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## COMPOSITION OF THE COMMITTEE

### Chairman :

1. Shri Rajdeep Goala

### Members :

2. Shri Prasanta Phukan
3. Shri Padma Hazarika
4. Shri Bir Bhadra Hagjer
5. Shri Ritu Parna Baruah
6. Smti. Angoorlata Deka
7. Smti. Suman Haripriya
8. Shri Ramendra Narayan Kalita
9. Shri Utpal Dutta
10. Shri Rabiram Narzary
11. Shri Wazed Ali Choudhury
12. Shri Rekibuddin Ahmed
13. Hafiz Bashir Ahmed

### Secretariat :

1. Shri M.K. Deka, Principal Secretary
2. Shri M.K. Sarma, Deputy Secretary
3. Shri Thaneswar Deka, Under Secretary

## **PREFATORY REMARKS**

I, Shri Rajdeep Goala, Chairman, Committee on Public Accounts, Assam Legislative Assembly having been authorized to submit the report on its behalf present this HUNDRED AND FIFTY FIFTH Report of the Committee on Public Accounts on the Audit paras contained in the Report of the C & AG of India on Revenue Sector for the year 2010-2011 pertaining to Finance (Taxation) Department, Government of Assam.

2. The Report of the C & AG of India on Revenue Sector for the year 2010-2011 was presented before the House on 30-03-2012

3. The Report mentioned above relating to the Finance (Taxation) Department was considered by the outgoing Committee (as an Annexure-I) in their sitting held on 17-5-2018 & 14-06-2018, but could not be presented before the House owing to expiry of its term.

4. The 155th Report of the Committee on Public Accounts was finalized and approved by the present Committee in their sitting held on 11-7-2019.

5. The Committee wishes thanks to the outgoing Committee for their strenuous works. The Committee has also appreciated the valuable assistance rendered by the Principal Accountant General (Audit), Assam and her Officers and staff during the examination of the Department.

6. The Committee thanks to the Departmental witnesses as well as Finance Department for their kind Co- operation. The Committee also pleased to offer thanks to the Principal Secretary, Assam Legislative Assembly along with the officers and staff of the Committee on Public Accounts Branch for their valuable services rendered to the Committee.

7. The Committee earnestly hope that the Government would implement the recommendations made in this Report.

Dispur :

The 11<sup>th</sup> July, 2019.

**SHRI RAJDEEP GOALA,**  
Chairman  
Committe on Public Accounts.

## **The Report**

### **Absence of mechanism for cross verification of forms (Audit sub para 2.12.7/C & AG(R/R) /2010-2011)-P-46)**

1.1 The audit has observed that despite the directives of the CT issued way back in May 2000, the Department had not installed any system for monitoring compliance of the above order by assessing authorities. Neither was any mechanism put in place to install a system of cross verification of declaration forms at regular intervals nor was check list of points to be verified by assessing authorities while accepting declaration forms notified. Though introduction of TINXSYS has increased the scope of cross verification of data in respect of declaration forms of other States, we noticed that none of the assessing authorities of the test checked unit offices verified the information available on TINXSYS website prior to allowing exemption/concession. These deficiencies resulted in irregular allowance of exemptions /concession on branch transfer/inter-State sale leading to non/short levy of tax and interest as shown in subsequent paragraphs. During the exit conference, the Government stated that instructions had already been issued to the assessing officers to verify the data of the declaration forms with the information available in the TINXSYS. They also stated that a Joint Commissioner level officer has been nominated as the nodal officer for overseeing the aspect of cross verification of declaration forms.

1.2 The department by their written reply has stated that the TINXSYS system could not use properly due to following reason:  
(a) Connectivity system was not a smooth one. It takes lots of time to verify a single statutory Form. (b) Most of the states from whom statutory Forms are received especially North Eastern States do not have computerized system in the earlier period. (c) The prefix of statutory forms sometimes given in fractional form which is not

accepted by software system. (d) Some of statutory forms are issued for very small amount. Now all the States have software system and they issued online forms. It is now become very easy to verify the Forms online. Same percent of statutory forms can be verified online.

### **Observations/Recommendations**

**1.3** The Committee satisfied with the departmental reply and decided to drop the para.

### **Enforcement Measures**

**(Audit sub para 2.12.8/C & AG(R/R) /2010-2011)-P-46-47)**

1.4 The audit has observed that the Taxation Department had not constituted any enforcement/inter-state investigation wing to investigate cases of suspected fake/invalid declaration forms. Absence of a centralized system of cross verification of declaration forms as mentioned earlier further made it difficult for the Department to effectively tackle cases of irregular claims of exemptions/concessional rate of taxes by using invalid/obsolete/fake declaration forms. The Department has also not put in place a system of blacklisting the dealers who have been found utilizing invalid/fake declaration forms and displaying their names and other details in the official website. This would alert the assessing authorities of Assam and other states before taking up scrutiny of returns/assessments relating to purchase/sale involving these dealers.

1.5 The department by their written reply has stated that considering the volume of statutory forms, it is not possible to communicate centrally. TINXSYS is provided to the Units for the purpose. The unit can communicate to the concern issuing officer of other states directly with a copy to concern Commissioner of Taxes. For any complexity, the unit officer can take up the matter with Head Office. From the experiences it has been found that most of the queries relating to Statutory Forms remain not replied. The online issue of statutory forms now makes it easy to verify the C/F forms. Hence the central mechanism for manual verification is not required at present situation.

### **Observations/Recommendations**

1.6 The Committee satisfied with the departmental reply and decided to drop the para.

**Incorrect grant of concession/exemption against 'C/F' forms issued in the name of other dealers.**

**(Audit sub para 2.12.9.1/C & AG(R/R) /2010-2011)-P-47)**

1.7 The audit has observed that Ten dealers of Assam made inter-state sales/stock transfer of goods valued at Rs. 9.30 crore to 10 dealers of five States and claimed exemption/concessional rate of tax on the basis of 33 C/F forms. Our verification of the records of purchasing dealers in the concerned States revealed that these forms were not issued to those dealers by the sales tax authorities of the respective states. Thus, the allowance of concessional rate of tax/exemption against the said C/F forms was incorrect. This resulted in short levy / non-levy of tax and interest of Rs. 1.55 crore. During the exit conference the Government, while accepting observation, stated that the matter has been taken up with the Commissioner of Taxes of the respective States from where the forms were issued for confirmation of the authenticity of dealers and declaration forms. We have not received further information in this regard.

1.8 The department by their written reply has stated that M/s Nirma Limited Guwahati Unit 'C' (2007-08): the objection raised relates to acceptance of 3 defective "C" forms (GG 235080 Rs. 31,86,939.00, Gg 235079 Rs. 34,73 & GG 235077 Rs. 22,28,738.00) for Rs. 88,89,590/-. Reassessment was made. Aggrieved by the order of re-assessment, the dealer preferred appeal. Appellate Authority has directed to make fresh assessment. Accordingly, fresh assessment was made rejecting the defective 3 nos. of C forms and also 1 another C form & an amount of Rs. 12,42,502.00 was levied. The dealer again preferred appeal. However, vide order dtd. 26-03-2014 the reassessment was uphold. Accordingly, the dealer was found liable for payment of an amount of Rs. 12,42,502+ Rs. 79,998.00 (further interest) = Total



Rs. 12,23,500.00. Dealer deposited the above demand raised vide challan No.

3030161113017316 dtd. 16/11/2012 for Rs. 3,11,000.00

3030180815021468 dtd. 18/08/2015 for Rs. 9,15,000.00

3030230315030872 dtd. 23/03/2015 for Rs. 96,500.00

**Total= Rs. 13,22,500.00**

M/s Sangam Enterprise Guwahati Unit 'C' (2008-09) : The objection related to acceptance of defective "C" forms totaling turnover of Rs.1,09,49,271/-. On receipt of objection fresh assessment was completed levying tax/ interest amounting to Rs. 3,33,985/- (Tax Rs. 2,18,985.00 and interest Rs. 1,15,000.00). The demand raised was adjusted against a refundable amount of Rs. 4,71,477/- for the quarter ending September 2011 vide order No. JCP/CST(S-19)/2011-101272826 dtd. 23/11/2011 by ST Jalukbari. M/s. India Carbon Limited Guwahati Unit 'A' (2005-06): The objection raised was that "C" form number BB 0098160 was not issued to M/S. Maithan Smelter Limited, Nongpoh to whom M/S. India Carbon Limited sold goods. Thus, allowance of exemption was irregular. M/S. India Carbon Limited has submitted a letter No. ST/RBD/CST/C Form / M-66/3910 dated 07/03/2014 addressed to M/s. Maithan Smelter Limited issued by the Superintendent of Taxes, Ri Bhoi District, Nongpoh, Meghalaya wherein is confirmed that the "C" form in question was issued to M/S Maithan Smelter Limited and stated to be genuine and valid for use in inter-state trade and commerce. M/S. Nefaa Tea Industries, Margherita, Digboi (2007-08): The objection raised relates to acceptance of "C" form no. 13P 999825 covering turnover of Rs. 2,92,200/-. Audit stated that the said form was defective because it was not issued to the purchasing dealer M/s. Amit Trading, Delhi. On receipt of objection, reassessment was done and demand amounting to Rs. 5,821/- (tax Rs. 2922.00 and interest Rs. 2899.00 ) was raised. The dealer paid the demand raised vide challan No. 17 dated 17/09/2013.

M/s. Bazaz Brother Guwahati Unit 'C' (2006-07): Audit objection : 8(eight) Nos. of defective C Forms :- 14P 700522, 14P 700523, 14P 700524, 14P 723701, 14P 723702, 14P 700525, 14P700520, 14P 600919. Reassessment has been completed covering the above 8 nos. of C Form along with 7 (Seven) other C Forms which has been treated as being made to other than registered dealer. An amount of Rs. 16,69,551.00 has been raised as tax and interest. The aggrieved dealer appealed to the Revisional Authority which was rejected. Subsequently, arrear certificate was issued on 12/03/2012 for an amount of Rs. 17,11,059.00. M/s. Kislay Snack products, Guwahati Unit 'A' (2005-06): Audit raised objection that 'C' form numbers 95C 492144 and 95C 492149 were not issued to M/S Dhiraj Enterprise, West Bengal and hence allowance of concession was irregular. Both forms were verified in TINXSYS and found that forms were issued to M/S Dhiraj Enterprise, West Bengal. Therefore, acceptance of the concerned forms is correct and regular. M/s. Balaji Tea Industries, Titabor, Jorhat (2006-07): Audit raised objection that "F" form number 036537 was defective and hence acceptance of same was irregular. Re- assessment was completed and a demand of Rs. 65,000.00 was raised. The dealer has deposited the demand dues- i) Ch. No. 177 dtd 01-03-2013 of Rs. 16,250.00 and ii) Ch. No. 26180518000005 dtd. 18-05-2018 of Rs. 48,750.00. Total Rs. 65,000.00. M/s. Anandabari Tea Co. Pvt. Ltd., Jorhat (2005-06): The objection of the audit was that "F" form number MAH/01/9128221 for Rs. 12,23,539.44/- was not issued to M/s. Duncans Tea Limited by tax authority of Nagpur. The Form against which objection raised was not for interstate stock transfer ( F Form). The transaction was actually an inter State sale ( C Form). M/S Anandabari Tea Estate submitted "C" forms numbers MAH/01/9128221 for Rs.12,23,539.44/- against bill number 033/05-06 dated 11/09/2005 for Rs. 6,85,813.44 and bill number 005/05-06 dated 24/09/2006 for Rs. 5, 37, 726.00 which were verified and found in order. M/s. India Carbon Limited, Guwahati Unit 'A' (2005-06) : Audit raised objection that "F" forms bearing numbers 95P564399 to 401,

95P33348 to 350, 95P485080 to 082 and 95P455086 to 088 were not genuine and hence acceptance of same were irregular. The Commercial Tax Officer Inter-State verification Cell (Headquarter), 14, Baliaghata Road, Kolkata, vide his letter no 72CT/VC dated 27/01/2012 has authenticated the genuineness of the forms. M/s. Dhapi Tea Estate, Naharkatia (2005-06): Audit raised objection that 'F' form numbers 03Q-358220 was defective and hence acceptance of same was irregular. Re-assessed was completed raising a demand of Rs. 87,000.00. The dealer has deposited the tax and interest amounting to Rs. 87,000/- vide challan No. 3/114/2013-14 dated 20/08/2013.

### **Observations/Recommendations**

**1.9** The Committee satisfied with the departmental reply and decided to drop the para.

**Evasion of tax by fraudulent utilization of fake/obsolete forms  
(Audit sub para 2.12.9.2/C & AG(R/R) /2010-2011)-P-47-48)**

**1.10** The audit has observed that four 'C/F' forms received from the States of Maharashtra (three cases) and Nagaland (one case) against which three dealers of Assam claimed inter-state sales/stock transfer of goods were found to be fake/obsolete. Thus the benefit of concessional rate of tax/exemption against the said 'C/F' forms was allowed incorrectly resulting in non/short levy of tax and interest of Rs. 6.43 lakh. During the exit conference, the Government while accepting our observation stated that the concerned sales tax authorities of the purchasing states had been approached to confirm the observation for re-opening of the assessments. We have not received further information in this regard.

**1.11** The department by their written reply has stated that M/s. Johnson & Johnson Guwahati Unit 'C' (2005-06) : Invalid C form NL 036261 covering an amount of Rs. 4,29,035.00. Assessment was completed raising demand. Aggrieved with the assessment order, the dealer appealed for revision. The Revisional Authority directed to accept the replaced C form No NL 114975 against the amount vide Revisional Order no. CVAT-1/2012/(104)/77-A dated 4th October 2013. M/s. Vaibhovi Tea Co., Tinsukia (2005-06) : Obsolete F Form No. MAH/F/01-0718690 covering an amount of Rs. 53,775.00. The dealer has submitted a letter from the Taxation Authority of Maharashtra No. STO/CRC/Declaration info/ 2011-12/B-2108/ Jalgaon dated 18/11/2011 confirming issue of the said declaration form. M/s. Salkathoni Tea Estate Sibasagar (2005-06): Defective F Forms No. MAH/F/01-0721371 covering an amount of Rs.17.56 lakh and MAH/F/01-0867247 amounting Rs. 11.63 lakh. The dealer has submitted a letter from the Taxation Authority of Maharashtra No. STO/CRC/Declaration info/ 2011-12/B-2079/Jalgaon dtd. 08/11/2011 confirming issue of the said declaration forms.

**Observations/Recommendations**

**1.12** The Committee satisfied with the departmental reply and decided to drop the para.

**Variation between the figures of the forms as disclosed by  
issuing dealers and those disclosed by utilising dealers  
(Audit sub para 2.12.9.3/C & AG(R/R) /2010-2011)-P-47-48)**

1.13 The audit has observed that fourteen dealers of Assam claimed exemption/concessional rate of tax on branch transfers/inter-State sales to 24 dealers of six States against one 'F' form and 36 'C' forms on goods valued at Rs.5.58 crore. Cross-verification of the records of the purchasing dealers revealed that those dealers had actually issued forms valued at Rs. 2.36 crore. Thus, there was variation of Rs. 3.22 crore between the figures of declaration forms as disclosed by the issuing dealers and those disclosed by the selling dealers. This not only indicates that the selling dealers of Assam had claimed concessional rate of tax on the turnover in excess of actual inter-state sales, but also points towards tampering of figures in the declaration forms. This resulted in short levy of tax and interest of Rs. 50.21 lakh. During the exit conference, the Government stated that in most of the cases, the objections related to the dealers of north eastern states in which the status of uploading of declaration forms in the TINXSYS was not at all satisfactory. Therefore verification of the authenticity of the forms was difficult.

1.14 The department by their written reply has stated that M/s. Nirma Limited, Guwahati Unit 'C' (2007-08): The objection raised relates to acceptance of 1 defective 'C' Form for Rs. 27,79,662.00. Reassessment was made. Aggrieved by the order of re-assessment, Appellate authority has directed to make fresh assessment. Accordingly, fresh assessment was made rejecting the defective 1 no. of 'C' Form and also another 3 nos. of 'C' Forms & amount of Rs. 12,42,502.00 was levied. The dealer again preferred appeal. However, vide order dtd. 26-03-2014 the reassessment was uphold. Accordingly, the dealer was found payable for an amount of Rs. 12,42,502.00 + Rs. 79,998.00 = Rs. 13,22,500. Dealer deposited the above demand raised vide challan No. 3030161113017316 dtd. 16/11/2012 for Rs. 3,11,000.00,

3030180815021468 dtd. 18/08/2015 for Rs. 9,15,000.00, 3030230315030872.00 dtd 23/03/2015 for Rs. 96,500.00, Total Rs. 13,22,500.00. M/s. Universal Agencies, Guwahati Unit 'B' (2008-09) : Assessing Officer has reported that as per records the dealer has sold goods amounting to Rs. 5,54,750.00 against 'C' Form No. GG 180273 which were duly recorded in his books of accounts. There is no part of irregularities on the part of the selling dealer. It is a case of under reporting by the purchasing dealer for evasion of tax. In United Steel Industries Vs. State of Andhra Pradesh(1988) 25 STL 226 (AP), it was observed that ".. the assessee must be held to have discharged the initial onus that lay on him to show that the inter-state sales were covered by 'C' Forms issued by the purchasing dealer and the assessing authority is bound to admit the assessee's claim for assessment at concessional rate." Hence, the allowance of concessional rate was regular. The 'C' Forms cannot be rejected on the allegation that the purchasing dealer has mentioned lower value somewhere in his Books of Accounts to evade tax. This is an issue of the other state to look into. M/s. M.K. Marketing, Guwahati Unit 'A' (2007-08) : Assessing Officer has reported that the entire transaction as per 'C' Form amounting to Rs. 8,28,52,605.00 are duly recoded in his books of accounts which are also found supported by relevant documents. The purchasing dealer has incorporated only one invoice against four nos. of invoice relating to the quarter. There is no part of irregularities on the part of the selling dealer. It is a case of under reporting by the purchasing dealer for evasion of tax. In United Steel Industries Vs. State of Andhra Pradesh(1988) 25 STL 226 (AP), it was observed that "..... the assessee must be held to have discharged the initial onus that lay on him to show that the inter-state sales were covered by 'C' Forms issued by the purchasing dealer and the assessing authority is bound to admit the assessee's claim for assessment at concessional rate." Hence, the allowance of concessional rate was regular. The 'C' Forms cannot be rejected on the allegation that the purchasing dealer has mentioned lower value somewhere in his Books of Accounts to evade tax. This is

an issue of the other state to look into. M/s. Rapatkos Brett Co, Guwahati Unit 'A' (2006-07) : Assessing Officer has reported that the entire transaction as per 'C' Form No. GG 180121 amounting to Rs. 3,06,296.00, GG 186440 amounting to Rs. 3,55,688.00 and 186906 amounting to Rs. 3,39,178.00 are duly recorded in his books of accounts which are also found supported by relevant documents. There is no part of irregularities on the part of the selling dealer. It is a case of under reporting by the purchasing dealer for evasion of tax. In United Steel Industries Vs. State of Andhra Pradesh(1988) 25 STL 226 (AP), it was observed that ".. the assessee must be held to have discharged the initial onus that lay on him to show that the inter-state sales were covered by 'C' Form issued by the purchasing dealer and the assessing authority is bound to admit the assessee's claim for assessment at concessional rate." Hence, allowance of concessional rate was regular. The 'C' Forms cannot be rejected on the allegation that the purchasing dealer has mentioned lower value somewhere in his Books of Accounts to evade tax. This is an issue of the other state to look into. M/s. Glaxosmithkline Pharma Limited, Guwahati Unit 'C' (2006-07) : Assessing Officer has reported that in the light of audit objection relating to Form-C No. GG 191739 reassessment was completed. As the dealer has failed to deposit the demand dues arrear certificate for Rs. 3,20,825.00 was issued to ST(Recovery). The arrear amount of Rs. 3,20,825.00 has been realised vide the following challans- i) Ch. No. 50 dtd. 23-06-2011 of Rs. 64,400.00 and ii) Ch. No. 3030190913095168 dtd. 19-09-2013 of Rs. 2,56,425.00. Total Rs. 3,20,825. M/s. Kishaly Snacks Products, Guwahati Unit 'C' (2006-07) : The assessing officer has reported that the value of 'C, Form No. 04V 094597 is Rs. 12,83,066.82 as reported by audit which is duly recorded in the back side of the 'C' Form. This has been claimed by the dealer. Statement of 'C' Form submitted by the dealer also reveals that the dealer has claimed Rs. 12,83,066.82. No excess claim was allowed to dealer. M/s. Lucas India Service, Guwahati Unit 'C' (2004-05) : Assessing Officer has reported that in the light of audit objection

relating to 'C' Form No. NL 065312 for Rs. 8,17,434.00/- reassessment was completed by rejecting the said 'C' Form along with other 2 'C' Forms with a demand of Rs. 3,68,004.00/-. The amount of Rs. 3,68,004.00/- has been realized vide Ch. No. 3030030112034866 dtd. 03-01-2012. M/s Centenary Distillery Private Limited, Guwahati Unit 'C' (2007-08) : Assessing Officer has reported that against 'C' Form No. NL 066071 for Rs. 19,07,500.00/- cross verification was made with Commissioner of Taxes, Nagaland. It has reported by Commissioner of Taxes, Nagaland vide their letter NO.CT/VIG/8/2011/4057 dtd. 27-06-2011 that there are no irregularities in the said C Form. M/s. Gulf Oil Corporation, Guwahati Unit 'B' (2006-07) : Assessing Officer has reported that as per certificate issued by Supdt. of taxes, Dimapur, the purchasing dealer, namely, P.J. Enterprise, Dimapur is registered under CST Act with Registration No. 13040340193 (DMR/D/PET-33) and the 'C' Form- No. NL. 057669 amounting to Rs. 11,01,404.00 was duly issued. M/s. Jay Bee Energy Private Limited, Guwahati Unit 'C' (2006-07): Assessing Officer has reported that against C Form No. NL 053448 for Rs. 41,63,574.00 cross verification was made with Commissioner of Taxes, Nagaland. It has reported by Commissioner of Taxes, Nagaland vide their letter NO.CT/VIG/48/2013/4304 dtd. 07-05-2014 that there are no irregularities in the said 'C' Form. Assessing Officer has reported that against C Form No. NL 053449 for Rs. 12,99,789.00 cross verification was made with Commissioner of Taxes, Nagaland. It has reported by Commissioner of Taxes, Nagaland vide their letter No. CT/VIG/48/2013/4304 dtd. 07-05-2014 that there is no irregularity in the said C Form. M/s Kirloskar Oil Engine Ltd., Guwahati Unit 'C' (2005-06): Assessing Officer has reported that against 'C' Form No. 085074 for Rs. 4,26,904.28 cross-verification was made with Commissioner of Taxes, Nagaland. It has reported by Commissioner of Taxes, Nagaland vide their letter no. CT/VIG/48/2013/4304 dtd. 07-05-2014 that there are no irregularities in the said 'C' Form. M/s. Centaur Pharma Private Limited, Guwahati Unit 'A' (2006-07) : Assessing Officer has reported



that the entire transaction as per 'C' Form No. 066226 amounting to Rs. 4.58 lakhs are duly recoded in his books of accounts which are also found supported by relevant documents. There is no part of irregularities on the part of the selling dealer namely M/s. Centaur Pharma Private Ltd. It is a case of under reporting by the purchasing for evasion of tax. In United Steel Industries Vs. State of Andhra Pradesh (1988) 25 STL 226 (AP), it was observed that ".. the assessee must be held to have discharged the initial onus that lay on him to show that the inter-state sales were covered by 'C' Forms issued by the purchasing dealer and the assessing authority is bound to admit the assessee's claim for assessment at concessional rate." Hence, allowance of concessional rate was regular. The 'C' Forms cannot be rejected on the allegation that the purchasing dealer has mentioned lower value somewhere in his Books of Accounts to evade tax. This is an issue of the other state to look into. M/s. Kirloskar Oil Engine Limited, Guwahati unit 'C'(2005-06): Assessing Officer has reported that the books of accounts & documents of the dealer was verified and it does not reveal any discrepancies against transaction covered by 'C' Form No. HH 0073801 for Rs. 7,95,878.77 issued by M/s. GS & Co., Meghalaya. There are no irregularities on the part of the selling dealer. It is a case of under reporting by the purchasing dealer for evasion of tax. There is no part of irregularities on the part of the selling dealer namely M/s. Kirloskar Oil Engine Limited. It is a case of under reporting by the purchasing dealer for evasion of tax. In United Steel Industries Vs. State of Andhra Pradesh (1988) 25 STL 226 (AP), it was observed that ".. the assessee must be held to have discharged the initial onus that lay on him to show that the inter-state sales were covered by 'C' Forms issued by the purchasing dealer and the assessing authority is bound to admit the assessee's claim for assessment at concessional rate." Hence, allowance of concessional rate was regular. The 'C' Forms cannot be rejected on the allegation that the purchasing dealer has mentioned lower value somewhere in his Books of Accounts to evade tax. This is an issue of the other state to look into.

M/s. Rapatkos Brett Co., Guwahati Unit 'A' (2006-07) : Assessing Officer has reported that the entire transaction as per 'C' Form No. CC0052371 amounting to Rs. 4,61,986.00 are duly recoded in his books of accounts which are also found supported by relevant documents. There is no part of irregularities on the part of the selling dealer namely M/s Rupertkos Brett Co. It is a case of under reporting by the purchasing dealer for evasion of tax. In United Steel Industries Vs. State of Andhra Pradesh (1988) 25 STL 226 (AP), it was observed that ".. the assessee must be held to have discharged the initial onus that lay on him to show that the inter-state sales were covered by 'C' Forms issued by the purchasing dealer and the assessing authority is bound to admit the assessee's claim for assessment at concessional rate." Hence, allowance of concessional rate was regular. The 'C' Forms cannot be rejected on the allegation that the purchasing dealer has mentioned lower value somewhere in his Books of Accounts to evade tax. This is an issue of the other state to look into. M/s. Certaur Pharma Private Limited, Guwahati Unit 'A' (2005-06): Assessing Officer has reported that the entire transaction as per 'C' Form No. 950190021 amounting to Rs. 11.36 lakhs are duly recoded in his books of accounts which are also found supported by relevant documents. There is no part of irregularities on the part of the selling dealer namely M/s Centaur Pharma Private Ltd. It is a case of under reporting by the purchasing dealer for evasion of tax. In United Steel Industries Vs. State of Andhra Pradesh (1988) 25 STL 226 (AP), it was observed that ".. the assessee must be held to have discharged the initial onus that lay on him to show that the inter-state sales were covered by 'C' Forms issued by the purchasing dealer and the assessing authority is bound to admit the assessee's claim for assessment at concessional rate." Hence, the allowance of concessional rate was regular. The 'C' Forms cannot be rejected on the allegation that the purchasing dealer has mentioned lower value somewhere in his Books of Accounts to evade tax. This is an issue of the other state to look into. M/s. Kirloskar Oil Engine Limited, Guwahati Unit 'C' (2006-07) : ACT has reported that against

