



**PUBLIC ACCOUNTS COMMITTEE**

**( 1999-2001 )**

**SEVENTY-EIGHTH REPORT**

**(TENTH ASSEMBLY)**

**REPORT OF THE PUBLIC ACCOUNTS COMMITTEE  
ON THE REPORT OF THE COMPTROLLER AND  
AUDITOR GENERAL OF INDIA FOR THE  
YEAR 1987-88 (REVENUE RECEIPTS) PERTAIN-  
ING TO THE FINANCE (TAXATION)  
DEPARTMENT TO THE GOVERNMENT  
OF ASSAM**

**PRESENTED TO THE HOUSE ON.....7-4-2000**

**ASSAM LEGISLATIVE ASSEMBLY SECRETARIAT  
DISPUR, GUWAHATI-781006**

COMPOSITION OF THE PUBLIC ACCOUNTS

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\* Ceased to be the Member of the Committee on her appointment as Deputy Speaker

\*\* Expired

COMPOSITION OF THE PUBLIC ACCOUNTS  
COMMITTEE—1999-2001

Chairman :—

1. Shri Derhagra Mochahary.

Members :—

2. Shri Pulakesh Barua.
3. Shri Kesharam Bora.
- \* 4. Smti. Renupoma Rajkhowa.
5. Shri Hemanta Kalita.
6. Shri Mohan Das.
7. Shri Alauddin Sarkar.
8. Shri Nizamuddin Khan.
9. Shri Abdul Muqtadir Choudhury.
10. Shri Mustafa Shahidul Islam.
11. Shri Gautam Roy.
12. Shri Kali Ranjan Deb.
- \*\* 13. Shri Karuna Dutta.

Secretariat :—

1. Shri D. Talukdar, Secretary.
2. Shri A. R. Chetia, Deputy Secretary.
3. Shri B. Basumatary, Committee Officer.

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\* Ceased to be the Member of the Committee on her appointment as Deputy Speaker.

\*\* Expired.

## PREFATORY REMARKS

1. I, Shri Derhagra Mochahary, Chairman of the Committee on Public Accounts having been authorised to submit the Report on their behalf, present this Seventy-eight Report of the Committee on the Audit Paras contained in the Report of the Comptroller and Auditor General of India (R/R) for the year 1987-88 pertaining to Finance (Taxation) Department, Government of Assam.

2. The Report of the Comptroller and Auditor General of India (R/R) for the year 1987-88 was presented to the House on 8th October, 1990.

3. The Report as mentioned above relating to Finance (Taxation) Department was considered by the erstwhile Committee on Public Accounts of 8th Assembly under the Chairmanship of Shri Sasha Kamal Handique (as at Annexure I) who could not present the Report thereof owing to expiry of their term. The Report was thereafter re-examined by the Sub-Committee 'B' of Public Accounts Committee under the Convenorship of Shri Mohan Das, MLA (as at Annexure II) in their sittings held on 23rd October, 1997, 4th November, 1997 and 12th January, 1998. The Sub-Committee also adopted the draft Report in their meeting held on 10th March, 2000 for the consideration and approval by the main Committee.

4. The present Committee on Public Accounts has considered the draft 78th Report and finalised in their sitting held on 10th March, 2000 for presentation before the House.

5. The Committee places on records their appreciations to the erstwhile Committee on Public Accounts for their strenuous works for obtaining various records, information and clarification pertaining to the Audit Paras relating to Finance (Taxation) Department. The Committee also wishes thanks to the Departmental witness for their Co-operation. The Committee also appreciates the A.G. (Audit) Assam, and his staff for their valuable assistance. The Committee also pleased to offer thanks to the Secretary, Assam Legislative Assembly with his officers and staff of the Public Accounts Committee branch for their valuable services rendered to the Committee

DERHAGRA MOCHAHARY,  
Chairman,  
Public Accounts Committee.

## THE REPORT

### CHAPTER—I

#### Suppression of turnover

(Para 2.2/CAG 1987-88 R/R)

101. The Audit has pointed out the following cases of suppression of turnover by the Finance (Taxation) Department:—

- (i) In Nalbari, a dealer was assessed for the quarterly return periods ending September 1985 to September 1986, on the basis of despatch of goods (Jute) outside the State, as shown in the dealer's returns and books of account. As per the dealer's books of the account the total purchases and despatches of goods amounted to Rs. 43,98,848 and Rs. 20,99,488 respectively during the quarterly return periods ending September 1985 to June 1986. The accounts did not show any opening stock as on 1st July 1985 and stock in hand at the end of each quarterly return periods ending September 1985 to September 1986 nor did the file return declaring that the stock of goods in hand at the in of each quarterly return period was sold to a third party within the State. On the basis of purchases and despatches shown in the dealer's return and books of account, the value of stock of goods at the end of September 1986 should not have been less than Rs. 22,99,360. In the absence of any proof, by way of return and declaration by the dealer, to the effect that the goods so purchased by him and remained in hand at the end of each quarter were subsequently sold to a third party within the State, the entire stock, valued at Rs. 22,99,360, in the hands of the dealer acquired the character of last purchase and purchase tax was to be levied thereon. But this was not treated as such while assessing the dealer for the above mentioned periods. This resulted in suppression of turnover at least valuing Rs. 22,99,360 and evasion of tax of Rs. 91,974, calculated at the rate of 4 per cent.

- (ii) In Golaghat, in respect of a dealer in paddy that taxable turnover as per assessment orders amounted to Rs. 10,15,298 for the quarters ending March 1982 to March 1984. But a cross check, by Audit, with the records of the Income Tax Department disclosed that the same dealer in his returns for income tax for the years 1982, 1983 and 1984 (upto March 1984) had shown total purchases of paddy amounting to Rs. 24,41,787. Obviously the dealer had concealed the turnover of purchases amounting to Rs. 14,26,489 having a tax effect of Rs. 28,530. For the concealment of taxable turnover penalty, upto Rs. 42,795 could also be imposed on the dealer.
- (iii) At Dhubri, as per way-bill register maintained by the Superintendent of Taxes evidencing despatch of raw Jute (outside the State, the despatches of Jute of a dealer for the quarterly periods ending September 1985 to March 1986 (upto 25th March 1986) amounted to Rs. 20,43,000. The dealer's registration certificate was cancelled on 28th January 1986 following his application dated 27th January 1986 intimating closure of business from 25th January 1986. While assessing (November 1985 and January 1986) the dealer, the turnover was however determined at Rs. 60,400 on the basis of his return. The commission to take into consideration the despatches as evidenced by way-bills resulted in turnover amounting to Rs. 19,82,600 escaping assessment and consequent non-levy of tax of Rs. 79,304 calculated at 4 percent.
- (iv) In Biswanath Chariali, taxable turnover in respect of a raw jute dealer was determined at Rs. 10,55,422, on the basis of his books of account for the quarterly periods falling between December 1984 and December 1986. But, as per way-bills collected by the Damra Checkpost despatch of raw jute outside the State, aggregated Rs. 13,94,575 having a tax effect of Rs. 55,783 calculated at 4 per cent. Thus, turnover amounting to Rs. 3,39,153 escaped assessment. Incorrect determination of the dealer's turnover resulted in non-levy of tax of Rs. 13,566.

