (January 2010) that the AO had been asked to re-examine the cases for imposition of penalty. Further report is awaited (February 2010).

2.7 Evasion of tax by furnishing false returns

Four registered dealers concealed turnover of Rs. 5.32 crore in their returns and evaded tax of Rs. 41.78 lakh on which penalty of Rs. 83.56 lakh was also leviable

Under the MVAT Act, if any dealer furnishes a false return of turnover, he shall be liable to pay, in addition to the tax, a penalty not exceeding Rs. 5,000 or double the amount of tax payable on the sale turnover, whichever is greater. The provision of the Act applies *mutatis mutandis* in case of assessment and reassessment under the CST Act. Further, sale of declared goods in the course of interstate trade is taxable at the concessional rate of four *per cent* upto 31 March 2007 if such sale is supported by declaration in form 'C', otherwise such sale is taxable at the rate of eight *per cent.*

Scrutiny of the records of the ST, Jaintia Hills District, Jowai revealed (June 2008) that four dealers sold coal valued at Rs. 3.43 crore to the dealers of Guwahati, West Bengal, Rajasthan during April 2005 to March 2007. The turnover was supported by declarations in form 'C' and the dealers were assessed between November 2005 and June 2007 at a concessional rate of four *per cent.* Further, scrutiny of the records revealed that these dealers had also sold 34,817 MT of coal valued at Rs. 5.32 crore which was dispatched through Umkiang check gate located at the exit point of Meghalaya on the road connecting states like Assam (southern part), Manipur, Mizoram and Tripura during the aforesaid period. Although the records of despatch of coal were forwarded to the AO by the officer incharge of taxation check gate, the AO did not include the turnover while finalising the assessments. Thus, failure of the AO to ensure proper assessment by verifying all the concerned records available with him led to evasion of tax of Rs. 41.78 lakh. Besides, penalty of Rs. 83.56 lakh was also leviable for concealment of turnover.

After this was pointed out, the Government stated (January 2010) that notices had been issued to the dealers for reopening the cases. Report on reassessment and recovery of tax is awaited (February 2010).

[14] Hill Cement Ltd.

2.8 Evasion of tax by utilising fake declaration forms

Five dealers utilised fake 'C' forms and evaded tax of Rs. 19.21 lakh on which penalty of Rs. 38.42 lakh was also leviable

Under the CST Act, on interstate sale of goods which are covered by a valid declaration in form 'C', tax is leviable at a concessional rate of four *per cent.* In case of the declared goods, if not covered by a valid declaration in form 'C', tax is leviable at the rate of eight *per cent.* Further, under the MVAT Act, if any dealer evades in any way the liability to pay tax, he shall be liable to pay, by way of composition of offence, a sum not exceeding Rs. 5,000 or double the amount of tax, whichever is greater. In Meghalaya, coal is taxable at the rate of four *per cent.*

Scrutiny of the records of the ST, Jowai revealed (June 2008) that five dealers sold coal in the course of interstate trade valued at Rs. 4.80 crore to a dealer of Kolkata in West Bengal between January and March 2007 and produced eight declarations in form 'C' issued by the purchasing dealer. The AO also accepted the declaration forms and assessed the dealers accordingly on different dates between May 2007 and June 2007. Verification of the records of the Commissioner of Commercial Taxes, West Bengal revealed that the dealer who issued the form was neither registered nor was any declaration form issued to him. Thus, the declaration forms submitted by the dealers of Meghalaya were fake and tax should have been levied at the rate of eight *per cent* instead of four *per cent.* This resulted in evasion of tax of Rs. 19.21 lakh. In addition, penalty of Rs. 38.42 lakh was also leviable for deliberate submission of fake 'C' forms.

After this was pointed out, the Government stated (January 2010) that the case had been taken up with the Taxation Department of West Bengal. Fact however remains that the reply of the Taxation Department of West Bengal is available with the audit which could have been obtained and the assessments revised in the interest of revenue.

2.9 Short levy of tax due to misclassification of goods

Levy of tax at the rate of eight *per cent* against the leviable rate of twelve *per cent* on the turnover of Rs. 1.33 crore led to short levy of tax of Rs. 4.91 lakh and interest of Rs. 3.70 lakh

As per the schedule attached to the Meghalaya Finance (Sales Tax) Act, electronic goods were taxable at the rate of 12 *per cent* at the point of first sale in the State. Further, if any dealer fails to pay the full amount of tax by the due date, he shall be liable to pay the interest at the prescribed rate for the period of default on the amount by which the tax paid falls short. It was held[15] by the Supreme Court of India that an item can be regarded as an electronic goods if its functions are controlled electronically by microprocessor.

15 BPL Limited Vs state of Andhra Pradesh 121 STC 450 (SC).

Test check of the records of the ST, Circle II, Shillong revealed (April 2008) that a dealer sold vacuum cleaners and aquaguards (water purifiers) valued at Rs. 1.33 crore between April 2003 and April 2005. The AO assessed the dealer at the rate of eight *per cent* treating the goods as electrical goods. Since aquaguards and vacuum cleaners are operated through microchips or microprocessors, these goods should have been treated as electronic goods as per the aforesaid judgment of the apex court and taxed at rate of 12 *per cent*. Thus, application of incorrect rate due to the misclassification of the goods led to short levy of tax of Rs. 4.91 lakh. Besides, interest of Rs. 3.70 lakh was also leviable.

The case was reported to the department/Government in July 2008; their reply has not been received (February 2010).

2.10 Non-detection of fraudulent representation of fact resulting in evasion of tax

A dealer purchased cement valued at Rs. 1.05 crore at concessional rate which was not included in the certificate of registration and evaded tax of Rs. 13.09 lakh. Beside penalty of Rs. 26.18 lakh was also leviable

Under the MVAT Act, if any registered dealer falsely represents when purchasing any class of goods that goods of such class are covered by the certificate of registration, he shall be liable to pay, in addition to the tax recoverable under the Act, penalty not exceeding Rs. 5,000 or double the amount of tax which would have been payable on the sale turnover, whichever is greater.

Test check of the records of the ST, Circle I, Shillong revealed (April 2008) that a dealer disclosed purchase of onion and mineral water valued at Rs. 75,000 and Rs. 65,000 respectively at the concessional rate from outside the State by utilising two declarations in form 'C'. Cross verification of the assessment records of the selling dealer registered in Assam, however, revealed that the dealer of Meghalaya actually purchased cement valued at Rs. 1.05 crore between August and December 2006 by utilising those two 'C' forms. The dealer neither disclosed purchase and sale of cement in his returns nor was the item included in his certificate of registration. The dealer, thus, falsely represented while purchasing goods that cement was covered by his certificate of registration which strangely was not noticed by the AO. Thus, due to the concealment of the purchase of Rs. 1.05 crore by fraudulent method, the dealer evaded tax of Rs. 13.09 lakh. The tax effect would be even more if elements of profit could be ascertained. Besides, penalty of Rs. 26.18 lakh was also leviable. **The department also needs to investigate, fix responsibility and take appropriate administrative action for non-verification of such basic facts.**

After this was pointed in July 2008, the COT while admitting the facts stated (September 2009) that the dealer was not traceable. The area IT was asked to conduct an inquiry and submit report on the whereabouts of the dealer. Further report has not been received (February 2010).

The cases were reported to the Government in July 2008; their reply has not been received (February 2010).

2.11 Turnover escaping assessment

Tax of Rs. 26.75 lakh was underassessed due to escaping of turnover of Rs. 4.65 crore

Under the Meghalaya Finance (Sales Tax) Act, if the COT is satisfied that the sale of any taxable goods has escaped the assessment in any period or has been underassessed, he may at any time within eight years of the end of the aforesaid period, serve on the dealer a notice and proceed to reassess the dealer accordingly.

2.11.1 Test check of the records of the ST, Circle III, Shillong revealed (April 2008) that a dealer disclosed turnover of Rs. 20.42 lakh in his returns between April 2004 and March 2005 and was assessed in January 2006 accordingly. Scrutiny of the assessment records, however, revealed that the dealer actually sold goods valued at Rs. 1.02 crore[16] during the aforesaid period. Thus, turnover of Rs. 81.22 lakh escaped assessment resulting in underassessment of tax of Rs. 6.50 lakh.

2.11.2 Test check of the records of the ST, Circle I, Shillong revealed (April 2008) that a dealer disclosed turnover of Rs. 8.48 crore in his returns between April 2004 and March 2005 and the AO assessed the dealer in September 2006 accordingly. However, scrutiny of the assessment records revealed that the dealer actually sold taxable goods valued at Rs. 11.71 crore[17]. Thus, turnover of Rs. 3.23 crore escaped assessment resulting in underassessment of tax of Rs. 12.94 lakh.

2.11.3 Test check of the records of ST, Circle IV, Shillong revealed (April 2008) that a dealer disclosed turnover of Rs. 2.10 lakh in his return for the period between April 2002 and March 2004 and was assessed on different dates between December 2005 and April 2007. Further scrutiny, however, revealed that the dealer actually sold goods valued at Rs. 63.05 lakh[18]. Thus, turnover of Rs. 60.95 lakh escaped assessment resulting in underassessment of tax of Rs. 7.31 lakh.

After the cases were pointed out, the AO, Circle IV while admitting the facts stated (September 2009) that the assessment has been rectified and a demand

---

16

Opening stock	+	Purchase	–	closing stock	=	Sale
Rs.3.16 lakh	+	Rs. 102.36 lakh	–	Rs. 3.89 lakh	=	Rs. 101.63 lakh

17

Opening stock	+	Purchase	–	closing stock	=	Sale
Not recorded	+	Rs. 11.85 crore	–	Rs. 14.08 lakh	=	Rs. 11.71 crore

18

Opening stock	+	Purchase	–	closing stock	=	Sale
Nil	+	Rs. 68.19 lakh	–	Rs. 5.14 lakh	=	Rs. 63.05 lakh

notice issued to the dealer accordingly. Report on recovery of the assessed tax and the replies in respect of the dealers under Circle I and III have not been received (February 2010).

The cases were reported to the department/Government in July 2008; their reply has not been received (February 2010).

2.12 Loss of revenue due to delay in assessment

Non-completion of assessment of a dealer on best judgment basis led to loss of revenue of Rs. 14.95 lakh

Under the taxation laws of Meghalaya, if a dealer fails to submit the returns alongwith the payment of the admitted tax or after submission of returns, fails to produce the books of accounts despite notices, the AO shall complete the assessments on best judgment basis. It was judicially held[19] by the Supreme Court that the Superintendent of Taxes is bound to make assessment to the best of his judgment if the dealer fails to submit the return and produce the books of accounts.

Test check of the records of the ST, Circle I, Shillong revealed (April 2008) that registration certificates were granted to a dealer under both MF (ST) and CST Act with effect from 16 June 2003. The dealer imported taxable goods valued at Rs. 1.25 crore between December 2003 and March 2005, but neither submitted any return nor paid any tax. The AO did not initiate any action to complete the assessment on best judgment basis and recover the assessed tax. Further scrutiny, however, revealed that the dealer had closed down his business with effect from May 2005. Thus, failure of the AO to complete the assessments on best judgment basis had resulted in loss of revenue of Rs. 14.95 lakh.

After this was pointed out in July 2008, the COT while admitting the facts stated (August 2009) that the dealer could not be traced out inspite of best efforts. While indicating lack of control and poor surveillance on the part of the department, the reply was silent about the reasons for non-initiating best judgment assessments of the dealer. Besides, no further action was initiated to send the case to the *bakijai*[20] officer to recover the amount as arrears of land revenue.

The cases were reported to the Government in July 2008; their reply has not been received (February 2010).

2.13 Loss of revenue due to the failure to levy tax on closing stock

The AO failed to levy tax on the closing stock of a dealer at the time of closure which led to the loss of revenue of Rs. 3.01 lakh

Under the taxation laws of Meghalaya, every dealer is liable to pay tax on the stock of goods remaining unsold at the time of closure of his business.

---

19 CIT Vs Segu Buchiah Setty (1970) 77 ITR 539 SC.

20 Recovery officer.

Test check of the records of the ST, Circle I, Shillong revealed (April 2008) that a dealer was assessed to tax upto 31 March 2004 on the basis of the returns furnished. Thereafter, the dealer neither furnished any return nor was he assessed by the AO on best judgment basis. The dealer, however, closed down his business on 31 March 2005 leaving stock of goods valued at Rs. 30.70 lakh remaining unsold at the time of closure of his business. Though the dealer was liable to pay tax on the closing stock, the AO did not initiate any action to assess him and realise the assessed tax. Thus, failure of the ST to levy tax on closing stock led to loss of revenue of Rs. 3.01 lakh.

After this was pointed out in April 2008, the AO while admitting the facts stated (September 2009) that the dealer had been assessed and the case referred to the *bakijai* officer for recovery of the assessed tax as an arrears of land revenue. Report on recovery of tax has not been received (February 2010).

The cases were reported to the Government in April 2008; their reply has not been received (February 2010).