'C' Form no 95C 205327 for Rs. 4,78,396.99 cross verification was made with Commissioner of Taxes, Manipur. It has reported by Superintendent of Taxes, Manipur vide their letter no TIN14310100105/10 dtd. 04-04-2014 that there is no irregularities in the said 'C' Form. M/s Rapatkos Brett Co, Guwahati Unit 'A' (2005-06): Assessing Officer has reported that the entire transaction as per 'C' Form No. 95C 198211 amounting to Rs. 12,35,291.00, 95C 202112 amounting to Rs. 12,35,291.00 and 95C 198801 amounting to Rs. 15,51,496.00 are duly recoded in his books of accounts which are also found supported by relevant documents. There is no part of irregularities on the part of the selling dealer namely Rumatkos Brett. Co. It is a case of under reporting by the purchasing dealer for evasion of tax. In United Steel Industries Vs. State of Andhra Pradesh(1988) 25 STL 226 (AP), it was observed that " the assessee must be held to have discharged the initial onus that lay on him to show that the inter-state sales were covered by 'C' Forms issued by the purchasing dealer and the assessing authority is bound to admit the assessee's claim for assessment at concessional rate." Hence, the allowance of concessional rate was regular. The 'C' Forms cannot be rejected on the allegation that the purchasing dealer has mentioned lower value somewhere in his Books of Accounts to evade tax. This is an issue of the other state to look into. M/s. Centaur Pharma Private Limited, Guwahati Unit 'A' (2005-06, 2006-07 & 2007-08): Assessing Officer has reported that the entire transaction as per 'C' Form No. 95C 214139 amounting to Rs. 9.05 lakhs, Form No. 95C 208738 amounting to Rs. 8.93 lakhs( in the year 2006-07) and Form No. 95C 195020 amounting to Rs. 12.16 lakhs (in the year 2005-06) are duly recoded in his books of accounts which are also found supported by relevant documents. There is no part of irregularities on the part of the selling dealer namely M/s. Centaur Pharma Private Ltd. It is a case of under reporting by the purchasing dealer for evasion of tax. In United Steel Industries Vs. State of Andhra Pradesh (1988) 25 STL 226 (AP), it was observed that "the assessee must be held to have discharged the initial onus that lay

on him to show that the inter-state sales were covered by 'C' Forms issued by the purchasing dealer and the assessing authority is bound to admit the assessee's claim for assessment at concessional rate." Hence, the allowance of concessional rate was regular. The 'C' Forms cannot be rejected on the allegation that the purchasing dealer has mentioned lower value somewhere in his Books of Accounts to evade tax. This is an issue of the other state to look into. This is an issue of the other state to look into. M/s Rapatkos Brett Co., Guwahati Unit 'A' (2005-06): Assessing Officer has reported that the entire transaction as per 'C' Form No. 95C 204980 amounting to Rs. 9,05,632.00 are duly recoded in his books of accounts which are also found supported by relevant documents. There is no part of irregularities on the part of the selling dealer namely M/s. Rumatkos Brett. Co. It is a case of under reporting by the purchasing dealer for evasion of tax. In United Steel Industries Vs. State of Andhra Pradesh (1988) 25 STL 226 (AP), it was observed that ".. the assessee must be held to have discharged the initial onus that lay on him to show that the inter-state sales were covered by 'C' Forms issued by the purchasing dealer and the assessing authority is bound to admit the assessee's claim for assessment at concessional rate." Hence, the allowance of concessional rate was regular. The 'C' Forms cannot be rejected on the allegation that the purchasing dealer has mentioned lower value somewhere in his Books of Accounts to evade tax. This is an issue of the other state to look into. M/s. Centaur Pharma Private Limited, Guwahati Unit 'A' (2007-08 & 2005-06 ): Assessing Officer has reported that the entire transaction as per 'C' Form No. 95C 212479 amounting to Rs. 16.66 ( for the year 2007-08) 95C 210080 amounting to Rs. 22.90 lakhs ( for the year 2005-06) are duly recoded in his books of accounts which are also found supported by relevant documents. There is no part of irregularities on the part of the selling dealer namely M/s. Centaur Pharma Private Ltd. It is a case of under reporting by the purchasing dealer for evasion of tax. In United Steel Industries Vs. State of Andhra Pradesh (1988) 25 STL 226 (AP), it was observed that ".. the assessee must be held to have discharged

the initial onus that lay on him to show that the inter-state sales were covered by 'C' Forms issued by the purchasing dealer and the assessing authority is bound to admit the assessee's claim for assessment at concessional rate." Hence, the allowance of concessional rate was regular. The 'C' Forms cannot be rejected on the allegation that the purchasing dealer has mentioned lower value somewhere in his Books of Accounts to evade tax. This is an issue of the other state to look into. M/s. Rapatkos Brett Co, Guwahati Unit 'A' (2005-06) : Assessing Officer has reported that the entire transaction as per 'C' Form No. 95S 065607 amounting to Rs. 14,15,622.00, 96S 078103 amounting to Rs. 8,58,027.00 are duly recoded in his books of accounts which are also found supported by relevant documents. There is no part of irregularities on the part of the selling dealer namely M/s. Rupertkos Brett. Co. It is a case of under reporting by the purchasing dealer for evasion of tax. In United Steel Industries Vs. State of Andhra Pradesh(1988) 25 STL 226 (AP), it was observed that ".. the assessee must be held to have discharged the initial onus that lay on him to show that the inter-state sales were covered by 'C' Forms issued by the purchasing dealer and the assessing authority is bound to admit the assessee's claim for assessment at concessional rate." Hence, allowance of concessional rate was regular. The 'C' Forms cannot be rejected on the allegation that the purchasing dealer has mentioned lower value somewhere in his Books of Accounts to evade tax. This is an issue of the other state to look into. M/s. Crompton Greaves Limited, Guwahati Unit 'C' (2006-07): Assessing Officer has reported that reassessment was completed by rejecting the 'C' Form No 96S 127972 for Rs. 21,58,089.28 and ACT has reported that reassessment was completed by rejecting the 'C' Form No. 96S117828 for Rs. 35,79,834.57, 96S117827 for Rs. 16,93,010.43 and 96S 117826 for Rs. 24,59,855.08. Aggrieved by the order the dealer preferred Appeal before DCT(A) vide order dtd. 09-04-2014 has set aside the reassessment and has upheld the original order of assessment. M/s. Lucas India Service, Guwahati Unit C (2004-05) : Assessing

Officer has reported that re-assessment has been completed relating to 'C' Form No. 96S 115666 for Rs. 1,89,679.00 by rejecting the said 'C' Forms along with two other 'C' Forms and a demand for Rs. 3,68,004.00 was raised and realised vide Ch. No. 3030030112034866 dtd 03-01-2012. M/s. Rahul Coal Enterprise, Jalukbari (2007-08) : The concerned 'C' Form was rejected and in the light of audit observation, tax/ interest has been realised as shown - Tax Rs. 2,425.00 and Interest Rs. 38,150.00. Ch. No. 4 dtd. 21-12-2013 amounting to Rs. 31,000.00 and Ch. No. 0344240518000061 dtd. 23-05-2018 amounting to Rs. 27,575.00. Total Rs. 58,575.00.

### **Observations/Recommendations**

**1.15** The Committee satisfied with the departmental reply and decided to drop the para.

**Irregular allowance of concessional rate of tax against inter-state sale to unregistered dealers**

**(Audit sub para 2.12.9.4/C & AG(R/R) /2010-2011)-P-48)**

1.16 The audit has observed that on cross verification of 'C' forms with the Commercial Tax Departments of the issuing states, we found that in 24 cases, 14 dealers of three states to whom goods of Rs. 4.88 crore sold by six dealers of Assam, were found either unregistered in the respective state or the goods purchase were not covered by the registration certificate. Thus, the benefit of concessional rates of tax on sales to unregistered dealers or on sales not covered by registration certificate was incorrectly allowed resulting in short levy of tax and interest of Rs. 74.23 lakh. A.G. recommend that the Government may consider making verification of declaration forms mandatory while allowing concession/exemption based on the information available on the TINXSYS website.

1.17 The department by their written reply has stated that M/s. Ashoka Store, Dibrugarh (2006-07): the dealer was reassessed and demands of Rs. 24,97,685.00/- (2005-06) & Rs. 22,39,031.00/-(2006-07) and Rs. 26,24,792.00/- (2007-08) were raised. The aggrieved dealer appealed to Revisional Authority for the period 2005-06 and 2006-07. In the light of the Revisional Order (25-06-2015), fresh assessment was made on 31-10-2016 for the year 2005-06 with a demand of NIL & (206-07) with a demand of Rs. 6,20,049.00/-. The dealer has deposited the demand dues on 15-05-2018 vide Ch. No. 3030150518084838. In respect of period 2007-08 assessment was made with a demand of Rs. 26,24,892.00/-. The case was settled under the Assam Taxation (Liquidation of Arrear Dues) Act, 2005. As per certificate of waiver issued in Form-3 (No. AC-7(v)/2007-08/2015/30 dtd. 27-3-15) no amount is now payable by the dealer. The settlement amount of Rs. 1,84,388.00 has been paid vide Ch. No. 2535200315000036 dtd. 20-03-2015. M/s. Universal Agencies, Guwahati Unit 'B' (2008-09) : The objection relates to the following

'C' Forms: (a) "C" form issued to N.K.Murarka. AP, ( GG-180272) (b) "C" forms issued to T.M. Enterprise, AP, (GG-180263) (c) "C" forms issued to T.M. Enterprise, AP (GG-191514) (d) "C" form issued to N.K.Enterprise, AP, (GG-225747). Superintendent of Tax & Excise, Papum Pare District, Zone-I, Naharlagun vide Letter No. CST-976/06/61/12 dtd. 04/01/2012 addressed to ACT, Unit-B has certified that the forms are genuine and issued to M/s. Shree Ram Enterprise, Naharlagun. M/s. Kishlay Snack Products, Guwahati Unit 'A' (2005-06) : The dealer was reassessed by rejecting the 'C' form No- GG 188639 for Rs. 2,75,604.00/- and an amount of Rs. 35,436.00 was raised. Aggrieved by the order the dealer appealed at Revisional Authority. The Authority annulled the order and directed to frame up a fresh order. Accordingly, assessment was reframed with an excess amount of Rs. 35,435.00/- was determined. M/s. Everest Agency House, Fancy Ali Jorhat (2008-09): The assessment was rectified by rejecting the 'C' Form No. GG 193939 (Rs. 1.47 lakh), GG 193940 (Rs. 2.54 lakh) & GG 157420 (Rs. 4.42 lakh). As the dealer failed to pay the dues arrears certificate was issued to ST(R) for payment of Rs. 1,52,040.00. The said amount has been recovered vide Challan No. 2013/11/6410 dtd. 21/11/2013 amounting to Rs. 1,52,040/-. M/s. Nestle India, Guwahati Unit 'B' (2006-07) : The objection relates to the acceptance 'C' Form No. GG 180746 (Rs. 1,47,191.00), GG 180748 (Rs. 2,94,988.00), GG 180747 (Rs. 2,23,088.00) & GG 180749 (Rs. 2,92,752.40) issued by M/s. Sun Divine , Itanagar. ST has reported that the dealer has submitted photocopy of the R.C. of the issuing dealer (M/s. Sun Divine , Itanagar) to authenticate the genuineness of the C forms in question. The registration no. of M/S Sun Divine, Arunachal Pradesh as per photocopy of the R/C is 12040018296 (CST) and 12170033157(VAT) and registration was valid from 05-05-2005. Another objection raised by the audit was that transactions recorded in the C Form No. GG-256139 were after issuance of Form. In this regard, the dealer has furnished an explanation issued by the issuing dealer (M/s. Hanumanbux Debisahai, Arunachal Pradesh) stating that by mistake date was written/recorded



as 31-12-2006 which was date of issue by Tax Authority in place of 31-03-2007. This was just a clerical mistake and there was no malafide intension of the dealer. M/s. Poddar Car World, Guwahati Unit 'B' (2006-07) : It relates to 'C' Form No. 95C 0079021 for Rs. 10.47 lakhs. Assessing Officer has reported that it is the mistake of the issuing dealer who should be penalized. Law is well settled since long in The State of Madras Vs. Radio and Electricals Ltd. And Anr. (1996) 18 STC 222. While dealing with a declaration under the Central Sales Tax Act, the Hon'ble Supreme Court held as follows: "Indisputably the seller can have in these transactions no control over the purchaser. He has to rely upon the representations made to him. He must satisfy himself that the purchaser is a registered dealer and the goods purchased made to him are specified in his certificate: but his duty extends no further. If he is satisfied on these two matters, on a representation made to him in the manner prescribed by the Rules and the representation made to him in the certificate in 'C' Form the selling dealer is under no further obligation to see to the application of the goods for the purpose for which it was represented that the goods were intended to be used. If the purchasing dealer misapplied the goods he incurs a penalty under Section 10. That penalty is incurred by the purchasing dealer and cannot be visited upon the selling dealer. The selling dealer is under the Act authorized to collect from the purchasing dealer the amount payable by him as tax on the transaction, and he can collect that amount only in the light of the declaration mentioned in the certificate in 'C' Form. He cannot hold an enquiry whether the notified authority who issued the certificate of registration acted properly, or ascertain whether the purchaser, notwithstanding the declaration, was likely to use the goods for a purpose other than the purpose mentioned in the certificate in 'C' Form. There is nothing in the Act or the Rules that for infraction of the law committed by the purchasing dealer by misapplication of the goods after he purchased them, or for any fraudulent misrepresentation by him, penalty may be visited upon the selling dealer." M/s. M.K. Marketing, Guwahati Unit

'B' (2007-08) : It relates to 'C' Form No. DD 0005047 for Rs. 10.97 lakhs. Assessing Officer has reported that it is the mistake of the issuing dealer who should be penalized. Law is well settled since long in The State of Madras Vs. Radio and Electricals Ltd. And Anr. (1996) 18 STC 222. While dealing with a declaration under the Central Sales Tax Act, the Hon'ble Supreme Court held as follows: "Indisputably the seller can have in these transactions no control over the purchaser. He has to rely upon the representations made to him. He must satisfy himself that the purchaser is a registered dealer and the goods purchases are specified in his certificate: but his duty extends no further. If he is satisfied on these two matters, on a representation made to him in the manner prescribed by the Rules and the representation is recorded in the certificate in 'C' Form the selling dealer is under no further obligation to see to the application of the goods for the purpose for which it was represented that the goods were intended to be used. If the purchasing dealer misapplied the goods he incurs a penalty under Section 10. That penalty is incurred by the purchasing dealer and cannot be visited upon the selling dealer. The selling dealer is under the Act authorized to collect from the purchasing dealer the amount payable by him as tax on the transaction, and he can collect that amount only in the light of the declaration mentioned in the certificate in 'C' Form. He cannot hold an enquiry whether the notified authority who issued the certificate of registration acted properly, or ascertain whether the purchaser, notwithstanding the declaration, was likely to use the goods for a purpose other than the purpose mentioned in the certificate in 'C' Form. There is nothing in the Act or the Rules that for infraction of the law committed by the purchasing dealer by misapplication of the goods after he purchased them, or for any fraudulent misrepresentation by him, penalty may be visited upon the selling dealer." M/s. Poddar Car World, Guwahati Unit 'B' (2006-07): It relates to 'C' Form No. GG 0084694 (Rs. 4.08 lakh), DD 0001086 (Rs. 3.95 lakh), BB 0098767 (Rs. 3.28 lakh) & EE 342294 (Rs. 1.86 lakh). ST has reported that it is the mistake of the issuing dealer who should be penalized. Law is well

settled since long in The State of Madras Vs. Radio and Electricals Ltd. And Anr. (1996) 18 STC 222. While dealing with a declaration under the Central Sales Tax Act, the Hon'ble Supreme Court held as follows: "Indisputably the seller can have in these transactions no control over the purchaser. He has to rely upon the representations made to him. He must satisfy himself that the purchaser is a registered dealer and the goods purchased are specified in his certificate: but his duty extends no further. If he is satisfied on these two matters, on a representation made to him in the manner prescribed by the Rules and the representation is recorded in the certificate in 'C' Form the selling dealer is under no further obligation to see to the application of the goods for the purpose for which it was represented that the goods were intended to be used. If the purchasing dealer misapplied the goods he incurs a penalty under Section 10. That penalty is incurred by the purchasing dealer and cannot be visited upon the selling dealer. The selling dealer is under the Act authorized to collect from the purchasing dealer the amount payable by him as tax on the transaction, and he can collect that amount only in the light of the declaration mentioned in the certificate in 'C' Form. He cannot hold an enquiry whether the notified authority who issued the certificate of registration acted properly, or ascertain whether the purchaser, notwithstanding the declaration, was likely to use the goods for a purpose other than the purpose mentioned in the certificate in 'C' Form. There is nothing in the Act or the Rules that for infraction of the law committed by the purchasing dealer by misapplication of the goods after he purchased them, or for any fraudulent misrepresentation by him, penalty may be visited upon the selling dealer."

### **Observations/Recommendations**

**1.18** The Committee satisfied with the departmental reply and decided to drop the para.

**Concealment of purchase turnover due to non-verification of  
utilization of declaration forms  
(Audit sub para 2.12.10/C & AG(R/R) /2010-2011)-P-49)**

**1.19** The audit has observed that scrutiny of returns/ assessments was being done purely on the basis of the returns submitted by the purchasing dealers without checking the utilization statements. This violates the system put in place by the Department for ensuring such verification and also results in non/short levy of local tax as noticed by us in a number of cases. A.G. noticed that 18 dealers disclosed turnover of Rs. 241.62 crore in their annual returns for various periods falling between 2005-06 and 2008-09 which were accepted by assessing authorities during scrutiny of returns/ assessments. A.G. verification of the statements of the statements of declaration forms utilized by these 18 dealers revealed that they had actually purchased goods worth Rs. 260.36 crore. Thus, there was concealment of purchased turnover of Rs. 18.74 crore which the assessing authorities could have detected if they had verified the utilization statements. This resulted in short levy of tax and interest of Rs. 2.46 crore. A.G. recommends that the Government makes it mandatory for dealers to furnish the utilization statements of declaration forms while submitting their returns and for the assessing authorities to verify the same while scrutinizing returns/ finalizing assessments.

**1.20** The department by their written reply has stated that M/s Bajaj Auto Ltd, Guwahati Unit 'C' (2005-06 & 2006-07) : 2005-06 : The dealer has received goods by way of stock receipt amounting to Rs. 51,70,38,825.43 during the year 2005-06 for which 'F' Form were issued. However, stock receipt relating to the month of April, 2005 amounting to Rs. 3,27,84,414.71 and not Rs. 1,75,88,767.79 as reported by audit. Form F No. 116118 for Rs. 1,51,95,646.92 and Form No. 611847 for Rs. 1,75,88,767.79 relate to the month of April, 2005. Audit has not deducted the stock receipt covered by "F" Form for Rs. 1,75,88,767.79 for the month of April, 2005 and hence the

discrepancy of Rs. 1,75,88,767.79 was pointed by audit. 2006-07: The dealer has received goods by way of stock receipt amounting to Rs. 68,58,58,773.19 during the year 2006-07 although 'F' Form has been issued for Rs. 70,21,68,941.15 as goods amounting to Rs. 1,63,10,167.96 dispatched in the month of March, 2007 have been received in the subsequent year 2007-08. 'F' form has been issued on the basis of dispatch and not on the basis of receipt and hence the difference of Rs. 1,63,10,167.96 was pointed by audit. The 'F' Forms relating to this bear nos. 12653 and 17178 for Rs. 1,03,09,856.87 and Rs. 60,00,311.09 respectively making the total amount Rs. 1,63,10,167.96. M/s. B. R. Enterprise Guwahati Unit 'C' (2005-06): Re-assessment was completed and demand was raised. Subsequently, as the dealer failed to deposit the demand dues, arrear certificate was issued to ST(R) for realization of Rs. 9,41,030.00. The case has been settled under the Assam Taxation (Liquidation of Arrear Due) Act, 2005 and certificate of waiver (Form-3) bearing no. 177-78 dtd. 21/04/2015 has been issued. M/s. Dish TV India Ltd., Guwahati Unit 'C' (2007-08): Audit has reported that Rs. 8,00,01,735.00 amount of goods were receipted on stock transfer, but in actual Rs. 7,47,59,085.00 amount of goods were receipted on stock transfer during the year 2007-08. Details furnished below:- As per Audit-purchase Stock receipt = Rs. 8,00,01,735.00, Less, double entry of the following Invoices from requirement as well as utilization statement by audit - 2567/1-2-2008 Rs. 24,00,000.00, 2611/8-2-2008 Rs. 24,00,000.00, 2628/12-2-2008 Rs. 24,00,000.00, Total Rs. 72,00,000.00. Add, difference in value relating to Form-F. No 021358 in the utilization statement due to mistake (Rs. 95,20,000.00 - Rs. 66,25,000.00 = Rs. 28,95,000.00)= Rs. 7,56,96,735.00. Less, goods received in the subsequent year (2007-08) entered in the books of accounts in April, 2008= Rs. 9,37,650.00. Actual stock receipt as per account = Rs. 7,47,59,085.00. Trading A/c. of the dealer as pr Audit Report:- Opening stock=Rs. Nil, Stock receipt during the year 2007-08= Rs. 7,47,59,085.00, Less, closing stock = Rs. 24,68,423.00, Cost of goods sold= Rs. 7,22,90,662.00, Sales

including stock outward+ Rs. 656,69,341.00, Loss in Stock Value= Rs. 66,21,321.00. The dealer sale goods at price fixed by the company from time to time & hence in some occasion it is less than the stock receipt price. The figure of stock receipt for Rs. 7,47,59,085.00, Opening Stock of Nil, Closing Stock of Rs. 24,68,423.00 & Aggregate Sale for Rs. 6,56,69,341.00 tallies with the figure disclosed in return and was verified & accepted. On verification no concealment of purchase turnover was found. M/s. Auto Axis, Jorhat (2008-09): Assessing Officer has reported that the entire purchase details have been duly reflected in the revised return furnished by the dealer. In the original return the same were included in the purchase column. The value was shown as Rs. 32,77,748.02 instead of Rs. 21,10,748.02 as it also includes receipt amount of Rs. 11,67,000.00 which were received by way of stock transfer by 'F' Form No. 039464 and 039465 for Rs. 11,67,000.00. As such, there is no irregularity. M/s. Ramnarayan Diesel Sales & Services, Jorhat (2007-08 & 2008-09): Assessing Officer has reported the following: i) Total purchase as per 'C' Form during the year (2007-08) Rs. 98,00,701.00, and in the year (2008-09) Rs. 1,08,22,192.00. ii) Add purchase received during the year from 'C' form issued in the previous year (2007-08) Rs. Nil, and in the year (2008-09) Rs. 7,29,149.00 iii) Less, purchase against 'C' form issued in the current year by received in the next year (2007-08) Rs. 7,29,149.00 and in the year (2008-09) Rs. 13,71,476.00. Total in 2007-08 is Rs. 90,71,552.00 and total in the year 2008-09 is Rs. 1,01,79,865.00. In the annual return/audit report the dealer has disclosed to Rs. 90,94,939.00 (2007-08) and Rs. 1,02,13,026.00 (2008-09) which is more than the amount procured by 'C' Form. Hence, there is no irregularity. M/s. Mangal Marble, Jorhat (2006-07): Assessing officer has reported that the difference was due to the following reasons: 1) In the utilization statement of 'C' form No. 453941 the bill value is found to be Rs. 11.88 lakh instead of Rs. 8.28 lakh. 2) In one requirement statement the dealer the dealer has wrongly mention the bill value as Rs. 47.10 lakh instead of Rs. 17.85 lakh. From (1) & (2)

it is found that the total actual value = Rs. (90.92-8.28-47.10+11.88+17.85) Lakh)= Rs. 65.27 Lakh. a) The above figure includes Rs. 2.67 lakh of goods received from M/s. Oriental Ceramics & Industries Ltd. UP which relates to 2005-06 but received in the subsequent period. b) The above figure does not include Rs. 1.78 lakh of goods send by M/s. Oriental Ceramics & Industries Ltd, UP in 2006-07 but received in the subsequent year. C) The above figure also includes CST charged for Rs. 2.11 lakh. As such the actual purchase figure+ Rs. (65.33+2.11-1.78+2.67) lakh= Rs. 68.33 lakh. This figure is disclosed in the annual return. M/s. S.S. Auto Distributors, Jorhat (2006-07) : Assessing officer has reported that the difference was due to following reasons: Audit has wrongly taken into consideration Rs. 9.42 lakh which relates to purchase from M/s. Tata Motors. The figure was considered from the utilization statement as well as requirement statement. As such, as per audit , the figure should be Rs. 68.03 lakh - Rs. 9.42 lakh= Rs. 58.61 lakh. However, verification of the bills reveals that the purchase figure is Rs. 59,20,636.00 which is on the higher side. Verification also revealed that goods worth Rs. 12,55,089.00 dispatched in 2006-07 were received in the next year. Hence, the actual purchase figure = Rs. 29,20,636.00 - Rs. 12,55,089.00= Rs. 46,65,547.00. This figure is disclosed in the annual return. M/s. Shiv Glass House, Jorhat (2006-07 & 2007-08): Assessing Officer has reported that the difference was due to the following reasons: 2006-07: 1) Bioll value as per 'C' form statement is Rs. 76,71.524.48 2) Less goods received in the next year is Rs. 81,760.00 3) Add goods received on which C form not issued is Rs. 7,400.00 4) Less credit notes is Rs. 8,06,528.00. All total is Rs. 67,90,635.80. In 2006-07: 1) Bill values as per C Form statement is Rs. 89,63,199.52 2) Add goods received from the previous year is Rs. 81,760.00 3) Less goods received in the next year is Rs. 2,30,180.00 4) Add goods received on which 'C' Form not issued is Rs. 5,100.00 5) Less credit notes is Rs. 8,39,307.00. All total is Rs. 79,80,572.52. M/s. Essar Oil Ltd, Guwahati Unit 'A' (2005-06) : Assessing Officer has reported that prices of petroleum products are controlled by Government. During this period, the retail price were lower than the actual procurement cost. The loss in Assam

are absorbed from profits made from refinery product sales. This were thoroughly verified by Assessing Officer and no irregularities were detected. M/s. Jenson & Nicholson, Guwahati Unit 'A' (2006-07) : Assessing Officer has reported that the following 'C' forms were not utilized in 2006-07 although they were considered by audit :

Sl. No.	C Forms No.	Year	Amount in Rs.
1.	Aso6 0619010	2007-08	2340575.00
2.	Aso6 0619012	2007-08	56399.37
3.	Aso6 0619017	2007-08	656526.00
4.	Aso6 0619025	2007-08	2519268.00
5.	Aso6 0619026	2007-08	3260406.00
6.	Aso6 0619027	2007-08	2488160.00
<b>Total</b>			<b>11,3,21,334.00</b>

- (2). In the utilization statement relating to 'C' form no. AS06 0619003, the value should be Rs. 29,58,529.00 instead of Rs. 15,19,275.00.
- (3). In the utilization statement relating to 'C' form no. AS06 0619011, the value should be Rs. 2,11,590.00 instead of Rs. 14,39,254.00.

**The dealer has procured goods against the following 'C' forms:**

Sl. No.	C form No.	Name of the party	Period	Quarter	Amount in Rs.
1	AS/06-0619003	Prestige Coating Ltd.	06-07	Jan07-Mar07	958529.00
2	As/06-0619011	Prestige Coating Ltd	06-07	Oct06-Dec 06	211590.00
3	AS/06-0619013	Soujanya Enterprise	06-07	Apr06-June 06	28103.00
4	As/06-0619014	Soujanya Enterprise	06-07	Jul 06-Sep 06	32882.00
5	AS/06-0619015	Soujanya Enterprise	06-07	Oct06-Dec 06	63584.00
6	AS/06-0619016	Soujanya Enterprise	06-07	Jan 07- Mar 07	66847.00
7	AS/06-0619020	Brite Paints & Chemicals	06-07	Jan07- Mar 07	437680.00
8	AS/06-0619021	Atlas Paints & Varnish	06-07	Apr 06-June 06	2350113.00
9	AS/06-0619022	Atlas Paints & Varnish	06-07	Jul 06- Sep 06	1742594.00
10	AS/06-0619023	Atlas Paints & Varnish	06-07	Oct 06-Dec 06	2027099.00
11	402801	Ganapati Udyog	06-07	Jan 07- Mar 07	390796.00
12	402802	Ganapati Udyog	06-07	Oct 06- Dec 06	652696.00
13	402799	Ganapati Udyog	06-07	Jul 06-Sep 06	477465.00
14	402796	Ganapati Udyog	06-07	Apr06- June 06	355881.00
15	AS2006/0923560	Acrolite Paint Industries	06-07	Oct 06- Dec 06	302230.00

**Total Purchase in 2006-07 = Rs. 1,20,98,089.00**



This figure tallies with the figure disclosed by the dealer. So, there is no irregularity. M/S Kiron Transport Co. Pvt. Ltd., Guwahati Unit 'A' (2007-08) : Assessing Officer has reported that in the light of Audit observation, assessment was completed with a demand of tax of Rs. 595,968.00 and interest of Rs. 3,93,360.00 (Total = Rs. 9,89,327/-). This amount was paid by the dealer vide challan no 1 dated 28/01/2012. M/s Haier Appliances India Pvt. Ltd. Guwahati Unit 'A' (2006-07) :

1. Stock received during 2006-07 as per audit observation :	Rs. 3,46,21,653.00
2. Stock received as per Annual Return :	Rs. 3,36,44,151.00
3. Difference :	Rs. 9,77,502.00

**Now, after verification, following facts are found :**

1. Value of goods billed in 2006-07 but received during 2007-08	: Rs. 15,81,250.00
2. Double entry made in requirement list	: Rs. 13,122.00
3. Wrong entry made in requirement list which was not supported by proper documents. The amount mentioned by mistake	: Rs. 9,51,320.00
4. Amount mentioned in requirement but already utilized with prior 'F' Form No. 06013516	: Rs. 6,97,570.00

Hence, the amount of Rs. 32,43,262.00 (Rs. 15,81,250.00 + Rs. 13,122.00 + Rs. 9,51,320.00 + Rs. 6,97,570.00) was deducted from Rs. 34,621,653.00 which comes to Rs. 3,13,78,391.00. Again the following amounts are added to the stock:

1. 'F' Forms F06013514 and F06013515 actually utilized in Feb 07 and March 07 but shown against Feb 06 and March 06 carry an amount : Rs. 22,02,160.00
  2. Value of goods received but 'F' Form not issued: Rs. 63,600.00
- Total = Rs. 22,65,760.00**

Hence, total stock arrived at Rs. (3,13,78,391.00 + 22,65,760.00) = Rs. 3,36,44,151.00

Therefore, the stock shown in the annual return is found to be correct and as such, there is no irregularity. M/s Raghunath TradeAgency, Guwahati Unit 'A' (2005-06) (i) Assessing Officer has

reported that from a thorough verification of the books of accounts along with purchase invoices/bills and other relevant documents of the dealer, it is found that the dealer had imported taxable goods during the year 2005-06 as follows :

a.	Purchase against 'C' Forms	: Rs. 1,90,50,668.00
b.	Stock transfer receipt	: Rs. 23,95,200.00
	<b>Total taxable goods received</b>	<b>: Rs. 2,14,45,868.00</b>

(ii) Total taxable goods received on stock transfer against 'F' Forms was Rs. 23.95 lakhs and not Rs. 20.98 lakhs as found from verification of accounts.