1.2. The Department in their written memorandum have stated as follows:—

(i) The total purchases by concerned dealers during the quarter endings are shown below:—

Q.E.	Opening stock	Purchase during the quarters	Despatch during the quarters	Closing stock
30-9-85	69,074.35	4 22,252.00	1,66,623.60	3,24,802.75
31-12-85	3,24,802.75	9,35,543.55	3,90,911.00	8,69,435.30
31-3-86	8,69,435.30	6,00,781.44	6,88,977.44	7,81,239.30
30-6-86	7,81,239.30	3,95,620.50	8,49,599.50	3,27,260.30
30-9-86	3,27,260.30	4,79,603.00	2,46,819.60	Nil*

\* Local sale inside the State not liable to tax amounting to Rs. 5,60,043.70.

The discrepancies in the value of total purchase and despatch in between the figures as recorded in audit objection and that reflected in the assessment orders was due to the fact that while opening stock of the concerned quarters was included in the quantity purchased for the purpose of assessment and thereby eliminated the necessity for separate accounting of the stock. It may be the fact that the Audit might have misunderstood the purchase figures as shown in the assessment proceedings for the respective quarters which actually included the stock in hand also.

(ii) The dealer was re-assessed on the total turnover of Rs. 24,41,787/- levying tax of Rs. 48,846/- along with interest of Rs. 44,940/-. Realisation made so far is Rs. 63,091/- and actions for the balance are in progress under Superintendent of Taxes (Recovery).

(iii) The assessments were revised as per the audit objection, levying tax and interest of Rs. 98,224/-. It was found that the dealer had closed down his business at Dhubri and left the place. An Inter-State Arrear Certificate was issued to Jaipur through the District Collector, Dhubri on 13th August, 1991. No Collection has yet been made.

- (iv) On receipt of the audit objection, the matter was re-verified. It was found by the Assessing officer that the value mentioned in the way bills represents his sale value including profit, transport charges etc. But as per the purchase Tax Act, the tax is leviable on the last purchase price and accordingly the tax was levied on the last purchase price of Rs. 10.55 lacs. and not on Rs. 13.94 lacs. as reported by the audit.

Hence there was no loss of revenue.

### OBSERVATIONS/RECOMMENDATIONS

1.3. The Committee observes that the initial assessment of the objections as at Para 1 (i) Sl. (iv) confirmed by the Department on review/reassessment is in order whereas in remaining two cases, additional tax and interest found due. The assessing officers involved in the under-assessment cases are also deserved to be cautioned for future if their commissions are found intentional.

1.4. The Committee recommends that whatever arrear tax is outstanding would immediately be realised by taking rapid action and intimated to the Committee within a period of two months from the date of presentation of the Report before the House. The Committee further recommends that the erring officers should be brought to book and cautioned for future.



## CHAPTER—II

## Turnover not assessed to tax

(Para 2.3/CAG 1987-88 R/R)

2.1. The Audit has brought out that in Silchar, a dealer (manufacture) in Hume pipes, who was registered under both the Assam Finance (Sales Tax) Act, 1956 and the Central Sales Tax Act, 1956, was assessed to tax on his returned turnover amounting to Rs. 7.54 lakhs, for the period ending March 1986 under the Assam Finance (ST) Act. Assessment proceeding under the Central Sales Tax Act, was closed with nil tax liability against the dealer on the ground that he had made no inter-State sales during this return period. A test audit of check-post records, however, disclosed that the dealer sold goods, valuing Rs. 14.39 lakhs, to the dealers and Government Departments of another State in the course of inter-State trade during the same return period. The transactions of sale were neither disclosed by the dealer in his return nor brought to assessment by the assessing officer while determining tax liability of the dealer under the Central Act. This escaped turnover has resulted in non-levy of tax of Rs. 1.44 lakhs calculated at 10 per cent in absence of 'C' or 'D' form declaration.

2.2. The Department in their written memorandum has stated that the dealer has been re-assessed on the sale value of Rs. 14.38 lacs under the Central Sales Tax Act out of which Rs. 10.79 lacs sales were supported by 'D' form and hence taxes @ 4% and the balance of Rs. 3.58 lacs were taxes @ 10%. Entire amount of Rs. 98,841/- was realised as tax and interest on the above sales. The offences of the dealer were compounded by the assessing officer at Rs. 2000/- which was realised in full.

## OBSERVATIONS/RECOMMENDATIONS

2.3. The Committee express its satisfaction that the Department realised all dues after re-assessment.

CHAPTER -III  
Non-levy/Short levy of interest  
(Para 2. 4- CAG 1987-88 R/R)

3. 1. The Audit has pointed out the following cases of Non-levy/Short levy of interest :—

- (i) Under the Central Sale Tax Act, 1956, a dealer of Guwahati - A unit was assessed to tax amounting to Rs. 80,251 for the periods ending March 1983 to March 1985. The dealer, however, did not pay any tax by the due date. Interest chargeable from the dealer amounted to Rs. 33,455, but interest amounting to Rs.1,161 only was charged, resulting in short levy of interest amounting to Rs. 32,294.
- (ii) Under the Assam Finance (Sales Tax) Act, 1956, two dealers of Guwahati-A unit were assessed (January and May 1986) to tax amounting to Rs. 3.31 lakhs and Rs. 1.50 lakhs for the periods ending March 1984 and March 1985 respectively. No tax was paid by the dealers by the due dates. Interest leviable on non-payment and belated payment of tax amounted to Rs. 61,640 (Rs. 59,296 and Rs. 2,344), but interest amounting to Rs. 25,238 was only levied in respect of one dealer and no interest was levied in respect of the other dealer. This resulted in short levy/non-levy of interest amounting to Rs. 36,402 (Rs. 34,058 and Rs. 2,344).
- (iii) In Dibrugarh, a dealer, who was habitual defaulter in respect of submission of return with admitted tax, was assessed by the assessing officer to the best of his judgement for various return periods falling between October, 1979 and March 1984. On the failure of the dealer to pay the assessed tax the case was referred to the Tax Recovery Officer for recovery of the assessed tax amounting to Rs. 53,842 with interest charged upto the date of assessment. When the tax and interest demanded had been recovered through Tax Recovery Officer, the proceedings were closed against the dealer. Omission to charge interest from the date of assessment to the date of final recovery of tax due from the dealer, as per provisions of Sales Tax Law of the State resulted in Short-realisation of interest of Rs. 15,413.

(iv) In respect of the same dealer, another case was referred to the Tax Recovery Officer for recovery of tax amounting to Rs. 92,394 with interest (charged upto date of assessments) for the various return periods falling between April 1982 and March 1986. But the interest that accrued from the date of assessment onwards to the date of recovery had not been included in the demand sent to the Tax Recovery Officer nor had the Tax Recovery Officer been instructed to include, in the demand, further interest that would accrue, till the tax was actually paid in full by the dealer. Interest levied short thus amounted to Rs. 51,355 calculated upto the date of audit (October 1987). The extent of interest leviable however would be more if it was calculated upto date of full recovery of tax due.

3.2. The Department in their written replies have stated as follows:—

- (i) The short levy of interest of Rs. 32,312/- was charged and realised in full.
- (ii) In the 1st case out of two cases referred to in the para total interest amounting to Rs. 49,012/- was levied and realised. The difference between the amount realised (Rs. 49,012) and the audit figure of Rs. 59,296/- is due to adjustment of excess payment by the dealer in an earlier occasion.

In the 2nd case interest of Rs. 2,344/- was levied and realised.