2.14 Loss of revenue due to irregular grant of authorisation certificate

Irregular grant of authorisation certificate led to undue exemption of Rs. 15.22 lakh

Under the Meghalaya Industries (Sales Tax Exemption) Scheme, 2001 notified under the Industrial Policy 1997, new units established on or after 15 August 1997 will be eligible for the sales tax exemption on the sale of finished products manufactured by such units provided that a tax exemption certificate in the form of a certificate of authorisation (CA) is granted to these units by the AO. Before granting the CA, the AO shall satisfy himself that every information furnished by the applicant is factually correct and based on the information contained in the eligibility certificate (EC) granted to the units by the Industries Department.

Test check of the assessment records of the ST, Circle III, Shillong revealed (April 2008) that a manufacturer was granted an EC for manufacturing grills, rolling shutters, almirahs, doors and windows and other fabricated metal products. The AO while granting the CA, however, included an additional item "steel poles" which was not in the EC. The dealer sold steel tubular poles valued at Rs. 3.80 crore between April 2004 and April 2005 and was exempted from the payment of tax based on the CA issued to him. This irregular grant of CA led to undue exemption of tax of Rs. 15.22 lakh.

After this was pointed out, the AO stated (August 2008) that the item steel tubular poles was covered by other items of EC. The reply is not tenable as steel tubular poles are manufactured as per the specifications of Bureau of Indian Standards and, therefore, cannot be classified under other fabricated metal products.

The case was reported to the Government in July 2008; their reply has not been received (February 2010).

2.15 Non-forfeiture of tax

Non-forfeiture of tax of Rs. 33.20 lakh irregularly collected on exempted goods

Under the sales tax laws of Meghalaya, if any dealer collects any sum by way of tax in respect of the sale of any goods on which no tax is payable, the tax so collected shall be forfeited to the Government. Further, clause 4 (iii) of the Meghalaya Industries (Sales Tax Exemption) Scheme, 2001 provides for total exemption on the sale of the finished products within the State.

Test check of the records of the ST, Circle III, Shillong revealed (April 2008) that a manufacturing unit which was exempted from sales tax under the Industrial Scheme of 2001 sold finished goods valued at Rs. 4.57 crore between April 2003 and March 2004 and collected tax of Rs. 33.20 lakh on the sale of such exempted goods. The AO, however, did not forfeit the tax of Rs. 33.20 lakh so collected. Thus, inaction on the part of the AO resulted in non-forfeiture of tax of Rs. 33.20 lakh.

After this was pointed out, the ST stated (August 2008) that the dealer did not charge any tax on the aforesaid turnover and as such sales made by the dealer was in accordance with the provision of the Meghalaya industrial policy scheme, 2001. The reply is not tenable as the records revealed that the turnover of sales made was inclusive of the element of tax.

The case was reported to the Government in July 2008; their reply has not been received (February 2010).

2.16 Irregular grant of exemption under the CST Act

Interstate sale of Rs. 69.88 crore not supported by declaration form was irregularly exempted resulting in non-levy of tax of Rs. 8.39 crore and interest of Rs. 6.92 crore

Under Sections 8 (4) and (5) of the CST Act as amended in May 2002, the State government is empowered to issue notification granting exemption to the eligible industrial units from payment of tax in respect of those interstate sales which are supported by declarations in form 'C' or 'D' as the case may be. If interstate sales made by the exempted units are not supported by declarations in form 'C' or 'D', such units are liable to pay tax at 10 *per cent* or the local rate of tax, whichever is higher. Further, under the provisions of the Meghalaya Sales Tax Act, if any dealer fails to pay the full amount of the admitted tax within the due date(s), he is liable to pay interest at the prescribed rate for the period of default, on the amount by which tax paid falls short.

Scrutiny of the records of the ST, Ri-Bhoi District, Nongpoh revealed (July 2008) that two manufacturing units sold goods valued at Rs. 69.88 crore in course of the interstate trade between April 2003 and September 2005 without being supported by the declarations in form 'C' and 'D'. The units claimed exemption from the payment of tax as per the Industries (Sales Tax Exemption) Scheme, 2001 issued under section 8 (5) of the CST Act. The AO, while finalising the assessments

between March and May 2007 admitted the claims and assessed the manufacturing units accordingly. The grant of exemption to the manufacturers was irregular as the sales were not supported by declarations in form 'C' and 'D' resulting in underassessment of tax of Rs. 8.39 crore. Besides, interest of Rs. 6.92 crore was also leviable.

After the cases were pointed out, the AO stated (September 2008) that the exemption from the payment of tax was granted as per the Government notification dated 12 April 2001. The reply is not tenable as the exemption was subject to production of form 'C' or 'D' in support of the interstate sales.

The cases were reported to the Government in August 2008; their reply has not been received (February 2010).

2.17 Underassessment of tax due to acceptance of invalid 'C' forms

Acceptance of invalid declaration forms covering transaction of Rs. 1.58 crore led to underassessment of tax of Rs. 19.80 lakh

Under the CST Act, every dealer who in the course of interstate trade sells to a registered dealer shall be liable to pay tax at the concessional rate of four *per cent* provided the selling dealer furnishes to the prescribed authority in the prescribed manner a declaration in form 'C'.

Scrutiny of the records of the ST, Ri-Bhoi District, Nongpoh revealed (July 2008) that a manufacturer of water filter and spare parts sold goods valued at Rs. 20.35 crore between April 2005 and March 2006 in the course of interstate trade duly supported by declarations in form 'C'. The dealer claimed exemption from the payment of tax under the Meghalaya Industries (Sales Tax Exemption) Scheme 2001 and the AO assessed the dealer in January 2008 accordingly. Further scrutiny of the 'C' forms, however, revealed that three 'C' forms covering Rs. 1.58 crore issued by a dealer of Mumbai were not in prescribed form as provided under the CST Act. But the AO accepted the invalid forms resulting in underassessment of tax of Rs. 19.80 lakh.

After this was pointed out, the ST stated (March 2009) that the 'C' forms were in the prescribed format. The reply is not tenable as the aforesaid declarations were not in prescribed form as provided under Rule 12(1) of the CST (Registration and Turnover) Rules, 1957.

The cases were reported to the Government in August 2008; their reply has not been received (February 2010).

2.18 Underassessment of tax due to incorrect application of rate

Application of incorrect rate of tax under the CST Act led to underassessment of tax of Rs. 7.60 lakh

Under the CST Act, on interstate sale of goods not supported by declaration in form 'C', tax shall be calculated at the rate of 10 *per cent* or at the rate applicable to the sale or purchase of such goods inside the State, whichever is higher.

However, in the case of declared goods, tax shall be calculated at twice the rate applicable to the sale or purchase of such goods inside the State. In Meghalaya, 'iron and steel' and 'bitumen emulsion' are taxable at four *per cent* and 12.5 *per cent* respectively.

Scrutiny of the records of the ST, Ri-Bhoi District, Nongpoh revealed (July 2007) that a manufacturer of steel sheet disclosed sale of Rs. 1.38 crore between April and September 2005 in course of the interstate trade. Though the dealer failed to furnish 'C' forms in support of sales, the AO assessed (February 2007) the dealer incorrectly levying tax at four *per cent* instead of eight *per cent*. Thus, incorrect application of rate by the AO led to underassessment of tax of Rs. 5.52 lakh.

Another manufacturer registered in ST, Nongpoh sold bitumen emulsion valued at Rs. 24.52 lakh between April and September 2005 in the course of interstate trade but failed to furnish 'C' forms in support of sales. The AO assessed the dealer incorrectly at 4 *per cent* instead of 12.5 *per cent* resulting in underassessment tax of Rs. 2.08 lakh.

After the cases were pointed out, the AO while admitting the facts stated (March 2009) that both the dealers had been reassessed and fresh demand notices had been issued. Report on recovery of tax has not been received (February 2010).

The cases were reported to the Government in August 2008; their reply has not been received (February 2010).

2.19 Loss of revenue due to irregular cancellation of the registration certificate

Cancellation of the registration certificate without surrendering the unused declarations led to loss of revenue of Rs. 92.58 lakh

Under the CST Act and Rules made thereunder, unused declaration forms remaining in stock with a registered dealer at the time of cancellation of his registration certificate shall be surrendered to the ST. Further, if any dealer evades the payment of tax wilfully or conceals his liability to pay the tax, the COT may accept by way of composition of such offence, a sum not exceeding Rs. 1,000 or double the amount of tax, whichever is greater.

Scrutiny of the records of the ST, West Garo Hills, Tura revealed (November 2008) that a cement dealer disclosed turnover of goods valued at Rs. 13.51 lakh between October 2002 and March 2003 and the AO assessed the dealer in April 2003 accordingly. As prayed by the dealer, the AO also cancelled the registration certificates of the dealer under the Meghalaya Finance Sales Tax and the CST Act with effect from April 2003 without obtaining the unused declaration forms issued to the dealer. Cross verification of the records of a dealer registered in Guwahati (Assam), however, revealed that the dealer imported cement valued at Rs. 2.57 crore between April and September 2003 by utilising two declaration forms. The dealer thus evaded tax of atleast Rs. 30.86 lakh on the aforesaid turnover. Besides, penalty of Rs. 61.72 lakh was also leviable. Thus, due to the

irregular cancellation of the registration certificate by the AO, there was loss of revenue of Rs. 92.58 lakh.

After this was pointed out, the ST while admitting the facts stated (March 2009) that the dealer had been asked to produce the books of accounts for verification. The reply was silent regarding the omission to collect the unused declaration forms at the time of cancellation of RC which was fraught with the risk of misuse and ultimately led to loss of revenue. Further reply has not been received (February 2010).

The cases were reported to the department/Government in January 2009; their reply has not been received (February 2010).

2.20 Short levy of tax due to irregular assessment at the concessional rate

Irregular assessment at the concessional rate on sales of Rs. 4.22 crore supported by invalid 'C' form led to underassessment of tax of Rs. 6.19 lakh

Under the CST Act, every registered dealer who sells goods in the course of interstate trade to another registered dealer shall pay tax at the concessional rate of three *per cent* upto 31 May 2008 and two *per cent* thereafter, provided the selling dealer furnishes declarations in form 'C' in support of sales; otherwise tax is leviable at the rate applicable to the sale or purchase of such goods inside the State. In Meghalaya, coal is taxable at the rate of four *per cent*.

Scrutiny of the records of the ST, West Garo Hills, Tura revealed (November 2008) that two dealers sold coal valued at Rs. 4.22 crore in course of interstate trade to a dealer of Rajasthan between January 2008 and June 2008 and furnished two declarations in form 'C' in support of the aforesaid sales. The AO accepted the 'C' forms and assessed the dealers between May and August 2008 at the concessional rate of three *per cent* upto 31 May 2008 and two *per cent* thereafter. Further scrutiny of the 'C' forms, however, revealed that the forms were issued to the dealer of Rajasthan on 22 July 1996 by the Taxation Department of Rajasthan whereas he was registered with effect from 12 April 1997. Since the declaration forms were issued to the dealer before the date of liability, the forms were invalid and liable for rejection. Thus, irregular assessment at the concessional rate on the sales supported by the invalid declaration forms had resulted in underassessment of tax of Rs. 6.19 lakh.

After the cases were pointed out, the ST while admitting the facts stated (March 2009) that both the dealers had been reassessed. Recovery particulars of the assessed tax have not been received (February 2010).

The cases were reported to the department/Government in January 2009; their reply has not been received (February 2010).

2.21 Non-levy of interest

For default in payment of tax, interest of Rs. 24.83 lakh though leviable was not levied

Under the MVAT Act, if any dealer fails to pay the admitted tax on the due date, simple interest at the rate of two *per cent* per month from the first day of the following month will be leviable.

Scrutiny of the records of the ST, Nongpoh revealed (July 2008) that a dealer was assessed to tax of Rs. 80.97 lakh in June 2007 for the period from September 2005 to March 2006. The dealer, however, had not paid the entire amount of tax of Rs. 80.97 lakh till the date of audit. For non-payment of the tax, interest of Rs. 24.83 lakh was leviable but was not levied by the AO.

After the case was pointed out, the ST while admitting the facts stated (April 2009) that the assessment for the aforesaid period had been rectified, interest had been levied and a notice of demand issued to the dealer for payment. A report on recovery has not been received (January 2010).

The cases were reported to the Government in August 2008; their reply has not been received (February 2010).

2.22 Non-levy of tax due to non-completion of the assessment

Delay in completion of the assessment led to non-payment of tax of Rs. 13.73 lakh including interest

Under the Meghalaya Finance (Sales Tax) Act, every dealer was required to submit a return alongwith the payment of the admitted tax within 30 days of the close of each six monthly period. If a dealer failed to submit returns or after submission of the returns, failed to produce the books of accounts despite notices, the AO was to complete the assessments on best judgment basis.