(iii) However, at the time of preparation of annual return, both the purchase and stock receipt values were clubbed together in the purchase column which is found to be a genuine mistake by the dealer. As such, there is found no any suppression of taxable import value of Rs. 20.98 lakhs as pointed by the audit and there is no loss of Government revenue. M/s. Monsanto India Ltd., Guwahati Unit 'A' (2005-06) : Assessing Officer has reported that in the light of audit observation, assessment was completed with a demand of tax of Rs. 4,40,269/- and interest of Rs. 3,56,616/- (Total Rs. 7,96,885.00). The dealer has paid the demand dues of Rs. 7,96,885/- vide e-challan no. 3030110314061126 dated 11/03/2014. M/s Bhole Baba Dairy Industries Ltd. Guwahati Unit 'B' (2007-08) : No irregularity was found by the Assistant Commissioner of Taxes after verification of detailed accounts. The figures of purchase, sale and stock etc. tallied with the figures disclosed by the dealer in returns. The actual purchase/ receipt of the dealer is Rs. 37,51,950.00. The difference of Rs. 1,23,24,155.00 was due wrong inclusion of the value of stock receipt of a different dealer, namely, M/s Bhole Baba Milk Food Industries, Guwahati (TIN 18780004760). The dealer has returned in this regard 3 nos. of 'F' Form (045742, 045743 & 045743 ). As such, it is stated that there was no concealment of purchase turnover and loss of revenue. M/s Gopal

Retail Pvt. Ltd. Guwahati Unit 'B' (2007-08): Audit has calculated purchase figures as below :

- (1) Form utilization statement of 07 nos. of 'F' Forms : Rs.2,27,76,776.00  
(2) Form requirement statement of 15 nos. of 'F' Forms : Rs.2,45,75,644.00

**Total Rs. 4,73,52,420.00**

The Superintendent of Taxes has stated that in the utilization statement of 7 nos. of 'F' Form, the figures relating to the period 2007-08 was found at Rs. 1,21,09,089.00 instead of Rs. 2,27,76,776.00 due to non-furnishing of proper statement. It is further stated that in the requirement statement of 15 nos. of 'F' Forms, the figure relating to the period 2007-08 was found at Rs. 2,25,12,728.00 instead of Rs. 2,45,75,644.00 due to non-furnishing of proper statement. Hence, the amount of receipt = Rs. 1,21,09,089.00 + Rs. 2,25,12,728.00 = Rs. 3,46,21,817.00. The figure as per goods receipt in the year 2007-08 is Rs. 3,71,54,320.00 which is more than the amount determined above and the same is duly reflected in the annual return. M/s Gokul Refill and Solvent Ltd. Guwahati Unit 'B' (2005-06) : Assessing Officer has reported that the audit might not have taken into consideration of two annual returns relating to April, 2005(AGST) and May, 2005 to March, 2006 (VAT).

Purchase / Receipt during April, 2005	= Rs. 10,67,02,346.00
(1) Purchase / Receipt during May, 2005 to march, 2006	= Rs. 90,54,25,910.00
<b>Total</b>	<b>= Rs. 1,01,21,28,256.00</b>

The above figure is more than the figure determined from Utilization statement of C/F Forms determined by Audit of Rs. 98,18,44,000.00. M/s Ashoka Store, Dibrugarh (2005-06, 2006-07 & 2007-08 ) : Objection : Concealment of purchase as below -

2005-06 : Rs. 7,52,067.00  
2006-07 : Rs. 22,47,425.00  
2007-08 : Rs. 14,05,195.00

The amount reported to be concealed was actually the amount occurred by receipt of goods in other period & Credit Note.

**2005-06**

Purchase from outside State	= Rs. 1,33,69,193.00
Less, Purchase carried forward to 2006-07	= Rs. 13,19,218.00
Less, credit Note issued for the financial year	= Rs. 10,81,839.00
<b>Total</b>	<b>= Rs. 1,08,97,136.00</b>

**2006-07**

Purchase from outside State	= Rs. 1,89,75,519.00
Add, purchase carried forward from 2005-06	= Rs. 13,19,218.00
Less, Purchase carried forward to 2007-08	= Rs. 18,15,965.00
Less, credit Note issued for the financial year	= Rs. 33,56,630.00
<b>Total</b>	<b>= Rs. 1,51,93,143.00</b>

**2007-08**

Purchase from outside State	= Rs. 1,71,04,136.00
Add, purchase carried forward from 2006-07	= Rs. 18,15,965.00
Less, Purchase carried forward to 2008-09	= Rs. 15,55,730.00
Less, credit Note issued for the financial year	= Rs. 22,29,550.00
<b>Total</b>	<b>= Rs. 1,51,34,821.00</b>

No irregularity was found after verification of detailed accounts. The figures of purchase, sale and stock etc. tallied with the figures disclosed by the dealer in returns. As such, it is stated that there was no concealment of purchase turnover and loss of revenue.

**Observations/Recommendations**

**1.21** The Committee satisfied with the departmental reply and decided to drop the para.

**Incorrect allowance of concession/ exemption**  
**Incorrect allowance of concession / exemption**  
**(Audit sub para 2.12.11/C & AG(R/R) /2010-2011)-P-49)**

1.22 The audit has observed that the assessing authorities allowed incorrect exemption/ concessional rate of tax without declaration forms/ based on declaration forms which were 'prima facie' defective/not properly filled in. This resulted in incorrect allowance of exemption/ concessions of tax of Rs. 38.12 crore including interest in respect of 126 cases for the assessment years falling between 2001-02 and 2008-09 as mentioned in below :-

Name of the unit (No. of dealer)	Period of assessment Assessed between	Name of irregularities	Short/non-levy of tax and interest (Rs. In crore)
Digboi (2) Ghy Unit-C (18) Sibasagar(1) Jorhat(1) Ghy Unit-B (5) Ghy Unit-A (13) Tinsukia (1) Dibrugarh (3)	2001-02 to 2008-09 March/07 and March/10	Concessional rate of tax was allowed on inter-state sale of Rs. 52.21 crore against defective 'C' forms i.e. without proper or insufficient details of the purchasing dealers.	6.56
Tinsukia (1) Dibrugarh (1) Ghy Unit-B (4) Ghy Unit-A (3)	2005-06 to 2007-08 October/07 and March/10	Concessional rate of tax was allowed on inter-state sale of Rs. 3.74 crore without supporting 'C' forms.	0.37
Ghy Unit-C(2) Ghy Unit-A(5) Tinsukia (2) Jorhat (1) Naharkatia (1)	2004-05 to 2007-08 June/07 and February/08	Concessional rate of tax was allowed on inter-state sale of Rs. 5.21 crore which took place prior to date of registration of the purchasing dealers.	0.61
Ghy Unit-B(1) Ghy Unit-C(3) Tinsukia (1)	2005-06 to 2008-09 January/09 and February/10	Concessional rate of tax was allowed on inter-state sale of Rs. 74 lakh against 'C/F' form which were declared invalid/ obsolete by the Government of Nagaland.	0.08
Ghy Unit-A(2) Digboi (1) Ghy Unit-C(1) Sibasagar(2) Jorhat(1)	2004-05 to 2008-09 December/07 and March/10	The claim of branch transfer to goods valued at Rs. 42.86 crore was allowed without forms 'F'	7.06

Ghy Unit-C (1) Digboi (1) Sibsagar (2) Jorhat (4) Ghy Unit-A (4) Ghy Unit-B(1) Tinsukia (3) Naharkatia (2) Dibrugarh (5)	2005-06 to 2007-08 April/08 and August/10	The claim of branch transfer of goods valued at Rs. 65.63 crore was allowed against defective from 'F' i.e. without proper or insufficient details of the transferee/amount involved etc.	9.72
Ghy Unit-B (1) Digboi (3) Sibsagar (6) Tinsukia (2) Naharkatia (4) Dibrugarh (5)	2005-06 to 2007-08 October/07 and March/10	The claim of branch transfer of goods valued at Rs. 89.07 crore was allowed against form 'F' which contained the transaction of multiple months.	13.72
<b>Total</b>			<b>38.12</b>

**1.23** The department by their written reply has stated that M/s. North Eastern Coal Field (Coal India Limited) Digboi (2001-02) : The department by their written reply has stated that M/s North Eastern Coal Fields (Coal India Limited ) Digboi (2001-02) : Audit raised objection that due to acceptance of defective 'C' Forms there was loss of revenue. The objection raised by the Audit team was pertaining to A/Y 2001-2002 and the A G audit recorded the year as 2010-2011. Under sec 18 of the Assam General Sales Tax Act, 1993, an assessment can be reassessed within 8 years from the date of assessment. In this present case, the case has become time barred. There is no scope for fresh assessment. The company is a government PSU and is unwilling to proceed for re-assessment or curing defects in the defective 'C' Forms. M/s. Nefaa Tea Industries, Margherita, Digboi (2007-08 & 2008-09) : The dealer was given opportunity to rectify the 18 Nos. of defective 'C' Forms. In turn, the dealer has furnished all the 'C' Forms after due rectification. Details of 'C' Forms : MH07/1208096, HR-06 2219909, 41 0678884, RJ/2004 00421551, HR/06C 2219910, 13P 999825, 14P 237810, 2407 5328253, 14P 257101, 01CC 1051073, R/C- 2007 3534502, R/C-2007 3534501, F-1-1730293, CE/AP 2192003, TN -2006-C-BB 344140, 28 1404766, TN-2006-C-BB 353755, F-1-1689927. The dealer was given opportunity to rectify the defects of the declaration Forms and in turn, the dealer has rectified the defects.

The Hon'ble Calcutta High Court in *Shri Anil Kumar Dutta & Others Vs. Additional Member, Board of Revenue, West Bengal* (1967) 20 STC 528 Cal, Hon'ble Calcutta High Court in *Rajasthan Pipes Vs. CTO* (2004) 138 STC 383 (Cal HC) and the Hon'ble Orissa High Court in *State of Orissa Vs. Orissa Polish Works* (1970) 26 STC 480 (Ori HC) has held that declaration Forms can be rectified. M/s. SAJ Industries Pvt. Ltd. Guwahati Unit 'C' (2006-07) : Assessing Officer has reported that Audit raised objection the following three numbers of 'C' Forms were defective as they were without Registration Certificate numbers and date of liability. (1) 95C 209989 (2) 95C 209991 and (3) 95C 209999. The dealer was given opportunity to rectify the 3 Nos. of defective 'C' Form. In turn, the dealer has furnished all the 'C' Forms after due rectification along with copy of R/C of the dealer, namely, M/s. R.J. Enterprise, Imphal, Manipur (No. CST/M/8464 w.e.f. 16-07-2003). The Hon'ble Calcutta High Court in *Shri Anil Kumar Dutta & Others Vs. Additional Member, Board of Revenue, West Bengal* (1967) 20 STC 528 Cal, Hon'ble Calcutta High Court in *Rajasthan Pipes Vs. CTO* (2004) 138 STC 383 (Cal HC) and the Hon'ble Orissa High Court in *State of Orissa Vs. Orissa Polish Works* (1970) 26 STC 480 (Ori HC) has held that declaration Forms can be rectified. M/s. Heins India Private Limited Guwahati Unit 'C' (2006-07) : Assessing Officer has reported that Audit raised objection that the following points : (A) The following 8 numbers of 'C' Forms were defective as they were without date of liability (1) 96 S 130392 (2) 96S 130393 (3) 96S 130394, (4) 96S 130395, (5) 96S 097736, (6) 96S 097737, (7) 96S 130338 and (8) 96S 130339. The dealer cleared the defects in respect of the above eight numbers of 'C' Forms issued by M/s Banik Trading Corp, Tripura (16030175237 w.e.f. 25-02-2006 & M/s Shree Gauranga Bhandar, Tripura (16090077282 w.e.f. 21-03-2006). (B) The following 4 numbers of 'C' Forms were defective as they were without date of liability (1) 95 C 227680 (2) 95 C 227685, (3) 95C 227686 and (4) 95 C 227687. In respect of the above 4 nos. of 'F' Forms issued by M/s. Pioneer Trading Co. Manipur it is revealed

that the dealer is registered after the transaction period i.e. w.e.f. 16/04/2008. Therefore, the transactions covered by these four numbers of 'F' Forms were treated as sales to unregistered dealer and assessed accordingly, 'C' Forms No. 95C 216696 was defective as it was without Registration Certificate number and date of liability. The said Form was issued by M/s Master Canteen, SHWBSF, Manipur. The Registration Certificate number and date was not mentioned. Therefore, the transactions covered by this 'C' Forms was treated as sales to unregistered dealer and assessed accordingly. Being aggrieved by the order of re-assessment, the dealer preferred appeal before the appellate Authority. Appellate authority vide order dtd. 21-07-2012 has set aside the re-assessment order and ordered to completed fresh completed. After adjustment of demand of Rs. 5,290.00 against the amount deposited for Rs. 22,452.00 for admission of appeal, an amount of Rs. 17,162.00 stood as excess. M/s. Centinary Distillers Private Limited Guwahati Unit 'C' (2007-08) : Objection relates to submission of defective 'C' Forms (NL. 066523 and NL 066071). In response to the objection made, the dealer submitted the Registration Certificate of the buying dealer namely, M/s Apex Para Military Bonded whereby it is confirmed that the purchasing dealer is a registered dealer of Nagaland with R/C. no. 13020291105 w.e.f. 01-04-2005. Commissioner of Taxes, Nagaland vide letter number CT/VIG/8/2011/4057 dated 27/06/2011 has informed that Form numbers NL NO 066523 and NL 066071 were issued by their department. M/s. Lucas India Services, Guwahati Unit 'C', (2004-05) : The following 'C' Forms were defective as they were without R/C No. & or date of liability (1) NL 065312, (2) 96S 115666, (3) 95C 211428, (4) AA 0085205, (5) GG 276462, (6) GG 211548 and (7) 95 C 202763. The dealer was given opportunity to rectify the defects of 'F' Forms. In turn, the dealer has rectified 6 nos. of 'F' Forms out of 7 nos. Against 1 no of 'F' Forms (NL 065312 for Rs. 8,17,434.00) re-assessment was completed with a demand of Rs. 3,68,004.00. The dealer paid the demand vide e-challan No. 3030030112034866 dtd. 03.01.2012. M/s. Ricker Pharmaceuticals,



Guwahati, Guwahati Unit 'C' (2006-07) : The following 'C' Forms were defective as they were without R/C. No. & or date of liability. (1) 01FF 117009, (2) 01FF 117008, (3) 01FF 117007, (4) 01FF117006 (5) II 0097275, (6) AA 0086770, (7) II 0096413, (8) CC 0050059, (9) 95C 229140, (10) 95C 229141 (11) 95C229142 and (12) 95C 236808. After gone through the objection raised by the Audit team, the AO re-assessed the original assessment on rejection the defective 'C' Forms for Rs. 33,18,150.00 and raised demand. Being aggrieved, the dealer preferred Appeal petition before Appellate Authority. Appellate Authority vide his order dtd. 31.05.2012, has annulled the re-assessment and restored the original assessment dtd. 08-12-2009.

M/s. Kohli & Sons, Guwahati, Guwahati Unit 'C' (2006-07) : The dealer during the period has effected stock transfer of goods to its branch office at Shillong, Meghalaya for which 9(nine) leaves of 'F' Form have been submitted. The dealer has not properly filled up the declaration Forms. Moreover the dates of receipt of goods were wrongly entered. Further, in two 'F' Forms (No. AB 0088633 and AB 0088634) there were mistakes in the value of goods. The dealer was given an opportunity and accordingly has rectified the mistakes in the declaration Forms and has also submitted annexure along with each 'F' Form wherein detail of dispatch of goods etc. have been furnished. The entire dispatch of goods was found duly supported by Forms-35 of the Meghalaya Value Added Tax Rules, 2005, Road Permit (Form-IV) and Stock transfer invoice which were duly endorsed at entry check post of Meghalaya. The Branch office of the dealer at Shillong has also submitted rectified copy of utilization statement of 'F' Form to the sales tax authority at Shillong, Meghalaya. Verification of documents reveals that the entire dispatch has been made not by reason of sale but by transfer of goods for sale outside State. As such, there is no irregularity and loss of revenue.

M/s. Kores India Limited, Guwahati Unit 'C' (2005-06) : Assessing Officer has reported that in the light of audit objection, assessment was completed by rejecting the defective 'C' Forms No. 95C 184539 for Rs. 16,26,539.00. Aggrieved by the

order of assessment the dealer preferred appeal before revisional authority. Revisional authority vide order dtd. 06-10-2015 has set aside the order of assessment. M/s. Glaxo Smitline Pharmaceuticals, Guwahati, Guwahati, Unit 'C' (2006-07) : In the light of audit objection re-assessment was completed and the transaction covered by the defective 'C' Form No. 95 C 201908, GG 191739, 96S 084358 and GG 182222 have been treated as being made to other than registered dealer and assessed accordingly. Aggrieved by the order assessment the dealer has preferred appeal before Deputy Commissioner of Taxes (Appeals), Guwahati. Deputy Commissioner of Taxes (Appeals), Guwahati by his order dtd. 27-09-2011 has uphold the order of re-assessment. Subsequently revisional authority vide order dtd.11-08-2013 has also uphold the order of Appellate Authority. Thereafter, the demand was sent for recovery to the Supdt. of Taxes (Recovery), Guwahati for realization of Rs. 3,20,825.00. This has been realized vide Ch. No. 50 dtd. 23-06-2011 for Rs. 64,400.00 & vide Ch. No. 3030190913095168, dtd. 19-09-2013 for Rs. 2,56,425.00. M/s Kirloskar Oil Engine, Guwahati, Guwahati Unit 'C' (2005-06 & 2006-07) : 2005-06 - The objection relates to acceptance of the following defective 'C' Forms DD 0001598, NL 085074, 96S 043850, DD 0045650, DD 0000325, 96S 043849, EE 0019337, 96S 043848, 96S 169046, GG 142597, GG 142598, GG 142599, GG 285401, HH 0073801 and 96S 043847. The dealer was given opportunity to rectify the defects of the declaration Forms and in turn, the dealer has rectified the defects in the 'C' Forms. The Hon'ble Calcutta High Court in Shri Anil Kumar Dutta & Others Vs. Additional Member, Board of Revenue, West Bengal (1967) 20 STC 528 Cal, Hon'ble Calcutta High Court in Rajasthan Pipes Vs. CTO (2004) 138 STC 383 (Cal HC) and the Hon'ble Orissa High Court in State of Orissa Vs. Orissa Polish Works (1970) 26 STC 480 (ori HC) has held that declaration Forms can be rectified. 2006-07 - The objection relates to acceptance of the following defective 'C' Form : 96S 169041, 96S 169044, GG 285402, DD 0080096, GG 186305, GG 285403, DD 0080095, GG 285404,

JJ 0003413, NL 085073, DD 0001599, NL. 085072, 96S 169047, 96S 169048, 95C 20532, 96S 153757, 95C 205328, DD 0045651, 96S 153756, 95C 205327, DD 0045652, 96S 153755, GG 142596 and 96S 153754. The dealer was given opportunity to rectify the defects of the declaration Forms and in turn, the dealer has rectified the defects in the Form 'C'. The Hon'ble Calcutta High Court in Shri Anil Kumar Dutta & Others Vs. Additional Member, Board of Revenue, West Bengal (1967) 20 STC 528 Cal, Hon'ble Calcutta High Court in Rajasthan Pipes Vs. CTO (2004) 138 STC 383 (Cal HC) and the Hon'ble Orissa High Court in State of Orissa Vs. Orissa Polish Works (1970) 26 STC 480 (Ori HC) has held that declaration Forms can be rectified. M/s. Crompton Greaves, Guwahati Unit 'C' (2006-07) : Audit raised objection that the following ten numbers of 'C' Forms submitted by the dealer were defective because the Forms lacked proper or sufficient details. 'C' Forms No. 96S 077793, 96S 127972, 96S 117828, 96S 117827, 96S 117826, 96S 127969, 96S 127971, 96S 127973, 01FF 109878 and 96S 069297 amounting to Rs. 1,73,72,886.21. Re-assessment was completed. Aggrieved by the order of re-assessment the dealer preferred appeal before Appellate Authority. However, DCT (A) vide his order dtd. 9-4-2014 has quashed the re-assessment order and the original order was upheld. However, fresh proceeding was initiated on different issue and 'C' Form No 96S 127972, 96S 127969, 96S 127971, 96S 127973 were rejected along with some other Form. Re-assessment resulted in levy of tax / interest of Rs. 5,07,614.00 after adjusting Rs. 2,17,647.00 ( paid against earlier demand vide Ch. No 3030140911026071 dtd. 14-09-2011 ) and Rs. 6,23,687.00 (payment made for admission of appeal vide Ch. No. 673 dtd. 18-02-2012). The demand dues for Rs. 5,07,614.00 was paid Ch. No. 3030060514083679 dtd. 06-05-2014. M/s. Jay Bee Energy (p) Ltd., Guwahati, Guwahati Unit 'C' (2006-07) : Audit raised objection that the following seven numbers of 'C' Forms submitted by the dealer were defective as they were without R/C No. & / or date of liability. (1)95C 201820 (2) 95C 201861 (3) 95C 195680 (4) NL 053448 (5) NL 053449 (6) 95C 202628

(7) 95C 189898. Assessing Officer has reported that the inter-sale covered by the above 'C' Forms were made to registered dealer who were registered prior to the date of transaction in the respective state. Details furnished below :

Name of dealer	State	R/C No.	Date of Liability
M/s. M/s. Sahej Automobiles	Manipur	8770 (14410099122)	06/01/2006
M/s. M/s. L. Pishak Singh	Manipur	6079 (14810059121)	06/12/2005
M/s. Kikon Automobiles	Nagaland	13010103172	01/01/2006
M/s. Royal Honda	Manipur	8606 (14010207124)	16/12/2005

M/s. Nirma Limited Guwahati Unit 'C' (2007-08) : Audit objection relates to the following 17 nos. of 'F' Forms No. GG 235076, GG 235080, GG 235079, GG 235077, GG 252034, 96C 220316, 95C 215944, 95C 114779, 95C 215945, 96S 114778, GG 185536, 95C 215943, 96S 114777, GG 185535, 95C 215942, 96S 114775 and GG 186760 amounting to Rs. 2,00,21,620.00. Re-assessment was made by rejecting the defective 'C' Form. Aggrieved by the order of re-assessment, the dealer preferred appeal before DCT (A). DCT (A) vide order dtd. 30-04-2013 has set aside the order of re-assessment and has directed to make a fresh assessment. Accordingly, fresh proceeding was made and the 17 nos. of 'C' Form were returned to the dealer for rectification. The dealer cured the defects of 14 nos. of 'C' Form. However 4 nos. of 'C' Form could not be cured. As such fresh assessment was made by rejecting the defective 4 nos. of 'C' Form (GG 235076 Rs. 27,79,662.00, GG 235080 Rs. 31,86,939.00, GG 235079 Rs. 34,73,913 & GG 235077 Rs. 22,28,738.00) for Rs. 1,16,69,252.00 & an amount of Rs. 12,42,502.00 was levied. The dealer again preferred appeal. However, vide order dtd. 26-03-2014 the reassessment was uphold. Accordingly, the dealer was found payable for an amount of Rs. 12,42,502.00 + Rs.79,998.00 (Further interest) = Rs. 13,22,500.00 (Total). Dealer deposited the above demand

raised vide Challan No. 3030161113017316 dated 16/11/2012 for Rs. 3,11,000.00 vide Ch. No. 3030180815021468 dtd. 18/08/2015 for Rs. 9,15,000.00 vide Ch. No. 3030230315030872 dtd. 23/03/2015 for Rs. 96,500.00 Total = Rs. 13,22,500.00. M/s. Pharma Distributors, Guwahati, Guwahati Unit 'C' (2005-06): 2005-06: The following 'C' Forms were found defective as they were without R/c. No. & /or Date of liability (01FF 095810, 96S 072438, 01FF 095777, 01FF 095776, 01FF 102723, 96S 072439, NL 057183, 137234, NL 057182, 137233, 96S 059324, NL 057181, 95C 201466 and 137232). The dealer has rectified the defects and has also submitted copy of registration certificate on the dealers under CST Act, 1956 whereby it is evident that the following dealers to whom the goods were sold are registered in the respective States (1). M/s. S.L. Sailo Pharmacy, Mizoram (MIZ-2636 w.e.f 06/05/1992 (2) M/s Jharna Medical Distributor, Tripura (1901/SDR/94 w.e.f. 14-02-1994. (3) M/s. J.L. Medicines, Mizoram (15100364256 w.e.f. 16/11/2005) (4) M/s. Nagaland Drug Distributors, Nagaland (13030053143 w.e.f 01/04/2005) (5) M/s. Singh Medical Hall, Manipur (CST/M/1832 w.e.f. 11/01/1976). The dealer was given opportunity to rectify the defects of the declaration Forms and in turn, the dealer has rectify the defects. The, the Hon'ble Calcutta High Court in Shri Anil Kumar Dutta & Ors. Vs. Additional Member, Board of Revenue, West Bengal (1967) 20 STC 528 Cal, Hon'ble Calcutta High Court in Rajasthan Pipes Vs. CTO (2004) 138 STC 383 (Cal HC) and the Hon'ble Orissa High Court in State of Orissa Vs. Orissa Polish Works (1970) 26 STC 480 (Ori HC) has held that declaration Forms can be rectify. In respect of 'F' Form No 137234 (Rs. 37,777.00), 137233 (Rs. 43,992.00) and 137232 (Rs. 2,50,744.00) issued by M/s. Universal Drug House, Manipur the dealer has rectified the mistakes but could not produce copy of R/c. and hence they were rejected and a demand of Rs. 38,749.00 was raised which the dealer paid vide Treasury Certificate dtd. 00-04-2012. (2006-07) : The 'C' Forms (137238, 01FF 103852, 96S 104514, 96S 102996, 01FF 109732, 01FF 103849, 96S 102995, 01FF 103848, 96S 088718, 96S 102994,

01FF 109359 ) were found defective as they were without R/C. No & / or, Date of liability. The dealer has rectified the defects and has also submitted copy of registration certificate of the dealer under CST Act, 1956 whereby it is evident that the following dealers to whom the goods were sold are registered in the respective States. (1) M/s. S.L. Sailo Pharmacy, Mizoram (MIZ 2636 w.e.f. 06/05/1992) (2) M/s. Jharna Medical Distributor, Tripura (1901/SDR/94 w.e.f. 14/02/1994) (3). M/s. J.L. Medicines, Mizoram (15100364256 w.e.f. 16/11/2005). The dealer was given opportunity to rectify the defects of the declaration Formss and in turn, the dealer has rectified the defects. The, the Hon'ble Calcutta High Court in Shri Anil Kumar Dutta & Ors Vs. Additional Member, Board of Revenue, West Bengal (1967) 20 STC 528 Cal, Hon'ble Calcutta High Court in Rajasthan Pipes Vs. CTO (2004) 138 STC 383 (Cal HC) and the Hon'ble Orissa High Court in State of Orossa Vs. Orissa Polish Works (1970) 26 STC 480 (Ori HC) has held that declaration Forms can be rectified. In respect of 'F' Forms No. 137238 (Rs. 61,882.00), 137235 (Rs. 82,710.00) and 96S 088718 (Rs. 24,804.00) issued by M/s. Universal Drug House, Manipur and 'C' Form No. 0JFF 109359 (Rs. 18,027.00) issued by M/s. M/s. Life Drug Centre, Mizoram the dealer has rectified the mistake but could not produce copy of R/c. and hence they were rejected and a demand of Rs. 17,982.00 was raised which has been realized vide Treasury Certificate dtd. 11-04-2012. (2007-08) : The following 'C' Forms Nos. 96S 127185 and 01FF 118853 were found defective as they were without R/C No. &/ or Date of liability. The dealer has rectified the defects and has also submitted copy of registration certificate of the dealers under CST Act, 1956 whereby it is evident that the following dealers to whom the goods were sold are registered in the respective States (1) M/s. Jharna Medical Distributor, Tripura (1901/SDR/ 94 w.e.f. 14/02/1994) and (2) M/s. J.L. Medicines, Mizoram (15100364256 w.e.f. 16/11/2005). The dealer was given opportunity to rectify the defects of the declaration Forms and in turn, the dealer has rectified the defects. The, the Ho'ble Calcutta High Court in