- (iii) & (iv) The assessing officer took step to levy interest upto the date of final payment of the principal i. e., in the instant cases, the taxes determined by assessment orders under the A.S.T. Act/47, AF(ST) Act/56 and Central Sales Tax Act/56. Amounts involved are as below:—

- (a) Under A.S.T. Act/47 for P.E. 31th March 1980 to 31th March 1982 Rs. 10,134 upto the date of final payment and Rs. 12,720/ upto the date of issue of arrear certificate P. E. 30th March 1982 to 31th March 1986

(b) Under A. F. (S. T.) Act for period Ending 31st March, 1980 to 31st March, 1984 Rs. 5,166.00 for period ending 31st March, 1980 to 31st March, 1984 upto the date of final payment and Rs. 620.00 till date of issue of Bakijai Certificate.

(c) Under C. S. T. Act similarly for period ending 31st March, 1986 a sum of Rs. 7714.00 was levied an interest upto the date of final Payment the assessing officer has issued arrear certificate to the Superintendent of Taxes (Recovery) for realising the amount mentioned as above. The amount are in the process of recovery.

### OBSERVATIONS/RECOMMENDATIONS

3.3. The Committee express its satisfaction on the action taken by the Department and pleased to drop the para with the suggestion that vigorous action should be taken for realisation of arrear in full in respect of the pending cases.

## CHAPTER IV Levy of penalty on irregular sale

(Para 2.5/CAG 1987-88 R/R)

4.1. Audit has pointed out that in Hailakandi, a manufacturer, registered under the Central Sales Tax Act, 1956, after purchasing from outside the State goods (M.S. Rod of 16 mm) at the concessional rate of tax of 4 per cent on 'C' form declaration failed to make use of 300 metric tonnes of goods of above description for the purpose for which the same were purchased and sold them inside the State at a price of Rs. 17.12 lakhs during the period ending March 1987. The sale of goods, thus, constituted an offence attracting penal provision of section 10 A of the Central Sales Tax Act, 1956. The penalty payable by the dealer amounted to Rs. 1.03 lakhs. However, no penalty proceedings were initiated against the dealer.

4.2. The Department in their written memorandum have stated that the objection relates to M/S, Hindustan Paper Corporation, Hailakandi relating to purchase of items namely M.S. Rod by use of 'C' form. On receipt of the objection a thorough probe in the matter was conducted and a report thereon was submitted to the A. G. (Audit) who was satisfied to drop the objection vide no. RAW (A) 5-13/87-88/475 dated 18.5.89.

### OBSERVATIONS/RECOMMENDATIONS

4.3. The Committee obtained the views of Accountant General (Audit), in course of oral deposition who has since dropped the objection. The Committee feels that if the department would have furnished the reply immediately on receipt of draft para, the same would not have found place in the Report. The Committee expects the Department to be more particular in future in dealing with audit matters.

## CHAPTER—V

Evasion of tax  
(Para 2.6/CAG 1987-88 R/R)

5.1. The Audit has brought out that in Silchar, five dealers, registered under the Assam Finance (Sale Tax) Act, 1956 only, made inter-State sale of goods valuing Rs. 8.68 lakhs to Mizoram during the return period ending March 1986 and September 1986, as revealed in audit as a result of cross check conducted in the check post records with the assessment records of the dealer. While the dealers were assessed to tax under the State Act on their turnover of local sales they were neither registered under the Central Act nor were their inter-State Sales, made without being registered as dealer for the purpose, brought to assessment on the basis of material available in the check post records and subjected to tax. The failure of the Department to bring the assessee under the statute resulted in non-realisation of tax amounting to Rs. 86,790. Besides, penalty by way of fine for non-registration was also recoverable from the dealer.

5.2. The Department in their written replies have stated that the five dealers were engaged in the business of manufacturing and selling of Bricks. On receipt of the Audit Notes thorough probe in to the matter was carried out to ascertain if there were sale of bricks in course of inter-State trade and commerce. The assessing officer after thorough enquiry found that there was no sale of brick by the afore-said dealers in course of inter-state trade and commerce. The goods were sold within the State and the purchaser hailing from Mizoram arranged to gate the items transferred to Mizoram. So such sales attracted levy of tax under A.F.S.T. Act, but not under C.S.T. Act/56. However as the dealer concealed a portion of the turnover pertaining to such transaction the assessing officer initiated proceedings under section 25 of A.F.(S.T.) Act/56 and on prayer the Supdt. of taxes, compounded the offences by accepting composition money amounting to Rs. 1,500/- Rs. 750/- Rs. 1,000/ and Rs. 1,000/- from four dealers out of 5. In respect of 1 dealer there was no concealment of turnover and hence, no penal action was felt necessary. As the amounts were not shown in the regular returns, the taxes were levied by re-opening the cases in the light of audit observation along-with interest in respect of 4 dealers except one. Incidental

it may be mentioned that the audit objection pertaining to all the five dealers were settled by audit vide letter No. RAW(A)5-14/87-88/412, dated 30th April 1991,

### OBSERVATIONS/RECOMMENDATIONS

5.3. The Committee consulted with A.G. (Audit) who had since settled the objection. The Committee expresses its satisfaction on the action taken by the Department. The Committee however, reiterates its comments as in the foregoing para 4.3

The Department in their written replies stated that the 'D' form in lieu of 'C' form were accepted through mistake from the purchaser i.e. the Forest Utilization Officer, Meghalaya Forest Department who was no dealer a Govt. Department but at the same time a registered dealer in the State of Meghalaya. On detection of the mistake the purchasing dealer i.e. Forest Utilization Officer furnished 4 No. of 'C' form in lieu of 'D' forms already submitted. He got back the form 'D' from the dealer i.e. Dushil Trading Co. Bahadur during the re-opening process the assessing officer however levied tax for non-compliance on the part of the dealer to furnish some supporting documents. The assessment was subsequently set aside by the learned appellate A.O.T. with direction to accept the 'C' forms after verification of supporting documents. The re-assessment was accordingly made and the tax payable was determined as nil as the Govt. vide order under (2) of the C.S.T. Act 1956 levied tax on inter-state sale made by any dealer or Assam to any registered dealer of Meghalaya during the period ending 30-6-78 and 31-7-79 during which the transaction took place. It may be mentioned again that although tax amounting to Rs.84,583.

6.2. The Department in their written replies stated that the 'D' form in lieu of 'C' form were accepted through mistake from the purchaser i.e. the Forest Utilization Officer, Meghalaya Forest Department who was no dealer a Govt. Department but at the same time a registered dealer in the State of Meghalaya. On detection of the mistake the purchasing dealer i.e. Forest Utilization Officer furnished 4 No. of 'C' form in lieu of 'D' forms already submitted. He got back the form 'D' from the dealer i.e. Dushil Trading Co. Bahadur during the re-opening process the assessing officer however levied tax for non-compliance on the part of the dealer to furnish some supporting documents. The assessment was subsequently set aside by the learned appellate A.O.T. with direction to accept the 'C' forms after verification of supporting documents. The re-assessment was accordingly made and the tax payable was determined as nil as the Govt. vide order under (2) of the C.S.T. Act 1956 levied tax on inter-state sale made by any dealer or Assam to any registered dealer of Meghalaya during the period ending 30-6-78 and 31-7-79 during which the transaction took place. It may be mentioned again that although tax amounting to Rs.84,583.