Test check of the records of the ST, Nongpoh revealed (July 2008) that a manufacturer of black wire, GI wire etc., imported raw material valued at Rs. 85.01 lakh between October 2003 and September 2004 but the dealer neither filed any return nor paid any tax. The AO did not initiate any action either to issue notice for submission of the return or to assess the dealer on best judgment basis. Cross verification of the records of the Registrar of Companies, Shillong, however, revealed that the dealer had sold finished goods valued at Rs. 49.94 lakh and Rs. 58.81 lakh under the MFST and CST Act respectively between April 2003 and March 2004. Thus, failure of the AO to initiate timely action to assess the dealer on best judgment basis led to non-levy of tax of Rs. 6.70 lakh. Besides, interest of Rs. 7.03 was also leviable.

After this was pointed out, the Government stated (January 2010) that the assessment had been completed on best judgment basis and a demand notice had been issued for the payment of tax and interest. A report on recovery has not been received (February 2010).

2.23 Irregular rectification of assessments

Irregular rectification of assessment led to underassessment of tax of Rs. 5 lakh

Under the Meghalaya (Sales of Petroleum etc.) Taxation Act, the authority which made an assessment may at any time within three years from the date of such assessment, rectify any such mistake apparent from the records of the case and shall within the like period rectify any such mistake as has been brought to the notice by the dealer.

Scrutiny of the records of the ST, Circle 1, Shillong revealed (January 2009) that a dealer was assessed in April 2004 for the period from April 2001 to December 2001 on the basis of the returns and the books of accounts produced and tax of Rs. 2.59 crore was assessed and realised from the dealer. However, in January 2008, the dealer prayed for rectification of some mistake which were apparent from the records and the assessment for the aforesaid periods were rectified in February 2008 and tax of Rs. 2.54 crore was assessed. Since rectification was carried out after a lapse of more than three years, such rectification was irregular and contrary to the provisions of the Act. The irregular rectification had resulted in underassessment of tax of Rs. 5 lakh.

After this was pointed out in March 2009, the Government, while admitting the facts stated (January 2010) that rectification of assessment proceedings for the aforesaid period would be completed. Further report regarding rectification and recovery of tax is awaited (February 2010).

2.24 Irregular grant of exemption

Irregular grant of authorisation certificate led to irregular grant of exemption of Rs. 32.01 lakh

Under Section 2(i) of the Meghalaya Industries (Sales Tax Exemption) Scheme, 2001 notified under the Industries Policy 1997, new industries set up on or after 15 August 1997 will be eligible for sales tax exemption on the sale of the finished products manufactured by such units provided that the tax exemption certificate in the form of certificate of authorisation (CA)[21] is granted by the Taxation Department. Further, manufacturing of cement[22] consists of preparation of raw mix, production of clinker[23], grinding of clinker in a factory and blending of ground cement with silica.

Scrutiny of the records of the ST, Circle III, Shillong revealed (January 2009) that a manufacturer of cement, sold clinker valued at Rs. 2.56 crore between April 2007 and March 2008 and claimed exemption from the payment of tax under the

---

21 To be issued on the basis of the eligibility certificate issued by the Industries Department.

22 Clinker Ultratech Cement Limited Vs Principal Secretaries, Department of Industries and Commerce and other (2008) II VST 881 (kara).

23 Lime stone, clay, bauxite and iron ore sand in specific proportions when heated in a rotating kiln at 2770 degree fahrenheit, they begin to form cinder lumps known as clinker.

Industrial Policy 1997 and the dealer was exempted from the payment of tax. Since clinker is not a finished product, it was not eligible for the exemption under the Industrial Exemption Scheme. While issuing the CA, the AO, however, granted exemption from the payment of tax on the sale of cement as well as clinker. Thus, erroneous inclusion of clinker in the CA resulted in irregular grant of exemption of Rs. 32.01 lakh.

After this was pointed out, the Government stated (January 2010) that the item 'clinker' was not included in his certificate of registration through oversight, which would be amended accordingly. The reply is not tenable as the amendment in the certificate of registration cannot be made retrospectively and also the eligibility certificate issued by the Industries Department covered exemption on sale of cement only. Further reply has not been received (February 2010).

2.25 Incorrect deduction of turnover

Incorrect deduction of taxable turnover of Rs. 2.35 crore led to short levy of tax of Rs. 18.80 lakh

Schedule II of Meghalaya Sales Tax Act stipulated that the sales turnover of food or other articles or any drinks whether or not intoxicating served for consumption in any eating house, restaurant, or hotel was taxable at the rate of eight *per cent*.

Scrutiny of the records of the ST, Circle II, Shillong revealed (January 2009) that the proprietor of a restaurant disclosed sale turnover of Rs. 3.53 crore for different period between April 2001 and April 2005 and claimed deduction of Rs. 2.35 crore being sale of non-taxable goods and the AO assessed the dealer in March 2008 accordingly. Since the turnover of a restaurant consists of only the proceeds of sale of food items and drinks consumed, the exemption granted was irregular. This resulted in underassessment of tax of Rs. 18.80 lakh.

After this was pointed out, the Government stated (January 2010) that non-taxable items like milk, curd, *lassi* consumed in the restaurant were exempted from the payment of tax. The reply is not tenable as any food or drinks consumed in a restaurant were taxable as per the aforesaid schedule. Further reply has not been received (February 2010).

CHAPTER III: OTHER TAXES AND DUTIES

CHAPTER III: OTHER TAXES AND DUTIES

3.1 Results of audit

Test check of the assessment cases and other records relating to Sales Tax and Stamps and Registration Departments during the year 2008-09 revealed evasion, short levy of tax, concealment of turnover etc., amounting to Rs. 4.98 crore in 19 cases which can be categorised as under:

(Rupees in crore)

Sl. no.	Category	Number of cases	Amount
1.	Non-levy of tax	04	3.11
2.	Inadmissible deduction	04	1.22
3.	Concealment of turnover	04	0.43
4.	Other irregularities	07	0.22
Total		**19**	**4.98**

During the year 2008-09, the department accepted irregularities of tax in two cases amounting to Rs. 2.99 crore which were pointed out during 2008-09. The department recovered Rs. 1.50 lakh in one case during the year.

A few illustrative audit observations involving Rs. 4.53 crore are mentioned in the succeeding paragraphs.

3.2 Audit observations

Scrutiny of the records of the Taxation, Stamps and Registration fees and other Departments indicated cases of evasion of tax, non-realisation of tax, non-levy of stamp duty 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 authorities (AAs) are pointed out in audit each year, but not only do 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 the internal audit.

3.3 Evasion of tax by owners of unregistered motor vehicles

Failure to register 130 taxable vehicles under the MPGT Act led to evasion of tax of Rs. 8.86 lakh

Rule 37 of the Meghalaya Passengers and Goods Taxation (MPGT) Rules envisages that any owner of a taxable vehicle carrying goods or passengers shall apply to the prescribed authority for the registration under the MPGT Act. The owner is also required to file the return to the assessing officer (AO) within 10 days of the close of each month alongwith a copy of treasury *challan* showing payment of tax as per the rates prescribed by the Government from time to time. Under Rules 11 and 13 ibid, such tax is assessed and collected by the Superintendent of Taxes who is the AO in respect of the vehicles registered in his office.

Cross-verification of the records of the Superintendent of Taxes, West Garo Hills, Tura with that of the District Transport Officer in November 2008 revealed that 133 owners of the taxable commercial trucks were registered between April 2006 and March 2008 under the Motor Vehicle Act, 1988 and motor vehicle tax in respect of these vehicles were realised for the aforesaid period. But except three vehicles, the remaining 130 owners of the vehicles did not apply for the registration under the MPGT Act. The AO also did not initiate any action to register these owners of the vehicles under the MPGT Act till date and realise due tax. Thus, failure to register these vehicles by the AO resulted in evasion of tax of Rs. 8.86 lakh.

The cases were reported to the department/Government in January 2009; their reply has not been received (February 2010).

3.4 Evasion of tax due to concealment of turnover

Two dealers concealed turnover of Rs. 86 lakh and evaded tax of Rs. 8.60 lakh; besides interest of Rs. 3.05 lakh and penalty of Rs. 12.90 lakh was additionally leviable

Under the Meghalaya Purchase Tax Act, if the Commissioner is satisfied that any dealer has evaded in any way the liability to pay tax, he may direct that such dealer shall pay the penalty in addition to the tax payable by him, a sum not exceeding one and half times of that amount. The provision of the State Act

applies *mutatis mutandis* in the case of assessment/reassessment under the Central Sales Tax Act.

Test check of the records of the Superintendent of Taxes, Purchase Tax Circle, Shillong in March 2008 revealed that the two dealers disclosed turnover of Rs. 2.39 crore in their returns for the period between April 2004 and March 2005 in course of the inter-state trade and furnished declarations in form 'C' for Rs. 2.18 crore. The AO assessed the dealers between February 2006 and June 2007 and assessed Rs. 2.18 crore at the concessional rate of four *per cent* and Rs. 21.15 lakh at 10 *per cent*. Cross-verification of the waybill registers, however, revealed that the dealers had actually sold goods valued at Rs. 3.25 crore during the aforesaid period. Thus, failure on the part of the AO to cross verify the particulars of the waybills registers during the assessment led to the concealment of turnover of Rs. 86 lakh by the dealers remaining undetected resulting in evasion of tax of Rs. 8.60 lakh. Besides, interest of Rs. 3.05 lakh and penalty of Rs. 12.90 was also leviable.

After this was pointed out, the Assistant Commissioner of Taxes stated in July 2008 that the difference was due to recording of the proforma bills for the amount instead of the final bills. The reply is not tenable as the dealers sold goods to other dealers in course of the interstate trade, which was not taken into consideration.

The cases were reported to the department/Government in May 2008; their reply has not been received (February 2010).

3.5 Non-realisation of amusement tax

Inaction of the assessing officer led to loss of revenue of Rs. 2.87 crore

Under the Meghalaya Amusement and Betting Tax Act, every registered proprietor of any entertainment in respect of which entertainment tax is payable under this Act, shall pay amusement tax to the State government within such date(s) as may be prescribed. Again Section 4 of the Act provides for the method of the levy of the entertainment tax and in case of contravention of this provision the proprietor is liable to pay composition money not exceeding one thousand rupees or double the amount of tax which would have been payable had these provisions been complied with, whichever is greater. Further section 10 of the Act provides that in the event of default by any proprietor of the entertainment in making payment of any dues, such dues shall be recovered by the State government as an arrear of the land revenue.

Test check of the records of a Cinema Hall registered under the Superintendent of Taxes, Circle IV, Shillong in March 2009 revealed that the amusement tax of Rs. 1.16 crore was payable by the proprietor upto 2005-06 against which only Rs. 19.95 lakh was paid. The balance amusement tax of Rs. 96 lakh remained unrealised without any recorded reason. It was further noticed that neither was any action initiated to recover the balance tax nor was the case forwarded by the AO to the *Bakijai*[24] officer for recovery of the dues as an arrear of the land

[24] Recovery officer.

revenue as envisaged in the Act. Thus, inaction on the part of the AO has resulted in loss of revenue of Rs. 96 lakh. The likelihood of its recovery is low as the cinema hall has already been closed. Besides, penalty of Rs. 1.91 crore was also payable by the proprietor but was also not levied by the AO.

After this was pointed out in March 2009, the Government, while admitting the facts stated (January 2010) that all the cases had been referred to the District Council to ascertain payment of professional tax. Further report is awaited (February 2010).

3.6 Non-levy of professional tax

Inaction of the assessing officer led to non-levy of professional tax of Rs. 12 lakh out of which Rs. 4.80 lakh was a loss of revenue as the same became time-barred

Under the Meghalaya Profession, Trades, Callings and Employments Tax Act, every person who carries on a trade shall be liable to pay for each financial year, a tax in respect of such professions at prescribed rates. Further, every person liable to pay tax under this Act, shall submit to the AO, a return within 60 days of the commencement of the financial year. If any person fails to submit the return, the AO shall assess to the best of his judgement and determine the tax payable by him. The Act further provides that the notice in respect of the escaped tax can be issued within three years of the end of the year for which assessment or reassessment is proposed to be made.

Test check of the records of the Superintendent of Taxes Circle 1, Shillong in February 2009 revealed that 96 dealers had neither furnished returns for professional tax nor paid tax under the Act during the period 2004-05 to 2008-09. The AO also did not issue any notice to the defaulting dealers to furnish the returns and pay the tax. In absence of the return, even best judgment assessments were not made. Thus, inaction on the part of the AO had resulted in non-realisation of the professional tax of Rs. 12 lakh out of which Rs. 4.80 lakh was a loss of revenue to the Government as provision of the Act prohibits assessment beyond three years.

After this was pointed out in March 2009, the Government, while admitting the facts stated (January 2010) that all the cases had been referred to the District Council to ascertain payment of professional tax. Further report is awaited (February 2010).