Shri Anil Kumar Dutta & Ors. Vs. Additional Member, Board of Revenue, West Bengal (1967) 20 STC 528 Cal. Hon'ble Calcutta High Court in Rajasthan Pipes Vs. CTO (2004) 138 STC 383 (Cal HC) and the Hon'ble Orissa High Court in State of Orissa Vs. Orissa Polish Works (1970) 26 STC 480 (Ori HC) has held that declaration Forms can be rectified. M/s. Eastern Electricals, Guwahati, Guwahati Unit 'C' (2006-07) : The objection relates to acceptance of the following 4 nos. of defective 'C' Form which were without date of liability, those are (1) AS/06 0660297 (2) As/06 0660298 (3) AS/06 0660299 and (4) AS/06 535033. Assessing Officer has reported that the inter-state covered by the above 'C' Forms were made to M/s. Brahmaputra Infrastructure Ltd. A registered dealer who were registered prior to the date of transaction (w.e.f. 02-09-2000 with R/c. No. GWD/CST/935). M/s. Bajaj Brothers, Guwahati Unit 'C' (2006-07) : Pursuant to the objection raised, the defective 15 nos. of 'C' Forms (No. 14P 700522, 14P 723718, 14P 723717, 14P 700523, 14P 700524, 14P 723702, 13P 904386, 14P 723701, 14P 723722, 14P 723724, 14P 723725, 13P 904385, 14P 700525, 14P 600919 and 14P 700520 amounting to Rs. 1,03,51,300.00 were rejected and turnover covered were treated as sales to unregistered dealers and assessed accordingly levying tax / interest amounting Rs. 16,69,551/-. The dealer failed to deposit demand dues, so arrear certificate was issued to the Superintendent of Taxes (Recovery), Guwahati. However, the Superintendent of Taxes (Recovery), Guwahati has informed that dealer is no more in existence. Efforts are ongoing to trace out the whereabouts of the dealer. M/s B K Poddar & Sons, Guwahati, Guwahati Unit 'C' (2007-08) : The objection relates to acceptance of 76 nos. of defective 'C' Forms. Having received the objection raised by the AG Audit team, the AO reassessed the dealer for the period rejecting the defective 'C' Forms and raised demand for Rs. 8,37,882.00. Being aggrieved, the dealer preferred revision before the Revisional Authority. Hon'ble Revisional Authority annulled the reassessment order and directing the Assessing Officer to allow the dealer to rectify the defects. The defects were

subsequently cured. The Hon'ble Calcutta High Court in Shri Anil Kumar Dutta & Ors. Vs. Additional Member, Board of Revenue, West Bengal (1967) 20 STC 528 Cal, Hon'ble Calcutta High Court in Rajasthan Pipes Vs. CTO (2004) 138 STC 383 (Cal HC) and the Hon'ble Orissa High Court in State of Orissa Vs. Orissa Polish Works (1970) 26 STC 480 (Ori HC) has held that declaration Forms can be rectified. M/s. B. K. Trading Guwahati, Guwahati Unit 'C' (2007-08) : The objection relates to acceptance of 65 nos. of defective 'C' Form. Having received the objection raised by the AG Audit team, the AO reassessed the dealer for the period rejecting the defective 'C' Forms and raised demand for Rs. 5,29,742.00 Being aggrieved, the dealer preferred revision before the Revisional Authority. Hon'ble Revisional; Authority annulled the reassessment order and directing the Assessing Officer to allow the dealer to rectify the defects. The dealer has rectified the declaration Forms. The Hon'ble Calcutta High Court in Shri Anil Kumar Dutta & Ors. Vs. Additional Member, Board of Revenue, West Bengal (1967) 20 STC 528 Cal , Hon'ble Calcutta High Court in Rajasthan Pipes Vs. CTO (2004) 138 STC 383 (Cal HC) and the Hon'ble Orissa High Court in State of Orissa Vs. Orissa Polish Works (1970) 26 STC 480 (Ori HC ) has held that declaration Forms can be rectified. M/s. Tirpal Emporium, Guwahati Unit 'C' (2007-08) : The objection relates to acceptance of the following 6 nos. of defective 'C' Form (1) JJ 0003670 (2) JJ 0003671 (3) JJ 0003676 (4) 01FF 130220 (5) BB 0032644 (6) FF 0065272. The dealer was given opportunity to rectify the defects of the declaration Forms and in turn, the dealer has rectified the defects of 5 nos of Form 'C'. The, the Hon'ble Calcutta High Court in Shri Anil Kumar Dutta & Ors. Vs. Additional Member, Board of Revenue, West Bengal( 1967) 20 STC 528 Cal, Hon'ble Calcutta High in Rajasthan Pipes Vs. CTO (2004) 138 STC 383 (Cal HC) and the Hon'ble Orissa High Court in State of Orissa Vs. Orissa Polish Works (1970) 26 STC 480 (Ori HC) has held that declaration Forms can be rectified. In respect of 'F' Form No. 01FF 130220 for Rs. 6,489.00 tax / interest for Rs. 1,280.00 was levied and realized



vide Ch. No. 1 dtd. 28-11-2011. M/s. Tripal Emporium, Guwahati Unit 'C' (2008-09) : The objection relates to acceptance of the following 6 nos. of defective 'C' Forms (1) DD 0046013 (2) JJ 0003250 (3) 96S 149060 (4) DD 0046014 (5) CC 0025712 (6) CC 0025713. The dealer was given opportunity to rectify the defects of the declaration Forms and in turn, the dealer has rectified the defects. The, the Hon'ble Calcutta High Court in Shri Anil Kumar Dutta & Ors Vs. Additional Member, Board of Revenue, West Bengal (1967) 20 STC 528 Cal, Hon'ble Calcutta High Court In Rajasthan Pipes Vs. CTO (2004) 138 STC 383(Cal HC) and the Hon'ble Orissa High Court in State of Orissa Vs. Orissa Polish Works (1970) 26 STC 480 (Ori HC) has held that declaration Forms can be rectified. M/s. GAIL Lakua, Sibasagar (2004-05) : The objection relates to acceptance of defective 'C' Form No 96S 041632. Communication was made with the Commissioner of Taxes and Excise, Tripura. Additional Commissioner, Tripura replied by letter no. No. F.1-11(52)-TAX/VAT/2013/2297 dtd. 12/03/2014 that the said 'C' Form amounting to Rs. 17,60,861.00 had been issued to M/s IOCL, Dharmanagar. M/s. Highway Bajaj, Jorhat (2007-08) : Audit raised objection that due to acceptance of defective 'C' Forms (NL 064556, NL 072731, NL 072436 & NL 072437) there was loss revenue. The dealer was given opportunity to rectify the defects of the declaration Forms and in turn, the dealer has rectified the defects. The, the Ho'ble Calcutta High Court in Shri Anil Kumar Dutta & Ors Vs. Additional Member, Board of Revenue, West Bengal (1967) 20 STC 528 Cal, Hon'ble Calcutta High Court in Rajasthan Pipes Vs. CTO (2004)138 STC 383 (Cal HC) and the Ho'ble Orissa High Court in State of Orissa Vs. Orissa Polish Works (1970) 26 STC 480 (Ori HC) has held that declaration Forms can be rectified. M/s. Gulf Oil Corporation, Guwahati Unit 'B'( 2006-07) : Objection relates to submission of defective 'C' Forms (NL 057669 and NL. 067840). In response to the objection made, the dealer submitted the Registration Certificate of the buying dealer, namely M/s. P.J. Enterprise, Dimapur whereby it is confirmed that the purchasing dealer is a registered dealer of Nagaland

with R/C. no DMR/D/PET-33 (13040340193) w.e.f. 01-06-2006. Further, ST, Dimapur has also confirmed vide certificate dtd. 24-06-2009 that the Forms were issued by them. M/s. Nestle India Limited, Guwahati Unit 'B' (2006-07) : A photocopy of Registration Certificate had been furnished to authenticate the 'C' Forms (GG 180746, GG 180747, GG 180748 & GG 180749). As per the certificate, the registration is effective from 05/05/2005 and the name of the dealer is M/s. Sun Devine, Arunachal Pradesh. The dealer has also rectified the defects. As regard 'C' Form no GG-250139 where objection was that it was issued after the transaction date. The date of issue of the Form to the selling dealer is 31-12-2006 instead of 31-03-2007. The matter has been clarified by the issuing dealer. These are just clerical mistakes where evasion of tax is not intended. Tax cannot be levied rejecting the 'C' Forms on such ground. M/s. Capital Tea Marketing, Guwahati Unit 'B' (2005-06) : Objection relates to acceptance of 'C' Form No. HR/04/C-054476 for Rs. 31,89,270.00 which covers transaction for the whole year 2005-06. The provision of submission of 'C' Form for every quarter was applicable w.e.f. 01/10/2005. The dealer has submitted fresh 'C' Form for the next two quarters. Details of the accepted 'C' Form are as follows.

HR/04C-054476	Rs.20,89,860.00
HR/06C-3182054	Rs. 8,60,060.00
HR06C-3182055	Rs.31,89,270.00
<b>Total</b>	<b>Rs.31,89,270.00</b>

M/s. Godrej Saralee Limited, Guwahati Unit 'B' (2006-07) : Audit had raised objection relating to one 'C' Form No. 95C 182873 for Rs. 12,88,215.18 as it covers transaction of more than a quarter. In respect of period 01-04-2006 to 30-06-2006 for Rs. 48,146.04 & for period 01-06-2006 to 30-06-2006 for Rs. 12,40,069.14. The dealer was re-assessed and Rs. 48,146.04 was taxed @ 12.5%. This has resulted in levy of tax/interest for Rs. 21,991.00 which has been realized vide Ch. No. 3030280518066849 dtd. 28-05-18. M/s. Universal

Agencies, Guwahati Unit 'B' (2007-08 & 2008-09) : Audit had raised objection on acceptance of the following defective 'C' Forms as they were without date of registration of the issuing dealer :

**2007-08** : GG-183594, GG -191514, GG-180263, 95P-214439, GG-180264, 95P-214440, GG-180265 AND 01FF-121119 (for total of Rs. 56,37,856.00).

**2008-09** : GG-180269, 01FF-121120, GG-180272, 01FF-141221, GG-180273, GG-225747 AND DD-0080040 (FOR TOTAL OF Rs. 59,56,794.00. Assessing Officer has reported that the inter-state covered by the above 'C' Forms were made to registered dealer who were registered prior to the date of transaction in the respective state. Details furnished below :

Name of dealer	State	R/C No.	Date of Liability
M/s. Shree Ram Enterprise	Arunachal Pradesh	12040594236	15/05/2007
M/s. TH Enterprise	Arunachal Pradesh	12040599135	15/05/2007
M/s. Sunil Store	Manipur	14710183271	16/09/2005
M/s. Dr. Laizama Clinic	Mizoram	15100085279	13/10/1998
M/s. Ramdeo Prasad	Maghalaya	17100164242	01/10/2002

M/s. Nilachal Ispat Pvt Ltd. Guwahati, Guwahati Unit 'A' (2006-07) : Objection relates to acceptance of the following 5 nos. of defective 'C' Form GG 276854, GG 320793, GG 0006827, JJ 0002973 and JJ 0002974 for Rs. 55,36,612. In response to the objection made, the dealer submitted the Registration Certificate of the purchasing dealer, namely, M/s YM Enterprise, Pasighat, A.P. (R/c. No. 12080018268 w.e.f. 10-05-2005), M/s. Jai Kamakhya Alloys (P) Ltd., Byrnihat, Meghalaya (R/c. No. 17090297208 w.e.f. 10-08-2004) and M/s. Adhukik Cements Ltd., Jowai, Meghalaya (R/c No. 17100773208 w.e.f. 04-10-2006) whereby it is confirmed that the purchasing dealers are registered prior to the period of transaction. M/s. Kishley Snack Product, Guwahati, Guwahati Unit 'A' (2005-06) : Assessing Officer has reported the dealer was given opportunity to rectify the defects of

7 nos. of 'C' Forms (95C 579523, 95C 492149, 95C 492144, 95C 671991, 95C 191507, GG 188637 AND GG 188639). In turn, the dealer has rectified 4 nos. of 'C' Forms ( 95C 579523, 95C 492149, 95C 492144, 95C 671991). The dealer failed to furnish rectified copies of the remaining 3 nos. of 'C' Forms covering Rs. 5,70,387.00 and the AO revised the assessment with demand of Rs. 1,58,022.00. Being aggrieved, the dealer preferred revision and the Revisional Authority vide order dtd. 29-03-2014 directed the AO to reframe assessment. As per the order there was a demand of Rs. 32,970.00 which was adjusted against Rs. 68,406.00 which was deposited for admission appeal. M/s. Kishley Snack Product, Guwahati, Guwahati Unit 'A' (2006-07) : Assessing Officer has reported the dealer was given opportunity to rectify the defects of 13 nos. of 'C' Forms (04V 094597, 04V 094598, F-1 1019558, 96S 075049, R/C-2007 1413266, TCK - R 4125923, 37,1378675, UA 277884, UA 277885, 96S 075051, 96S 075050, TCK-R 4125924, 95C 0986462). In turn, the dealer has rectified all the 'C' Forms and has also submitted copies of Certificate of Registration. The, Hon'ble Calcutta High Court in Shri Anil Kumar Dutta & Ors Additional Member, Board of Revenue, West Bengal (1967) 20 STC 528 Cal, Hon'ble Calcutta High Court in Rajasthan Pipes Vs. CTO (2004) 138 STC 383 ( Cal HC ) and the Hon'ble Orissa High Court in State of Orissa Vs. Orissa Polish Works (1970) 26 STC 480 (Ori HC) has held that declaration Forms can be rectified. M/s. M. K. Marketing Fancy Bazar Guwahati, Guwahati Unit 'A' (2007-08) : Assessing Officer has reported the dealer was given opportunity to rectify the defects in 'C' Forms (NL 067423, NL 067428, NL 066738, NL 075845 NL 067410, NL 067407, NL 067400, NL 075853, 96S 116994, 96S 116995, GG 183558, 01GG 019113, 01GG 019114, GG 176481 AND GG 276255). In turn, the dealer has rectified all the 'C' Forms and has also submitted copies of Certificate of Registration. The, Hon'ble Calcutta High Court in Shri Anil Kumar Dutta & Ors. Vs. Additional Member, Board of Revenue, West Bengal (1967) 20 STC 528 Cal, Hon'ble Calcutta High Court in Rajasthan Pipes Vs. CTO (2004) 138

STC 383 (Cal HC) and the Hon'ble Orissa High Court in State of Orissa Vs. Orissa Polish Works (1970) 26 STC 480 (Ori HC) has held that declaration Forms can be rectified. M/s. Haier Appliance Guwahati, Guwahati Unit 'A' (2006-07) : Objection relates to acceptance of the following 9 nos. of defective 'C' Forms (96F082734, 95C 234902, 95C 234904, 95C 234903, 95C 234901, 95C 224768, 95C 224766, 95C 224767 AND 95C 224770). In response to the objection made, the dealer submitted the Registration Certificate of the purchasing dealer, namely, M/s. R.P Electronics, Agartala, Tripura (R/c. No. 06060372236 w.e.f. 01-04-2005), M/s. S.B. & Sons, Imphal, Manipur (R/C No. 14210213242 w.e.f. 05-09-2005) and M/s. K.B. Dons & Company, Imphal, Manipur (R/c. No 14310166284 w.e.f. 13-10-2005) whereby it is confirmed that the purchasing dealer are registered prior to the period of transaction. M/s. Samsung India Electronics Private Limited, Guwahati 'A' (2005-06) : Objection relates to acceptance of the following 16 nos. of defective 'C' Forms (GG 183969, 01FF 089328, 95C 207403, NL 065248, 95C 190359, NL 048675, NL 065419, 95C 207415, AA 0047993, 95C 207404, NL 065246, CC 0051527, NL 074082, 96S 079155, 96S 032920 AND NL 065418). The dealer was given opportunity to rectify the defects of the declaration Forms and in turn, the dealer has rectified 15 nos. of 'C' Forms by submitting annexure attached to the 'C' Forms. The Hon'ble Calcutta High Court in Shri Anil Kumar Dutta & Ors. Vs. Additional Member, Board of Revenue, West Bengal (1967) 20 STC 528 Cal, Hon'ble Calcutta High Court in Rajasthan Pipes Vs. CTO (2004) 138 STC 383 (Cal HC) and the Hon'ble Orissa High Court in State of Orissa Vs. Orissa Polish Works (1970) 26 STC 480 (ori HC) has held that declaration Forms can be rectified. The dealer could not rectify the 'C' Form No 01FF 089328 as the purchasing dealer has closed down his business. However, the dealer has produced ledger of the purchasing dealer and it tallies with the unsigned annexure. Further, the 'C' Form is duly sealed and signed by the purchasing dealer. This clearly proves that the sales were made to a registered dealer. M/s. Raptakos Brett. & Co.

Guwahati Unit 'A' (2006-07) : Objection relates to acceptance of the following 11 nos. of defective 'C' Forms (GG 186440, GG 180121, GG 186906, GG 186949, NL 053740, NL 053743, 96S 078121, 96S 078110, 96S 102325, 96S 077186 AND 01FF 090554). In response to the objection made, the dealer submitted the Registration Certificate of the purchasing dealer, namely, M/s. Puspanjali Pharmaceutical, Banderdewa, Arunachal Pradesh (R/c. No. CST/PP/418 and 13030044150 w.e.f. 09-06-2004), M/s. Drug Distributor, Dimapur, Nagaland (R/c. No DMR/C/CST-416 and 13030044150 w.e.f. 01-04-2005), M/s. Sarada Medical Agency, Agartala, Tripura (R/c. No. 16030214239 w.e.f. 01-04-2005, M/s. Renuka Pharmaceuticals, Agartala, Tripura (R/c. No. 16060395282 w.e.f. 29-02-1984 and M/s. Capital Medical Agencies, Aizwal, Mizoram (R/c. No. 15100675262 w.e.f. 01-04-2005) whereby it is confirmed that the purchasing dealers are registered prior to the period of transaction. M/s. Surendra Steels Limited Guwahati Unit 'A' (2088-09) : Objection relates to acceptance of the following 6 nos. of defective 'C' Forms ( NL 099705, NL 099704, NL 099689, EE 0050988 AND NL 096292). In response to the objection made, the dealer submitted the Registration Certificate of the purchasing dealer, namely, M/s. Krishna Trading Co., Dimapur, Nagaland (R/C. No. 13040008171 w.e.f. 01-07-2005, M/s. Kernex Trading Co. (Formerly M/s. Krishna Trading Co., Dimapur, Nagaland) (R/c. No. 13040008171 w.e.f. 01-07-2005, M/s. G.S. & Co., Shillong, Meghalaya (R/c. No. 17010145235 w.e.f. 25-08-1972 and M/s. Shakti Steel, Dimapur, Nagaland (R/c. No. 13010008192 w.e.f. 04-04-2005) whereby it is confirmed that the purchasing dealers are registered prior to the period of transaction. M/s. Hindusthan Petroleum Corporation Limited Guwahati Unit 'A' (2003-04): Objection relates to acceptance of the following 3 nos. of defective 'c' Forms (GG280619, 95C 181290 and 115947/93). Assessing Officer has reported that re-assessment was completed by rejecting the 'C' Forms and a demand of Rs. 22,26,892/- was raised. Subsequently, the dealer filed petition for rectification of the said assessment order. As there was mistake apparent from the

records, assessment order was rectified raising demand of Rs. 24,56,439/-. The said amount of tax was adjusted against sanctioned order dtd. 14-03-2014 of Rs.21,81,548/-. The balance amount of Rs. 3,34,513/- was also adjusted against refund sanction order dtd. 02-05-2014. M/s. Centaur Pharma Guwahati Unit 'A' (2005-06, 2006-07 & 2007-08) : Assessing Officer has reported that there are defects in 11 nos. of 'C' Form(s) for Rs. 64,92,081.58 in 2005-06, 18 nos. of 'C' Form(s) for Rs. 35,85,988.07 in 2006-07 and 31 nos. of 'C' Form(s) for Rs. 1,01,05,729.44 in 2007-08 as they do not contain date of validity of R/C. etc. In turn, the dealer has rectified all the 'C' Forms and has also submitted copies of certificate of Registration. The, Hon'ble Calcutta High Court in Shri Anil Kumar Dutta & Ors Vs. Additional Member, Board of Revenue, West Bengal (1967) 20 STC 528 Cal, Hon'ble Calcutta High Court in Rajasthan Pipes Vs. CTO (2004) 138 STC 383 (Cal HC) and the Hon'ble Orissa High Court in State of Orissa Vs. Orissa Polish Works (1970) 26 STC 480 (Ori HC) has held that declaration Forms can be rectified. M/s. Indoco Remedies Limited Guwahati Unit 'A' (2005-06) : Assessing Officer has reported that there are no defects in the 'C' Form(s) No. 95C 217067, CC 0051642, 96S 091891, 96S 091890, 01FF 104350, 01FF 093699, 96S079309, 96S 147306, 96S 131854, 96S 064121,01FF 122740,96S 079308, 96S 131853, CC 0051643, 01FF 093650,01FF 121042,01FF 103323 and 01FF 117313. Assessing Officer has reported that on verification of documents such as copy of R/c. etc, it is revealed that the dealer is registered prior to the transaction period. M/s. Asha Raj Medico (R/c. No. 16040032255 w.e.f. 01-04-2005, M/s. Aarohi Pharmaceutical Distributors (R/c. No. 17020017216 w.c.f. 02-09-1993, M/s. Mamta Medical (R/c. No. 13020080129 w.e.f. 01-04-2005, M/s. Dayamay Medical Agency (R/c. No. 16060019208 w.e.f. 01-04-2005, M/s. Hrangohhuan Pharmacy, Aizwal, Mizoram (R/c/ No Miz-19 W.e.f. 26-10-1972), M/s. R.S. Drug Store, Aizwal, Mizoram (R/c. No. 14610114233 w.e.f 13-09-2005, M/s. Sova Enterprise, Dharmanagar, Tripura (R/c. Miz-2925 w.e.f. 05-10-1994, M/s. Singh Medical hall,

Imphal, Manipur (R/c. No. 14610114233 w.e.f 13-09-2005, M/s. Sova Enterprise, Dharmanagar, Tripura( R/c No. 16090095268 w.e.f. 01-04-2005. M/s. India Carbon Limited Guwahati Unit 'A' (2005-06): Assessing Officer has reported that the 'C' Forms were issued in the name of M/s. India Carbon Limited, Kolkata, West Bengal, which is the Head Office of the dealer. Since the head office of Kolkata and the branch office at Guwahati are the same entity there is no irregularities in accepting the forms. Further, the goods were sold from Assam. The Hon'ble Delhi High Court in a similar matter in C. Jairam Pvt. Ltd Vs. Commissioner of Sales Tax, New Delhi has observed the following : " 13. Clearly, Supreme Court has held that the branch, or the head office, or the head office or the other branch of the same dealer were not different entities but the same entity. "The applicability of D forms does not depend on the address given, but depends upon the place where the sale is included in the taxable turnover. In other words, we come to the conclusion that the original forms were not defective". M/s. Proctor & Gamble Hygiene and Healthcare Ltd. Guwahati Unit 'A' (2005-06 & 2006-07): Objection relates to acceptance of defective 'C' Forms issued by M/s. RTP Business Enterprise, Mizoram as follows:

2005-06 : 01FF 122362, 01FF 122363 AND 01FF 122364

2006-07 : 01FF 103391 AND 01FF 118521.

In this instant case, the dealer has submitted his old registration certificate no. MIZ 2357 wherein it is found that the dealer is registered w.e.f. 20-07-1990. As such, it is revealed that the dealer is registered prior to the transaction period. As such there is no irregularity. M/s. Oswal Tripal Centre, Guwahati Guwahati Unit 'A' (2006-07) : Objection relates to acceptance of the following 4 nos. of defective 'C' Form (96S 093788, 96S 093789, 96S 093795 and 96S 093797) issued by M/s. Parashwnath Trading Corporation, Agartala, Tripura. The dealer submitted the Registration Certificate of the purchasing dealer (16040467240 w.e.f. 01-04-2005) whereby it is confirmed that the purchasing dealer is registered prior to the period of transaction.



M/s. Vaibhav Tea Co., Tinsukia (2006-07) : Objection relates to acceptance of the following 4 nos. of defective 'C' Forms (MH06/0327477 ISSUED BY M/s. Duncans Tea Ltd., Nagpur, HR06C 4324662 issued by M/s. Duncans Tea Ltd., Faridabad, 14P 233838 & 14P 036838 issued by M/s. Today Tea Ltd. Delhi. The dealer submitted the Registration Certificates of the purchasing dealer's M/s. Duncans Tea Ltd., Nagpur (R/c. No. 27530000675 w.e.f. 01-04-2006) M/s. Duncans Tea Ltd. Faridabad (R/c. No. 06021320502 w.e.f. 12-05-2002 and M/s. Today Tea Ltd. Delhi (R/c. No. 07180039755 w.e.f. 01-04-2005 whereby it is confirmed that the purchasing dealers are registered prior to the period of transaction. M/s. Bora Brothers (P) Ltd. Dibrugarh, Dibrugarh (2006-07) : The defective 'C' Forms were returned to the dealer. In turn, the dealer furnished fresh 4 nos. of fresh 'C' Form (95C 202632, 95C 202629, 95C 202627 and 95C 202626) covering each four quarters. M/s. Jain Enterprise Dibrugarh, Dibrugarh (2006-07) : 2006-07 : Objection relates to acceptance of defective 'C' Form No. GG 027163, GG 027164 and GG 027165. The dealer submitted the Registration Certificate of the purchasing dealer, namely M/s. C.C. Enterprise, Changlang, Arunachal Pradesh (12120018210 w.e.f. 21-02-2006) whereby it is confirmed that the purchasing dealer is registered prior to the period of transaction. 2007-08 : Objection relates to acceptance of defective 'C' Form No. GG 193927 issued by M/s. Arunachal Trade Centre, Changlang Arunachal Pradesh and GG 157624 issued by M/s. Milim Enterprise, Arunachal Pradesh. The dealer submitted the Registration Certificate of the purchasing dealer, namely M/s. Arunachal Trade Centre, Changlang Arunachal Pradesh (CST/ 9D/31. w.e.f. 24-01-1981) and M/s. Milim Enterprise, Arunachal Pradesh (CST/LED/124 w.e.f. 24-12-1998) whereby it is confirmed that the purchasing dealers are registered prior to the period of transaction. M/s. Sardar Karnail Singh & Sons, Dibrugarh, Dibrugarh (2006-07) : The dealer was given opportunity to rectify the defects of 'C' Forms no. TN-2006-C-BB 462721 for Rs. 10,04,000.00. In turn, the dealer has rectified the 'C' Form and has also submitted copies of certificate of Registration. The Hon'ble Calcutta High Court in

Shri Anil Kumar Dutta & ors. Vs. Additional Member, Board of Revenue, West Bengal (1967) 20 STC 528 Cal, Hon'ble Calcutta High Court in Rajasthan Pipes Vs. CTO (2004) 138 STC 383 (Cal HC) and the Hon'ble Orissa High Court in State of Orissa Vs. Orissa Polish Works (1970) 26 STC 480( Ori HC) has held that declaration Forms can be rectified. M/s. Mandhanian Tea Estate, Tinsukia (2007-08) : Objection relates to non-submission of 'C' Form for Rs. 22,86,719.00. The Assessing Officer has completed assessment for the period on 11/08/2010 and inter-state sale of Rs. 22,86,719.00 was considered as sales to other and taxed accordingly. The Unit is an exempted unit and as per assessment order on the above transaction of Rs. 22,86,719.00 an amount of Rs. 87,951.00 was levied against which the dealer has claimed remission for Rs. 87,071.00. Hence, Rs. 880.00 was found payable @1%. As per assessment order, there is excess payment made by the dealer. M/s. Parvati Tea Company, Dibrugarh (2007-08) : Audit has raised objection that the dealer has not submitted 'C' Form for Rs. 35,48,530.00. Assessing Officer has reported that the dealer has submitted the 'C' Forms but were subsequently misplaced. However, the dealer has submitted duplicate copies of the declaration forms. M/s. B.R Enterprise, Guwahati Unit 'B' (2006-07) : Assessing Officer has reported that in the light of audit objection assessment was completed. Subsequently, arrear certificate was issued to ST ® for Rs. 6,84,014.00. The arrear dues has been realized as shown below :

Challan No.	Date	Amount (in Rs.)
NIL	14-09-2012	86,507.00
NIL	03-07-2012	86,507.00
NIL	31-03-2012	1,70,000.00
NIL	13-02-2012	85,000.00
NIL	15-02-2012	85,000.00
NIL	26-07-2012	1,71,000.00
<b>Total</b>		<b>6,84,014.00</b>

M/s. S.B Enterprise, Guwahati Unit 'B' (2006-07) : The objection relates to claim of concessional rate of tax on Rs. 16,55,055.00 without

'C' Form. Assessing Officer has reported that in the light of audit objection, a demand of Rs. 1,75,619.00 was raised. The dealer has deposited the demand dues vide Ch No. NIL dtd. 11-02-2011 for Rs. 1,75,619.00 As such, the objection may kindly be settled. M/s. B.k. Enterprise Guwahati 'B' (2006-07) : Assessing Officer has reported that in the light of audit objection assessment was completed. Subsequently, arrear certificate was issued to ST @ for Rs. 3,18,703.00. The arrear dues has been realized as shown below :

1. Ch. No. NIL dtd. 09-02-2012	= Rs. 59,750.00
2. Ch. No. NIL dtd. 15-12-2011	= Rs. 59,750.00
3. Ch. No. NIL dtd. 23-07-2011	= Rs. 79,700.00
4. Treasury Certificate dtd 23-05-2018	= Rs. 59,750.00
5. Treasury Certificate dtd 23-05-2018	= Rs. 59,750.00
<b>Total</b>	<b>= Rs. 3,18,703.00</b>

M/s. Prince Tyre Guwahati Unit 'B' (2007-08) : Audit had raised objection on allowance of concessional rate of interest on Rs. 17,92,665.00 (without tax). Assessing Officer has reported that the dealer has submitted 'C' Forms (BB 0032656, BB 0032655, BB 0032654, GG 212871, GG 327852, GG 245020, GG 245021, BB 0033256, DD 0080730, BB 0032560 and GG 141097). The assessment has been completed with a demand of Rs. 2,912.00 which was realized vide ch. No. 27 dtd. 09-07-2011. M/s. HCL infosystem Guwahati Unit 'A' (2005-06) : Assessing Officer has informed that all the declaration Forms were submitted before Zonal Office at the time of completion of assessment. ('C' Form No. DD 0073387 for Rs. 36,500.00), Form-D No. Nil for Rs. 8,99,374.00 and Form-D No. Nil for Rs. 23,39,874.00). This were duly accepted by the Assessing Officer at the time of completion of assessment. M/s. India Carbon Guwahati Unit 'A' (2006-07) : Assessing Officer has informed that all the declaration Forms were submitted at Apex Office at the time of completion of Audit assessment. ('C' Form No. DD 0032776 for Rs. 9,19,189.00, DD 0032777 for Rs. 13,99,616.00, DD 0032778 for