## CHAPTER VI

Irregular acceptance of documents in support of  
inter-state sales

(Para 2.7/CAG 1987-88 R/R)

6.1. The Audit has brought out that in Barpeta, a dealer's inter-state sales amounting to Rs.8.46 lakhs effected during the periods ending September 1978 and March 1979 to a registered dealer of Meghalaya State were exempted from levy of tax on the basis of certificates in Form 'D' furnished by the selling dealer after obtaining the same from the purchasing registered dealer in support of such inter-state sales. While assessing the dealer (July 1983) and at the time of revision of assessment (August 1987), irregular certificates furnished in Form 'D' have been accepted though the transactions of such sales made to a registered dealer ought to have been supported by declarations in Form 'C' and therefore no exemption on these sales was admissible to the dealer in assessment. The irregular acceptance of documents supporting inter-state sales resulted in grant of inadmissible exemption with the consequential non-levy of tax amounting to Rs.84.583.

6.2 The Department in their written replies stated that the 'D' form in lieu of 'C' form were accepted through mistake from the purchaser i.e. the Forest Utilization Officer Meghalaya Forest Department who was no doubt a Govt. Department but at the same time a registered dealer in the State of Meghalaya. On detection of the mistake the purchasing dealer i.e. Forest Utilization Officer furnished 4 No. of 'C' form in lieu of 'D' forms already submitted. He got back the form 'D' from the dealer i.e. Sushil Trading Co. Baharihat during the re-opening process the assessing officer Barpeta however levied tax for non-compliance on the part of the dealer to furnish some supporting documents. The assessment was subsequently set aside by the learned appellate A.C.T. with direction to accept the 'C' forms after verification of supporting documents. The re-assessment was accordingly made and the tax payable was determined as nil as the Govt. vide order under (5) of the C.S.T. Act/56 exempted tax on inter-state sale made by any dealer of Assam to any registered dealer of Meghalaya during the period ending 30-9-78 and 31-3-79 during which the transaction took place. It may be mentioned again that although



Forest Utilization Officer Meghalaya was an officer of Govt. Department, in the instant case he was a registered dealer authorised to issue 'D' forms.

### OBSERVATIONS/RECOMMENDATIONS

6.3. The Committee is please to note that the Omission made initially has been ractified and no loss has been sustained.

(i) In Government Order No. 1001/1985, dated 12.11.85, the Government has classified glass tiles and acid proof tiles as articles falling under item 22 of the Schedule to the Assam Finance (Sales Tax) Act, 1956. The Articles under item 22 are crockery, cutlery and other articles made of glass china porcelain or glazed earthen ware meant for domestic use. As the glass tiles and acid proof tiles do not fall under the category of goods mentioned in item 22 of the Schedule, these goods ought to have been classified as mosaic (masonry) tiles taxable at the rate of 12 per cent under item 29 of the Schedule. The misclassification of goods has resulted in short levy of tax. In this absence of details on the assessment records regarding individual turnover of sales of glass and acid proof tiles the exact short levy of tax could not be worked out in Audit. However, if 50 per cent (Rs. 10,52,681) of total sales (Rs. 21,11,362) for the abovementioned return periods was taken as sales turnover of glass and acid proof tiles the short levy of tax would amount to Rs. 77,368.

The assessing officer stated (September 1985) to Audit in reply that glass tiles (acid proof or otherwise) made of china porcelain are categorically covered by item 22 of the Schedule. This contention is not acceptable to Audit as the articles covered by item 22 of the Schedule are for domestic use only. Glass tiles (masonry) made of cement and marble chips are not used for domestic purposes and therefore these articles are classifiable as articles

## CHAPTER VII

## Short levy of tax due to misclassification of goods

(Para 2.8/CAG 1987-88 R/R)

7.1. The Audit has brought out the following cases of misclassification of goods and thereby short levy of tax :-

- (i) In Guwahati 'C' Unit, a dealer dealing in glaze tiles, acid proof tiles, and filter candles (and also in medicine with effect from 22nd May 1985) was assessed on his turnover aggregating Rs. 33.11 lakhs for the return period ending September 1984 (Rs. 11.26 lakhs) March 1985 (Rs. 13.18 lakhs) and September 1985 (Rs. 8.67 lakhs) and tax was levied at the rate of 7 per cent classifying glaze tiles and acid proof tiles as articles falling under item 22 of the Schedule to the Assam Finance (Sales Tax) Act, 1956. The Articles under item 22 are crockery cutlery articles made of glass china porcelain or glazed earthen were meant for domestic use. As the glaze tiles and acid proof tiles do not fall under the category of goods mentioned in item 22 of the Schedule, these goods ought to have been classified as mosaic (masonry) tiles taxable at the rate of 12 per cent under item 70 of the Schedule. The misclassification of goods thus resulted in short levy of tax. In this absence of details, on the assessment records, regarding individual turnover of sales of glaze and acid proof tiles, the exact short levy of tax could not be worked out in audit. However, if 50 per cent (Rs. 16,55,681) of total sales (Rs. 33,11,362) for the abovementioned return periods was taken as sales turnover of glaze and acid proof tiles the short levy of tax would amount to Rs. 77,368.

The assessing officer stated (September 1987) to Audit in reply that glaze tiles (acid proof or otherwise) made of china porcelain are categorically covered by item 22 of the Schedule. This contention is not acceptable to Audit as the articles covered by item 22 of the Schedule are for domestic use only. Glaze tiles (masonry), made of cement and marble chips are not used for domestic purposes and therefore these articles are classifiable as articles

falling under item 70 of the Schedule and taxable at the rate of 12 per cent.

- (ii) In Guwahati 'A' Unit, a dealer had total sales of sulphuric acid amounting to Rs. 63,32,288 during the various half yearly periods ending September 1978 to September 1984 and March 1985. The assessing Officer classified the sulphuric acid as 'Other Goods' i.e. an unspecified item and assessed (March 1985 and February 1986) the turnover amounting to Rs. 61,26,702 at the general rate of 6 per cent after allowing deduction of Rs. 2,05,586 representing sales to registered dealers. As sulphuric acid was to be classified as falling under "Dyes and chemicals" the entire turnover (Rs. 63,32,288) should have been taxed at the rate of 7 per cent at the first stage of sale under the Assam Finance (Sales Tax) Act, 1956. The levy of tax at the lower rate of 6 per cent resulted in tax being levied short by Rs. 67,468.

On this being pointed out in audit (July 1987), the assessing Officer stated (July 1987) that action to reassess the dealer had been initiated. Further development on levy of tax has not been intimated (March 1989).

- (iii) In Sales Tax Officer, Tezpur, a dealer's turnover amounting to Rs. 4.09 lakhs for the half-yearly return period ending September 1986 was assessed at the reduced rate of 7 per cent, although turnover for the period from 1st April to 31st August 1986 was to be assessed at the pre-revised rate of 12 per cent. The incorrect application of tax rate resulted in short levy of tax amounting to Rs. 14,230, calculated, in audit, on the basis of sales of Rs. 3.41 lakhs for the above period.

The assessing Officer stated (November 1987) that the actual sales for the period from 1st April 1986 to 31st August 1986 have been verified from the dealer's records and the assessment had been rectified raising additional demand for Rs. 22,000 including interest.