3.7 Non-levy of stamp duty

Two lessees acquired immovable property of Rs. 3.23 crore and evaded stamp duty of Rs. 1.21 crore

Under the Indian Stamp Act 1899, 'lease' means a lease of an immovable property and includes undertaking in writing to cultivate occupancy or pay or deliver rent for the immovable property. Clause 35(a) (iv) of the Indian Stamp (Meghalaya Amendment) Act 1993, lays down that the stamp duty on lease where

the lease purports to be for a term exceeding thirty years but not exceeding one hundred years shall be calculated at the rate of Rs. 99 per Rs. 1,000 for a consideration equal to four times the amount or value of the average annual rents received.

- Scrutiny of the records of the Meghalaya Tourism Development Corporation (MTDC), Meghalaya, in August 2008 revealed that a lease agreement was executed between the MTDC and a lessee in May 2008 under which the lessor transferred to the lessee a plot of land measuring 28,869 square feet along with structure of a luxury hotel for a period of 33 years for an annual consideration of Rs. 1.73 crore subject to escalation of 10.5 *per cent* applicable after a block of every three years. Thus, the lease rent for the purpose of stamp duty would be Rs. 12 crore for which stamp duty of Rs. 1.19 crore was leviable. But cross check of records of the Registrar East Khasi Hills Shillong in September 2008 revealed that the lessee did not register the aforesaid lease agreements with the Registrar. This resulted in evasion of the stamp duty of Rs. 1.19 crore.

- Scrutiny of the records of the North Eastern Hill University (NEHU), Shillong revealed that the university purchased a plot of land measuring 21,801.15 square feet from 11 individuals for a consideration of Rs. 23.03 lakh in November 2007 for construction of a link road from Mawiong to the permanent campus of the university. Scrutiny of the records of the Register, East Khasi Hills, Shillong revealed that the university did not register the aforesaid transfer of assets with the registrar. This resulted in non-levy of stamp duty of Rs. 2.28 lakh.

The cases were reported to the department/Government in September 2008; their reply has not been received (February 2010).

CHAPTER IV: STATE EXCISE

CHAPTER IV: STATE EXCISE

4.1 Results of audit

Test check of the assessment cases and other records relating to State Excise Department during the year 2008-09 revealed non-realisation of duties, fees etc., amounting to Rs. 71.68 crore in 25 cases which can be categorised as under:

(Rupees in crore)

Sl. no.	Category	Number of cases	Amount
1.	**Receipts from State Excise (A review)**	01	68.66
2.	Non-renewal of licences	08	1.05
3.	Non-realisation of establishment charges	04	0.29
4.	Non-realisation of import pass fee	02	0.24
5.	Other irregularities	10	1.44
Total		**25**	**71.68**

During the year 2008-09, the department accepted irregularities in eight cases involving Rs. 68.59 crore. All these cases pertained to the year 2008-09. The department recovered Rs. 15.82 lakh in 01 case during the year 2008-09.

A review on **Receipts from State Excise** involving Rs. 68.66 crore is mentioned in the succeeding paragraphs.

4.2 RECEIPTS FROM STATE EXCISE

Highlights

There was no mechanism to ensure that the liquor manufactured in the State conformed to prescribed standards as there was no departmental laboratory.

(Paragraph 4.2.7)

Due to the absence of a definition of 'cost price' in the Meghalaya Excise Act, the element of import fee was not included in the price for calculating the excise duty leading to loss of Rs. 30.32 crore.

(Paragraph 4.2.8)

The Department failed to inspect licensed premises at regular intervals and set up excise check gates which led to loss of Rs. 2.98 crore.

(Paragraph 4.2.9)

There was abysmally low detection of excise default cases, the shortfall ranged between 79.20 and 87.48 *per cent* against targets.

(Paragraph 4.2.15)

Excise duty of Rs. 33.10 crore was not paid by three bottling plants which indented spirits for manufacture of the IMFL.

(Paragraph 4.2.21)

4.2.1 Introduction

Excise revenue is derived from licence fees, label registration fees, import pass fees, excise duty, gallonage fees, availability fees, surcharge etc, imposed under the provisions of the Assam Excise Act 1910, the Assam Excise Rules, 1945, the Assam Bonded Warehouse Rules, 1965 and the Assam Distillery Rules, 1945 (as adopted by the state of Meghalaya). Various administrative and executive orders based on the said Acts and Rules regulate the functioning of the licensed units vis-à-vis collection of revenue therefrom. The Excise Department is one of the major revenue earning departments of the State.

The following table represents percentage of State Excise receipts vis-à-vis receipts from other tax revenue heads.

Table 1

(Rupees in crore)

Year	Receipt under state excise	Receipts from other tax revenue heads	Percentage of state excise receipts with reference to tax revenue
2003-04	52.80	124.88	29.72
2004-05	62.70	145.03	30.18
2005-06	59.16	193.51	23.41
2006-07	53.95	250.79	17.70
2007-08	58.62	260.48	18.37

Thus, since 2006-07 the share of state excise receipts has fallen considerably from the level of around 30 *per cent* of the total tax revenue of the State during 2003-04 and 2004-05.

A review of the receipts from State Excise revealed a number of system and compliance deficiencies which are discussed in the succeeding paragraphs.

4.2.2 Organisational set-up

The Excise Department is headed at the Government level, by the Principal Secretary, Excise, Registration, Taxation and Stamps (ERTS) and at the Commissionerate level, by the Commissioner of Excise (CE). The CE is assisted by a Joint Commissioner, a Deputy Commissioner and one Assistant Commissioner at the Commissionerate and by an Assistant Commissioner, Superintendents/Deputy Superintendents of Excise, Inspectors of Excise and other staff at the district level.

4.2.3 Audit objectives

The review was conducted with a view to ascertain the -

- Effectiveness and efficiency of the system/mechanism for proper assessment, levy and collection of excise duty and other levies chargeable on IMFL and country liquor.
- Effectiveness in grant and issue of permits and licences for distillation, manufacture, storage, sale, transfer and import of IMFL and country liquor.
- Effectiveness in prevention of distillation, manufacture and sale of illicit liquor.
- Adequacy and effectiveness of internal controls.

4.2.4 Scope of audit

The review for the period 2003-04 to 2007-08 was conducted between January 2009 and April 2009 through test check of records of the Excise Department as a whole, both at the Commissionerate and as well as all the district offices[25].

4.2.5 Acknowledgement

Indian Audit and Accounts Department acknowledges the co-operation of the state Excise Department in providing necessary information and records for audit. An entry conference was held in March 2009 with the Excise Commissioner, Meghalaya in which the objective, scope and methodology of audit were explained. The draft review report was forwarded to the State Government in June for their response. The exit conference was held in October 2009 in which the

[25] *Shillong, Jowai, Nongpoh, Williamnagar, Nongstoin ,Tura and Baghmara*

results of audit and the recommendations were discussed. The replies of the department/Government received during the exit conference and at other points of time have been appropriately incorporated in the respective paragraphs.

Audit Findings

4.2.6 Financial Analysis

4.2.6.1 Trend of revenue vis-à-vis budget estimates

According to the Assam Budget Manual (as adopted by the State of Meghalaya), the actuals of previous years and the revised estimates ordinarily form the best guide in framing the budget estimates. The estimates prepared by a Government may be further revised by the Finance Department. The budget estimates and the revenue actually collected during the years 2003-04 to 2007-08 are shown below:

Table 2

(Rupees in crore)

Sl. No	Year	Budget estimate	Actual collection of revenue	Variation (+) excess (-) shortfall	Percentage of variation
1.	2003-04	71.00	52.80	(-) 18.20	26
2.	2004-05	78.00	62.70	(-)15.30	20
3.	2005-06	80.00	59.16	(-) 20.84	26
4.	2006-07	60.00	53.96	(-) 6.05	10
5.	2007-08	71.58	58.62	(-) 12.96	18

The revenue realised repeatedly fell short of the budget estimates (BE). The wide variations ranging from 10 to 26 *per cent* indicated that the budget estimates were being framed without keeping in view the trend of revenue actually collected as envisaged in the Budget Manual.

While admitting the shortfall, the Government stated (October 2009) that the variation was mainly due to introduction of value added Tax (VAT) on liquor in the year 2005. The fact that excise duty was reduced had been overlooked while framing the budget.

System deficiencies

4.2.7 Absence of departmental laboratory

Rule 20 of the Assam Distillery Rules states that samples of material used in the distillery for the manufacture of spirit and spirit manufactured therefrom shall be sent to the Chemical Examiner for analysis once in July and again in December and at other times when considered necessary to ensure quality control in the production of alcohol in the State. Thus, setting up of a departmental laboratory is imperative to ensure that alcoholic products conform to the prescribed health and safety standards.

Audit scrutiny revealed that the Government of Meghalaya had not set up any departmental laboratory to ensure quality control. In the absence of such a laboratory, there was no mechanism in the department to ensure that the IMFL manufactured in Meghalaya conformed to the prescribed standards.

After this was pointed out, the Government stated (October 2009) that the post of chemical examiner had been sanctioned (August 2009) and proposal for setting up a laboratory was also being pursued.

To ensure safety of the consumers, the Government needs to set-up an excise laboratory urgently.

4.2.8 Misclassification of IMFL

Under the provision of the Assam Excise Act (as adopted by the State of Meghalaya), excise duty at different rates is payable based on the cost price of different brands of IMFL. **The term cost price has, however, not been defined in the Meghalaya Excise Act.** According to the taxation laws of the State, cost price means the price in terms of money value or valuable consideration paid or payable by a dealer for any purchase of taxable goods including any sum charged for anything done by the seller with or in respect of the goods at the time of or before delivery thereof. Import fee which is required to be paid by the licensee of a bonded warehouse before importing IMFL from outside the State, forms an element of cost price. The cost price of general brand (GB), deluxe brand (DB) and premium brand (PB) of IMFL ranges from Rs.336 to Rs. 635, Rs. 636 to Rs. 1,135 and Rs. 1,136 to Rs. 3,000 per case, respectively.

Test check of excise records for the period from 2003-04 to 2007-08 revealed that 26,55,962 cases of GB and 4,91,927 cases of DB were sold from 21 bonded warehouses and excise duty was realised on the basis of cost price which did not include the element of import fee of Rs. 54 per case that was paid by the proprietor of the bonded warehouses before importing the IMFL. Inclusion of import fee would result in the said GB liquor being classified as DB and DB liquor as PB with consequent higher rate of excise duty. **Absence of a precise definition of cost price thus led to loss of revenue of Rs. 30.32 crore.**

After the case was pointed out, the Government stated (October 2009) that urgent steps would be taken to amend the existing rules in order to incorporate the said fee in the definition of cost price.

The Government may take immediate steps to define cost price in the Act and the Rules to prevent loss of revenue.

4.2.9 Failure to inspect licensed premises leading to loss of excise duty

4.2.9.1 Instruction 239 of the Assam Excise Act (as adopted by the State of Meghalaya) empowers the excise officials to inspect licensed premises at regular intervals and conduct surprise visits once in each quarter. The officials should draw up fortnightly tour programmes duly approved by the SE under confidential cover and maintain a confidential note book. Any detection of case is to be invariably reported to the SE. Rules 293 and 329 of the Excise Rules make it

mandatory on the part of the licensees to maintain regular and accurate accounts and ensure their submission to the excise officials.

Audit scrutiny revealed that **the department has not prescribed the number of inspections to be planned and carried out during a particular period. There is no mechanism to ensure that all licensees are inspected at least once during the licence period.** Besides, there was lack of monitoring by the higher authorities. The position of surprise inspections during the period of review was as under:

Table 3

Year	No. of surprise inspection to be conducted	No. of surprise inspection actually conducted	Shortfall	Percentage of shortfall
2003-04	1,016	9	1,007	99
2004-05	1,240	54	1,186	96
2005-06	1,560	66	1,494	96
2006-07	1,452	39	1,413	97
2007-08	1,612	22	1,590	99
Total	**6,880**	**190**	**6,690**	

Thus, there was shortfall ranging from 96 to 99 *per cent* in the surprise visits. Due to the lack of a monitoring mechanism, the CE remained unaware of such abnormally low percentage of inspections. Scrutiny conducted by audit during the review revealed the following.

- A firm located at Byrnihat, Ri-Bhoi district executed 26 import permits during 2004-05 and 2005-06 and imported 3,12,000 bulk litres of ethyl alcohol purportedly to manufacture oleo resin. The firm neither furnished any monthly statement of import, utilisation and closing stock of ethyl alcohol nor did the excise officials carry out regular inspections. The Industries Department of Meghalaya was approached by audit to verify the genuineness of the firm which confirmed that the firm did not function at all. This resulted in loss of revenue of Rs. 1.73 crore.

After the case was pointed out, the Government admitted (October 2009) that enquiry revealed that the firm was non-functional and the department had no prior intimation about it.

4.2.9.2 A bonded warehouse located at Khanapara (under Superintendent of Excise, Ri-Bhoi district, Nongpoh) imported 26,150 cases of IMFL from a distillery in Bhutan by using 23 (twenty three) import permits dated between 16 May 2003 and 7 February 2005. Cross verification of the records of the CE revealed that no such permits were issued from that office. Thus, the bonded warehouse fraudulently used the permits and imported IMFL which was stocked and sold from some retail excise outlets located under the jurisdiction of the SE,

Nongpoh which the excise officials could not detect. This resulted in loss of revenue of Rs. 1.25 crore[26].