Rs. 4,53,914.00, DD 0032779 for Rs. 55,724.00, CC 0025043 for Rs. 4,53,648.00, FF 0065886 for Rs. 26,11,268.00, DD 0033307 for Rs. 26,87,800.00, DD 00459140 for Rs. 28,303.00, JJ 0007014 for Rs. 9,57,318.00, JJ 0007015 for Rs. 13,97,236.00 and JJ 0007016 for Rs. 4,44,575.00 = Total Rs. 1,14,08,596.00). This were duly accepted by the Assessing Officer at the time of completion of assessment. M/s. Rapatkos Brett & Co. Guwahati Unit 'A' (2006-07) : Objection relates to acceptance of the following 11 nos. of defective 'C' Forms (1) GG 186440, GG 180121, GG 186906, GG 186949 issued by M/s. Pushpanjali (2) NL 053740, NL 053743 issued by M/s. Drug Distributors (3) 96S 078121, 96S 078110, 96S 102325 issued by M/s. Sarada Medical agency (4) 96S 077186 issued by M/s. Renuka Pharmaceutical (5) 01FF 090554 issued by M/s Capital Medicine Agency ). The dealer submitted the Registration Certificate of the purchasing dealers (1) M/s Pushpanjali (CST/PP/418 w.e.f. 29-06-2004) (2) M/s. Drug Distributors (DMR/C/CST-416 & 13030044150 w.e.f. 01-04-2005 (3) M/s. Sarada Medical Agency (06030214239 w.e.f. 01-04-2005) (4) M/s. Renuka Pharmaceutical (16060395282 w.e.f. 29-02-1984) (5) M/s. Capital Medical Agency (15100675262 w.e.f. 01-04-2005) whereby it is confirmed that the purchasing dealers are registered prior to the period of transaction. M/s. Nilachal Distributors Private Limited Guwahati Unit 'C' (2004-05 & 2005-06) : Assessing Officer has reported that in the light of audit objection, assessments were completed and a demand of Rs. 54,795.00 (2004-05) & Rs. 64,954.00 (2005-06) was raised. The dealer has deposited the demand dues as shown below :

1. 2004-05 = Rs. 54,795.00 vide ch. No. NIL dtd. 13-06-2011
2. 2005-06 = Rs. 64,954.00 vide ch no NIL dtd. 13-06-2011

M/s. Johnson & Johson Limited Guwahati Unit 'C' (2005-06) : Reassessment was completed by the assessing authority by rejecting the defective 'C' Forms (96S 108945, 96S 108946 and 96S 108947 for

Rs. 18,89,534.75. Aggrieved by the order of assessment the dealer filed petition before revisional authority. Revisional authority vide order dtd. 04-10-2018 has set aside the order of reassessment and has upheld the original order of assessment. M/s. Balaji Tea Industries Jorhat (2005-06) : Objection relates to acceptance of transaction in Form-C for Rs. 3,52,000.00 which took place before the date of registration of the purchasing dealer. Assessing Officer has reported that re-assessment was completed with a demand of Rs. 65,000.00. The demand has been realized vide Ch. No. 03/293 dtd. 11-03-2013 for Rs. 16,250.00 and Ch. No. 0026180518000005 dtd 18-05-2018 for Rs. 48,750.00 (Total Rs. 65,000.00). M/s Mandhania Tea & Industry, Tinsukia (2004-05) : Objection relates to defects in 'C' Forms No. 95 C 344551 for Rs. 2,33,50,053 as the purchasing dealer, namely, M/s. Eveready Industries India Ltd. Kolkata is registered after the transaction period. On examination it was found that the dealer is registered with Registration Certificate No. 19200140231 w.e.f. 01/07/1959 i.e. prior to date of transaction. M/s. Rameswar Tea Processing, Tinsukia (2004-05) : Objection relates to defects in 'C' Forms No. 95 C 344553 for Rs. 73,14,105.00 as the purchasing dealer, namely, M/s Eveready Industries India Ltd., Kolkata is registered after the transaction period. On examination it was found that the dealer is registered with Registration Certificate No. 19200140231 w.e.f. 01/07/1959 i.e. prior to date of transaction. M/s. Assam Petrochemical Limited Naharkatia (2006-07) : Objection relates to acceptance of 'C' Form No. JJ 0066874 for Rs. 35,27,430.00 issued by M/s. Timpack Pvt Ltd., Byrnihut, Meghalaya as per the 'C' Form the dealer is registered w.e.f. 16/04/2007. On examination it was found that the dealer was actually registered w.e.f. 15/03/1979. The dealer was issued 11 digit R/C on 16/04/2007 which was mentioned in the 'C' Form. M/s. Nilachal Ispat Private Limited Guwahati Unit 'A' (2007-08) : Objection relates to submission of defective 'C' Form no GG 0062610 for Rs. 30,14,357.00. In Turn the dealer has rectified the 'C' Form and has also submitted copy of Certificate of Registration whereby it is apparent that the purchasing

dealer is registered w.e.f. 01-08-2002. The Hon'ble Calcutta High Court in Shri Anil Kumar Dutta & Ors. Vs. Additional Member, Board of Revenue, West Bengal (1967) 20 STC 528 Cal, Hon'ble Calcutta High Court In Rajasthan Pipes Vs. CTO (2004) 138 STC 383 (Cal HC) and the Hon'ble Orissa High Court in State of Orissa Vs. Orissa Polish Works (1970) 26 STC 480 (Ori HC) has held that declaration Forms can be rectified. M/s. Zuventus Health Care Guwahati unit 'A' (2005-06) : Objection relates to defective two nos. of 'C' Forms (95C-201457 and 96S-106192) as the date of validity was after the transaction period. Assessing Officer has reported that on verification of documents such as copy of R/C's etc. It is revealed that date of validity was prior to the transaction period. M/s Singh Medical Hall (CST/M/1832 w.e.f. 11-06-1976) & M/s. New Tripura Pharma Co. (16061129250 w.e.f. 01-04-2005). M/s. M.K. Marketing Guwahati Unit 'A' (2007-08) : Objection relates to submission of defective 'C' Form no. DD 0005047 and DD 0005048 for Rs. 22,66,743.24 issued by M/s. Katz Enterprise, Shillong, Meghalaya. Assessing Officer has informed that the dealer has rectified the 'C' Forms whereby it is apparent that the purchasing dealer is registered prior to the transaction period i.e. w.e.f. 05-05-2009. The Hon'ble Calcutta High Court in Shri Anil Kumar Dutta & ors. Vs. Additional Member, Board of Revenue, West Bengal (1967) 20 STC 528 Cal, Hon'ble Calcutta High Court in Rajasthan pipes vs. CTO (2004) 138 STC 383 (Cal HC ) and the Hon'ble Orissa High Court in State of Orissa vs. Orissa Polish Works (1970) 26 STC 480 (Ori HC) has held that declaration Forms can be rectified. M/s. Intas Pharmaceuticals Guwahati Unit 'A' (2005-06 & 2006-07) : Objection relates to submission of defective 'C' Form no. 96S 141116, 96S 141117, 96S 141118, 96S 141119, 96S 078875, 01FF 095659, 01FF 122303, 01FF 095658, 125316/93, NL 063684, 96S 113216, 96S 113217, 96S 113218, 95C 179945 and 95C 179945 for Rs. 6087210.00 in respect of period 2005-06 and 'C' Form no. 95C 217343, 95C 220098, 95C 220099, 95C 229201, 96S 149486, 96S 149487, GG186290, 95C 221530, 95C 221531, 95C 221528, 95C 221529, 96S 125158, 96S 125159, 96S 125160, 96S 125161, 95C 232258 and 95C 232259 for

Rs.23,30,015.00 in respect of period 2006-07. As per audit objection, assessments were made for the year 2005-06 & 2006-07. Aggrieved by the order of assessments, the dealer filed appeal petition before DCT (A). Appellate authority vide order dtd. 21-12-2013 has annulled the re-assessment orders. Direction was made to reframe assessment. As per the said order there were excess payments made by the dealers in both the periods. M/s. Donson Chemicals Guwahati Unit 'A' (2005-06) : Objection relates to acceptance of 6nos. of defective 'C' forms (NL 067281, NL 055095, NL 055096, NL 056672, NL 054276, NL 054277 and NL 054278) for Rs. 8,65,869.57 as it does not contain the date of validity of registration of the issuing dealer. Assessing Officer has reported that on verification of documents such as copy of R/c's etc it is revealed that the dealers are registered prior to the transaction period.

- |   |               |             |
|---|---------------|-------------|
| 1. M/s. Long Sen Drug, Nagaland                 | MKG/CST-A/583 | 01-04-2003  |
| 2. M/s. Nagaland Drug distributors,<br>Nagaland | DMR/C/CST-408 | 03-06-2003  |
| 3. M/s. Kap Pharma Nahaland                     | B/CST-496     | 14-08-2002. |

M/s. Jupiter International Guwahati 'B' (2005-06) : Assessing Officer has reported that in the light of audit objection a demand of Rs. 14,379.00 was raised. The dealer has deposited the demand dues vide ch. No. 3030291111032210 dtd. 29-11-2011. M/s. Kores India Guwahati Unit 'C' (2005-06) : Objection relates to acceptance of obsolete 'C' Forms as shown below :

1. 2005-06 : NL 036135 and NL 036131 for Rs. 12,45,373.00 & Rs. 7,30,749.00 (Total = Rs. 19,76,128.00)
2. 2006-07 : NL 036132, NL 036133 AND NL 036134 AMOUNTING TO Rs. 1,04,511.00, Rs. 622,331.00 and Rs. 237,392.00 (Total = Rs. 9,64,234.00)

Assessing Officer has reported that in the light of audit objection, assessment was completed. Aggrieved by the order of assessment the

dealer preferred appeal before revisional authority. Revisional authority vide order dtd. 06-10-2015 has set aside the order of assessment wherein it was stated that the 'C' Forms are to be accepted as the Commissioner of Taxes, Nagaland has not published the Notification which has declared as per rule 11 of the Nagaland CST Rule, 1972. M/s. Johnson & Johnson Guwahati Unit 'C' (2005-06 & 2006-07): Objection relates to acceptance of obsolete 'C' Forms as shown below :

1. 2005-06 : NL 036261 and NL 036269 for Rs. 4,29,035.39 & Rs. 2,25,186.29 (Total = Rs. 6,54,221.68)
2. 2006-07 : NL 036254 amounting to Rs. 1,42,701.73.

Assessing Officer has reported that in the light of audit objection, assessment was completed. Aggrieved by the order of assessment, the dealer preferred appeal before Revisional Authority. The authority by separate order dtd. 04-10-2013 for both the period has directed to accept the replaced 'C' Form(s) Detail of replaced 'C' Forms are NL 114975 for Rs. 4,29,035.39 NL114976 for Rs. 2,25,186.29 NL 114977 for Rs. 1,42,701.73. M/s. Steel Co., Tinsukia (2008-09) : Audit had raised objection on acceptance of absolute 'C' Form for Rs. 15,50,088.00 covered by the 'C' Forms nos. NL 100620 to NL 100623 (04 nos) as per the Govt. of Nagaland, notification no CT/STS/1/01 dtd. July 2001. As per the above notification in the 'NL' series of 'C' Forms only the Sl. Nos. NL 000001 to NL 037283 were declared absolute. The concerned 'C' Forms NL 100620 to NL 100623 were not declared obsolete. M/s. Saj Industries Guwahati Unit 'C' (2006-07) : Audit raised objection that three numbers of 'C' Forms (95C 209989, 95C 209991 and 95C 209999) for Rs. 20,35,763.00 issued by the purchasing dealer, namely, M/s. R.J. Enterprise, Manipur were defective as they were without Registration Certificate numbers and date of liability. Assessing Officer has informed that the dealer has rectified the 'C' Forms and has also submitted the registration certificates (CST/M/8464 w.e.f. 16-07-2003) whereby it is apparent that the purchasing dealer is registered prior to the transaction period. The Hon'ble Calcutta High



Court in Shri Anil Kumar Dutta & Ors. Vs. Additional Member, Board of Revenue, West Bengal (1967) 20 STC 528 Cal, Hon'ble Calcutta High Court in Rajasthan Pipes Vs. CTO (2004) 138 STC 383 (Cal HC) and the Hon'ble Orissa High Court in State of Orissa vs. Orissa Polish Works (1970) 26 STC 480 (Ori HC) has held that declaration Forms can be rectified. M/s. HCL Infosys, Guwahati Unit 'A' (2005-06) : Assessing Officer has informed that assessment for the concerned period was completed at Zonal Officer wherein it is found that the dealer has reportedly submitted the 'F' Form before the Assessing Officer and the assessment was appeared to have completed in consideration of such Forms. M/s Raptakos Brett & Co. Guwahati Unit 'A' (2006-07) : Assessing Officer has informed that assessment for the concerned period was completed by the Zonal Office and as per assessment order it is found that the dealer has submitted the 'F' Forms before the Assessing Officer. Dealer submitted 3 nos. of 'F' Forms at the time of audit assessment completed by Zonal authority. However, dealer now submitted 3 nos. of photocopies of duplicate 'F' Forms (0047099, 95P 568510 and BG/F 0131102) for Rs. 3,67,242.83 original of which were submitted before Zonal Authority. M/s. Green Gold Tea Industry, Digboi (2006-07, 2007-08 & 2008-09) : Objection relates to incorrect allowance of stock transfer without 'F' Forms for Rs. 44,791,826.40 (2006-07), Rs. 4,78,95,380.43 (2007-08) and Rs. 3,44,70,913.10(2008-09). Assessing Officer has reported that the dealer has reported Guwahati Auction sale as stock transfer in the return which were subsequently revised. M/s. Assam Roofing Limited, Guwahati Unit 'C' (2005-06) : Assessing Officer has reported that in the light of audit objection an amount of Rs. 12,00,072.00 was levied. However, the dealer has settled the case under the Assam Taxation (Liquidation of Arrear Dues) Act, 2005 wherein the case was settled at Rs. 5,10,653.00(Tax- Rs. 4,23,698.00 and Interest- Rs. 86,955.00). The said amount for Rs. 5,10,653.00 was realized vide Ch. No 3030261216063053 dtd. 26-12-2016. M/s. Salkathani Tea Estate Sibasagar (2005-06) : Final report is being submitted which is called

from the AO. M/s. Attabari Tea Estate, Sibsagar (2005-06) : Objection relates to allowance of exemption on Rs. 5,51,27,090.00 without 'F' Forms (Nos. 645897, 645894, 645895, 645900, 645902, 645901, 645899, 645898, 645896, 645897, 645903, 0729820, 0728790, 0316448, 0877373, 330662, 883828, 0729642, 330507, 883894, 330660, 0532416, and 0339210). The Assessing Officer has reported that on verification it was found that stock transfer actually amounted to Rs. 3,99,63,807.00 which was duly reflected on the audit report. The dealer has also submitted 23 nos. of 'F' Forms covering an amount of Rs. 3,99,63,807.00. M/s. Gottonga Tea Estate, Jorhat (2004-05 & 2005-06) : Objection relates to allowances of exemption for Rs. 7,81,16,541.00 (2004-05) and Rs. 8,17,76,949.00(2005-06) on stock transfer without Form-F. Assessing Officer has reported that the dealer has submitted Form-F along with auction certificates. In the year 2004-05, the dealer has submitted Form-F for Rs. 6,99,92,100.00 and in the year 2005-06 the dealer has submitted Form-F for Rs. 8,09,26,200.00. The difference is since the Form-F were issued on the basis of sale at Kolkata Auction and not on the basis of transfer made in the concerned periods. There is no intension of evasion of tax. M/s. Saj Industries Private Limited Guwahati Unit 'C'(2006-07) : Assessing Officer has reported that Audit raised objection that twelve numbers of 'F' Forms for Rs. 3,02,50,799.00 were defective as it were without R/C. no & date of validity of the transferee , the detail of C.N., Name of transporter etc. Assessing Officer has informed that 12 nos. of 'F' Forms (AB 0012329 Rs. 5,46,176.82, AB0012330 for Rs. 7,44,933.34, AB 0012331 for Rs. 8,78,092.10 AB 0012332 for Rs. 7,85099.15, AB 0012333 for Rs. 9,59,461.39, AB 0012334 for Rs. 8,69,544.16, AB 0012335 for Rs. 7,11,335.13, AB 0012336 for Rs. 11,24,082.59, AB 0088877 for Rs. 7,23,702.23, AB 0088878 for Rs. 7,97,915.39, AB 0088879 for Rs. 8,79,015.77 and AB 0088880for Rs. 10,98,499.40) amounting to stock transfer amounted to Rs. 1,01,17,857.47 only. The dealer has rectified the defective 12 nos. of 'F' forms and has also furnished annexure to the 'F' Form. The entire

transfer was made to its branch office at Shillong, Maghalaya which is registered w.e.f. 08-03-2001. The Hon'ble Calcutta High Court in Shri Anil Kumar Dutta & Ors. Vs. Additional Member, Board of Revenue, West Bengal (1967) 20 STC 528 Cal, Hon'ble Calcutta High Court in Rajasthan Pipes Vs. CTO (2004) 138 STC 383 (Cal HC) and the Hon'ble Orissa High Court in State of Orissa vs. Orissa Polish Works (1970) 26 STC 480 (Ori HC) has held that declaration Forms can be rectified. M/s. Ledo Tea Estate Digboi (2005-06) : Objection relates to acceptance of defective 'F' Forms as these were issued to M/s. Ledo Tea Co. Pvt. Ltd. Calcutta. The assessing Officer has reported that the 'F' Forms were issued to its head office, namely, Ledo Tea Co. Pvt. Ltd, Calcutta as it controls the entire affairs. On the examination it was found that the entire stock transfer was effected from Ledo Tea Estate. Both are same entity & there is no scope of evasion of tax. The Hon'ble Delhi High Court in a similar matter in C. Jairam Pvt.Ltd. vs. Commissioner of Sale Tax, New Delhi has observed the following : "13 clearly supreme Court has held that the branch or the head office or the other branch of the same dealer were not different entities but the same entity ""The applicability of D forms does not depend on the address given, but depends upon the place where the sale is included in the taxable turnover. In other words, we come to the conclusion that the original forms were not defective. M/s. Towkak Gr. Of Tea Estate, Sibsagar (2006-07) : Audit had raised objection on acceptance of the 'F' Forms No. 95P 539934 for Rs. 1,51,16,825.00 which covers transaction of more than calendar month. At the time of verification of records and documents, it was found the concerned goods were dispatched on stock transfer and there were no irregularities. Sometimes it so happens that goods dispatched at the last part of one calendar month reaches the consignee in the next month and in such cases the dispatches are show in Form 'F' of the next calendar month. Since such cases of 'F' Forms are only technical matter and since the transaction/ transfers had been properly accounted for, there had been no evasion or loss of tax. In this connection, Commissioner of Taxes,

Assam vide circular No. 1/2008(CTS-35/2000/271 dated 08/01/2008) has stated that as the consignments are properly accounted for, there is no scope for loss of revenue and 'F' Forms covering such transaction cannot be rejected simply on this technical ground. The Hon'ble Guwahati High Court, In WP© No. 2329/2015 in M/s Ethelwold Estate Pvt. Ltd. Vs. The State of Assam & Others has observed that, "There are also instances where despatches of goods are made towards the end of a particular calendar month and the goods reaches the destination the following month. Therefore, to overcome such technical situation, Government of Assam, Office of the Commissioner of Taxes, has issued Circular No. 1 of 2008 dtd. 08/01/2008 mandating that as there is no scope for loss of revenue, 'F' Forms covering such transaction should not be rejected on this technical ground. M/s. Naharbari Tea Estate, Sibsagar (2005-06) : Audit had raised objection on acceptance of the 'F' Forms No. 95P 502947 for Rs. 53,19,649.00 which covers transaction of more than calendar month. At the time of verification of records and documents, it was found the concerned goods were despatched on stock transfer and there were no irregularities. Sometimes it so happens that goods despatched at the last part of one calendar month reaches the consignee in the next month and in such cases the despatches are show in Form 'F' of the next calendar month. Since such cases of 'F' Forms are only technical matter and since the transaction/ transfers had been properly accounted for, there had been no evasion or loss of tax. In this connection, Commissioner of Taxes, Assam vide circular No. 1/2008(CTS-35/2000/271 dated 08/01/2008) has stated that as the consignments are properly accounted for, there is no scope for loss of revenue and 'F' Forms covering such transaction cannot be rejected simply on this technical ground. The Hon'ble Guwahati High Court, In WP© No. 2329/2015 in M/s Ethelwold Estate Pvt. Ltd. Vs. The State of Assam & Others has observed that, " There are also instances where despatches of goods are made towards the end of a particular calendar month and the goods reaches the destination the following month. Therefore, to overcome such technical situation,

Government of Assam, Office of the Commissioner of Taxes, has issued Circular No. 1 of 2008 dtd. 08/01/2008 mandating that as there is no scope for loss of revenue, 'F' Forms covering such transaction should not be rejected on this technical ground. M/s. Hoolungoorie Tea Estate, Jorhat (2006-07 & 2007-08) : Objection relates to acceptance of defective 'F' Forms (10 nos. in 2006-07 for Rs. 3,19,56,136.00 and 09 nos. in 2007-08 for Rs. 4,07,15,836.00) as it does not contain the name of the dealer who has issued the declaration forms along with dates of validity. Assessing Officer has reported that the declaration forms have been rectified and the issuing dealer is the head office of the Tea garden registered under the CST Act, 1956 with R/c. No. 19200577216 w.e.f. 01/07/1956. The Hon'ble Calcutta High Court in Shri Anil Kumar Dutta & Ors. Vs. Additional Member, Board of Revenue, West Bengal (1967) 20 STC 528 Cal, Hon'ble Calcutta High Court in Rajasthan Pipes Vs. CTO (2004) 138 STC 383 (Cal HC ) and the Hon'ble Orissa High Court in State of Orissa vs. Orissa Polish Works (1970) 26 STC 480 (Ori HC) has held that declaration Forms can be rectified. M/s. Bajaji Tea Industries, Jorhat (2005-06 & 2006-07) : Audit has raised objection on acceptance of 'F' Form for Rs. 63.30 lakhs (2005-06) & Rs. 134.41 lakh (2006-07). Assessing Officer reported that the amounts to Rs. 63.30 lakhs (205-06) & Rs. 71.10 lakh (2006-07), Rs. 134.41 lakh is the sum total of both the year i.e. Rs. 63.30 lakh + Rs. 71.10 lakh. In the light of audit objection, assessment was completed in both the period. Aggrieved by the order of assessment the dealer the dealer filed Revision Petition (No..1/2016) before Hon'ble High Court. The Hon'ble High Court vide Order dtd. 21-12-2016 has set aside the order with a direction to redo the exercise after according due opportunity to the dealer. Accordingly, fresh assessment was made for both the period with a demand of Rs. 7,786.00(2005-06) and Rs. 5,684.00 (2006-07). The demand has been paid vide Ch.no. 34 dtd. 18-09-2010 for Rs. 7,786.00 ( 2005-06) and Ch. No. 0026061217000017 dtd. 06-12-2017 for Rs. 5,684.00 (200607). M/s. Boisahabi Tea Estate Jorhat (2007-08 & 2008-09) : Audit has raised objection on acceptance of

20(twenty) nos. of defective Forms-F as the declaration forms does not contain the registration number and date of registration. Assessing officer has reported that the dealer is registered with R/c. No. 19431435276 [ 4909A (Ps)] w.e.f. 13-08-1993. The dealer has also rectified the declaration forms. The Hon'ble Calcutta High Court in Shri Anil Kumar Dutta & Ors. Vs. Additional Member, Board of Revenue, West Bengal (1967) 20 STC 528 Cal, Hon'ble Calcutta High Court in Rajasthan Pipes Vs. CTO (2004) 138 STC 383 (Cal HC) and the Hon'ble Orissa High Court in State of Orissa Vs. Orissa Polish Works (1970) 26 STC 480 (Ori HC) has held that declaration Forms can be rectified. M/s. Gotonga Tea Estate, Jorhat (2005-06) : Objection raised objection on acceptance of defective 14 nos. of Form- F(s) which were without date of registration/ issued to the dealer etc. Assessing Officer has reported that the dealer has rectified the declaration. The Hon'ble Calcutta High Court in Shri Anil Kumar Dutta & Ors. Vs. Additional Member, Board of Revenue, West Bengal (1967) 20 STC 528 Cal, Hon'ble Calcutta High Court in Rajasthan Pipes Vs. CTO (2004) 138 STC 383 (Cal HC) and the Hon'ble Orissa High Court in State of Orissa Vs. Orissa Polish Works (1970) 26 STC 480 (Ori HC) has held that declaration Forms can be rectified. Further, the Assessing Officer has reported that in some declaration forms, the name of transaction was written as "B&A, Ltd., Kolkata" the name of the company instead of the name of the Tea garden i.e. Gotonga Tea Estate. The assessing officer has reported that both are same entity and the entire stock transfer were effected from Assam. The Ho'ble Delhi High Court in a similar matter in C. Jairam Pvt. Ltd. Vs. Commissioner of Sale Tax, New Delhi has observed the following "13 clearly supreme Court has held that the branch or the head office or the other branch of the same dealer were not different entities but the same entity. "The applicability of D forms does not depend on the address given, but depends upon the place where the sale is included in the taxable turnover. In other words, we come to the conclusion that the original forms were not defective." As such there is no irregularity.

M/s. Assam Dyeing Plants. Guwahati Unit 'A' (2006-07 & 2007-08) :  
Objection relates to acceptance of 'F' Form without date of registration  
and the transaction were not authenticated.

2006-07 : S 006313, S 006314, S 006315, S 006316, S 006317,  
S 006318, S 006319, S 006320, S 006321, S 006322, S 006322,  
S 006323, S 006324, 94T 016203, 94T 016202, 94T 016201, 94T  
016198, 94T 016199, 94T 016200, 94T 016209, 94T 016208, 94T  
016207, 94T 016204, 94T 016205, 94T 016206.

2007-08 : S 006325, 94T 020908, 94T 0220909, 94T 020906, 94T  
020907, 94T 020904, 94T 020905, 94T 020902, 94T 020903, 94T  
16210, 94T 020912, 94 T 020911, 94T 020910.

Assessing Officer has reported that the dealer was given  
opportunity to rectify the defects of Forms. In turn the dealer has  
rectified the declaration forms and has also submitted copy of  
registration certified. The Hon'ble Calcutta High Court in Shri Anil  
Kumar Dutta & Ors. Vs. Additional Member, Board of Revenue, West  
Bengal (1967) 20 STC 528 Cal, Hon'ble Calcutta High Court in  
Rajasthan Pipes Vs. CTO (2004) 138 STC 383 (Cal HC ) and the  
Hon'ble Orissa High Court in State of Orissa Vs. Orissa Polish Works  
(1970) 26 STC 480 (Ori HC) has held that declaration Forms can be  
rectified. M/s. Sail Guwahati Unit 'A' (2005-06) : Objection relates to  
acceptance of defective "F" forms No. V 021863, V 021864, v 021865,  
v 021866, V 021867, V 021868, V 021869, V 025490, V 025491 and  
V 025492. Assessing Officer has reported that the dealer was given  
opportunity to rectify the defects in the 'F' Forms. In turn, the dealer  
has rectified the declaration Forms. The Hon'ble Calcutta High Court  
in Shri Anil Kumar Dutta & Ors. Vs. Additional Member, Board of  
Revenue, West Bengal (1967) 20 STC 528 Cal, Hon'ble Calcutta High  
Court in Rajasthan Pipes Vs. CTO (2004) 138 STC 383 (Cal HC ) and  
the Hon'ble Orissa High Court in State of Orissa Vs. Orissa Polish

Works (1970) 26 STC 480 (Ori HC) has held that declaration Forms can be rectified. M/s. Timex India Limited, Guwahati Unit 'A' (2005-06, 2006-07 & 2007-08) : Assessing Officer has reported that the dealer was given opportunity to rectify the defects in the 'F' Forms. In turn, the dealer furnished copy of registration certificate wherein in it is confirmed that the registration ids prior to the dates (s) of transaction. M/s. Kamakhya Cosmetic & Pharma Private Limited Guwahati Unit 'A' (2005-06) : Assessing Officer has reported that the original copy of the 'F' Form were available in the case record in a separate file. There was no loss of revenue. M/s. Parashuram Tea Co Tinsukia (2005-06 & 2006-07) : Audit had raised objection on irregular grant of stock transfer on defective 'F' Form. In the light of the audit objection, assessments were completed for the periods 2005-06 and 2006-07 with a demand of Rs. 1,14,476.00 and Rs. 4,34,848.00 respectively. Subsequently arrear certificate was issued by ST ® for Rs. 1,24,584.00(2005-06) and Rs. 4,77,525.00 (2006-07). The case is settled under the Assam Taxation (Liquidation of Arrear Dues) Act, 2005. As per certificate of waive issued in Form-3 the dealer has paid tax/ interest for Rs. 73,885.00(2005-06) and Rs. Rs. 3,07,059.00(2006-07). The amount have been deposited as shown below :

**2005-06** : Rs. 15,943.00(12/02/2012), Rs. 54,210.00 (12/03/2015) and Rs. 3,732.00 (14/03/2015)

**2006-07** : Rs. 67,314.00(12/05/2012), Rs, 2,28,868.00 (12/03/2015) and Rs. 10,877.00 (14/03/2015).

M/s Vaibhav Tea Co, Tinsukia (2005-06 & 2006-07) : Objection relates to acceptance of exemption on stock transfer against 'F' Form not pertaining to the period amounting to Rs. 7,75,652.00 (2005-06) and Rs. 18,45,262.00 (2006-07).