7.2. The Department in the written replies has stated :—

- (i) The objection pertains to misclassification of glaze tiles as an item covered under serial 22 of the schedule instead of treating the same as an item falling against serial 70 of the schedule. While the item i. o. mosaic under serial 70 is made of cement and stone, the item glaze tiles is made of porcelain or china clay. Naturally therefore the mosaic and glaze tiles are not kindred items. The interpretation of the assessing officer to treat the items as one covered by Sl.22 of the schedule by drawing similarity of the cutlery perhaps is not disadvantageous to the Revenue. Although this item appears to be one not covered by the schedule attached to AF (ST) Act, 56 and thereby attracts levy of tax as unclassified other goods taxable under A.S.T. Act, the treatment of the item as one covered of Sl. 22 of the schedule caused no loss to revenue.
- (ii) On receipt of the observation of the audit the assessing officer took steps for suo-moto revision of the assessment order by the Zonal A.C.T. who completed suo-moto revision and directed assessing officer to levy of tax @ 7% in the rupee on the sale prices of the Sulphuric acid under A.F. (S.T.) Act/56, but the dealer namely Associated Industries Assam Ltd. Guwahati preferred appeal before the Hon'ble Assam Board of revenue. The Hon'ble Assam Board of Revenue disposed of the appeal by Setting aside the suo-moto Revision order and observed that Associated Industries Ltd. Guwahati, the transferee could not be held responsible for payment of taxes leviable prior to transfer. The A.C.T. Guwahati Zone 'A' has been given instruction to proceed with the case to recover the taxes from the transferor. Steps have been taken in this regards.
- (iii) The tax was levied @ 12% on the sale prices of trailers of tractors as per audit observations upto 31.8.86 and a net demand of Rs. 20, 979, 90 including interest was raised. Out of the above demand the sum of Rs. 10,900/- has been in the meantime realised. The balance is in the process of realisation, with interest upto the date of recovery of the principal amount i.e. the tax determined by re-assessment.

OBSERVATIONS/RECOMMENDATIONS

7.3. The Committee would like to know if the outstanding dues have by now been realised in full. The information may be furnished to the Committee with a period of two months from the date of presentation of this Report before the House.

The Audit has... The Committee would like to know if the outstanding dues have by now been realised in full. The information may be furnished to the Committee with a period of two months from the date of presentation of this Report before the House.

## CHAPTER—VIII

Excess allowances of credit  
(Para 2.9/CAG 1987=88 R/R)

8.1. The Audit has pointed out that in Guwahati 'A' Unit, against its tax liability of Rs. 1,45,443 for the assessment period ending March 1983 a dealer deposited into Government treasury tax amounting to Rs. 1,62,181 in two instalments of Rs.97,417 and Rs.64,764 under Challan Nos. 175, dated 25th February 1983 and 668, dated 27th April 1983 respectively. Further, against the assessed tax of Rs. 2,11,730 for the period ending September 1983, the dealer had deposited tax amounting to Rs. 1,96,251 but the assessment order showed Rs. 2,61,015 as tax paid by the dealer for this period. It was noticed that credit for Rs.64,764 had been allowed twice, once while making assessment for the period ending March 1983 and again while making assessment for the period ending September 1983. Further, the dealer furnished, to the assessing authority, return along with treasury challan of Rs. 3,94,520 against the tax of Rs. 4,60,583 payable by him for the assessment period ending September 1983 and tax of Rs.66,063 (Rs. 4,60,583 minus Rs. 3,94,520) was shown as adjustable against excess payment of tax of Rs. 16,738 and Rs. 49,284 made by him towards the assessment periods ending March and September 1983 respectively. In fact, for the three assessment periods, the dealer had in all deposited Rs 7,52,952 against which he was allowed credit of Rs. 8,17,716. Thus credit of Rs. 64,764, was allowed in excess.

8.2. The Department in the written memorandum clarified that on receipt of the audit objection the assessing officer Guwahati took immediate steps in the case records of M/S Days Medical Store Private Ltd. It was found by the assessing officer that there occurred double adjustment which resulted loss of revenue to the tune of Rs 48,025/-. This amount was realised vide challan No. 215, dated 11th July 87. Interest amounting to Rs.25,103/- was also recovered vide Challan No. 1301, dated 26th June 1981.

## OBSERVATIONS/RECOMMENDATIONS

8.3. The Committee expresses its satisfaction that the due taxes have been realised with interest.

## CHAPTER—IX

Concealment of sale on short quountal of import purchases

(Para 2.10/CAG 1987-88 R/R)

9.1. The Audit has brought out that in Dibrugarh, a dealer assessed (May 1987) had in his return for the period ending September 1985 and March 1986 shown purchase in the course of inter-state trade and commerce of goods valuing Rs. 29.34 lakhs. The accounts produced thus were accepted and assessments were completed under the Assam Finance (Sales Tax) Act, 1956. But as per delivery permits available on the assessment records, the total purchases made by the dealer during the above mentioned return periods amounted to Rs.33.86 lakhs. Thus purchases amounting to Rs. 4.52 lakhs has been concealed. Non-detection of the same at the time of assessment resulted in evasion of tax amounting to Rs. 54,236, calculated at the rate of 12 per cent. Tax effect would be more if the element of profit is taken into account.

9.2. The Department in their written replies stated that on receipt of the audit note a thorough probe was made to ascertain the actual volume of purchases made by M/S Aarohi, Dibrugarh based dealer. It was found that the dealer secured permits for Rs. 11,35,746/- and for Rs. 22,32,282/- in period ending 30th September, 1985 and 31st March, 1986. But the scrutiny revealed that the dealer took delivery of goods worth Rs. 1,54,525/- on 26th March, 1985 i. e. during period ending 31st March, 1985 and he also took delivery of goods worth Rs. 50,653/- on 24th September, 1985. The aforesaid purchase were duly accounted for in the book of account of the dealer and were brought under purview of the assessment of the concerning periods. Thus dealer's purchases from outside the state was for Rs. 10,49,874/- although as per permits this was found at Rs 11,53,746/- by the audit. Similarly in the period ending 31st March, 1986 goods worth 2,97,446/- were returned back to the selling dealer as the same were found defective. For goods worth Rs. 50,653/- although the permit was taken in period ending 31st March, 1986 the dealer took delivery of the goods on 29th September, 1985. He only applied for the permit to regularise the purchases subsequently. Thus although the total purchase as per permit was Rs. 22,32,282/- the dealer actually received goods worth Rs. 18,84,183/- Thus

it was found that there was no suppression of purchase worth Rs. 4.52 lakhs as observed by the audit. The difference was for reasons mentioned as above. There was therefore no loss of revenue of Rs. 54,236/- as observed in Audit.

### OBSERVATIONS/RECOMMENDATIONS

9.3. The Committee is pleased to accept the departmental action taken after thorough probae and expresses its satisfaction that no loss of revenue has been sustained.



## CHAPTER—X

## Loss of revenue due to escapement of turnover

( Para 2.11/CAG 1987 88 R/R )

10.1. The Audit has brought out that in Sale Tax Office, Karimganj a dealer was registered under the Assam Sales Tax Act, 1947 to purchase from registered dealers in the State, goods, as specified in his certificate of registration, for re-sale within the State. The dealer submitted 'nil' return consecutively for seven six-monthly periods ending September 1983 to September 1986 on the ground that he had no sales but did not disclose the purchases made by him and stock in hand during these periods. The Assessment proceedings against the dealer were closed with nil tax liability. When enquired, in audit, about the utilisation of sales tax declaration forms (contained in book No. 1244) issued to the dealer (August 1980), the assessing officer verified the records of the dealer and found therein that he had made purchases, value of which was Rs. 4.14 lakhs, by issue of sales tax declaration during the period ending September 1983, September 1985 and September 1986. The goods thus purchased were taxable even if the same were not sold but utilised otherwise than for resale in the State. Total tax leviable but not levied on this escaped turnover amounted to Rs. 24,854. However out of the total purchases, purchase of goods (panel doors), on sales tax declaration, not covered by the dealer's certificate of registration amounted to Rs. 3.19 lakhs. This being an offence, penalty amounting to Rs. 28,690 (one and half times the amount of tax of Rs. 19,127 at 6 percent) was also leviable but not levied.