After the case was pointed out, the Government stated (October 2009) that a criminal case had been instituted and the matter was pending in the court. However, strict instructions had been issued to excise officials to intensify inspections of retail outlets.

The department may consider prescribing specific targets for inspections/surprise checks and ensure that all the licensees are inspected at least once during the licence period.

4.2.10 Leakage of revenue due to non-establishment of excise check gates

Check gates set-up at strategic locations along inter-state borders play a vital role in curbing illegal inflow and outflow of goods. Thus, various departments *viz.*, Taxation Department, Transport Department and Directorate of Mineral Resources have set up check gates in order to minimise irregular flow of goods. However, the Excise Department has not set up any check gate **nor does the Act provide for establishment of excise check gates.**

As already reported in **paragraph *4.2.9.2*** of this report, a bonded warehouse fraudulently imported 26,150 cases of IMFL from a distillery in neighbouring Bhutan, resulting in loss of revenue of Rs. 1.25 crore. Thus, in the absence of any excise checkgate, there was no mechanism for monitoring the import of liquor into the State.

After the case was pointed out, the Department admitted the lapse in October 2009 and stated that the Government was actively considering setting-up of integrated checkgates at all important entry/exit points in the State. The reply did not highlight the reasons for not erecting any check gate till date although 37 years have elapsed since Meghalaya got statehood.

The Government may urgently set-up integrated check gates at the important entry and exit points to prevent leakage of revenue.

4.2.11 Security deposit

Rule 246 of the Assam Excise Rules (as adopted by the State of Meghalaya) lays down that an advance deposit equivalent to licence fee calculated on the estimated sales of one month shall be realised from the holders of licences for retail sale of foreign liquor. Rule 4(3) of the A ssam Bonded Warehouse Rules, 1965 lays down that the amount of security deposit in case of bonded warehouses may be fixed at Rs. 5,000 or more according to the volume of business.

26

Govt. dues/case= *Excise duty (Rs. 362)* + *Availablility fee& gallonage fee (Rs. 42+ Rs. 21)* + *Import pass fee (Rs. 54)* = ***Rs. 479***

Revenue loss= *Rs. 479 X 26150* = ***Rs. 1.25 crore***

Audit observed that **there was no system in the department to periodically review the rates of advance/security deposits to keep it aligned with the revenue at stake.** The security deposit for bonded warehouse remained static for more than 40 years.

Records revealed that the security for retail outlets was Rs. 2,000 only though their licence fee during the period of review was Rs. 42,000 per annum which was not aligned with estimated sales of one month. Similarly, a study of three leading bonded warehouses revealed that they generated excise revenue ranging between Rs. 3.52 crore and Rs. 5.73 crore in 2006-07 and 2007-08 whereas their licence fee has gone up from Rs. 1,000 to Rs. 1,20,000 per annum between 1965 and 2008.

After the case was pointed out in June 2009, the Government stated (October 2009) that the rate of security deposit had been revised in July 2009 as shown below:

Table 4

Type of unit	Revised rate
Bonded warehouse	Rs. 5 lakh
Distillery/bottling plant	Rs. 5 lakh
Retailers	Rs. 1 lakh
Bar licence	Rs. 75,000

Thus, though the security was revised by the Government, it still was far below the average yearly revenue yield of above three bonded warehouse which ranged between Rs. 1.18 crore and Rs. 1.90 crore during 2006-08.

To prevent any loss of excise revenue, the Government may take steps to periodically enhance the securities payable by all the licence holders and keep it aligned with the revenue at stake.

4.2.12 Internal audit

Internal audit is one of the vital tools of the internal control mechanism that evaluates the efficiency and effectiveness of the functioning of the organisation.

It was noticed that the Department did not have an internal audit wing. The internal audit organisation functioning under the Examiner of Local Accounts and responsible for conducting internal audit of the State Government departments did not audit the Directorate as well as the district levels during the entire period covered by the review barring a single audit of Deputy Commissioner (Excise) at Jowai covering the period from April 1998 to March 2005.

The Government may consider setting up an appropriate mechanism for conducting regular internal audit of the functioning of the Department, the Directorate and the field levels.

Compliance deficiencies

4.2.13 Running of liquor establishments without renewal of licences

Under the provisions of the Assam Excise Act, read with the Assam Distillery Rules and the Assam Bonded Warehouse Rules, (as adopted) the retail and wholesale licensees of IMFL shall pay in advance, an annual fee at the rates prescribed from time to time for renewal of licences. The validity period of licences in Meghalaya is from April of a year to March of the next year. As per instruction No. 141 of the Excise Act, if the licensee fails to pay licence fee before the start of the respective financial year, his establishment is to be closed with the approval of the CE till the fee is paid and on failure to pay fees promptly, the licence is required to be cancelled.

To discourage late payments, the Government of Arunachal Pradesh under its order dated 15 March 1996, fixed penalties at various[27] rates for various categories of licences. Although powers to do so have been conferred on the Government of Meghalaya under Section 36 of the Excise Act, no action has been initiated to execute the penalty system.

4.2.13.1 Test check of records of the CE and the district level offices revealed that licences of bonded warehouses and bottling plants were regularly renewed late, as a matter of routine, much after the start of the licensing year in perspective. Not a single case of timely payment of licence fee was noticed during the period under review. In the case of bonded warehouses, the delay ranged between 35 and 781 days. The table below demonstrates the position of late payment by bonded warehouses alone during the years 2003-04 to 2007-08:

Table 5

Sl. no	Year	No. of bonded warehouses	Delay in renewal of licences	Total delay (days)
1.	2003-04	21	Between 35 days and 470 days	3,188
2.	2004-05	23	Between 71 days and 480 days	6,707
3.	2005-06	23	Between 161 days and 781 days	8,094
4.	2006-07	26	Between 44 days and 690 days	9,225
5.	2007-08	26	Between 127 days and 761 days	8,332
Total				**35,546**

Although, the licences had not been renewed, permits were issued liberally to import IMFL. This not only resulted in blocking of revenue but also violated the provisions of the Excise Act and rules.

4.2.13.2 Bottling plants are required to renew their licences annually on advance payment of bottling fee, compounding and blending fee and bonded warehouse fee. Test check of records revealed that though a licensee of a bottling plant

27 *Bonded Warehouse : Penalty of Rs. 100 per day of late payment*
Retail outlets : Penalty of Rs. 70 per day of late payment
Bar licences : Penalty of Rs. 25 per day of late payment.

situated at Baridua, Ri-Bhoi district had not renewed his licences since 2002-03, yet he had been issued import permits and allowed to sell his products unhindered, by the Excise Department.

On this irregularity being pointed out by audit, the licensee deposited the requisite fees amounting to Rs. 15.82 lakh for the years 2002-03 to 2007-08 in five instalments ending March 2009. Thus, although the licensee had violated the Excise Act and Rules, the Department did not initiate any action to close down his establishment and cancel his licence. This not only led to blocking of revenue but is also indicative of the indifferent attitude of the Department in ensuring adherence to the prescribed norms.

After the cases were pointed out, the Government admitted in October 2009 that there were some delays in according approvals to the renewal applications consequently leading to late payments of licence fees, and stated that utmost care would be taken to ensure that such lapses do not recur. The Government further stated that action would be taken to introduce penalty in such cases. Further development has, however, not been reported (February 2010).

Thus, the Government may issue orders imposing financial penalties which would not only act as a deterrent but would also result in additional revenue to the state exchequer.

4.2.14 Undue concession of excise duty availed of by a bottling plant

To encourage local bottling plants to manufacture IMFL indigenously, the Government of Meghalaya, ERTS department by a notification dated 31 August 2005 fixed the excise duty at Rs. 239 per case for all indigenous products of a bottling plant 'A' which were classified as NEB [28]. Further, import fee was not to be charged on any brand under NEB.

Test check of records of CE, Meghalaya revealed that this concession was extended by the Government to another bottling plant 'B' (set up at a later date) for production of Standard whisky and Himalayan XXX rum. These two brands were classified as NEB, making them eligible for the same concessions. Scrutiny, however, revealed that the said brands were not indigenously produced but with the technical knowhow and brand name and label of M/s National Industrial Corporation Limited, a distillery located in Uttar Pradesh. The distillery had, on earlier occasions, exported these brands to the bonds of Meghalaya. Thus, the classification of the products of bottling plant 'B' under NEB was improper. These were actually to be termed as popular brands with higher rate of excise duty (Rs. 335 per case) and import fee (Rs. 54 per case). Between December 2005 and March 2008, the bottling plant 'B' sold 12,045 cases of the said brands to the local bonded warehouses which, in turn, sold the same to the local retailers at the concessional rate of duty and without any import fee. The misclassification, thus, resulted in revenue loss of Rs. 18.07 lakh.

---

28 North East Brand.

After the case was pointed out, the Government stated in October 2009 that based on a No Objection Certificate received from M/s National Industrial Corporation Limited, the concession was granted. The reply is not tenable as the products were not indigenous.

The Government may immediately withdraw the exemption on bottling plant 'B' in the interest of revenue.

4.2.15 Abysmally low detection of cases against target

The Government of Meghalaya, Excise Department, instructed (2 July 2004) the CE to conduct extensive raids with a view to detecting rampant illicit distillation and sale of such liquor. Accordingly, the CE vide circular dated 20 August 2004 notified to all district heads of the Excise Department that a target of 35 cases per month and 15 cases per month was fixed for each Inspector of Excise and Assistant Inspector of Excise, respectively. Action was to be taken against officials who failed to achieve the target set.

Scrutiny of detection of excise cases vis-à-vis target set revealed as follows:

Table 6

Year	No. of Inspectors of Excise on roll	No. of cases to be detected per year (at 35 cases per month per Inspector)	No. of Assistant Inspectors of Excise on roll	No. of cases to be detected per year (at 15 cases per month per Asstt. Insp.)	Total No. of cases to be detected (columns 3 & 5)	No. of cases actually detected	Shortfall / less detected against norm set	Percentage of shortfall
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
2003-04	30	12,600	22	3,960	16,560	2,198	14,362	86.73
2004-05	24	10,080	22	3,960	14,040	2,920	11,120	79.20
2005-06	24	10,080	26	4,680	14,760	1,848	12,912	87.48
2006-07	28	11,760	29	5,220	16,980	2,714	14,266	84.02
2007-08	28	11,760	26	4,680	16,440	2,427	14,013	85.24

Thus, the shortfall in cases detected against target/norm set ranged between 79.20 and 87.48 *per cent*, which was abysmally low. Nothing was, however, found on record to show that action had been taken against officials concerned for not achieving the target.

After the case was pointed out, the Department stated in October 2009 that shortfall in raids conducted and detection of cases were due to non-availability of vehicles and shortage of constabulary staff. The fact, however, remains that the reason put forth by the Department was in their knowledge, but no efforts were made by them to acquire vehicles and move the Government for appointment of constabulary staff so as to achieve the set target.

4.2.16 Failure to auction IMFL in stock of closed bonds leading to sedimentation and loss of excise duty

Under Rule 23 of the Assam Bonded Warehouse Rules, (as adopted) subsequent to the closure of a bond, the stock of IMFL shall be taken over by the CE for recovery of excise duty by sale through auction. Also, Rule 17 lays down that one set of keys of a bonded warehouse is to be retained by the Excise Inspector.

4.2.16.1 Test check of records revealed that a bonded warehouse at Shillong was closed in January 1991. However, it was only in June 2006 that the stock of IMFL comprising 893 cases was transferred to the premises of a running bonded warehouse at Shillong. Samples of the stock sent for chemical examination disclosed that the same had sedimented and was thus unfit for consumption. The permission of the Government was sought for destroying the said stock and waiver of excise duty of Rs. 4.17 lakh. The Government on its part asked the CE to explain as to why the procedure prescribed under Rule 23 ibid, was not followed at the time of closure of the bond. The CE stated (April 2007) that the department was in the dark regarding the existence of IMFL in the bond. The statement is contradictory of Rule 17. Besides, the monthly statements of import, sale and stock of IMFL would indicate the stock in the bonded warehouse. Thus, due to non-observance of Excise Rules, there was a loss of Rs. 4.17 lakh.

After the case was pointed out, the Government stated in October 2009 that the licensee was directed at frequent intervals to open the Bonded Warehouse, but the latter failed to respond. Since the licensee had abandoned his business, it was not possible for the Excise Department to dispose of the case. The reply is not tenable as the Rules authorise the CE to seize the stock of IMFL subsequent to the closure of a bonded warehouse.

4.2.16.2 Another bonded warehouse at Shillong was closed down (November 2001) and the stock of IMFL confiscated. The stock of 3646 cases was transferred (31 July 2002) to two local bonded warehouses and the Excise Office *Malkhana*[29]. Samples of the stock were sent (06 December 2002) for chemical analysis and it was reported that 1239 cases had sedimented. However, after a lapse of 19 months, the Enforcement Branch informed (14 August 2003) the Assistant Commissioner of Excise that the remaining stock of 2,407 cases had also sedimented, resulting in loss of revenue in the form of excise duty to the tune of Rs. 9.37 lakh. The loss could have been avoided had the department disposed of the confiscated stock in time.