Assessing Officer has reported that as per accounts the following were found :

	2005-06(kgs)	2006-07(kgs)
Opening Stock	53152	27895
Despatch	145414	350455
Total	198566	378350
Less closing stock	27895	14280
Qty sold by C/Agents	70671	364070

It has been reported that substantial quantity of tea remains in the hands of the agents in the beginning of the year and those were sold in the subsequent months. The stock transfer of the irregularities was verified and duly supported by 'F' Form. In the concerned periods, stock transfer was allowed on the basis of sale and hence no stock transfer could escape assessment. M/s. Feroz Tea Co. Private Ltd., Tinsukia, (2006-07 & 2007-08) : (2006-07): Objection relates to acceptance of defective declaration form for Rs. 46,64,912.00. Assessing Officer has reported that tax/interest for Rs. 3,34,940.00 was levied and realized by ST(R) as confirmed vide letter No. T-19/CST/10-11/174 dtd. 16-08-2013. (2007-08): Objection relates to acceptance of declaration forms. Assessing Officer has reported that re-assessment was completed. Aggrieved by the order of assessment, the dealer preferred revision. Revisional Authority vide order dtd. 18-07-2013 has set aside the order of re-assessment with a direction to reframe fresh order as per direction made in the revisional order. Accordingly, fresh order was made on 27-09-2019 as per direction of Revisional Authority. As per the fresh assessment stock transfer was allowed for Rs. 2,19,76,530.00 and disallowed on Rs. 3,11,360.00. Tax/interest for Rs. 64,763.00 was levied and adjusted against payment made vide Ch. No. Nil dated 24/11/2012 for Rs. 1,00,000.00. Hence as per the said order Rs. 35,237.00 stood as excess. M/s. Zaloni Tea Estate, Naharkatia (2006-07 & 2007-08): Audit has raised objection on acceptance of the F Form No. 95P-565181 for Rs. 53,39,965.00

(2006-07) and 95P-619507 for Rs. 81,56,537.00(2007-08) which covers transactions of more than a calendar month. At the time of verification of records and documents, it was found that concerned goods were despatched on stock transfer and there were no irregularities. Sometimes it so happens that the goods despatched at the last part of one calendar month reaches the consignee in the next month and in such cases the despatches are shown in Form 'F' of the next calendar month. Since such cases of 'F' Forms are only technical matter and since the transactions/transfers had been properly accounted for, there had been no evasion or loss of tax. In this connection, Commissioner of Taxes, Assam vide Circular No. 1/2008 (CTS-35/2000/271 dtd. 08/01/2008) has stated that as the consignments are properly accounted for, there is no scope for loss of revenue and 'F' Forms covering such transaction cannot be rejected simply on this technical ground. The Hon'ble Gauhati High Court, in WP(C) No. 2329/2015 in M/s. Ethelwold Estate Pvt. Ltd. Vs. the State of Assam & Others has observed that, "There are also instances where despatches of goods are made towards the end of a particular calendar month and the goods reaches the destination in the following month. Therefore, to overcome such technical situation, Government of Assam, office of the Commissioner of Taxes, has issued Circular no.1 of 2008 dtd. 08/01/2008 mandating that as there is no scope for loss of revenue, 'F' Forms covering such transactions should not be rejected on this technical ground." M/s. Santi Tea Estate, Naharkatia (2006-07): Audit has raised objection on acceptance of the F Form no. RF/04-0430568 for Rs. 1,21,00,000.00 which covers transactions of more than a calendar month. At the time of verification of records and documents, it was found the concerned goods were despatched on stock transfer and there was no irregularity. Sometimes it so happens that goods despatched at the last part of one calendar month reaches the consignee in the next month and in such cases the despatches are shown in Form 'F' of the next calendar month. Since such cases of 'F' Forms are only technical matter and since the transactions/transfers had been properly

accounted for, there had been no evasion or loss of tax. In this connection, Commissioner of Taxes, Assam vide Circular No. 1/2008 (CTS-35/2000/271 dtd. 08/01/2008) has stated that as the consignments are properly accounted for, there is No. scope for loss of revenue and 'F' Forms covering such transaction cannot be rejected simply on this technical ground. The Hon'ble Gauhati High Court, in WP(C) No. 2329/2015 in M/s. Ethelwold Estate Pvt. Ltd. Vs. the State of Assam & Others has observed that, "There are also instances where despatches of goods are made towards the end of a particular calendar month and the goods reaches the destination in the following month Therefore, to overcome such technical situation, Government of Assam, office of the Commissioner of Taxes, has issued Circular no.1 of 2008 dtd. 08/01/2008 mandating that as there is no scope for loss of revenue, 'F' Forms covering such transactions should not be rejected on this technical ground." M/s. Jodhpur Tea & Industries, Dibrugarh (2006-07): Objection relates to defects in 40 nos. of 'F' form for Rs. 87,53,776.59 as those were issued to Jodhpur Tea & Industries Pvt. Ltd., Calcutta instead of Jodhpur Tea & Industries Pvt. Ltd, Dibrugarh. The Assessing Officer has reported that on examination of records, it is revealed that the entire stock was transferred from its garden in Assam. The dealer has rectified the 'F' Forms. The Hon'ble Delhi High Court in a similar matter in C. Jairam Pvt. Ltd. Vs. Commissioner of Sales Tax, New Delhi has observed the following: "13. Clearly, Supreme Court has held that the branch, or head office, or the other branch of the same dealer were not different entities but the same entity. The applicability of D forms does not depend on the address given, but depends upon the place where the sale is included in the taxable turnover. In other words, we come to the conclusion that the original forms were not defective." M/s. Khowang Tea Estate, Dibrugarh (2006-07 & 2007-08): Objection relates to defects in 16 nos. of 'F' Forms for Rs. 45,48,158.26 in the year 2006-07 and 15 nos. of such forms for Rs. 54,44,375.90 in the year 2007-08 as those were issued to the head office, Andrew Yule & Co. Ltd. Calcutta instead of Khowang Tea Estate, a constituent tea

garden of Andrew Yule & Co. Ltd. The Assessing Officer has reported that both are same entity. The head office has also submitted a certificate in this regard. The Hon'ble Delhi High Court in a similar matter in C. Jairam Pvt. Ltd. Vs. Commissioner of Sales Tax, New Delhi has observed the following: "13. Clearly, Supreme Court has held that the branch, or head office, or the other branch of the same dealer were not different entities but the same entity. The applicability of D forms does not depend on the address given, but depends upon the place where the sale is included in the taxable turnover, In other words, we come to the conclusion that the original forms were not defective." M/s. Duliabam Tea Estate, Dibrugarh (2006-07 & 2007-08): Objection relates to defects in 23 nos. of 'F' Form for Rs. 33,87,329.53 and 10 nos. Of such forms for Rs. 14,13,185.00 as those were issued to its company office, Amarawati Tea Co. Ltd. Calcutta instead of Duliabam Tea Estate, Khowang, Dibrugarh. On verification of Memorandum of Articles of Association of the company, it is found that Duliabam Tea Estate in owned by Amarawati Tea Co. Ltd. Calcutta. The Hon'ble Delhi High Court in a similar matter in C. Jairam Pvt. Ltd. Vs. Commissioner of Sales Tax, New Delhi has observed the following: "13. Clearly, Supreme Court has held that the branch, or head office, or the other branch of the same dealer were not different entities but the same entity. The applicability of D forms does not depend on the address given, but depends upon the place where the sale is included in the taxable turnover. In other words, we come to the conclusion that the original forms were not defective." M/s. Lallachera Tea Co., Dibrugarh (2005-06): Objection relates to defects in 22 nos. of "F' Form for Rs. 22,68,022.14 as those were issued to Lallachera Tea Co. (P) Ltd. Calcutta instead of Lallachera Tea Co. (P) Ltd. Dibrugarh. The assessing officer has reported that both are same entity and the entire stock transfer was made from Assam. The Hon'ble Delhi High Court in a similar matter in C. Jairam Pvt. Ltd. Vs. Commissioner of Sales Tax, New Delhi has observed the following: "13. Clearly, Supreme Court has held that the branch, or head office, or the other

branch of the same dealer were not different entities but the same entity. The applicability of D forms does not depend on the address given, but depends upon the place where the sale is included in the taxable turnover. In other words, we come to the conclusion that the original forms were not defective." M/s. Halmari Tea Estate, Dibrugarh (2005-06): Objection relates to acceptance of defective 'F' Forms for Rs. 10,35,413.75 which were issued to Amarawaati Tea Co. Ltd., Calcutta instead of Halmari Tea Estate, Khowang, Dibrugarh. The assessing officer has reported that Halmari Tea Estate is owned by Amarawati Tea Co. Ltd., Calcutta and both are the same entity. The entire stock transfer was effected from tea garden in Assam. The Hon'ble Delhi High Court in a similar matter in C. Jairam Pvt. Ltd. Vs. Commissioner of Sales Tax, New Delhi has observed the following: "13. Clearly, Supreme Court has held that the branch, or head office, or the other branch of the same dealer were not different entities but the same entity. The applicability of D forms does not depend on the address given, but depends upon the place where the sale is included in the taxable turnover. In other words, we come to the conclusion that the original forms were not defective." M/s. Dehing Tea Estate, Digboi (2005-06): Audit has raised objection on acceptance of 8 nos. of 'F' form which cover transactions of more than a calendar month for Rs. 94,91,300.00 against 'F' form value of Rs. 1,85,82,850.00. At the time of verification of records and documents, it was found that concerned goods were despatched on stock transfer and there were no irregularities. Sometimes it so happens that the goods despatched at the last part of one calendar month reaches the consignee in the next month and in such cases the despatches are shown in Form 'F' of the next calendar month. Since such cases of 'F' Forms are only technical matter and since the transactions/transfers had been properly accounted for, there had been no evasion or loss of tax. In this connection, Commissioner of Taxes, Assam vide Circular No. 1/2008 (CTS-35/2000/271 dtd. 08/01/2008) has stated that as the consignments are properly accounted for, there is no scope for loss of revenue and 'F'

Forms covering such transaction cannot be rejected simply on this technical ground. The Hon'ble Gauhati High Court, in WP(C) No. 2329/2015 in M/s. Ethelwold Estate Pvt. Ltd. Vs. the State of Assam & Others has observed that, "There are also instances where despatches of goods are made towards the end of a particular calendar month and the goods reaches the destination in the following month. Therefore, to overcome such technical situation, Government of Assam, office of the Commissioner of Taxes, has issued Circular no.1 of 2008 dtd. 08/01/2008 mandating that as there is no scope for loss of revenue, 'F' Forms covering such transactions should not be rejected on this technical ground." M/s. Namdong Tea Estate, Digboi (2005-06): Audit has raised objection on acceptance of F Forms which covers transactions of more than a calendar month for Rs. 1,66,86,475.00 against the forms 95p-588181, 95P-588183, 95P-588184, 95P-588185, 95P-588186, 95P-588187 and 95P-588188 for Rs. 79,03,285.00. At the time of verification of records and documents, it was found that the concerned goods were despatched on stock transfer and there were no irregularities. Sometimes it so happens that goods despatched at the last part of one calendar month reaches the consignee in the next month and in such cases the despatches are shown in Form 'F' of the next calendar month. Since such cases of 'F' Forms are only technical matter and since the transactions/transfers had been properly accounted for, there had been no evasion or loss of tax. In this connection, Commissioner of Taxes, Assam vide Circular No. 1/2008 (CTS-35/2000/271 dtd. 08/01/2008) has stated that as the consignments are properly accounted for, there is no scope for loss of revenue and 'F' Forms covering such transaction cannot be rejected simply on this technical ground. The Hon'ble Gauhati High Court, in WP(C) No. 2329/2015 in M/s. Ethelwold Estate Pvt. Ltd. Vs. the State of Assam & Others has observed that, "There are also instances where despatches of goods are made towards the end of a particular calendar month and the goods reaches the destination in the following month. Therefore, to overcome such technical situation, Government of Assam, office of

the Commissioner of Taxes, has issued Circular no.1 of 2008 dtd. 08/01/2008 mandating that as there is no scope for loss of revenue, 'F' Forms covering such transactions should not be rejected on this technical ground." M/s. Bogopani Tea Estate, Digboi (2005-06): Audit has raised objection on acceptance of the F forms which cover transactions of more than a calendar month for Rs. 1,92,44,400.00 against 9 nos. of 'F' Form namely, 95P-588191, 95P-588192, 95P-588193, 95P-588194, 95P-58815 and 95P-588196 for Rs. 3,63,86,000.00. At the time of verification of records and documents, it was found that the concerned goods were despatched on stock transfer and there were no irregularities. Sometimes it so happens that goods despatched at the last part of one calendar month reaches the consignee in the next month and in such cases the despatches are shown in Form 'F' of the next calendar month. Since such cases of 'F' Forms are only technical matter and since the transactions/transfers had been properly accounted for, there had been no evasion or loss of tax. In this connection, Commissioner of Taxes, Assam vide Circular No. 1/2008 (CTS-35/2000/271 dtd. 08/01/2008) has stated that as the consignments are properly accounted for, there is no scope for loss of revenue and 'F' Forms covering such transaction cannot be rejected simply on this technical ground. The Hon'ble Gauhati High Court, in WP(C) No. 2329/2015 in M/s. Ethelwold Estate Pvt. Ltd. Vs. the State of Assam & Others has observed that, "There are also instances where despatches of goods are made towards the end of a particular calendar month and the goods reaches the destination in the following month. Therefore, to overcome such technical situation, Government of Assam, office of the Commissioner of Taxes, has issued Circular no.1 of 2008 dtd. 08/01/2008 mandating that as there is no scope for loss of revenue, 'F' Forms covering such transactions should not be rejected on this technical ground." M/s. Thowra Tea Estate, Sibsagar, (2005-06, 2006-07 & 2007-08): Audit has raised objection on acceptance of the following F forms that does not cover a single month transactions : 2005-06: 95P-509954, 95P-509955, 95P-509956, 95P-

509957, 95P-509958, 95P-509959, 95P-509960, 95P-509953 and 95P-509961. 2006-07: 95P-565179, 95P-581434, 95P-581435, 95P-604175, 95P-604176, 95P-604177, 95P-604193, 95P-565178, 95P-581433 and 95P-565180, 2007-08: 95P-619547, 95P-646604, 95P-646603, 95P-619506, 95P-619548, 95P-619546 and 95P-619504. At the time of verification of records and documents, it was found that concerned goods were despatched on stock transfer and there were no irregularities. Sometimes it so happens that the goods despatched at the last part of one calendar month reaches the consignee in the next month and in such cases the despatches are shown in Form 'F' of the next calendar month. Since such cases of 'F' Forms are only technical matter and since the transactions/transfers had been properly accounted for, there had been no evasion or loss of tax. In this connection, Commissioner of Taxes, Assam vide Circular No. 1/2008 (CTS-35/2000/271 dtd. 08/01/2008) has stated that as the consignments are properly accounted for, there is no scope for loss of revenue and 'F' Forms covering such transaction cannot be rejected simply on this technical ground. The Hon'ble Gauhati High Court, in WP(C) No. 2329/2015 in M/s. Ethelwold Estate Pvt. Ltd. Vs. the State of Assam & Others has observed that, "There are also instances where despatches of goods are made towards the end of a particular calendar month and the goods reaches the destination in the following month Therefore, to overcome such technical situation, Government of Assam, office of the Commissioner of Taxes, has issued Circular no.1 of 2008 dtd. 08/01/2008 mandating that as there is no scope for loss of revenue, 'F' Forms covering such transactions should not be rejected on this technical ground." M/s. Tow Kok Gr. Of Tea Estate, Sibsagar (2006-07) : Audit has raised objection on acceptance of the F forms (95P-583950, 95P-583951, 95P-583949, 95P-539936, 95P-583948, 95P-539935, 95P-583946 and 95P-583947) That do not cover a single month transactions. At the time of verification of records and documents, it was found that concerned goods were despatched on stock transfer and there were no irregularities. Sometimes it so happens that the goods



despatched at the last part of one calendar month reaches the consignee in the next month and in such cases the despatches are shown in Form 'F' of the next calendar month. Since such cases of 'F' Forms are only technical matter and since the transactions/transfers had been properly accounted for, there had been no evasion or loss of tax. In this connection, Commissioner of Taxes, Assam vide Circular No. 1/2008 (CTS-35/2000/271 dtd. 08/01/2008) has stated that as the consignments are properly accounted for, there is no scope for loss of revenue and 'F' Forms covering such transaction cannot be rejected simply on this technical ground. The Hon'ble Gauhati High Court, in WP(C) No. 2329/2015 in M/s. Ethelwold Estate Pvt. Ltd. Vs. the State of Assam & Others has observed that, "There are also instances where despatches of goods are made towards the end of a particular calendar month and the goods reaches the destination in the following month. Therefore, to overcome such technical situation, Government of Assam, office of the Commissioner of Taxes, has issued Circular no.1 of 2008 dtd. 08/01/2008 mandating that as there is no scope for loss of revenue, 'F' Forms covering such transactions should not be rejected on this technical ground." M/s. Salkathani Tea Estate, Sibsagar, (2005-06): Objection relates to defects in F Form (MAH/F/01 0721371 for Rs. 17,56,413.00 and MAH/F/01 0867247 for Rs. 11,62,548.89) for Rs. 29,18,961.00 as it cover transactions for more than a calendar month. At the time of verification of records and documents, it was found that the concerned goods were despatched on stock transfer and there were no irregularities. Sometimes it so happens that goods despatched at the last part of one calendar month reaches the consignee in the next month and in such cases the despatches are shown in Form 'F' of the next calendar month. Since such cases of 'F' Forms are only technical matter and since the transactions/transfers had been properly accounted for, there had been no evasion or loss of tax. In this connection, Commissioner of Taxes, Assam vide Circular No. 1/2008 (CTS-35/2000/271 dtd. 08/01/2008) has stated that as the consignments are properly accounted for, there is no scope for loss of revenue and 'F'

Forms covering such transaction cannot be rejected simply on this technical ground. The Hon'ble Gauhati High Court, in WP(C) No. 2329/2015 in M/s. Ethelwold Estate Pvt. Ltd. Vs. the State of Assam & Others has observed that, "There are also instances where despatches of goods are made towards the end of a particular calendar month and the goods reaches the destination in the following month Therefore, to overcome such technical situation, Government of Assam, office of the Commissioner of Taxes, has issued Circular no.1 of 2008 dtd. 08/01/2008 mandating that as there is no scope for loss of revenue, 'F' Forms covering such transactions should not be rejected on this technical ground." M/s. Naharbari Tea Estate, Sibsagar (2005-06): Audit has raised objection on acceptance of the F forms (95P-502948, 95P-502949, 95P-502950, 95P-502951, 95P-502952, 95P-502953, 95P-502954, 95P-502955 and 95P-538903) that do not cover a single month transactions. At the time of verification of records and documents, it was found that concerned goods were despatched on stock transfer and there were no irregularities. Sometimes it so happens that the goods despatched at the last part of one calendar month reaches the consignee in the next month and in such cases the despatches are shown in Form 'F' of the next calendar month. Since such cases of 'F' Forms are only technical matter and since the transactions/transfers had been properly accounted for, there had been no evasion or loss of tax. In this connection, Commissioner of Taxes, Assam vide Circular No. 1/2008 (CTS-35/2000/271 dtd. 08/01/2008) has stated that as the consignments are properly accounted for, there is no scope for loss of revenue and 'F' Forms covering such transaction cannot be rejected simply on this technical ground. The Hon'ble Gauhati High Court, in WP(C) No. 2329/2015 in M/s. Ethelwold Estate Pvt. Ltd. Vs. the State of Assam & Others has observed that, "There are also instances where despatches of goods are made towards the end of a particular calendar month and the goods reaches the destination in the following month Therefore, to overcome such technical situation, Government of Assam, office of the Commissioner of Taxes, has issued Circular

No.1 of 2008 dtd. 08/01/2008 mandating that as there is no scope for loss of revenue,'F' Forms covering such transactions should not be rejected on this technical ground." M/s. Sewjipur Tea Estate, Sibsagar (2006-07): Audit has raised objection on acceptance of four F forms (Nos. 95P-530103, 530212, 489251 and 244683) that do not cover a single month transactions. At the time of verification of records and documents, it was found that concerned goods were despatched on stock transfer and there were no irregularities. Sometimes it so happens that the goods despatched at the last part of one calendar month reaches the consignee in the next month and in such cases the despatches are shown in Form 'F' of the next calendar month. Since such cases of 'F' Forms are only technical matter and since the transactions/transfers had been properly accounted for , there had been no evasion or loss of tax. In this connection, Commissioner of Taxes, Assam vide Circular No. 1/2008 (CTS-35/2000/271 dtd. 08/01/2008) has stated that as the consignments are properly accounted for, there is no scope for loss of revenue and 'F' Forms covering such transaction cannot be rejected simply on this technical ground. The Hon'ble Gauhati High Court, in WP(C) No. 2329/2015 in M/s. Ethelwold Estate Pvt. Ltd. Vs. the State of Assam & Others has observed that, "There are also instances where despatches of goods are made towards the end of a particular calendar month and the goods reaches the destination in the following month. Therefore, to overcome such technical situation, Government of Assam, office of the Commissioner of Taxes, has issued Circular no.1 of 2008 dtd. 08/01/2008 mandating that as there is no scope for loss of revenue, 'F' Forms covering such transactions should not be rejected on this technical ground." M/s. Attarbari Tea Estate, Sibsagar (2006-07): Audit has raised objection on acceptance of the F forms (95P-691111, 95P-691112, 95P-691113, 95P-691115, 95P-691116, 95P-691117, 95P-691118 and 95P-691110) that do not cover a single month transactions. At the time of verification of records and documents, it was found that concerned goods were dispatched on stock transfer and there were no irregularities. Sometimes it so happens

that the goods dispatched at the last part of one calendar month reaches the consignee in the next month and in such cases the despatches are shown in Form 'F' of the next calendar month. Since such cases of 'F' Forms are only technical matter and since the transactions/transfers had been properly accounted for, there had been no evasion or loss of tax. In this connection, Commissioner of Taxes, Assam vide Circular No. 1/2008 (CTS-35/2000/271 dtd. 08/01/2008) has stated that as the consignments are properly accounted for, there is no scope for loss of revenue and 'F' Forms covering such transaction cannot be rejected simply on this technical ground. The Hon'ble Gauhati High Court, in WP(C) No. 2329/2015 in M/s. Ethelwold Estate Pvt. Ltd. Vs. the State of Assam & Others has observed that, "There are also instances where despatches of goods are made towards the end of a particular calendar month and the goods reaches the destination in the following month Therefore, to overcome such technical situation, Government of Assam, office of the Commissioner of Taxes, has issued Circular no.1 of 2008 dtd. 08/01/2008 mandating that as there is no scope for loss of revenue,'F' Forms covering such transactions should not be rejected on this technical ground." M/s. Godrej Saralee, Guwahati unit 'B' (2006-07): Records and documents produced by the dealer reveals that one 'F' Form covers transaction of a calendar month only. Due to computer generated format, the date format in some invoices by default has shown as DD/MM/YYYY and in some invoices as MM/DD/YYYY. M/s. Tea Mafco Pvt. Ltd., Dibrugarh(2005-06 & 2006-07): Audit has raised objection on acceptance of defective 'F' Forms during both the periods 2005-06 and 2006-07 as it covers more than a calendar month. The Assessing Officer has reported that re-assessment was completed with demands of Rs. 9,60,413.00 for 2005-06 and Rs. 27,88,274.00 for 2006-07. Aggrieved by the order, the dealer preferred revision. Revisioning author vide order(s) dtd. 22/07/2013 for both the periods had set aside the order of assessment and directed to make fresh assessment. Accordingly, fresh assessment was completed by accepting the fresh 13 nos. of 'F' forms. M/s. Ethelworld Estate

Private Limited, Dibrugarh (2005-06): Audit had raised objection on acceptance of 6 nos. of 'F' Forms which cover transactions of more than a calendar month. Assessing Officer has reported that on the defective declaration forms, tax/interest was levied. Aggrieved by the order of assessment, the dealer preferred appeal before Appellate Authority and then before Hon'ble Assam Board of Revenue and then finally before Hon'ble High Court. (WP(c) No.2329/2015). The Hon'ble Gauhati High Court, in WP(C) No.2329/2015 in M/s. Ethelwold Estate Pvt. Ltd. Vs. the State of Assam & Others has observed that, "There are also instances where despatches of goods are made towards the end of a particular calendar month and the goods reaches the destination in the following month. Therefore, to overcome such technical situation, Government of Assam, office of the Commissioner of Taxes, has issued Circular no.1 of 2008 dtd. 08/01/2008 mandating that as there is no scope for loss of revenue, 'F' Forms covering such transactions should not be rejected on this technical ground." M/s. Damayanti Tea Industries, Dibrugarh (2005-06/2006-07): Audit has raised objection of acceptance of 'F' Forms which cover transactions of more than a calendar month. Assessing Officer has reported that in both the period, the dealer was found liable to pay tax/interest for Rs. 13,72,288.00. Now as the unit is an exempted unit (DIB/C/ENTL-25(II)/2009 dtd. 15-07-2009), the dealer is found liable for payment of tax @ 1% on Rs. 13,72,288.00 for Rs. 13,723.00 which has been paid vide Ch. No. 43/22 dtd. 11-11-2011 for Rs. 13,723.00. M/s. Anandmari Tea Co. Private Limited, Dibrugarh, (2005-06): Objection relates to 'F' Form Nos. 029973, 0530132, 0450992 and 0530084. Assessing Officer has reported that: 1) Form-F No. 029973 covers transfer effected in a single month and hence there is no irregularities. 2) Form-F No. 0530132 and 0450992 were not submitted by the dealer in the concerned year. 3) Form-F No. 0530084 covers transfer of more than a calendar month. On the disallowed amount of Rs. 1,85,401.62, tax/interest for Rs. 36,896.00 was levied and realised vide Ch. No. NIL dtd. 13-12-2011. M/s. Rhino Industries, Dibrugarh

(2005-06): Audit has raised objection on acceptance of the F forms which cover transactions of more than a calendar month. At the time of verification of records and documents, it was found that concerned goods were dispatched on stock transfer and there were no irregularities. Sometimes it so happens that the goods dispatched at the last part of one calendar month reaches the consignee in the next month and in such cases the despatches are shown in Form 'F' of the next calendar month. Since such cases of 'F' Forms are only technical matter and since the transactions/transfers had been properly accounted for, there had been no evasion or loss of tax. In this connection, Commissioner of Taxes, Assam vide Circular No. 1/2008 (CTS-35/2000/271 dtd. 08/01/2008) has stated that as the consignments are properly accounted for, there is no scope for loss of revenue and 'F' Forms covering such transaction cannot be rejected simply on this technical ground. The Hon'ble Gauhati High Court, in WP(C) No. 2329/2015 in M/s. Ethelwold Estate Pvt. Ltd. Vs. the State of Assam & Others has observed that, "There are also instances where despatches of goods are made towards the end of a particular calendar month and the goods reaches the destination in the following month. Therefore, to overcome such technical situation, Government of Assam, office of the Commissioner of Taxes, has issued Circular no.1 of 2008 dtd. 08/01/2008 mandating that as there is no scope for loss of revenue, 'F' Forms covering such transactions should not be rejected on this technical ground." M/s. Sookerating Tea Estate Private Limited, Tinisukia (2004-05): Objection relates to acceptance of defective 'F' Form No. 01F 370010 and 01F 501292 which contains transactions of more than one calendar month. The dealer has subsequently submitted fresh 'F' Form No. WBF/08 1597223 for Rs. 3,75,340.00, WBF/08 2597224 for Rs. 8,93,900.00 & No. WBF/08 1597225 for Rs. 12,58,600.00 and those were accepted by the Assessing Officer. M/s. Balijan Tea Estate, Tinisukia (2005-06): Objection relates to acceptance of defective 'F' Form for Rs. 1,23,06,475.00 which contains transactions of more than one calendar month. The dealer has rectified the 'F' Form No. 95P-

557708, 95P-557710, 95P-557711, 95P-557712, 95P-557713 which now cover consignment of a single calendar month. M/s. Balijan North Tea Estate, Naharkatia (2005-06 & 2006-07): Audit had raised objection on acceptance of the following 'F' Forms which cover transactions of more than a calendar month: 2005-06: 509857, 509856, 509858, 509859, 509861, 534898, 509860 and 509862 for total of Rs. 4,73,13,588.00). 2006-07: 565148, 565149, 565150, 581404, 581405, 604145, 604147, 581403 and 604146 (for total of Rs. 7,14,85,800.00). At the time of verification of records and documents, it was found that the concerned goods were despatched on stock transfer and there were no irregularities. Sometimes it so happens that goods despatched at the last part of one calendar month reaches the consignee in the next month and in such cases the despatches are shown in Form 'F' of the next calendar month. Since such cases of 'F' Forms are only technical matter and since the transactions/transfers had been properly accounted for, there had been no evasion or loss of tax. In this connection, Commissioner of Taxes, Assam vide Circular No. 1/2008 (CTS-35/2000/271 dtd. 08/01/2008) has stated that as the consignments are properly accounted for, there is no scope for loss of revenue and 'F' Forms covering such transaction cannot be rejected simply on this technical ground. The Hon'ble Gauhati High Court, in WP(C) No. 2329/2015 in M/s. Ethelwold Estate Pvt. Ltd. Vs. the State of Assam & Others has observed that, "There are also instances where despatches of goods are made towards the end of a particular calendar month and the goods reaches the destination in the following month. Therefore, to overcome such technical situation, Government of Assam, office of the Commissioner of Taxes, has issued Circular no.1 of 2008 dtd. 08/01/2008 mandating that as there is no scope for loss of revenue, 'F' Forms covering such transactions should not be rejected on this technical ground." M/s. Santi Tea Estate, Naharkatia (2006-07 & 2007-08): Audit had raised objection on acceptance of the following 'F' Forms which cover transactions of more than a calendar month: 2006-07: 0430570, 0430571, 0430572, 0430573, 0430574,

0430575 and 0747951 (for total of Rs. 4,71,00,000.00). 2007-08: 0747984, 0747985, 0747986, 0747987, 0747988, 0747989, 0747990 and 0747991 (for total of Rs. 3,46,00,000.00). At the time of verification of records and documents, it was found that concerned goods were despatched on stock transfer and there were no irregularities. Sometimes it so happens that the goods despatched at the last part of one calendar month reaches the consignee in the next month and in such cases the despatches are shown in Form 'F' of the next calendar month. Since such cases of 'F' Forms are only technical matter and since the transactions/transfers had been properly accounted for, there had been no evasion or loss of tax. In this connection, Commissioner of Taxes, Assam vide Circular No. 1/2008 (CTS-35/2000/271 dtd. 08/01/2008) has stated that as the consignments are properly accounted for, there is no scope for loss of revenue and 'F' Forms covering such transaction cannot be rejected simply on this technical ground. The Hon'ble Gauhati High Court, in WP(C) No. 2329/2015 in M/s. Ethelwold Estate Pvt. Ltd. Vs. the State of Assam & Others has observed that, "There are also instances where despatches of goods are made towards the end of a particular calendar month and the goods reaches the destination in the following month Therefore, to overcome such technical situation, Government of Assam, office of the Commissioner of Taxes, has issued Circular no.1 of 2008 dtd. 08/01/2008 mandating that as there is no scope for loss of revenue, 'F' Forms covering such transactions should not be rejected on this technical ground." M/s. Zalani Tea Estate, Naharkatia (2006-07 & 2007-08): Audit had raised objection on acceptance of the following 'F' Forms which cover transactions of more than a calendar month : 2006-07: 95P-565182, 95P-565183, 95-581436, 95P-581437, 95P-581438, 95P-601478, 95P-601479 and 95P-601480 for total of Rs. 4,76,67,541.00). 2007-08: 95p-619508, 95p-619509, 95p-619549, 95p-619550, 95p-619551, 95P-646606, 95P-646607, 95P-646608 and 95P-680985 (for total of Rs. 4,77,85,933.00). At the time of verification of records and documents, it was found that concerned goods were despatched on stock transfer and there were no irregularities. Sometimes it so happens



that goods despatched at the last part of one calendar month reaches the consignee in the next month and in such cases the despatches are shown in Form 'F' of the next calendar month. Since such cases of 'F' Forms are only technical matter and since the transactions/transfers had been properly accounted for, there had been no evasion or loss of tax. In this connection, Commissioner of Taxes, Assam vide Circular No. 1/2008 (CTS-35/2000/271 dtd. 08/01/2008) has stated that as the consignments are properly accounted for, there is no scope for loss of revenue and 'F' Forms covering such transaction cannot be rejected simply on this technical ground. The Hon'ble Gauhati High Court, in WP(C) No. 2329/2015 in M/s. Ethelwold Estate Pvt. Ltd. Vs. the State of Assam & Others has observed that, "There are also instances where despatches of goods are made towards the end of a particular calendar month and the goods reaches the destination in the following month. Therefore, to overcome such technical situation, Government of Assam, office of the Commissioner of Taxes, has issued Circular no.1 of 2008 dtd. 08/01/2008 mandating that as there is no scope for loss of revenue, 'F' Forms covering such transactions should not be rejected on this technical ground." M/s. Dhapi Tea Estate, Naharkatia (2005-06 & 206-07): Audit had raised objection on acceptance of the following 'F' Forms which cover transactions of more than a calendar month: 2005-06: 0626620, 011903, 539851, 0227751, 972774, 358220 and 0100952 for total of Rs. 22,01,660.00). 2006-07: 0359296, 0358354, 810613, 078636, 078602, 236820, 259037, 120292, 0530152, 0530092, 385922 and 0923733 (for total of Rs. 31,65,477.00). The dealer was assessed and demands for Rs. 4,15,011.00 (2005-06) and Rs. 5,63,446.00 (2006-07) were raised. The matter is at present before the Hon'ble Assam Board of Revenue (STA No. 12& 13/2014).