10.2. The Department in the written Statement has clarified that the audit objection pertained to loss of revenue for not including the value of the purchase made by a dealer of Karimganj with the help of Assam Sales Tax declaration form for execution of contract. The dealer is authorised to make such purchase of taxable items, so question of inclusion of the value of the purchases in the turnover did not arise. There was therefore no loss of revenue as observed by the audit. The assessing officer duly intimated the fact to the Accountant General. It was also clarified that the registration certificate was amended on 18th August, 1988 giving effect from 27th January, 1983

i.e. the date of submission of the application by the dealer for amendment of Registration Certificate by way of inclusion of purchase of taxable goods for use in contract works within the State.

### OBSERVATIONS/RECOMMENDATIONS

10.3 The Committee is pleased to note that the explanation is found satisfactory without any loss of revenue.

## CHAPTER—XI

## Incorrect determination of turnover.

(Para 2.12/CAG 1987-88 R/R)

11.1. The Audit has pointed out that—In Tezpur, an assessee (Tea company) furnished, to the assessing officer, 'nil' return for the period ending September 1983 on the ground that he had no sale during that period. But the Superintendent of Taxes (enforcement Branch) reported (January 1984) to the assessing officer that the assessee despatched 46,500 kilograms (k.g.) and 8,500 kgs of tea respectively, by way of sale, to two dealers one in Calcutta and the other in Gujarat under the directions of its principal office in Calcutta. Both the purchasing dealers made payment as per contractual agreement entered into between them and the assessee's principal office. Taking the report of the Enforcement Branch into consideration the assessee's turnover was estimated at Rs. 1.7 lakhs and brought under assessment. During the same return period the assessee transferred stock to tea valuing of Rs. 78.09 lakhs to its principal office in Calcutta under cover of the prescribed declaration in Form 'F', the value per k.g. of tea being shown therein as Rs. 20. At this rate, 55,000 kgs of tea sold to two dealers should have been valued at Rs. 11 lakhs for the purpose of assessment of tax instead of Rs. 1.7 lakhs as done. The undervaluation of sales effected in two consignments, as aforesaid, resulted in short levy of tax amounting to Rs. 27,087. Besides, interest amounting to Rs. 25,462 (calculated upto October 1987) was also leviable. On this being pointed out in audit, assessing officer stated (November 1987) that necessary action to assess the dealer would be taken. Further progress in this regard has not been intimated (March 1989).

11.2. The Department in the written statement has stated that the assessing officer of Tezpur levied tax and served notice of demand for realisation of Rs. 54374/- including interest amounting to Rs. 27918.00 in the assessment period 30th September 1989 by way of re-opening the assessment on the basis of audit objection. Recovery proceeding including issuing of Certificate to the Bakijai Officer was taken. Thereupon the dealer preferred appeal before the appellate Asstt. Commissioner of Taxes who while disposing of appeal set

aside the original assessment order and direct the assessing Officer for initiation of fresh assessment proceedings. But the dealer filed revision petition before Commissioner of Taxes who while disposing the revision petition upheld the appellate order on 28.8.90. The assessing Officer in the meantime steps by initiating reassessment proceedings in the light of appellate order to recover the taxes and the notice of demand was served which fact was confirmed by the dealer in writing on 18.5.91. But on 17.6.91 the assessing Officer received a communication vide No. 5288 dated 17.6.91 from Hon'ble High court not to take steps for fresh assessment. Instruction has been given to stay all proceedings in the matter till disposal of the case by the Hon'ble High Court in the Civil Rule No. 2984 of 1991.

#### OBSERVATIONS/RECOMMENDATION

11.3. The Committee finds that the matter is Sub-Judice and suggests that the Department will take necessary action after disposal of the case in the High Court.

## CHAPTER - XII

LOSS OF REVENUE DUE TO IRREGULAR GRANT  
OF EXEMPTION

(Para 2.13/CAG 1987-88 R/R)

12.1. The Audit has pointed out that in Guwahati 'A' unit, inter-state sales amounting to Rs. 4.91 Lakhs, made by two registered dealers of Assam during the different periods failing between March 1973 and September 1979 to registered dealers of Meghalaya and Mizoram, though not supported by declarations in Form 'C', were exempted from tax which was irregular. The irregular exemption resulted in non-levy of tax amounting to Rs. 49.135 (calculated at 10 percent).

12.2. The department in the written replies has stated that the dealer preferred appeal against the said notice before the appellate authority. The appellate authority disposed of the appeals and set aside the assessments. The 2nd dealer M/s. Indian Health Institute and Laboratories, Guwahati submitted the due 'C' form for period Ending 3/73 to 4/74 and 9/96 to 9/79 covering his entire sales. The assessing officer reported that the 'C' forms were found valid and as such there was no loss of revenue in this regard.

## OBSERVATION/RECOMMENDATION

12.3. The Committee expresses its satisfaction that the Government suffered no loss of revenue.

## OBSERVATIONS/RECOMMENDATIONS

Although the Committee has appreciated the action taken by the Government in this respect, it has been found that progress of taking action is not so encouraging.

## CHAPTER—XIII

## Non-registration of dealer

(Para 2.14/CAG 1987-88 R/R)

13.1. The audit has pointed out that in Silchar, test-audit of way-bill register maintained at the check post (Dholai) revealed, that a dealer who was not registered under the State Act or the Central Act, made inter-State sales of taxable goods valuing Rs. 4.95 lakhs to Mizoram during the return period ending September 1986. Despite this fact being on the departmental records the dealer had not been compulsorily registered and brought to assessment. Due to lack of adequate survey to find out the persons liable to be registered and assessed to tax, there was evasion of tax amounting to Rs. 44,926. Besides, fine as penalty for non-registration under the Central Sales tax Act, 1956 was also recoverable from the dealer.

13.2. The department in the written replies has stated that in the light of the audit objection the records was thoroughly examined and found that the dealer in question sold Rod, ACC's Ply-woods to some dealers of Mizoram from his stock of goods secured by purchases within the State of Assam against cash payment at the dealers business premises. The purchasers who hailed from Mizoram took possession of goods at the business premises of the dealer and then transported the same to Mizoram across the checkpost. In view of this, the movement of the goods was not occasioned in course of inter state trade and commerce. The assessing officer after re-examination of all relevant records could not establish that movement of goods in the instant cases were occasioned in course of inter state trade and commerce. There was therefore no loss of revenue on account of non levy of Central Sales Tax on such transaction. Implied or expressed contract for sale of goods in course of inter State cases were absent to attract levy of tax under the C. S. T. Act/56.

## OBSERVATIONS/RECOMENDATIONS

Although the Committee has appreciated the action taken by the Government in this respect, it has been found that progress of taking action is not so encouraging.

However, the Committee does not press any more in this para. The losses though not incurred could have been sustained much earlier, the Committee observed that the Department should proceed vigorously to avoid losses in future and take immediate action in future.

14.2. The department in the written memorandum has stated that on receipt of the audit objection the matter was taken up for re-assessment by way of rectification of mistake. The short levy which resulted for allowing deduction under section 8(A) of the C.A.T. Act was being reviewed and the amount involved was Rs. 11,02,750 and the same was revised with effect from 1st July 1989. OBSERVATIONS AND RECOMMENDATIONS 14.3. It appears from the report of the Government that the Government has taken action only on the receipts and the audit objection on the report of the C.A.T. The time lag between the occurrence of the audit objection in collecting taxes and rectification of short levy of tax can be avoided. But due to inaction of the Department the short taxes were assessed. The Committee however suggested the Department has taken action though later on for meeting up the loss by paying taxes. The Committee therefore recommends that the Government should take action immediately after collection of certain assessments relating to incorporation of short levy of tax and also to avoid in future.