After the case was pointed out, the Government accepted the lapse and admitted (October 2009) that the confiscated IMFL should have been auctioned earlier. The reply was, however, silent regarding action to be taken against the defaulting officials as also about preventive measures to be taken to avoid recurrence of such cases in future.

---

29 A godown where seized excisable items are stored

4.2.17 Irregular grant of exemption from payment of Import Fee

Rule 27 of the Assam Excise Rules, exempts non-profit making organisations such as charitable institutions, educational institutions, laboratories, firms and museums and Government hospitals from payment of import pass fee for import of rectified spirit and absolute alcohol.

Test check of records of the Assistant CE, Shillong revealed that a commercial firm located at Shillong imported 28,000 bulk litre (BL) of spirit, 24,000 BL of absolute alcohol and 4,000 BL. of methylated spirit in four consignments between 28 April 2006 and 27 May 2008 on which import fee[30] of Rs. 1.92 lakh though realisable was not realised by the Department although the Rules do not exempt a commercial firm from payment of import fee.

After the case was pointed, out the Government stated in October 2009 that the matter was being examined. Further reply has not been received (February 2010).

4.2.18 Position of offence cases

The CE under circular dated 20 August 2004 intimated all subordinate officers that excise officials were to ensure that the cases detected by them and submitted to the court are disposed of expeditiously as delay in disposal of cases result in dropping of the same by the court. The controlling officers were instructed to inspect the case register at least once a week and take necessary steps to dispose the pending cases and send specific reports of having done so to the superior officers.

Analysis of the pending cases during the years 2003-04 to 2007-08 revealed the following:

Table 7

Year	No. of raids	Cases detected (No.)	Unclaimed cases (No.)	Cases registered (No.)	Cases disposed of (No.)	Cases in arrear (No.)
2003-04	719	2,198	349	1,849	1,048	801
2004-05	998	2,920	507	2,413	1,648	765
2005-06	1,848	1,848	498	1,350	631	719
2006-07	834	2,414	160	2,254	1,692	562
2007-08	645	2,420	350	2,070	1,380	690
Total	**5,044**	**11,800**	**1,864**	**9,936**	**6,399**	**3,537**

Thus, in spite of the instructions circulated by the CE, 3,537 out of 9,936 cases (35.60 *per cent*) remained undisposed. Nothing was found in the case register to show that the controlling officers had inspected it weekly. There were also no

30 Between 28.04.06 to 31.03.07 the firm imported 24,000 B.L of spirit and between 01.04.07 to 27.05.08 the firm imported 4,000 BL of spirit.

records to show that necessary steps had been initiated by them to dispose the pending cases.

After this was pointed out, the Government stated in October 2009 that all the excise officials had been alerted on the issue and the position of disposal of pending cases was expected to improve soon.

The Government may devise a mechanism for speedy disposal of the arrear cases and their effective monitoring.

4.2.19 Non-realisation of import pass fee

Rule 370 of the Meghalaya Excise (Amendment) Rules, 1995 empowers the State government to levy import pass fee for import of IMFL. The rate of import fee was Rs. 54 per case of IMFL (Rs. 108 per case from 16th March 2007) and Rs. 31.20 per case of beer. The State Government has not exempted the defence/Para military organisations from payment of import fee.

Test check of records revealed that the Assistant C.E, Shillong issued permits to the Defence and para-military organisations, stationed in Meghalaya to import 69,584 cases of IMFL and 10,558 cases of beer from outside the State during 2006-07 and 2007-08. Import fee amounting to Rs. 61 lakh had, however, not been realised while issuing the permits.

After the case was pointed out, the Department stated in October 2009 that the matter was being referred to the Government. Further development has not been reported (February 2010).

4.2.20 Non payment of Value Added Tax on IMFL lifted by defence forces

The Government of Meghalaya, ERTS Department, under notification dated 31 August 2005 imposed 20 *per cent* VAT on pre-paid basis on IMFL. The Excise Department has been vested with the authority to collect VAT along with excise duty and deposit the same under proper head of Government account.

Test check of records of Assistant Commissioner of Excise, Shillong revealed that VAT was being realised on IMFL lifted by Defence Forces from 1 August 2006. During the period from 01 September 2005 to 31 July 2006, the Defence Forces lifted 20,176 cases of IMFL from outside the State and 8,906 cases from local bonds without payment of VAT. The Excise Department failed to ensure that licensees paid VAT along with excise duty which resulted in revenue loss of Rs. 55.11 lakh.

After the case was pointed out, the Government stated in October 2009 that the matter was under examination and necessary instructions would be issued. The reply is, however, silent regarding the loss suffered by the Government.

4.2.21 Non-payment of excise duty on spirit indented by bottling plants for manufacture of IMFL

The Government of Meghalaya, Excise Department under notification dated 24 April 2003 imposed excise duty of Rs.500 per case of rectified spirit indented by the bottling plants for manufacture of IMFL.

A test check of records revealed that three bottling plants[31] imported 79,43,250 BL or 6,61,937 cases of rectified spirit[32] between 2003-04 and 2007-08 for manufacture of IMFL. No excise duty had, however, been paid by the bottling plants against the said imports. For non-payment of excise duty, there was non-realisation of revenue of Rs. 33.10 crore.

After the case was pointed out, the Government stated in October 2009 that demand notices had been issued. A report on recovery has not been received (February 2010).

4.2.22 Non-realisation of licence fee from owners of country spirit vends under local chiefs

The Government of Meghalaya, Excise Department under notification dated 16 July 1975 appointed the *Syiems*, *Lyngdohs* and chiefs of other local clans as excise officers and authorised them to issue licences for manufacture and sale of country spirit within their respective *elakas* (territories). It was further instructed by the Government in July 1975 that 50 *per cent* licence fee collected from the licensees by the local chiefs could be retained by them and the balance should be deposited with the Government.

The position of outstills[33] under the local chiefs and licence fees[34] outstanding since 2004-05 as noticed in audit is tabulated below:

TABLE 8

Sl. No.	Name of local chief	No. of outstills	Period for which licence fee payable	fees payable (Rs)
1	Syiem of Mylliem	100	April 2004 to March 2009-	6,25,000.00
2	Syiem of Khyriem	86		5,37,500.00
3	Syiem of Nongspung	8		50,000.00
4	Syiem of Mawphlang	13		81250.00
5	Syiem of Sohra	6	April 2004 to March 2005	7500.00
		10	April 2005 to March 2006	12500.00

31 *M/s N.E.B, Baridua*
M/s Milestone, Jamulkuchi
M/s M.D.H., Umiam

32 *Rectified spirit including E.N.A. Malt spirit, High Bouquet – all used as base spirit for manufacture of IMFL.*

33 *an establishment where country liquor is manufactured and sold.*

34 *Under Notification No. ERTS (E) 11/98/47 dt. 25.04.03 licence fee for outstill (other areas) has been fixed at Rs. 2500 per annum.*

		21	April 2006 to March 2007	26250.00
		21	April 2007 to March 2008	26250.00
		21	April 2007 to March 2009	26250.00
6	Lyngdoh of Sohiong	21	April 2004 to March 2005	26250.00
		24	April 2005 to March 2006	30,000.00
		27	April 2006 to March 2007	33750.00
		35	April 2007 to March 2008	43750.00
		62	April 2008 to March 2009	77500.00
7	Sirdar of Mawlong	6	April 2004 to March 2009	37500.00
8	Sirdar of Pomsangut	3		18750.00
9	Syiem of Mawsynram	2		12500.00
Total				**16,72,500**

Thus, failure of the department to realise 50 *per cent* of licence fee payable to Government from the local chiefs led to non-realisation of revenue of Rs. 16.73 lakh.

After the case was pointed out, the Department stated in October 2009 that the matter would be taken up with the Government.

4.2.23 Irregular adjustment of licence fees

Section 24 of the Excise Act states that every licence granted under the provisions of the Act shall remain in force for the period for which it was granted. Also, as per Section 29(3), the holder of a licence shall not be entitled to refund of any fee paid in respect thereof.

Test check of records revealed that contrary to the provisions of the Act, the Government of Meghalaya, ERTS Department issued orders to adjust the licence fee deposited by a bonded warehouse and a bottling plant for the year 2006-07 against the succeeding year *i.e.* 2007-08. Since, there is no provision in the Excise Act for adjustment of fees, the orders were irregular and resulted in loss of Rs. 4.15 lakh in the form of licence fees[35].

After the case was pointed out, the Department stated in October 2009 that the Government approved the adjustment of licence fee as the plant had not started functioning. The reply is not tenable as there is no provision for such adjustment in the Excise Act.

4.2.24 Conclusion

The review revealed a number of systems and compliance deficiencies. As there was no departmental laboratory, there was no means to ensure that the liquor

[35] *Bonded warehouse fees : Rs. 1,20,000 Bottling fee: Rs. 1,00,000 Compounding and blending fee Rs. 75,000 (Bottling plant to pay licence fee totaling Rs.2,95,000 and Bonded warehouse Rs.1,20,000).*

manufactured in the State conformed to the prescribed standards. The Government had no control over the pricing of liquor. In the absence of a definition of the 'cost price', the element of import fee was not included in the price for calculating the excise duty payable, leading to loss of revenue. Licences were renewed long after the due dates. Department had no set up to inspect all the licensees in a year and there were negligible surprise inspections. Further, import fee was not realised from non-exemptee units. Detection of illicit distillation cases was low as compared to target set. Besides, no excise check gates had been set up to arrest illegalities in the trade. Thus, the defects in the Act, Rules and notifications, coupled with non-compliance of the provisions of the Act, Rules and departmental instructions resulted in leakage of revenue. Due to the absence of an internal audit wing, the Department could not detect the loopholes and lacunae in its functioning some of which have been pointed out in this review.

4.2.25 Summary of recommendations

The Government may consider implementing the recommendations noted under the paragraphs included in the review with special emphasis on the following for rectifying the deficiencies.

- setting-up a departmental laboratory for ensuring quality control of liquor;
- review the brand slabs and include import fee as an item of cost price;
- carrying out regular inspections of licensed outlets as per instructions laid down in the Act;
- setting-up integrated checkgates;
- revising the security fee slabs to ensure that adequate security is realised from licensees;
- setting up a mechanism for regular conducting of internal audit;
- ensuring that the licences are renewed in advance on payment of requisite licence fees; and
- impose penalty on licensees for late renewal of licence.

CHAPTER V: TAXES ON MOTOR VEHICLES

CHAPTER V: TAXES ON MOTOR VEHICLES

5.1 Results of audit

Test check of the assessment cases and other records relating to the Transport Department during the year 2008-09 revealed non-realisaton of duties, fees, fines etc., amounting to Rs. 551.70 crore in 51 cases which can be categorised as under:

(Rupees in crore)

Sl. no.	Category	Number of cases	Amount
1.	Non-levy of penalty	12	527.60
2.	Non-realisation of road tax	04	0.87
3.	Non/short realisation of fee	05	0.41
4.	Other irregularities	30	22.82
Total		**51**	**551.70**

During the year 2008-09, the department accepted irregularities in 05 cases amounting to Rs. 272.88 crore. No recovery has been made during the year 2008-09.

A few illustrative audit observations involving Rs. 272.69 crore are mentioned in the succeeding paragraphs.

5.2 Audit observations

Scrutiny of the records in the offices of Transport Department relating to revenue received from taxes on vehicles indicated several cases of non-observance of the provisions of the Acts/Rules resulting in non/short levy of tax/penalty and other cases as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out in audit. Such omissions are pointed out in audit each year, but not only do the irregularities persist; these remain undetected till an audit is conducted. There is need for the Government to consider directing the department to improve the internal control system including strengthening of internal audit so that such omission can be avoided, detected and corrected.

5.3 Unauthorised retention of revenue

Rs. 3.71 crore was deposited into Government account after a lapse of 19 months resulting in loss of interest of Rs. 44.29 lakh

Under the provision of the Meghalaya Treasury Rules, 1985 all moneys received by the Government on account of revenue shall without undue delay be paid in full into the treasury for inclusion in the Government account. Further, all the receipts are to be noted in the cash book as soon as they occur and attested by the head of the office in token of the check. The said rules also stipulate that the details of the bank drafts/cheques are to be entered in the register of valuables.

Scrutiny of the records of the Commissioner of Transport, Meghalaya in April 2008 revealed that a cheque of Rs. 3.71 crore being reimbursement of the cost of operation of the Meghalaya Helicopter Service was received in June 2005 from the Government of India, Ministry of Home Affairs, New Delhi. The department misplaced the cheque and did not deposit it into the Government account and ultimately the cheque became time-barred. The department returned the time-barred cheque in May 2006 to the Ministry of Home Affairs for revalidation. In December 2006 the department received another bank draft in lieu of the time-barred cheque and credited it into the Government account on 30th January 2007. Thus, an amount of Rs. 3.71 crore remained out of the Government account for a period of 19 months. During this period the State government paid interest on market loans ranging from 7.53 *per cent* to 7.72 *per cent.* Thus, timely deposit of the amount could have helped the State Government in avoiding payment of interest of Rs. 44.29 lakh.