### **OBSERVATIONS/RECOMMENDATIONS**

1.24 The Committee satisfied with the departmental reply and decided to drop the para.

**Non -Completion of CST assessments**  
**(Audit sub-para 2.12.12/C & AG(R/R) /2010-2011)-P-51)**

**1.25** The audit has observed that after scrutiny of records of three unit offices revealed that despite the repeated orders of CT, the assessing authorities did not complete the assessments under the CST Act of 10 dealers having turnover of Rs. 496.89 crore involving tax effect of Rs. 126.82 crore pertaining to 2005-06 and 2006-07 till the date of Audit. Secondly, we observed that the CT, Assam vide circular instructed (April 2008) the assessing authorities that as regards CST returns, dealers should be asked to produce statutory forms at the time of scrutiny. Thus, the circular of CT, Assam gave the benefit of extension of time beyond three months provided under CST (R & T) Rules. Such benefit cannot be extended through a circular of CT as the time limit is statutorily provided in the Central Rules. The Government may consider taking appropriate steps to ensure finalization of CST assessments within the prescribe time limit.

**1.26** The department by their written reply has stated that M/s. Lohpohiya Tea Estate, Jorhat : ACT has reported that assessment for the year 2005-06 & 2006-07 has been completed. Demand of Rs. 1,46,487/- (2006-07) and Rs.99,489.00(2006-07) was raised. The demand dues has been paid as below: (1) 2005-06 - Ch. No. 833 dtd. 12-10-2011 = Rs. 1,46,487.00. (2) 2006-07 - Ch. No. 1247 dtd. 07-11-2011 = Rs. 99,489.00. M/s Duklingia Tea Estate, Jorhat (2005-06 & 2006-07) : ACT has reported that assessment for the years 2005-06 & 2006-07 have been completed. Demand of Rs. 2,38,164.00 (2005-06) and Rs. 8,73,774.00 (2006-07) was raised. The demand dues have been paid as below: 1). 2005-06 - Ch. No. 6279 dtd. 18-03-2014 = Rs. 1,11,938.00, 2) 2005-06- Ch. No. 8388 dtd. 24-02-2014= Rs. 1,26,226.00, Total = Rs. 2,38,164.00, 1) 2006-07 - Ch. No. 8388 dtd. 24-02-2014 = Rs. 8,73,774.00. M/s Birla Tyres, Jorhat (2005-06 & 2006-07): Assessing Officer has reported that assessment for the year 2005-06 & 2006-07 has been completed. Demand of

Rs. 1,22,542.00 (2005-06) and Rs. 67,207.00 (2006-07) was raised. The dealer has failed to deposit the demand dues and hence arrear certificate was issued to ST (R) for realization of Rs. 1,72,547.00 (2005-06), Rs. 68,207.00 (2006-07). The demand due has been paid vide consolidated challan no 7 dtd. 08-04-2011 for Rs. 2,51,621.00 which also includes arrear of Rs. 10,867.00 of 2007-08. M/s. Vishal Vyapar Vikash, Guwahati Unit 'B' (2005-06 & 2006-07) : Assessing Officer has reported that assessment for the year 2005-06 & 2006-07 has been completed. Demand of Rs. 240.00 (2005-06) and NIL (2006-07) was raised. The demand due has been paid as below: 1). 2005-06- Ch. No. 0026210414000022 dtd. 21-04-2014= Rs. 204.00. M/s Leela Distributors, Guwahati Unit 'B' (2006-07): Assessing Officer has reported that assessment for the year 2006-07 has been completed and a demand of Rs. 5,71,771.00 was raised. Aggrieved by the order of assessment the dealer preferred appeal before Revisional Authority. The Authority vide order dtd. 17-07-2013 has set aside the order of assessment and directed to make a fresh assessment. Accordingly, fresh assessment was completed and a demand of Rs. 46,073.00 was raised. The demand has been paid vide consolidated Challan No. 931 dtd. 18-06-2012. M/s. Indian Oil Corporation Limited Guwahati 'A' (2006-07) : Assessment completed on 20/03/2012 with no demand dues. M/s Bata India Limited, Guwahati 'A' (2005-06 & 2006-07) : Assessment for 2005-06 was completed on 20/03/2012 with demand dues of Rs.10,26,648/-. Amount paid vide challan no. 3030140311014654 dtd. 14/03/2011 for Rs. 2,57,000.00 and challan no. 030230611020792 dtd. 23/06/2011 for Rs. 7,69,648.00. For 2006-07 assessment was completed on 20/03/2012 with demand dues of Rs. 11,91,065/- which was paid vide challan no. 3030230212039450 dtd 23/02/2012 for Rs. 11,91,065.00. M/s. Samsung India Electronics Private Limited Guwahati Unit 'A' (2006-07) : Assessment for the year 2006-07 was completed on 20/03/2012 with demand dues of Rs. 4,885/- which is paid vide challan no. 5 dated 16/08/2013. M/s. Asian Electronics Guwahati Unit 'A' (2005-06 & 2006-07) : For 2005-06

assessments was completed with demand dues of Rs. 77,384/- which was realised vide treasury challan no. 6360 dated 01/02/2012. For 2006-07 assessments was completed with demand dues of Rs. 1,16,064/- which was realised vide treasury challan no. 6363 dated 01/02/2012. M/s Burnett Pharmaceuticals Guwahati Unit 'A' (2005-06 & 2006-07) : Assessments was completed with a demand of Rs. 2,85,633.00 (2005-06) & Rs. 1,48,066.00 (2006-07). Aggrieved by the order of assessment, the dealer preferred appeal before Appellate Authority. Appellate Authority vide order dtd. 30-10-2013 has directed to reframe fresh order. As per Appellate Order, fresh assessment was done with a demand of Rs. NIL (Excess Rs. 68,108.00) (2005-06) & Rs. NIL (Excess Rs. 36,598.00 ) (2006-07). Excess determined due to adjustment of amount of Rs. 71,408.00 (2005-06) & Rs. 37,016.00 (2006-07) paid at the time of filing of appeal.

### **OBSERVATIONS/RECOMMENDATIONS**

**1.27** The Committee satisfied with the departmental reply and decided to drop the para.

**Irregular grant of exemption  
(Audit sub para 2.12.13/C & AG(R/R) /2010-2011)-P-52)**

1.28 The audit has observed that the assessing authorities while assessing seven cases in five unit officers for the years 2003-04 to 2007-08 between March 2007 and March 2010 allowed irregular exemption on account of branch transfer of goods valued at Rs. 21.25 crore resulting in non-levy of tax amounting to Rs. 1.95 crore as mentioned in the Table

Sl No	Name of unit Number of dealers	Period of assessment Assessed/ Re-assessed between	Turnover Exempted incorrectly (Rs. In lakh)	Nature of Irregularity	Tax interest (Rs.In lakh)
1	Guwahati, Unit D One(M/s Pavetone Agency)	2005-06 October 2008	27.14	Scrutiny revealed that four Forms "F" covering transaction of Rs 27.14 lakh were invalid with effect From June 2001 as intimated by the Commissioner of Taxes, Nagaland to Commissioner of Taxes, Assam, which the AO failed to notice and tax the turnover accordingly.	<u>3.39</u> 2.85
After we pointed this out, the Department stated that the assessment of M/s pavetone Agency Private Limited was revised and demand notice was issued by levying tax cum interest of Rs.6.75 lakh.					
2.	<u>Hailakandi</u> One (M/s Lalamukh tea Estate)	<u>2004-05 and 2005-06</u> August 2007	164.55	Scrutiny revealed that 48 declaration Forms 'F' involving goods valued at Rs. 16.16 crore (out of Rs. 35.18 crore) covered one calendar month and beyond. Transaction for 1 <sup>st</sup> calendar month was Rs. 6.21 crore. Thus, transaction beyond one calendar month totaling Rs. 9.95 crore was liable to be taxed, which was not done	<u>16.45</u> 18.44
	<u>Mangaldoi</u> One (M/s Dhansiri Tea Estate)	<u>2007-08</u> March 2010	299.38		<u>11.98</u> 5.75
	<u>Dhekiajuli</u> One (M/s Panbari Tea Estate)	<u>2005-06</u> March 2008	381.82		<u>38.18</u> 32.65
	<u>Silchar</u> One (M/s Kalline Tea Estate)	<u>2004-05</u> February 2008	89.39		<u>8.94</u> 12.34
After we pointed this out the Department stated that it was a technical mistake. The reply was not acceptable as one Form 'F' should cover the transactions of one calendar month accordingly to the CST Act and Rules made thereunder.					

3	Golaghat One (M/s Khumtai Tea Estate)	2005-06 March 2007	1100.00	Goods worth Rs. 13.52 crore were transferred to other States by the dealer. Scrutiny revealed that out of the above amount turnover of Rs. 2.52 crore only was supported by forms 'F'. Thus, tax was leviable on goods valued at Rs. 11 crore transferred outside the State and not supported by valid forms 'F' which was not done.	<u>110.00</u> 94.06
After we pointed this out, the Department stated that permission for rectification of original assessment has been sought from the Commissioner of Taxes. Confirmation of rectification is awaited.					
4	Hailakandi One(M/s Chandyapur Tea Estate)	2003-04 and 2004-05 March, 2007 and March 2008	62.44	The AO allowed exemption of goods worth Rs. 62.44 lakh as stock transfer, which was not supported by Forms 'F'.	<u>6.24</u> 9.89
We are yet to receive the reply of the Department in this case					
Total					<u>195.18</u> 175.98

**1.29** The department by their written reply has stated that M/s. Paveton Agencies, Guwahati Unit 'D' (2005-06) : Assessment was completed in the light of audit objection and a demand of Rs. 6,84,400/- has been realised as detail below: i) Ch. No. 6/08 dtd. 29-03-2012 = Rs. 1,71,100.00 ii) Ch. No. 3/42 dtd. 20-01-2012 =Rs. 1,71,100.00 iii) Ch. No. 44 dtd. 21-10-2011 = 1,71,100.00 iv) Ch. No. 5034 dtd. 30-07-2011 =1,71,100.00 . Total = Rs. 6,84,400.00. M/s. Lallamookhi Tea Estate, Hailakandi (2004-05 & 2005-06) : At the time of verification of records and documents, it was found that the concerned goods were despatched on stock transfer and there were no irregularities. Sometimes it so happens that goods despatched at the last part of one calendar month reaches the consignee in the next month and in such cases the despatches are shown in Form 'F' of the next calendar month. Since such cases of 'F' Forms are only technical matter and since the transactions/transfers had been properly accounted for, there had been no evasion or loss of tax. In this connection, Commissioner of Taxes, Assam vide Circular No. 1/2008 (CTS-35/2000/271 dtd. 08/01/2008) has stated that as the consignments are properly accounted for, there is no scope for loss of revenue and 'F' Forms covering such transaction cannot be rejected simply on this technical ground. The Hon'ble Gauhati

High Court, in WP(C) No. 2329/2015 in M/s. Ethelwold Estate Pvt. Ltd. Vs. the State of Assam & Others has observed that, "There are also instances where despatches of goods are made towards the end of a particular calendar month and the goods reaches the destination in the following month. Therefore, to overcome such technical situation, Government of Assam, office of the Commissioner of Taxes, has issued Circular no.1 of 2008 dtd. 08/01/2008 mandating that as there is no scope for loss of revenue, 'F' Forms covering such transactions should not be rejected on this technical ground." M/s. Dhansiri Tea Estate, Mangaldoi (2003-04 and 2004-05) : The forms 'F' which were said to be defective were examined with the Books of Accounts and found that the quantity were properly accounted for and there was no loss of revenue. Sometimes, it happens that goods that were dispatched in last part of a calendar month are received by the principal or agent in the next month accordingly issue dates are mentioned. In this connection, Commissioner of Taxes, Assam Vide Circular No. 1/2008 (CTS-35/2000/271 dated 08/01/2008) has stated that as the consignments are properly accounted for, there is no scope for loss of revenue and 'F' Forms covering such transaction cannot be rejected simply on this technical ground. The dealer however has also submitted fresh 12 nos. of Form - F . M/s. Panbari Tea Estate, Dhekiajuli (2003-04 & 2004-05) The forms 'F' bearing Serial No. 644890, 644889, 644892, 644893 and 644894 which were said to be defective were examined with the Books of Accounts and found that the quantity were properly accounted for and there was no loss of revenue. Sometimes, it happens that goods that were despatched in last part of a calendar month are received by the principal or agent in the next month accordingly issue dates are mentioned. In this connection, Commissioner of Taxes, Assam vide Circular No: 1/2008(CTS-35/2000/271 dtd. 08/01/2008) has stated that as the consignments are properly accounted for, there is no scope for loss of revenue and F forms covering such transaction cannot be rejected simply on this technical ground. M/s. Kallain Tea Estate, Silchar (2003-04 & 2004-05): The declaration form 'F' bearing Sl No.

497715, 497717, 497722, 497724, 249174 and 249696 were accepted at the time of assessment after verification of consignment sale accounts of the dealer along with all relevant documents. The transactions were regular and duly accounted for in the dealer's Books of Accounts and there had been no loss of revenue. The goods despatched in the last part of calendar month for consignment sale and which were received by principal or commission agent in the next month and shown in 'F' accordingly and covers more than one month. In this connection, Commissioner of Taxes, Assam vide Circular No. 1/2008 (CTS-35/2000/271 dtd. 08/01/2008) has stated that as the consignments are properly accounted for, there is no scope for loss of revenue and F forms covering such transaction cannot be rejected simply on this technical ground. M/s. Kumtai Tea Estate, Golaghat (2003-04 & 2004-05) : The matter was examined and found that all 'F' Forms against stock transfer to Head Office were submitted by the dealer on time, but misplaced somehow at the time of Audit Scrutiny. Since the 'F' Forms were submitted and found in order, the demand cannot be raised. M/s. Chandipore Tea Estate, Hailakandi (2003-04 and 2004-05) : Assessment was done after physical verification of 'F' forms. The forms were somehow misplaced from the case records at the time of scrutiny by Audit. M/s. Hindustan Paper Corporation Ltd., Morigaon (2003-04): Assessment has been completed with a demand of Rs. 4,34,56,381.00. The case is at present before the Hon,ble Assam Board of Revenue (ABR case no. 55 STA/2014). M/s. Ambica Sales, Guwahati Unit 'D' (2005-06): Assessment was completed by rejecting the Form-C No. NL 029790 for Rs. 2,23,046.00 with a demand of Rs. 41,471.00. The demand dues have been realised vide challan no. 3030120613058843 dated 12/06/2013. M/s. Asian Paints Ltd., Guwahati Unit 'D' (2006-07) : The dealer has replaced the obsolete/defective Form-C. (95C 209908 for Rs. 4,74,708.00, 01FF 094281 for Rs. 3,33,621.00 AA0086343 for Rs. 78,879.46, AA0085441 for Rs. 60,278.00, GG 0073017 for Rs. 11,797.00, NL 068949 for Rs. 1,06,604.00, JJ 0046105 for Rs.2,99,543.00, JJ 0046106 for Rs. 2,68,638.00 & JJ 0046107 for



Rs. 3,36,146.00). These were accepted after examination. M/s. Mother Dairy Food processing Limited, Guwahati Unit 'B' (2004-05): Re-assessment was completed and subsequently arrear certificate was issued to ST(R) on 07-07-2011. Aggrieved by the order of re-assessment, the dealer preferred appeal before Appellate Authority. Appellate Authority vide order dtd. 25-03-2014 has annulled the order of re-assessment and restored the original order of assessment. M/s. North-East Distilleries Private Ltd., Guwahati Unit 'D' (2005-06): Assessing Officer has reported that assessment was completed by DCT, Zone-C on 30-03-2011 and a demand of Rs. 82,17,630.00 was levied. Aggrieved by the order of assessment, the dealer preferred appeal before Revisional Authority. Revisional Authority vide order dtd. 18-03-2013 has set aside the order of assessment and has directed to give credit to the amount of Rs. 10,32,365.00 paid by the dealer. The said amount has been refunded vide Sanction Order No. CTS-4/2011/6 dtd. 24-10-2013. M/s. Pepsico India Holding Private Ltd., Guwahati Unit 'D' (2005-06): The dealer has furnished new 'C' form No. NL 084719 for Rs. 17,53,756.00 which was accepted by the Appellate Authority [DCT(A), Guwahati] vide order dtd. 06-01-2012. M/s. Singhi Cables & Conductor, Jorhat (2006-07): The dealer has furnished fresh 'C' Form No. NL 104804 for Rs. 21,82,477.00 which was accepted by the Assessing Officer and fresh 'C' form No. NL. 059934 for Rs. 12,84,090.00 & NL. 059935 Rs. 19,21,112.00 which was accepted by the Assessing Officer. M/s. T.C.L. India Holding (P) Ltd. Guwahati Unit 'D' (2006-07): In the light of audit observation, assessment was completed with a demand of Rs. 97,625.00. Later on Arrear Certificate was to ST (R) for an amount of Rs. 1,03,762.00 which was realised vide Ch. No. 330 dtd. 09-01-2012.

### **OBSERVATIONS/RECOMMENDATIONS**

**1.30** The Committee satisfied with the departmental reply and decided to drop the para.

**Irregular assessment at concessional rate  
(Audit sub para 2.12.14.1/C & AG(R/R) /2010-2011)-P-54)**

**1.31** The audit has observed that the assessing authority, while finalizing the assessments of M/s Hindustan Paper corporation Limited in April 2010 allowed concessional rate of four percent on a turnover of Rs. 198.11 crore for the year 2003-04. Audit found from the case records that interstate sales amounting to Rs. 13.41 crore (out of Rs. 198.11 crore ) related to the year 2004-05 but were allowed to be taxed at concessional rate during 2003-04. This resulted in irregular allowing of concessional rate of tax on the turnover of Rs. 13.41 crore and consequent short levy of tax of Rs.77.38 lakh and interest amounting to Rs. 1.28 crore. After Audit has pointed this out , the Department stated (August 2011) that the assessment for the year 2003-04 has been revised and demand notice of Rs. 2.93 crore including interest has been issued to the dealer. Report of recovery is awaited (August 2011).

**1.32** The department by their written reply has stated that M/s. Hindustan Paper Corporation Limited, Morigaon (2003-04) : Assessment was completed with a demand of Rs. 4,34,56,381.00. The case is at present before Hon'ble Assam Board of Revenue [ABR case No. 55 STA/2014].

**OBSERVATIONS/RECOMMENDATIONS**

**1.33** The Committee has observed that this matter is also Sub-Judice. Therefore the Committee directed to the department for submitting the latest position within 30 days to the Committee from the date of presentation of the Report before the House.

**Irregular assessment at concessional rate  
(Audit sub para 2.12.14.2/C & AG(R/R) /2010-2011)-P-54-55)**

**1.34** The audit has observed that In Assistant Commissioner of Taxes, Guwahati Unit-B, D and Jorhat, Audit observed (between June 2009 and February- March 2010 ) that the assessing authorities while finalizing the assessments of eight dealers for the years 2004-05 to 2006-07 between May 2007 and March 2009 allowed concessional rate of tax of four percent on a turnover of Rs. 50.01 crore. The Audit found from the case records that interstate sales amounting to Rs. 1.49 crore were supported by declarations in Form 'C' which were declared invalid by the Government of Nagaland and the same should have been denied the benefit of concessional rate of tax. This was not done. Thus, inaction on the part of the assessing authorities to take note of the circular of the CT, Assam in this regard resulted in irregular allowance of concessional rate on the turnover covered by invalid declaration forms and short levy of tax of Rs. 12.62 lakh and non levy of interest of Rs. 12.90 lakh. After Audit pointed this out, the Department stated that in respect of M/s Asian Paints, M/s North East Distilleries, M/s Pepsico India Holding Private Limited and M/s TCL India Holding Private Limited, the assessments have been completed and demand notices issued. In respect of M/s Ambica Sales, M/s Singhi Cable and M/s Singhi Conductor, the Department stated that the dealers have submitted fresh 'C' forms in replacement of the earlier fake 'C' forms, which were accepted by the AO. The reply of the Department was not acceptable as acceptance of fresh 'C' forms against fake ones without revisional orders of the next higher authority was improper and irregular. Besides, the reply was silent regarding the action taken against the AO for failing to detect the fake 'C' forms despite these were circulated by the CT , Assam causing loss to the State exchequer.

**1.35** The department by their written reply has stated that M/s. Ambica Sales Guwahati Unit 'D' (2005-06) : Assessment was completed by rejecting the Form-C No. NL 029790 for Rs. 2,23,046.00 with a demand

of Rs. 41,471.00. The demand dues have been realised vide challan No. 3030120613058843 dated 12/06/2013. M/s. Asian Paints Limited, Guwahati Unit 'D' (2006-07) : The dealer has replaced the obsolete/defective Form-C (95C 209908 for Rs. 4,74,708.00, 01FF 094281 for Rs. 3,33,621.00, AA 0086343 for Rs. 60,278.00, GG0073017 for Rs. 11,797.00 NL 068949 for Rs. 1,06,604.00, JJ 0046105 for Rs. 2,99,543.00, JJ 046106 for Rs. 2,68,638.00 & JJ 0046107 for Rs. 3,36,145.00). These were accepted after examination. M/s. Mother Dairy Food Processing Limited, Guwahati Unit 'B' (2004-05) : Re-assessment was completed and subsequently arrear certificate was issued to ST(R) on 07-07-2011. Aggrieved by the order of Re-assessment, the dealer preferred appeal before Appellate Authority. Appellate Authority vide order dtd. 25-03-2014 has annulled the order of re-assessment and restored the original order of assessment. M/s. North East Distilleries Private Limited, Guwahati Unit 'D' (2005-06) : Assessing officer has reported that assessment was completed by DCT, Zone-C on 30-03-2011 and a demand of Rs. 82,17,630.00 was levied. Aggrieved by the order of assessment, the dealer preferred appeal before Revisional Authority. Revisional Authority vide order dtd. 18-03-2013 has set aside the order of assessment and has directed to give credit to the amount of Rs. 10,32,365.00 paid by the dealer. The said amount has been refunded vide Sanction Order No. CTS-4/2011/6 dtd. 24-10-2013. M/s. Pepsico India Holding Private Limited, Guwahati Unit 'D' (2005-06) : The dealer has furnished new 'C' form no. NL 084719 for Rs. 17,53,756.00 which was accepted by the Appellate Authority [DCT(A), Guwahati] vide order dtd. 06-01-2012. M/s Singhi Cables, Jorhat (2006-07): The dealer has furnished fresh 'C' form No. NL. 104804 for Rs. 21,82,477.00 which was accepted by the Assessing Officer. M/s. Singhi Conductor, Jorhat (2004-05 & 2005-06) : The dealer has furnished fresh 'C' form No. NL. 059934 for Rs. 12.84.090.00 & NIL 059935 for Rs. 19,21,112.00 which was accepted by the Assessing Officer. M/s. T.C.L, India Holding (P) Ltd., Guwahati Unit 'D' (2006-07): In the light of audit observation,

assessment was completed with a demand of Rs. 97,625.00. Later on Arrear Certificate was to ST(R) for an amount of Rs. 1,03,762.00 which was realised vide Ch. No. 330 dtd. 09-01-2012.

### **OBSERVATIONS/RECOMMENDATIONS**

**1.36** The Committee has observed that this matter is also Sub-Judice. Therefore the Committee directed to the department for submitting the latest position within 30 days to the Committee from the date of presentation of the Report before the House.

**Incorrect grant of exemption on export  
(Audit para 2.14/C & AG(R/R) /2010-2011)-P-57-58)**

1.37 The audit has observed that the assessing officer (AO), while finalizing the assessment of M/s Hindustan Paper Corporation for the year 2003-04 in April 2010, allowed exemption from payment of tax on a turnover of Rs. 2.56 crore on the basis of 23 certificates from the Customs officer at Birganj, Nepal and three forms H. Though the CST Rules clearly provide that exemption on export be allowed only if the turnover is supported by valid documents of export such as bill of lading, clearance of goods for export by Indian land customs stations and mode of receipt of payment on export sales, the AO allowed exemption on export sales only on the basis of form and certificates from customs office of Nepal. This irregular allowance of exemption resulted in short levy of tax of Rs. 25.60 lakh and interest of Rs. 42.50 lakh. Incidentally, it may be mentioned that irregular exemption of export sales in respect of M/s Hindustan Paper Corporation by the AO, Morigaon for the year 2002-03 has been pointed out in the last Audit Report, yet the mistake persisted while finalizing the assessment of 2003-04 as well. This shows slackness and negligence on the part of the AO in ensuring that the provisions of the relevant Acts and Rules are followed in letter and spirit. After audit pointed this out, the Department stated (August 2011) that the assessee furnished ARE-I amounting to Rs. 2.28 crore as goods were actually exported and tax and interest on the balance amount of Rs. 29 lakh, treating the same as inter-state sale to other dealers not covered by declaration forms has been levied. The first part of the reply is not acceptable as we could not ascertain the veracity of claim of export as part B of the ARE-1 relating to 'Certification by Customs Officer' had neither been filled up nor signed by the customs officer. Further reply is awaited (August 2011). Also, Audit is yet to receive action taken note in respect of our observation for 2002-03. AG has reported the matter to the Department and the Government in June 2010 and followed up in February 2011. AG has not received their replies (August 2011).

**1.38** The department by their written reply has stated that M/s. Hindustan Paper Corporation Limited, Morigaon (2003-04) : Assessment was completed with a demand of Rs. 4,34,56,381.00. The case is at present before Hon'ble Assam Board of Revenue [ABR case no. 55STA/2014].