## CHAPTER—XIV

**Irregular allowance of deduction**

(Para 2.15/CAG 1987-88 R/R)

14.1. The audit has pointed out that in Guwahati 'A' Unit, on self-assessment basis, a dealer paid tax amounting to Rs. 7,23,486 on his net turnover amounting to Rs. 2,02,33,401, (Rs. 2,02,11,320, Rs. 12,537 and Rs. 9,544 taxable at 4.10 and 12 percent respectively) for the periods ending March 1983 to September 1986. The net turn over as shown in the return was accepted by the assessing officer. But, while finalising assessment, deduction on account of tax was allowed on the dealers net turnover without adding to it the element of tax realised to arrive at the net taxable turnover, which was irregular. Applying the above formula the dealer's liability to pay tax for the abovementioned periods worked out to Rs. 8,10,861 against which, tax amounting to Rs. 7,80,105 was assessed, which resulted in short levy of tax by Rs. 30,756.

14.2. The department in the written memorandum have stated that on receipt of the audit objection the matter was taken up for re-assessment by way of rectification of mistake. The short levy which resulted for allowing deduction under section 8(1)A of the C.S.T. Act/56 was levied and realised. The amount involved was Rs. 31,052/- and the same was realised vide Treasury Challan No. 129 dated 5th July 1989.

**OBSERVATIONS/RECOMMENDATIONS**

14.3 It appears from the replies of the Government that the Government has taken action only on the receipts of the audit objection on the report of the CAG. The time lag between the occurrence of irregular assessment in collecting taxes and regularisation of short levy of tax can be avoided. But, due to inaction of the Department the short taxes was assessed. The Committee however, appreciated the Department has taken action though later on for meeting up the loss by levying taxes. The Committee, therefore, recommends that the Department should start action immediately after deduction of earlier assessment resulting incorporation of audit para for irregular taxes and vigorously pursue the action to avoid losses of taxes and also to avoid incorporation of audit objection in future.



## CHAPTER - XV

## Irregular grant of exemption on contractwork

(Para 2.16/CAG 1987-88, R/R)

15.1. The audit has pointed out that in Guwahati 'A' Unit, a dealer had a contract work amounting to Rs.10.13 Lakhs for supply and installation of diesel pump which he purchased from outside the state at concessional price of Rs. 4.10 Lakhs by issue of 'C' form declaration. The work was completed between April 1985, and September 1985 while computing assessment for the period ending September 1985. The assessing officer allowed full exemption of the value of contract work including the price of diesel pump although this was taxable under the Act. The irregular grant of exemption on sale price of diesel pump has resulted in short levy of tax by Rs. 28,707 calculated at 7 percent. On this mistake being pointed out in Audit (May 1987) the assessing officer stated (June 1987) that the assessment order has been rectified and additional demand raised including levy of interest. Further, report on recovery has not been received (March 1989).

15.2 The department in the written replies stated that in the instant case an additional amount of Rs. 28,707/- was levied vis-a-vis a rectified assessment and this was an amount deducted entirely by purchasing Government Department. The process of realisation has been started. The assessing officer after careful consideration of the relevant factors refraining from imposing penalty, as the dealer did not conceal the sale in his return. The assessing officer through oversight committed a mistake by not bringing this amount under the purview of the assessment. It is thus found that penal action as pointed out by the audit was not warranted.

## OBSERVATIONS/RECOMMENDATIONS

15.3. The Committee observes that the assessing officer rectified the initial assessment and levied additional amount of tax only after pointing-out the omission by audit. The amount has also been deducted from the purchasing Government Department but no penalty was imposed as

the same has not been warranted. However, the Committee has every reasons to doubt as to why a benefit was intended to a dealer at initial assessment at the cost of the State exchequer which would have subsisted but for raising objection by Audit

15.4. The Committee, therefore, recommends that the Department will initiate necessary action against the erring official so that such omission may not recure in future.

## CHAPTER—XVI

## Non-recovery of Tax dues

(Para 2·17/CAG 1987-88, R/R)

16·1· The audit has pointed out that in Guwahati 'C' unit, a dealer registered only under Central Sales Tax Act, 1956, procured by purchase 'rice bran oil', an item of goods taxable at 6 percent under Assam Sales Tax Act, sold goods to the Assam State Co-operative Marketing and Consumers Federation (STATFED) at Rs. 4.72 Lakhs inclusive of tax realised at the rate of 7 percent during the period from November 1983 to January 1984. The dealer neither applied for registration nor did he deposit the tax, so collected, to Government account. The dealer thus committed an offence under the provisions of the Act and is liable for penalty as prescribed. For his failure to apply for registration under the Assam Sales Tax Act, 1947 and to furnish returns of his turnover, the dealer was summarily assessed (July 1986) to tax of Rs. 26,133 with interest (Rs. 13,210) on a turnover amounting to Rs. 4.62 lakhs without registering the dealer compulsorily and without taking into account the Central Sale value of goods supplied to the STATFED. THUS, turnover amounting to Rs. 10,007 was taken less in assessment, having its tax effect of Rs. 566 at 6 percent. However, the total tax of Rs. 26,699 (Rs. 26,133 plus Rs. 566) payable by the dealer could not be realised till the date of audit (September 1987) as the dealer closed down his business and was not available in his given address. Had the dealer been compulsorily registered under State Act at the time of, or immediately after registering him (September 1983) under the Central Act and assessed to tax promptly he would have been brought under the tax net. The assessing officer stated (August 1987) to Audit in reply that two arrear certificate were issued to the Superintendent of Taxes (Recovery) for realisation of Government dues. Report regarding whereabouts of the dealer and recovery of taxes and interest dues have not been received (March 1989).

16.2. Both Finance and STATFED, who were asked to reply have furnished their written statement at 'A' and 'B' respectively.

A. As per notification issued by the Government under section 34 (5) of the then Assam Sales Tax Act, the purchasing Department should have deducted the taxes of source, which was not done. However, the assessing officers as per audit objection levied the following amounts.

1. Tax	=	Rs. 26,699/-
2. Interest	=	Rs. 13,210/-
3. Penalty	=	Rs. 2,613/-

The dealer reported to have closed down his business without paying the above amount. The case was forwarded to Superintendent of Taxes (Recovery) Guwahati who has recovered Rs. 10,000/- till now. Action for realisation of the balance amount are in progress.

B. The amount of sale tax appears to have not been deducted at source by STATED at the time of making payment of value. It was the primary responsibility of the dealer registered under Central Sale Tax Act to discharge sale tax liability with necessary registration under State Sales Tax Act. If the tax would have been deducted by STATED at source, the deducted amount would have been deposited by STATED to the Sale Tax authority. It was not done at that point of time as deduction of tax at source at the relevant point of time was not compulsory to our knowledge unlike the provisions now applicable against supply of taxable items.

#### OBSERVATIONS/RECOMMENDATIONS

16.3. In course of oral examination, STATED has deposed that the Government circular of 1978 for deduction of due taxes at source come to their knowledge only during 1986 for which the commission occurred inadvertently. However, an amount of Rs. 10,000/- only out of Rs. 26,133 — only could be realised. The Committee is not convinced with the reasoning adduced by the witnesses.