After this was pointed out, the Government while accepting the lapse regretted (April 2009) the belated deposit of the cheque into the Government account. The Government further stated that no disciplinary proceedings were possible as the concerned dealing assistant had already retired. The reply is not tenable as the particulars of cheque should have been entered in the register of valuables which has to be submitted periodically to the superior officers for verification. Thus, there was also monitoring lapse on the part of the superior officers.

5.4 Non-levy of fine on trucks carrying excess load of coal

Non-levy of fine of Rs. 271.80 crore on 3,58,992 commercial trucks for carrying excess load beyond the maximum permissible limit

In Meghalaya all commercial trucks are registered by the District Transport Officers (DTO) with the maximum permissible payload of 10 MT on which the road tax is payable under the Assam Motor Vehicle Taxation Act, 1936 (as adopted by Meghalaya). Further, under the Motor Vehicle Act, 1988, whoever drives a motor vehicle or causes or allows a motor vehicle to be driven carrying a load in excess of the permissible limit, shall be liable to pay a minimum fine of Rs. 2,000 and an additional fine of Rs. 1,000 per MT of excess load.

Cross verification of the records of the Commissioner of Transport (COT), Meghalaya with those of the Director of Mineral Resources (DMR) check gates at Umkiang, Mookyndur, Umling, Athiabari and Dainadubi in January 2009 revealed that 3,58,992 commercial trucks carried 55,89,983 MT of coal against the maximum permissible limit of 35,89,920 MT between April 2007 and March 2008. But the excess load of 20,00,063 MT carried by these trucks beyond the permissible limit escaped the notice of the enforcement wing of the Transport Department resulting in the non-levy and consequent non-realisation of the minimum fine of Rs. 271.80 crore. Besides, plying of overloaded trucks on the public roads was fraught with the risk of damaging the public roads and human lives.

After this was pointed out, the COT, while admitting the facts, stated in March 2009 that the matter would be taken up with the Mining and Geology Department to ensure that the overloaded coal trucks are penalised with fines. Further development has not been reported (February 2010).

The case was reported to the Government in March 2008; their reply has not been received (February 2010).

5.5 Loss of revenue due to delay in deployment of enforcement staff

Delay in deployment of enforcement staff in a private weighbridge as stipulated in the agreement led to loss of revenue of Rs. 20.83 lakh

To ensure that the goods carriage vehicles do not carry load beyond the prescribed limit and that weighbridges have been installed at important locations under Section 138 of the Motor Vehicle Act for weighment of the goods carriage vehicles. Weighbridges are generally leased out by inviting tenders.

Scrutiny of the records of the Commissioner of Transport, Meghalaya in January 2009 revealed that the State government entered into an agreement in December 2007 with an owner of a weighbridge allowing him to weigh the vehicular traffic along the National Highway at Thangskai in Jaintia Hills for a period of three years from 2007-08 to 2009-10 on payment of Rs. 30 lakh per year. For enforcing compulsory weighing of trucks on the route, the State government agreed to deploy enforcement staff of the Transport Department for duties at the weighbridge. But the weighbridge started functioning belatedly from September

2008 due to non-deployment of the enforcement staff as stipulated in the agreement and the licensee requested the Government to exempt payment of Rs. 20.83 lakh for the period from 20 December 2007 to 31 August 2008 which was accepted by the Government. Thus, delay in posting the enforcement staff at the weighbridge at Thangskai led to loss of revenue of Rs. 20.83 lakh.

The case was reported to the department/Government in March 2009; their reply has not been received (February 2010).

5.6 Non-levy of fine on non-renewal of permits

Non-levy of fine of Rs. 8.92 lakh due to non-renewal of permits of 446 transport vehicles

As per section 66 of the Motor Vehicles Act, 1988 no owner of a motor vehicle shall use his vehicle as a transport vehicle in any public place without a valid permit whether or not such vehicles are actually carrying any passenger or goods. Further, section 81 of the Act ibid states that the validity of a permit is five years and may be renewed on an application made not less than 15 days before the date of expiry of the permit. Non-compliance of the above provisions of the Act attracts the provisions of section 192 A, under which a minimum fine of Rs. 2,000 shall be levied.

Scrutiny of the records of the District Transport Officer (DTO), East Khasi Hills, Shillong in March 2008 and February 2009 revealed that 446 transport vehicles were plying without getting their permits renewed. Further, there were no recorded reasons for non-renewal of the permits of the vehicle or withdrawal of the vehicles on the strength of form 'H'. No action was taken by the DTO to detect these vehicles plying without the permits and to recover the fine from the defaulters. This resulted in non-levy of fine of Rs. 8.92 lakh.

After this was pointed in May 2008, the DTO stated in June 2008 that the show cause notices had been issued to the owners of the vehicles. Report on the recovery has not been received (February 2010).

The matter was reported to the department/Government in March 2009; their reply has not been received (February 2010).

5.7 Non-imposition of penalty

Sale of vehicles without valid registration led to non-levy of penalty of Rs. 2.56 lakh

Under Rule 33 of the Central Motor Vehicles (CMV) Rules 1989, for the purpose of the provision to Section 39 of the MV Act, a motor vehicle in possession of a dealer shall be exempted from the necessity of registration subject to the condition that he obtains a trade certificate from the registering authority in accordance with the aforesaid rule. As per Rule 42 of CMV Rule, no holder of a trade certificate shall deliver a motor vehicle to a purchaser without registration, whether temporary or permanent. Further, as per Section 192 of the Motor Vehicles Act, whosoever drives or allows a motor vehicle to be driven in contravention of the

provisions of Section 39, shall be punishable for the first offence with a fine extendable upto Rs. 5,000 but not less than Rs. 2,000.

Scrutiny of the records of the DTO, East Khasi Hills, Shillong in February 2009 revealed that in 128 cases, vehicles were sold by the firm/dealers to the purchasers without temporary/permanent registration between November 2005 and March 2006. In all these cases the vehicles were registered by the DTO after delays ranging from 4 to 169 days from the date of delivery. Despite specific provision prohibiting delivery of vehicles without a valid registration, the dealer sold these vehicles violating the provision of the Motor Vehicles Act and the Central Motor Vehicles Rules. This not only resulted in plying of these vehicles without valid registration but also in non-levy of minimum penalty of Rs. 2.56 lakh.

The case was reported to the department/Government in March 2009; their reply has not been received (February 2010).

5.8 Non-realisation of revenue due to non-renewal of certificate of registration of private vehicles

Non-renewal of registration certificate of private vehicles after expiry of 15 years led to non-realisation of revenue of Rs. 4.76 lakh including fine

Section 41(7) of the MV Act lays down that the certificate of registration in respect of a motor vehicle other than a transport vehicle shall be valid for a period of 15 years from the date of issue of such registration and shall be renewable as per provision of the Act ibid under Rule 44 of the Assam Motor Vehicle Rule, the District Transport Officer shall maintain a register of all the vehicles in Form III known as the combined register in which detail of every vehicle plying in his area shall be ensured. The register is to be reviewed periodically by the DTO. Further Section 192 of the Act prescribes that whosoever drives or causes to drive a motor vehicle without registration shall be penalised for the first offence with fine which may extend to Rs. 5,000 but shall not be less than Rs. 2,000.

Scrutiny of the records of the DTO East Khasi Hills, Shillong in March 2008 and February 2009 revealed that though in 226 cases, the certificates of registration of the vehicles were not renewed by the owners after the expiry of the 15 years' period from the date of registration, yet no action was taken by the DTO to issue notices to these vehicle owners for re-registration of the vehicles. Thus, failure of the DTO to review the combined register periodically not only resulted in plying of vehicles without registration but also led to non-realisation of revenue of Rs. 4.76 lakh including fine.

The cases were reported to the department/Government in May 2008 and March 2009; their reply has not been received (February 2010).

5.9 Non-realisation of inspection/fitness fee

Failure of the Transport Department/enforcement wing to detect plying of vehicles without fitness certificates led to non-realisation of inspection fee of Rs. 2.67 lakh

Under the provision of Section 56 of the Assam MV Act a transport vehicle shall not be deemed to be validly registered for the purpose of the Section 39 unless it carries a certificate of fitness issued by the prescribed authority on realisation of the inspection fee. Further, as per Section 192 A of the MV Act whoever drives or allows a vehicle to be driven without registration is punishable with a minimum fine of Rs. 2,000 for the first offence. The DTO is required to review the combined registers periodically to ensure timely realisation of the inspection fee. In addition, the enforcement wing is required to monitor the plying of vehicles with proper fitness certificate on realisation of fee.

Scrutiny of the fitness register of the DTO, Shillong in April 2008 revealed that in 260 cases the fitness certificate which had expired between March 2002 and April 2006 were not renewed. Reasons for non-renewal of the fitness certificates were also not on record. This was not only fraught with the risk of plying of the vehicles in the public places without proper fitness but also resulted in non-realisation of fitness/inspection fee of Rs. 2.67 lakh and minimum fine of Rs. 5.20 lakh.

The case was reported to the department/Government in May 2008; their reply has not been received (February 2010).

CHAPTER VI: FOREST RECEIPTS

CHAPTER VI: FOREST RECEIPTS

6.1 Results of audit

Test check of the assessment cases and other records relating to the Forest Department during the year 2008-09 revealed non-realisation of duties, royalties etc., amounting to Rs. 16.07 crore in 23 cases which can be categorised as under:

(Rupees in crore)

Sl. no.	Category	Number of cases	Amount
1.	Non-deposit of forest royalty	01	1.11
2.	Lifting of timber without payment of royalty	02	1.07
3.	Non-realisation of export fee	01	0.47
4.	Other irregularities	19	13.42
Total		**23**	**16.07**

During the year 2008-09, the department failed to respond to any of the irregularities brought to their notice. No recovery in respect of any of the cases was intimated to audit.

A few illustrative audit observations involving Rs. 3.56 crore are mentioned in the succeeding paragraphs.

6.2 Audit observations

Scrutiny of the records in the offices of forest department revealed several cases of non-observance of the provisions of the Act/Rules resulting in non/short levy of fees and royalties and other cases as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out in audit. Such omissions 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.

6.3 Non-realisation of export fee

Export of limestone without transit pass fee resulted in non-realisation of revenue of Rs. 46.85 lakh

Under the Meghalaya Forest Regulation, 'forest produce' includes rock and minerals including limestone when found in or brought from a forest. In October, 1999, the Government of Meghalaya, Forest and Environment Department notified that for removal of any forest produce outside the state, a transit pass shall be issued on realisation of Rs. 300 per truck.

Scrutiny of the records of the Divisional Forest Officer (DFO), Khasi Hills, in October 2008 revealed that between April 2007 and March 2008, 15,618 trucks of limestone were exported from the division but transit passes were issued to these trucks without realising Rs. 300 per truck. Thus, issue of the transit passes to 15,618 trucks for export of limestone exported outside the State without realisation of the prescribed fee was irregular and resulted in non realisation of revenue of Rs. 46.85 lakh.

After this was pointed out, the DFO stated in April 2009 that the export fee was not realised as limestone was not included in the schedule of the forest produce. The reply is not tenable as limestone is a forest produce as defined under section 3(4) (b) (iv) of the Meghalaya Forest Regulation.

The cases were reported to the Government in November 2008; their reply has not been received (February 2010).

6.4 Non-remittance of forest royalty

Forest royalty of Rs. 1.11 crore collected by the Meghalaya Government Construction Company from contractors remained undeposited

Under the Forest Regulation (Application and Amendment) Act, 1973, no forest produce shall be extracted/removed from a forest area unless a permit/pass is granted by the forest officer on realisation of royalty in full.

Verification of the records of the Meghalaya Government Construction Company (MGCC) in October 2008 revealed that the company executed a number of construction works of the Government department/undertakings/autonomous bodies through its contractors. The contractors extracted and utilised minor forest

produces like aggregates, stones, sand etc. unauthorisedly without obtaining permit/passes on payment of the royalty for the construction work. The company however deducted forest royalty amounting to Rs. 1.11 crore upto 31 March 2007 at source from the contractors' bills. The royalty so collected had, however, not been forwarded to the forest department for deposit to the proper revenue account. This resulted in non-remittance of the royalty of Rs. 1.11 crore.

After this was pointed out, the DFO while admitting the facts stated (May 2009) that the matter had been referred to the Managing Director, MGCC for early deposit of forest royalty. A report on recovery has not been received (February 2010).

The case was reported to the Government in November 2008; their reply has not been received (February 2010).

6.5 Unauthorised lifting of timber

Timber was allowed to be lifted by the Meghalaya Forest Development Corporation unauthorisedly on part payment of Rs. 22.62 lakh against royalty of Rs. 99.36 lakh leading to short realisation of Rs. 76.74 lakh

Under the Meghalaya Forest Regulation, no forest produce shall be extracted/ lifted from a forest area unless the prescribed royalty is paid in full.

Scrutiny of the records of the DFOs, Garo Hills and Khasi Hills Forest Divisions in October and November 2008 revealed that between April 2004 and March 2007, the Meghalaya Forest Development Corporation (FDCM) was allowed to lift timber of mixed species measuring 1,759.891 cum on part payment of the royalty of Rs. 22.62 lakh against the due royalty of Rs. 99.36 lakh. The balance royalty of Rs. 76.74 lakh was neither paid by the FDCM nor was any action initiated by the Forest Department to realise it. This led to unauthorised lifting of timber and consequent short realisation of royalty of Rs. 76.74 lakh.

After this was pointed out, the DFO Khasi Hills Forest Division stated in May 2009 that the Managing Director, FDCM had been requested to pay the balance forest royalty. A report on recovery has not been received (January 2010). No reply has been received in respect of the non-payment of the royalty from the DFO, Garo Hills Forest Division.

The cases were reported to the department/Government in November 2008 and January 2009; their reply has not been received (February 2010).

6.6 Illicit felling and removal of timber

Illicit felling and removal of 510.769 cum of timber from reserve forests led to loss of revenue of Rs. 23.72 lakh

Under the provisions of the Meghalaya Forest Regulation and rules framed thereunder, felling and removal of trees from a reserve forest without a valid pass constitutes a forest offence punishable with fine. To prevent such illegal removal

of the forest produce, erection of the forest check gates at all the vital points is the primary responsibility of the Forest Department.

Scrutiny of the records of the DFO, Garo Hills Forest Division in November 2008 revealed that 510.769 cum of timber of mixed species involving royalty of Rs. 23.72 lakh was illegally felled by miscreants from the reserve forests under the division between April 2006 and March 2008 and the entire outturn was removed during the aforesaid period. Illegal felling and removal of such a large quantity of timber by miscreants from the state reserve forest not only indicates poor enforcement measures but also resulted in loss of revenue of Rs. 23.72 lakh.

The cases were reported to the department/Government in January 2009; their reply has not been received (February 2010).

6.7 Loss of revenue

Non-disposal of seized timber led to loss of revenue of Rs. 86.80 lakh

Under the Meghalaya Forest Regulation when a forest offence has been committed in respect of any forest produce, such produce may be seized and a report of such seizure may be made to the magistrate to try the person accused of the offence on account of which the seizure has been made. The magistrate may direct the sale of any property susceptible to speedy natural decay. Further, felled trees if not disposed early, lose their commercial value with the passage of time due to the vagaries of nature. Hardwood species decay within three years and softwood species decay within a year.

Scrutiny of the records of the DFO, Garo Hills Forest Division in November 2008 revealed that 67 offence cases were detected by various ranges between March 2003 and March 2005. In these cases, 30,558.036 cum of timber valued at Rs. 86.80 lakh had been illegally felled and all these cases had been sent to the court for trial on various dates between April 2003 and March 2005. Final decision of the court is still pending. Further scrutiny, however, revealed that no attempt had been made to dispose the seized timber by obtaining permission of the court even after the lapse of more than three years. Since seized timber had been lying in the open subjected to the vagaries of nature, it has lost its commercial value and the State government has been deprived of revenue of Rs. 86.80 lakh.

The cases were reported to the department/Government in January 2009; their reply has not been received (February 2010).

6.8 Short realisation of royalty

Application of incorrect rate on 11,565.35 cum of sand, 20,813.71 cum of stone and 52,053.60 cum of clay led to short realisation of royalty of Rs. 10.49 lakh

The Government of Meghalaya, Environment and Forest Department in their notification dated 12 November 1998, fixed the rate of royalty per cum of sand, stone and clay at Rs. 30, Rs. 80 and Rs. 32 respectively.

Scrutiny of the records of a user agency with those of the DFO, Jaintia Hills Forest Division in November 2007 revealed that 11,565.35 cum of sand, 20,813.71 cum of stone and 52,053.60 cum of clay were extracted and utilised for various works by the contractors between October and December 2005. The user agency realised royalty of Rs. 26.29 lakh instead of Rs. 36.78 lakh from the contractor's bills and forwarded to the Forest Department. No effective steps were initiated by the Forest Department to recover the balance revenue. This resulted in short realisation of the royalty of Rs. 10.49 lakh.

This kind of lapse had been repeatedly highlighted in successive Audit Reports. The Forest Department had contended that the user agencies were responsible to recover the loss but no coordinated steps have been taken either by the Forest Department or the Works Department to identify and resolve the issue due to which the Government is sustaining loss of revenue year after year, which may become irrecoverable with the passage of time.

The cases were reported to the Government in January 2009; their reply has not been received (February 2010).

CHAPTER VII: RECEIPTS FROM MINES AND MINERALS

CHAPTER VII: RECEIPTS FROM MINES AND MINERALS

7.1 Results of audit

Test check of the records relating to Geology and Mining Department during the year 2008-09 revealed non-realisation of duties, royalties etc., amounting to Rs. 18.58 crore in 14 cases which can be categorised as under:

(Rupees in crore)

Sl. no.	Category	Number of cases	Amount
1.	Non-revision of royalty rate	01	10.09
2.	Loss of revenue on export	01	6.37
3.	Non-realisation of royalty	03	1.08
4.	Other irregularities	09	1.04
Total		**14**	**18.58**

During the year 2008-09, the department failed to respond to any of the irregularities brought to their notice. No recovery in respect of any of the cases was intimated to audit.

A few illustrative audit observations involving Rs. 41.12 crore are mentioned in the succeeding paragraphs.

7.2 Audit observations

Scrutiny of the records in the offices of Mines and Minerals Department indicated several cases of non-observation of the provisions of the Acts/Rules resulting in non/short levy/realisation of royalty/cess/dead rent and other cases as mentioned in the succeeding paragraphs in the chapter. These cases are illustrative and are based on the test check carried out in audit. Such omissions are pointed out in audit in each year, but not, only do the irregularities persist; these remain undetected till an audit is conducted. There is need for the Government to consider directing the department to improve the internal control system including strengthening internal audit so that such omission can be avoided, detected and corrected.

7.3 Non-realisation of cess on limestone extracted from forest area

Lack of co-ordination between two departments led to non-realisation of revenue of Rs. 68.30 lakh

Under the provision of the Meghalaya Mineral Cess Act, 1988 cess on limestone has been fixed at Rs. 5 per tonne with effect from April 1992. In Meghalaya, royalty on limestone is jointly realised by the Forest Divisions (for lime stone extracted from areas under the jurisdiction of forest division) and the Directorate of Mineral Resources (for remaining areas). The right to realise cess has, however, been vested with the DMR.

Scrutiny of the records of the Directorate of Mineral Resources (DMR), Meghalaya, in March 2008 revealed that 13,65,992 tonnes of limestone was extracted and exported from areas under the jurisdiction of forest divisions during 2005-06 and 2006-07. Although royalty on the quantity exported was realised by the forest divisions, no cess was collected as the DMR was unaware of the aforesaid extraction and export. Thus, due to lack of co-ordination between the two departments, there was non-realisation of revenue of Rs. 68.30 lakh.

The cases were reported to the department/Government in April 2008; their reply has not been received (February 2010).

7.4 Non-realisation of dead rent

Dead rent of Rs. 14.34 lakh including interest was not realised from four lessees

Under section 9A of the Mines and Minerals Development and Regulation (MMDR) Act, 1957, a lessee shall be liable to pay either the prescribed royalty on minerals removed or dead rent in respect of the leased area, whichever is higher. Rule 64 A of the Mines and Mineral Concession Rule, 1960 provide that if the dues payable by the lessees are not paid within the time specified for such payment, simple interest at the rate of 24 *per cent* per annum may be charged on the unpaid amount from the sixtieth day of the expiry of the date fixed for payment of such dues.

Scrutiny of the records of the DMR, Meghalaya, in March 2008 revealed that four lessees did not extract any minerals from the leased areas between January 2006 and January 2007 and were liable to pay dead rent of Rs. 12.36 lakh. The DMR, however, did not raise any demand for payment of dead rent. Besides, for non-payment of dead rent, interest of Rs. 1.98 lakh was also leviable but was not levied. This resulted in non-realisation of dead rent and interest of Rs. 14.34 lakh.

The cases were reported to the department/Government in April 2008; their reply has not been received (February 2010).

7.5 Short realisation of royalty

Delay in implementation of revised rate of royalty led to loss of revenue of Rs. 20.38 crore

In exercise of powers conferred under the MMDR Act, the Government of India (GOI), Ministry of Coal revised the rate of royalty per metric tonne (MT) of coal from Rs. 165 to Rs. 130 plus five *per cent* of pithead price of coal with effect from 1 August 2007. Further, in August 2007, the North East Coal Field Limited, Assam, informed the (DMR), Meghalaya, the pithead price of coal which varied from Rs. 1,320 to Rs. 1,888 per MT. Based on the minimum notified price of Rs. 1,320 per MT, the revised rate of royalty per MT of coal works out as Rs.196.

Scrutiny of the records of the DMR, Meghalaya in March 2009 revealed that the revised rates circulated in August 2007 by the GOI had not been implemented till March 2009 by the Government of Meghalaya. Between February 2008 and February 2009, 65,71,756 MT of coal was despatched and royalty of Rs.108.43 crore was realised at the pre-revised rate of Rs.165 per MT instead of Rs.128.81 crore at the revised rate of Rs.196 per MT. Thus, inordinate delay on the part of the State government to implement the revised rate of the royalty resulted in loss of revenue of Rs. 20.38 crore.

After this was pointed out in April 2009 the Government stated in June 2009 that the DMR had taken up the matter with the Ministry of Coal, Government of India to ascertain the notified price of the Meghalaya coal in May 2008, but failed to elicit a response even after the lapse of 22 months from the date of notification. The reply is not tenable as the pithead price of different grades of coal was communicated by the North East Coal Fields Limited in August 2007. The Government was only required to calculate and notify the revised rates of royalty on different grades of coal as per the formula given by the GOI. Instead, the Government unnecessarily referred the matter to the GOI for clarification which not only led to loss of revenue to the State but also extended undue financial benefit to the miners. Further reply has not been received (February 2010).

7.6 Non-realisation of royalty on coal

Failure of the Mines and Minerals Department to prevent unauthorised export of coal and lime stone led to the loss of revenue of Rs. 13.73 crore

The MMDR Act lays down that every licencee or permit holder or lessee shall pay the prescribed royalty in respect of the mineral removed or consumed by him. The DMR, Meghalaya notified in September 1995 that if any trader failed to pay the full royalty in advance on the quantity of mineral transported, penalty at the rate of 25 to 100 *per cent* should be collected at the mineral check gate in addition to the royalty. The royalty on coal was fixed at Rs. 165 per MT from 16 August 2002 and royalty on limestone was Rs. 45 per MT and cess was Rs. 5 per MT.

Scrutiny of the records of the DMR, Meghalaya in March 2009 revealed that permit holders exported 12.79 lakh MT of coal and 22.19 lakh MT of limestone during the period from April 2007 to March 2009 to Bangladesh through Borsora, Bholaganj and Shella land customs stations. Cross verification with the report of the Customs Department, however, revealed that the permit holders actually exported 17.20 lakh MT of coal and 31.48 lakh MT of limestone during the aforesaid period. The enforcement staff posted at the check gate of the Mines and Minerals Department failed to detect export of 4.40 lakh MT of coal and 9.29 lakh MT of limestone to Bangladesh resulting in loss of revenue of Rs. 13.73 crore in the shape of royalty, cess and penalty.

The case was reported to the department/Government in April 2009; their reply has not been received (February 2010).

7.7 Short realisation of royalty and cess

There was short realisation of royalty and cess on lime stone of Rs. 6.18 crore

Section 9(2) of the MMDR Act lays down that every licencee or permit holder or lessee shall pay the prescribed royalty in respect of any minerals removed or consumed by him from the mining area. The royalty on limestone was Rs. 45 per MT and cess Rs. 5 per MT.

Test check of the records of the DMR, Meghalaya, in March 2009 revealed that 32.57 lakh MT of limestone was extracted and removed by the permit holders between April 2005 and March 2007. Royalty and cess of Rs. 14.66 crore and Rs. 1.63 crore respectively was payable against which royalty of Rs. 8.69 crore and cess of Rs. 1.42 crore was realised. This resulted in short realisation of the royalty of Rs. 5.97 crore and cess of Rs. 21 lakh.

The case was reported to the department/Government in April 2009; their reply has not been received (February 2010).

(ONKAR NATH)
Accountant General (Audit)
Meghalaya

Shillong
The 29 MAR 2010

Countersigned

(VINOD RAI)
Comptroller and Auditor General of India

New Delhi
The 12 APR 2010