16.4. The Committee therefore, recommends that responsibilities should be fixed against the officer/officers at fault and action taken for the lapses. The Committee will also be furnished with a list of cases where the taxes were deducted at source and where this has been omitted since the Government circular kept into force. Action taken on the above may also be intimated to the Committee within 1 month from the date of submission of this report before the House.

## CHAPTER—XVII

**Suppression of turnover**

(Para 2.18/CAG, 1987-88, R/R)

17.1 The audit has pointed-out that in Guwahati 'A' Unit, a dealer in his accounts, produced to the assessing authority, showed that he had despatched outside the State by way of transfer on which he was not liable to pay tax tea dust valuing Rs.13,11,475 during the return period ending September 1985. But the area Inspector's report (December 1986), available on assessment records, disclosed that tea dust valuing Rs.21,55,583 had actually been despatched outside the State by the dealer during this period. As the declaration form furnished covered only tea despatches valuing Rs.13,11,475, prima facie turnover amounting to Rs.8,44,108 has not been included in the return but suppressed by the dealer. The dealer's accounts were however accepted (January 1987) in assessment without taking into consideration the report of the area Inspector. As a result, tax amounting to Rs.23,323 at the rate of 3 per cent on the suppressed turnover of Rs.8,44,108 was evaded by the dealer.

17.2 The Department in the written replies have stated that on receipt of the audit objection a thorough probe was conducted by the assessing officer and it was found that Tea worth of Rs. 13,11,474/- was despatch in period ending 30th September, 1985. and balance tea worth Rs. 8,44,108/- was despatched in period ending 31st March 1986 and 30th September 1986. The return for 31st March 1986 and 30th September 1986 were filed prior to receipt of the audit objection. The assessment for this two periods were not taken up at the time of audit. It was due to mistake and mis-conception in the Accounts Branch of the dealer the position could not be correctly shown. But the despatch dates and stock transfer records reveal the proceeds at Rs.21,55,589/- so an amount of Rs. 8,44,108/- was not the aggregate of total sales proceeds in course inter-State trade and commerce, but was the amount received on account of transfer of stock. The entire amount of Rs. 21,55,582/- is covered by F. forms and supported by sale norms and other relevant documents.

## OBSERVATIONS/RECOMMENDATIONS

17.3. The Committee observes that the report of the area Inspector of taxes indicating despatch of to a dust worth Rs. 21,55,583/- during the period under report has neither been found mentioned the departmental rely nor any indication of reconciling the differences. As such the matter needs further enquiry by higher authority.

17.4. The Committee therefore, recommends that the matter may be enquired into by taking evidance of the area Inspector of taxes an officer not below the rank of the Deputy Commissioner, Taxes and report there by be furnished immediately.

17.2 The Department in the written replies have stated that on receipt of the audit objection a thorough probe was conducted by the assessing officer and it was found that the worth of Rs. 13,14,74/- was despatched in period ending 30th September, 1985, and balance tax worth Rs. 8,44,108/- was despatched in period ending 31st March 1986 and 30th September 1986. The return for 31st March 1986 and 30th September 1986 were filed prior to receipt of the audit objection. The assessment for this two periods were not taken up at the time of audit. It was due to mistake and mis-conception in the Accounts Branch of the dealer the objection could not be correctly shown. But the despatch dates and stock transfer records reveal the proceeds at Rs. 21,55,583/- so an amount of Rs. 8,44,108/- was not the aggregate of total sale proceeds in course inter State trade and commerce, but was the amount received on account of transfer of stock. The entire amount of Rs. 21,55,583/- is covered by F. forms and supported by sale norms and other relevant documents.

## CHAPTER-XVIII

Short levy of tax due to under valuation of sales of coal

(Para 2.19/CAG 1987-88, R/R)

18.1. The audit has pointed out that in Guwahati C Unit, sales turnover in respect of dealer, engaged in mining and selling coal for the period ending March 1986 was determined in assessment at Rs. 35.37 lakhs on the basis of prerevised rate of Rs. 316.50 per M.T. of coal and tax was levied thereon at the rate of 4 per cent. The dealer's account indicated that he had sold 6,440 M.T. of coal during the period from January to March 1986 (1,950 M.T. in January 1986). Excluding sale effected during the period from 1st January to 8 January 1986 on a proportionate basis (503 M.T.) sales for the period aggregated 5,937 M.T. were to be valued at the revised rate of Rs. 348.50 per M.T. of coal instead of at the prerevised rate. This resulted in under valuation of sales turnover to the extent of Rs. 1.90 lakhs with consequential short levy of tax amounting to Rs. 7,599. Similarly, under valuation in assessment, by applying prerevised rate for sales of 6,950 M.T. for the period ending September 1986 worked out to Rs. 2.22 lakhs (24.22 lakhs at revised rate minus Rs. 22.00 lakhs determined by the assessing authority at prerevised rate) with the resultant short levy of tax amounting to Rs. 8,896. Thus, in both the return period total short levy of tax amounted to Rs. 16,495.

18.2. The department in their written replies have stated that this is an objection about under valuation of coal for period ending 31st March 1986 and 30th September 1986 by M/S Assam Mineral Development Corporation, Guwahati resulting loss of revenue to the extent of Rs. 7,599/- and Rs. 8,816/- respectively. The objection was raised on the basis of notification No. 50-12 (E), dated 8th January 1986. On receipt of the objection a thorough probe was conducted by the assessing officer. It was found that the price of coal prior to 8th January 1986 was fixed at Rs. 310/- excluding fixed royalty of Rs. 6.50 per M.T. for upgraded Assam Coal. The price of Assam and Meghalaya Coal Containing 25% each contents was refixed at Rs. 342/- excluding fixed royalty at Rs. 6.50 per M.T. with effect from 8th January 1986 vide Gazette a notification No. 50-12 (E), dated 8th January 1986. In

the said notification it was also mentioned that for every 1% increase in cash content in coal, the sale price is to be reduced by an amount of Rs. 11/- per M.T. After getting the point clarified that Assam and Meghalaya coal which they dealt in contained as contents around 28% to 20%, the dealer fixed the price at reduced rate as per notification mentioned above. Thus it was found that there was in fact no under valuation of price of coal by the Assam Mineral Development Corporation of Guwahati. Causing loss to revenue.

### OBSERVATIONS/RECOMMENDATIONS

18.3. The Committee express its satisfaction on the action taken by the Department.



## ANNEXURE—1

The Members of the foregoing Committee on Public  
Accounts (1991-1993)

Chairman :

1. Shri Sasha Kamal Handique.

Members :

2. Shri Upendra Nath Sanatan
3. Shri Rameswar Dhanowar
4. Shri Alauddin Sarkar
5. Shri Zoi Nath Sarma
6. Shri Nurjamal Sarkar
7. Shri Debendra Nath Baruah
8. Shri Lakshmi Prasad Borgohain
9. Shri Kosheswar Baruah
10. Shri Kali Ranjan Deb
11. Shri Derhagra Mochahary

\* Ceased to be the Member of the Committee on Public  
Accounts as Deputy Speaker.

## ANNEXURE - II

The Members of the Sub-Committee-B of Public  
Accounts Committee (1999-2001)

Chairman :

Convenor :

1. Shri Mohan Das

Members :

2. Shri Pulakesh Baruah

3. Shri Nizamuddin Khan

4. Shri Gautam Roy

5. Shri Hemanta Kalita

\* 6. Shri Smti Renupoma Rajkhowa

\* Ceased to be the Member of the Committee on her  
appointment as Deputy Speaker.