### **OBSERVATIONS/RECOMMENDATIONS**

**1.39** The Committee has observed that this matter is also Sub-Judice. Therefore the Committee directed to the department for submitting the latest position within 30 days to the Committee from the date of presentation of the Report before the House.

**Short levy of value added tax on works contract  
(Audit para 2.15/C & AG(R/R) /2010-2011)-P-58-59)**

**1.40** The audit has pointed out that the AO while finalizing the assessment of M/s Badri Rai & Co in October 2008 for the assessment year 2006-07 allowed deduction towards labour and other charges of Rs. 14.86 crore against the claim of Rs. 14.98 crore from the total turnover of Rs. 20.06 crore on the grounds that the claim of the dealer was high. Scrutiny revealed that the dealer was allowed deduction of Rs. 14.86 crore against actual deductible amount of Rs. 5.81 crore. This resulted in short levy of tax Rs. 1.13 crore and interest Rs. 44.12 lakh. After Audit pointed this out, the Department stated (August 2011) that the assessment was revised on 1.8.2009 by levying tax of Rs. 1.57 crore. But the dealer preferred an appeal against the revised assessment and the appellate authority directed (27 September 2010) the AO to make fresh assessment determining the net taxable turnover at different rates of four percent and 12.5 percent on Rs. 3.72 crore and Rs. 7.28 crore respectively . Though the orders of the appellate authority were not in conformity with the provisions of the Act, the AO revised (January 2001) the assessment accordingly levying tax amounting to Rs. 86.90 lakh. Further, the AO while finalizing the assessment allowed deduction of Rs. 75 lakh towards works in progress which was not ordered by the appellate authority. This resulted in short levy of tax of Rs. 50.63 lakh (leviable Rs. 1.38 crore - levied Rs. 86.90 lakh) and interest of Rs. 20.51 lakh. AG has reported the matter to the the Government in October 2009 and followed up in March 2011. AG has not received their replies ( August 2011).

**1.41** The department by their written reply has stated that M/s. Badri Rai & Co. Duliajan, Naharkatia (2006-07) : assessing Officer has informed that in the light of audit objection re-assessment was completed on 01-08-2009 by levying tax/interest for Rs. 1,56,51,819.00. Aggrieved by the order of assessment, the dealer preferred appeal before Appellate Authority. Appellate Authority vide



order dtd. 27-09-2010 has set aside the order of assessment and directed to make fresh assessment as per observation made in the order. As per direction of Appellate Authority, fresh assessment was completed on 05-01-2011. However, there was a mistake apparent from the record and hence the assignment was rectified with a demand of Rs. 7,41,207.00. The demand has been cleared by the dealer vide Ch. No. NIL dtd. 03-10-2011. [Rs. 7,41,207.00+Rs. 26,174.00 (Further interest)].

### **OBSERVATIONS/RECOMMENDATIONS**

1.42 The Committee satisfied with the departmental reply and decided to drop the para

**Excess remission benefit to industrial units  
(Audit para 2.16/C & AG(R/R) /2010-2011)-P-59-60)**

**1.43** The audit has pointed out that the Taxation Department issued authorization certificate to M/s Krishna Food Product based on eligibility certificate of the Industries Department for granting exemption from payment of tax for seven years with effect from 15 January 2000 subject to a maximum of Rs. 11.56 lakh (150 percent of fixed capital investment of Rs. 7.71 lakh ). Scrutiny revealed that the dealer enjoyed tax benefit of Rs. 15.15 lakh (upto 14 June 2007) instead of Rs. 11.56 lakh. This resulted in excess grant of exemption from tax of Rs. 3.59 lakh including interest of Rs. 2.37 lakh (calculated upto March 2011). After Audit pointed this out, the Department stated (August 2011 ) that the assessment has been revised and demand notice for Rs. 6.83 lakh issued. AG has not received the report on recovery (August 2011). Audit observed that the AO, while finalizing the assessments of M/s Polycon Industries allowed exemption from payment of tax for unit I (water storage tank) of Rs. 84.03 lakh during 12.10.1999 to 11.10.2006 against the maximum limit of Rs. 35.61 lakh. This resulted in excess allowance of tax exemption of Rs. 48.42 lakh. In additional, interest of Rs. 28.63 lakh was also leviable which was not levied. After audit pointed this out , the Department stated (August 2011) that the dealer was granted another exemption of Rs. 21.11 lakh in August 2010 for the period April 2005 to April 2012. Thus, the actual excess exemption was worked out as Rs.27 lakh. The Department further stated that assessment order has been passed levying tax of Rs. 22.41 lakh and interest of Rs. 8.84 lakh of which Rs. 9.50 lakh has since been recovered. Report on recovery of the balance amount is awaited (August 2011). Audit observed that a dealer M/s Madhabi Biscuits Pvt. Ltd. was granted entitlement certificate for exemption of tax with validity from 12 December 2006 to 11 December 2015 as category 'B' subject to maximum Rs. 1.47 crore (90 percent of additional investment of Rs. 1.63 crore). Scrutiny revealed that the

dealer enjoyed exemption of Rs. 1.55 crore (upto September 2009) without restricting it to the maximum ceiling of Rs. 1.47 crore. This resulted in excess allowance of exemption of Rs. 8.03 lakh and non-levy of interest of Rs. 2.17 lakh. After Audit pointed this out, the Department stated (August 2011) that assessment order has been passed and demand notice issued for payment of tax of Rs. 15.93 lakh and interest of Rs. 3.40 lakh. Report on recovery is awaited ( August 2011 ).In Assistant Commissioner of Taxes, Guwahati Unit-D, Audit observed (February-March 2010) that the AO while finalizing the assessments of M/s Jagriti Industries (industrial unit) allowed exemption from payment of tax of Rs. 56.56 lakh against the maximum limit of Rs. 64.16 lakh (150 percent of capital investment of Rs. 42.76 lakh) from 1 December 1999 to 30 November 2007 (for eight years) on the basis of entitlement and eligibility certificate issued by the concerned authorities. The period of tax benefit should have been restricted upto 14 May 2007 for Rs. 54.54 lakh after applying the formula prescribed under clause 3(3) of the Tax Remission Scheme 2005. This was not done and it resulted in excess allowance of tax exemption of Rs. 2.02 lakh. In addition, interest of Rs. 1.04 lakh was also leviable. After this, Audit has pointed out, the Department stated (August 2011) that the industrial unit deposit the tax amount of Rs. 2.02 lakh and the interest is in process of realization. Audit has not receive the report on realization of interest of Rs. 1.04 lakh (upto the date of payment of tax). AG reported the case to the Department / Government between November 2009 and November 2010 ; AG has yet to receive their comments / replies (August 2011).

1.44 The department by their written reply has stated that M/s. Krishna Food Products, Dhubri (2005-06 to 2007-08): The original assessments in respect of M/s Krishna Food Products, Dhubri for the periods 2005-06, 2006-07 and 2007-08 were completed on 22/03/2011. Being aggrieved on the order of assessment, the dealer has filed revision petitions before the Commissioner of Taxes, Assam (Hereinafter called the Revisional Authority). The Authority vide order dated 05/12/2011 set aside the

assessments and directed the Superintendent of Taxes to treat the commodity under Sl. I of Schedule V as per earlier assessments and to calculate the interest from the date of classification by the Commissioner of Taxes on 10/12/2007 vide letter No. CTMS 33/2005/147. Accordingly, the reassessments for the periods 2005-06, 2006-07 and 2007-08 were completed on 24/01/2012 and the demands amounting to Rs. 2,49,298/- were raised on the dealer. The period-wise demands are noted below :

<b>Periods</b>	<b>Demands</b>
2005-06	Nil
2006-07	Rs. 1,09,519.00
2007-08	Rs. 1,39,779.00
<b>Total Rs. 2,49,298.00</b>	

The entire amounts of demands were realised as detailed as under :-

Amount	Challan no. and date
Rs. 1,50,000.00	5 dated 29/02/2012
Rs. 15,000.00	26/03/2012
Rs. 76,000.00	66 dated 30/05/2012
Rs. 8,298.00	1 dated 13/07/2012
<b>Total Rs. 2,49,298.00</b>	

M/s. Polycon industries, Guwahati Unit 'D' (2007-08, 2008-09 & 2009-10): The industrial unit was granted additional eligibility certificate for exemption of Rs. 21.11 lakh for the period from 20-04-2005 to 19-04-2012 over and above the original eligibility amount of Rs. 35.60 lakh. Accordingly, assessment(s) were completed by and demands were raised as follows:

<b>Year</b>	<b>Tax</b>	<b>Interest</b>	<b>Total</b>
2007-08	Rs. 834338.00	Rs. 646573.00	Rs. 1480911.00
2008-09	Rs. 456727.00	Rs. 431624.00	Rs. 888351.00
2009-10	Rs. 1513172.00	Rs. 317767.00	Rs. 1830939.00

Subsequently, arrear certificate was issued to ST(R) for total amount of Rs. 42,00,201.00. A total of Rs. 41,54,237.00 has been realised vide challans dated 12-07-2012 (Rs. 2,00,000.00), 24-04-10 (Rs. 3,00,000.00), 28/08/2011 (Rs. 6,50,000.00), 22/11/2011 (Rs. 5,00,000.00), 25/01/2011 (Rs. 2,41,065.00), 03/08/2011 (Rs. 4,56,727.00, Rs. 5,54,455.00, Rs. 8,34,338.00), 28/01/2013 (Rs. 2,17,652.00) and 26/07/2013 (Rs. 2,00,000.00).

M/s. Madhabi Biscuit Pvt. Ltd., Tezpur : Total dues of Rs. 19.33 lakhs (Tax = Rs. 15.93 lakhs and interest = Rs. 3.40 lakhs) was realised as per details below :

Sl.No.	Challan No.	Date	Amount (In Rs.)
1	109	01/07/11	200000
2	16	12/11/11	200000
3	3	14/12/11	200000
4	4	16/12/11	200000
5	3	12/01/12	100000
6	5	14/02/12	200000
7	22	31/03/12	200000
8	2	28/04/12	200000
9	6	11/07/12	92804
10	2	08/09/12	100000
11	4	06/10/12	100000
12	3	30/11/12	190536
<b>Total</b>			<b>1983340</b>

M/s. Jagriti Industries, Guwahati Unit 'D' (2007-08) : The dealer has deposited Rs. 2,01,530.00 (Ch. No. 2/05-04-2010 Rs. 67,177.00, Ch. No. 11/28-04-2010 Rs. 67,176.00 and Ch. No. 22/26-06-2010 Rs. 67,177) before completion of assessment. Subsequently, audit assessment was completed on 12-11-2011 wherein from the assessment order it is found that remission of Rs. 29,789.00 only was allowed upto 13-05-2007 and vide the order interest of Rs. 1,00,918.00 was levied. The interest has been realised vide Ch. No. 24/16-12-2011 for

Rs. 1,00,918.00. Detail of the assessment order : Total tax payable = Rs. 3,19,172.00, Less Remission allowed =Rs. 29,789.00, Tax payable =Rs. 2,89,383.00, Tax paid 2,93,035.00, Excess Tax =Rs. 3,652.00, Interest levied =Rs. 1,00,918.00

### **OBSERVATIONS/RECOMMENDATIONS**

**1.45** The Committee satisfied with the departmental reply and decided to drop the para.

**Incorrect grant of authorization certificate to industrial unit  
(Audit para 2.17/C & AG(R/R) /2010-2011)-P-61)**

**1.46** The audit has pointed out that the AO, while finalizing the assessments of M/s Arihant Stone Crusher allowed exemption from payment of tax of Rs. 7.87 lakh during the period 2001-02 to 2006-07. In view of the Apex Court's verdict, the authorization/ entitlement certificate granted by the Sales Tax Department was irregular and resulted in undue exemption/remission of tax of Rs. 7.87 lakh. In addition, interest amounting to Rs. 8.21 lakh was also payable. After A.G. pointed this out, the Department stated (August 2011) that they have approached the Industries Department for cancellation of the entitlement certificate by the District Industries Centre. A.G. has received details of further development in the matter (August 2011). A.G. has not reported the matter to the Government in April 2010 and followed up in February 2011. A.G. has yet to receive their comments / replies (August 2011).

**1.47** The department by their written reply has stated that the General Manager DICC Silchar clarifies vide letter Number CADIC (US)/P-97/69/Pt-I/2001/2637 dated 24/02/2011 that the Eligibility Certificate was issued to the M/s Arihant Stone Crusher, Silchar on recommendation of District level Committee. The dealer approached to the Hon'ble High Court challenging the cancellation notice. The Hon'ble Guwahati High Court in its Judgment upheld the appellant and the authority is not allowed to proceed for any further action which may alter getting remission benefit under the Remission scheme vide WP © 3305/2011.

**OBSERVATIONS/RECOMMENDATIONS**

**1.48** The Committee satisfied with the departmental reply and decided to drop the para.

**Incorrect grant of concession rate of tax against Form 'B'**  
**(Audit para 2.18/C& AG (R/R)/2010-11) P-62)**

**1.49** The audit has pointed out that the AO while finalizing the assessment of three registered dealers for 2004-05 and 2005-06 (April 2005), levied tax at the concessional rate of four percent on the taxable turnover of Rs. 4.38 crore on account of sales to Government Department against Form 'B'. Scrutiny revealed that the turnover pertained to the period beyond April 2004 to April, 2005 and thus was not entitled to concessional rate of tax. This resulted in short levy of tax of Rs. 38.58 lakh including additional tax. In addition, interest of Rs. 54.76 lakh was also leaviable (calculate upto March 2011). After the audit pointed this out, the Department stated that the assessment in respect of two dealers (M/s. ACC and M/s. Singhi Conductors) had been revised and additional demand of Rs. 9.81 lakh and Rs. 48.79 lakh including interest respectively had been issued. In respect of M/s. Godrej and Boyce Mfg., no specific reply was furnished by the Department. The Audit reported the cases to the Government between August 2009 and December 2010 and followed up between January and march, 2011. The Audit is yet to receive their comments/ replies (August 2011).

**1.50** The department by their written reply has stated that the M/s. A.C.C. Ltd., Guwahati Unit 'B': The dealer was assessed levying tax and interest of Rs. 9,80,881/-. The amount has been realised vide challan no. NIL dated 24/08/2011. M/s. Godrej & Boyce Mfg. Co. Limited, Guwahati Unit 'C', (2004-05): Hon'ble Gauhati High Court vide it s orders & Judgement dated 17/03/2011 in M/s. Kamakhya Plastics (P) Ltd. Vs. State of Assam [Writ Appeal No. 381/2010] and [M/s. Universal Pipes (P) Ltd. Vs. State of Assam [Writ Appeal No. 393/2010] has observed that "It becomes clear that the notification dated 03/01/2003 which mentions to have come into force with effect from 01/05/2001 must be treated and ought to have been treated to have come into force on the date of its issue i.e. w.e.f. 03/01/2003 and



cannot be and could not have been, treated to have come into force retrospectively w.e.f. 01/05/2001. " Accordingly, the assessing officer did not initiate and re-assessment proceeding and furnished reply accordingly. M/s. Singhi Conductors, Jorhat (2004-05): The dealer was re-assessed. Aggrieved by the order, the dealer preferred appeal before Revisional Authority. Revisional Authority vide order dtd. 19-03-2012 quashed the re-assessment order and upheld the original assessment order on the basis of the notification number FTX-189/93/P7/258 dated 03/01/2003 and Hon'ble High Court's order against M/s. Universal Pipes (P) Ltd. Vs. State of Assam [Writ Appeal No. 393/2010].

#### **Observations/recommendations**

**1.51** The Committee satisfied with the departmental reply and decided to drop the para.

**Evasion of tax**  
**(Audit para 2.19/C & AG(R/R) /2010-2011)-P-63)**

**1.52** The audit has pointed out that the AO, while completing the assessments of M/s Y K Enterprise for 2004-05 accepted the value of goods purchased from within Assam (Purchase turnover ) of Rs. 4.19 crore as declared by the dealer. Scrutiny of counterfoil of 'A' Form revealed that the dealer purchased cement worth Rs. 2.16 crore (out of Rs. 4.19 crore) from another dealer M/s Jain Enterprise, Dibrugarh by issuing 'A' form bearing number 7256/181388. Cross verification of the assessment records of the selling dealer (M/s Jain Enterprise) revealed that M/s Y K Enterprise had actually purchased cement worth Rs. 3.34 crore against the said 'A' form. As, such, purchase turnover of Rs. 1.18 crore was suppressed by the dealer. This resulted in evasion of tax to the tune of Rs. 5.20 lakh. In addition, interest amounting to Rs. 7.14 lakh (calculated upto January 2011) and penalty of Rs. 7.80 lakh (maximum) was also leviable. After A.G. pointed this out, the Department stated (August 2011) that assessment has been revised under Section 37(1) of the AGST Act and tax and interest has been levied accordingly. A.G. has yet to receive the report on realization of the amount (August 2011). A.G. had reported the case to the Government in August 2010 and followed up in March 2011, A.G. has yet to receive their comments/replies (August 2011).

**1.53** The department by their written reply has stated that M/s. Y.K. Enterprise, Hojai (2004-05) : As per audit objection, the dealer was assessed and levied tax and interest of Rs. 7,40,605/- which was deposited by the dealer vide challan no. 17 dated 22/10/11. However, no penalty was imposed as there was no willful suppression of turnover.

**OBSERVATIONS/RECOMMENDATIONS**

**1.54** The Committee directed the department to realize the reaming amount and deposit into State exchequer and inform the Committee within 30 days from the date of presentation of this Report before the House.

**Concealment of turnover**  
**(Audit para 2.20/ C& AG (R/R)/ 2010-11)- P-64)**

**1.55** The audit has pointed out that the AO while finalizing the assessments of M/s. Sardar Karnail Singh and Sons determined taxable turnover at Rs. 35.88 lakh for the year 2003-04. However, cross-verification of assessment records of the dealer vis-a vis value of excisable goods cleared by the manufacturer as per information obtained from the Central Excise Department revealed that taxable turnover of the dealer during the same period was rs. 67.53 lakh. As such, turnover of Rs. 31.65 lakh was suppressed by the dealer resulting in evasion of tax of Rs. 2.78 lakh. In addition, interest amounting Rs.2.81 lakh and penalty of Rs. 4.17 lakh (maximum) was also leviable which was not levied. After the Audit pointed this out, the Department stated that the assessment has been revised and demand notice of Rs. 5.59 lakh was raised of which tax of Rs. 74,875 has been recovered. The Audit is yet to receive a report of realization of the balance amount. The Audit reported the case to the Government in February 2008 and followed up in March, 2011. The Audit is yet to receive their comments /replies. (August 2011).

**1.56** The Department by their written reply has stated that the M/s. Sardar Karnail Singh and Sons, Dibrugarh (2003-04): As per Audit objection, assessment was revised on 12/05/2008 raising demand of Rs. 4,90,333/- (Tax Rs. 3,09,314/- and additional Interest Rs. 23,044-). Total amount of demanded dues was realised vide 13 nos. of challans.

**Observations/Recommendations**

**1.57** The Committee satisfied with the departmental reply and decided to drop the para.

**Short levy of Interest**  
**(Audit para 2.21/ C& AG (R/R)/ 2010-11)- P-64-65)**

**1.58** The Audit has pointed out that seven dealers based in Bongaigaon and Guwahati failed to pay the full amount of tax payable by them for the years 2005-06 to 2007-08. The AO while completing the assessment between February 2007 and June 2009 assessed and levied interest of Rs. 3.31 lakh against leviable interest of Rs. 12.19 lakh resulting in short levy of interest of Rs. 8.88 lakh. After the Audit pointed this out, the Department stated that the interest of Rs. 5.13 lakh has been recovered from five dealers till date (August 2011). In respect of other two dealers, they stated that they had closed down their business and left the State. Further development has not been reported. The Audit had reported the case to the Government between 2009 and April 2010 and followed up in March 2011. The Audit is yet to receive their comments/replies (August 2011).

**1.59** The Department by their written reply has stated that M/s. Ghosh Brothers, Bongaigaon (2007-08): The amount paid by challan no. 119 dated 24/12/2009. M/s. Godrej & Boyce Manufacturing Co. Ltd., Guwahati Unit 'C' (2005-06, 2006-07 & 2007-08): The interest amount of Rs. 1,95,085/- has been paid by challan dated 05/04/2010. M/s. Khaitan Electrical Ltd., Guwahati Unit 'D'(2005-06, 2006-07 & 2007-08): The interest amount of Rs. 41,084/- for 2005-06, Rs. 1,21,308/- for 2006-07 and RS. 6026/- for 2007-08 have been realised vide challan dated 15/02/2011. M/s. M.P. Agencies, Bongaigaon (2005-06, 2006-07 & 2007-08): Amounts remain unrealized as the firm has left Bongaigaon by closing all its business activities. M/s. Mangal Chand Pabudan, Bongaigaon (2005-06, 2006-07 & 2007-08): Amounts remain unrealized as the firm has left Bongaigaon by closing all its business activities. M/s. Radiant Motors, Guwahati Unit 'D' (2005-06): The interest amount of Rs. 1,60,152/-

has been deposited vide challan dated 16/05/2011. M/s. Reckit Benetiser, Guwahati Unit 'C' ( 2006-07): The interest amount of Rs. 73,014/- has been deposited vide challans dated 14/07/2010 and 13/07/2011.

### **Observations/ Recommendations**

**1.60** The Committee satisfied with the departmental reply and decided to drop the para.

**Turnover escaping assessment**  
**(Audit para 2.22/C & AG(R/R) /2010-2011)-P-65-66)**

**1.61** The audit has pointed out that while assessing a dealer, M/s Dynasty Walford Limited, having a branch named M/s Dynasty Motors Private Limited (dealing in vehicles and spare parts) for the year 2003-04 in February 2005, the AO had mentioned that the dealer had closing stock of taxable goods (vehicles and spare parts) valued at Rs. 62.31 lakh as on 31 March 2004. In September 2003, the name of the branch i.e. M/s Dynasty Motors Private Limited was changed to M/s Overland Auto Private Limited as approved by the Registrar of Companies and the new firm was got registered as a separate entity dealing in vehicles and spare parts under the AGST and Central Sales Tax Acts in April 2004. Audit observed that while the name of the branch was changed and registered as a separate firm, the closing stock of vehicles and spare parts held by the branch as on 31 March 2004 was not brought forward as the opening stock of the new firm as on 1 April 2004. The AO also failed to detect this mistake which resulted in turnover of Rs. 62.31 lakh escaping assessment leading to underassessment of tax of at least Rs. 8.22 lakh. Besides, interest at appropriate rates on the unpaid tax was also leviable. After Audit pointed this out, the AO stated in March, 2011 that the assessment for the year 2004-05 has been revised incorporating stock of goods of Rs. 62.31 lakh in the turnover and an additional demand of Rs. 32.52 lakh has been raised (including other concealments detected during re- assessment). Audit has yet to received confirmation of recovery of tax (August 2011). Audit reported the case to the Department / Government in November 2009 and followed up in March 2011. A.G. have not received their replies (August 2011).

**1.62** The department by their written reply has stated that M/s. Dynasty Walford Limited, Guwahati Unit-C (2003-04): The dealer was assessed and demand notice issued. As the dealer failed to deposit the demand

dues, arrear certificate was issued. In the meantime, the dealer has approached the Hon'ble Gauhati High Court who vide its order dated 11/09/2013 passed an order directing the Respondent no. 3 i.e. the Superintendent of Taxes to decide the objection of the petitioner and convey the decision of the same to the petitioners before effecting their arrest. Now, process is on to dispose of the matter as per direction of the Hon'ble High Court.

### **OBSERVATIONS/RECOMMENDATIONS**

**1.63** The Committee has observed that this matter is also Sub-Judice. Therefore the Committee directed to the department for submitting the latest position within 30 days to the Committee from the date of presentation of the Report before the House.

**Underassessment of tax  
(Audit para 2.23/C & AG(R/R) /2010-2011)-P-66)**

**1.64** The audit has pointed out that the AO while finalizing the assessments of M/s Shree Hari Traders in April 2008 for the year 2005-06, determined the taxable turnover at Rs. 22.04 lakh instead of Rs. 44.59 lakh as per suo-moto provisional order passed by the Deputy Commissioner of Taxes. This resulted in turnover of Rs. 22.55 lakh escaping assessment leading to underassessment of tax of Rs. 1.80 lakh and interest of Rs. 1.60 lakh. After Audit pointed this out, the Department stated (August 2011) that the assessment has been revised and demand of Rs. 3.40 lakh has been issued. Report on recovery is awaited (August 2011) Audit reported the case to the Government in October 2008 and followed up in February 2011. Audit has yet to receive their comments/replies (August 2011).

**1.65** The department by their written reply has stated that M/s. Shree Hari Traders, Barpeta (2005-06): In pursuant to suo-moto order passed by DCT, Zone-B, assessment was completed by ST, Barpeta. Aggrieved by the order the dealer preferred appeal before Revisional Authority. Revisional Authority vide order dtd. 14-0.3-2014 has uphold the order of assessment. Again, the dealer has preferred appeal before the Hon'ble Assam Board of Revenue [STA 53/2014].

**OBSERVATIONS/RECOMMENDATIONS**

**1.66** The Committee has observed that this matter is also Sub-Judice. Therefore the Committee directed to the department for submitting the latest position within 30 days to the Committee from the date of presentation of the Report before the House.



**Incorrect allowance of concessional rate of tax on sales to  
Government Department against 'D' forms.**

**(Audit para 2.24/C & AG(R/R) /2010-2011)-P-66-67)**

**1.67 (2.24.1) :** The audit has pointed out that while finalizing (January and November 2009) the assessments of two dealers for the periods 2004-05 and 2005-06, the AOs irregularly allowed concessional rate of tax on inter-state sale of Rs. 21.03 crore to Government departments against defective 'D' forms. This resulted in short levy of tax and interest of Rs. 5.65 crore. (2.24.2): During scrutiny of assessment records of a dealer in Unit -B Guwahati for the assessment period 2007-08, assessed in September 2008, Audit observed that the AO allowed concessional rate of tax on Rs. 2.38 crore against certificates in form 'D'. The allowance was irregular as the concession on sales to Government Departments against 'D' form was abolished from April 2007. This resulted in short levy of tax and interest of Rs. 3.31 lakh. Audit reported the cases to the Department and the Government in September 2011, Audit has yet to receive their replies.

**1.68** The Department by their written reply has stated that M/s. Hindustan Petroleum Corporation Ltd., Guwahati Unit 'A' (2004-05) : M/s. Hindustan Petroleum Corporation Ltd. is a public sector undertaking. During the period the dealer has made inter-state sale to Government Departments. The objection relates to acceptance of 'D' forms received from various Government Department without proper or insufficient details of the purchasing dealer. ACT has reported that the supplied for Rs. 70.40 lakh were made to the Government Departments on the basis of supply order/Annual Planning and Indent received from the Government Departments. The supply/ purchase orders were issued by these Departments at a later stage to regularize their records and to account for the materials and to issue Form 'D'.

The 'D' Forms were issued after completion of sale and delivery of goods. ACT has also reported supplies for Rs. 1196.60 lakh were made to the Government Departments where in the 'D' form it was mentioned to have been issued to Mumbai. ACT has reported that HPCL is controlled by their Mumbai office and both the office at Guwahati and Mumbai are same entity. It cannot be denied that the goods were sold in the course of inter-state sale by HPCL, a public sector undertaking to Government Departments and as such there is no scope for evasion and loss of Government Revenue. M/s. Steel Authority of India Ltd., Guwahati Unit 'A' (2005-06) : M/s. Steel Authority of India Ltd. is a public sector undertaking. During the period the dealer has made inter-state sale to Government Departments. The objection relates to acceptance of 'D' forms received from various Government Department without proper or insufficient details of the purchasing dealer. ACT has reported that the supplies for Rs.9,06,14,776.79 were made to the Government Departments on the basis of supply order/Annual Planning and Indent received from the Government Departments. The supply/purchase orders were issued by these Departments at a later stage to regularize their records and to account for the materials and to issue Form 'D'. The 'D' Forms were issued after completion of sale and delivery of goods. It cannot be denied that the goods were sold in the course of inter-state sale by SAIL, a public sector undertaking to Government Departments and as such there is no scope for evasion and loss of Government Revenue. M/s J.M. Distributor, Guwahati Unit 'B' (2007-08): Audit raised objection on acceptance of 'D' Form for Rs. 2,38,33,638.00 ( Net Rs. 2,31,39,449.00= Rs. 6,94,189.00 TAX @ 3%) as 'D' Form was abolished w.e.f. 01-04-2017. Tax was levied @ 3% instead of 4% on medicine. Assessing Officer has re-assessed as shown below: Tax payable @ 4% on this Rs. 2,31,39,449.00 = Rs. 9,25,578.00 and interest levied = Rs. 46,894.00

**Tax deposited**

1.	Ch. Dtd. 16-08-2007	= Rs. 1,02,267.00
2.	Ch. Dtd. 21-11-2007	= Rs. 2,95,836.00
3.	Ch. Dtd. 21-11-2007	= Rs. 1,11,344.00
4.	Ch. Dtd. 20-12-2007	= Rs. 45,884.00
5.	Ch. Dtd. 21-04-2008	= Rs. 1,38,855.00
6.	Ch. Dtd. 10-02-2009	= Rs. 2,31,395.00

**Total = Rs. 9,25,578.00**

**Interest Deposited :**

1.	Ch. Dtd 10-02-2009	= Rs. 34,638.00
2.	Ch. Dtd 19-08-2010	= Rs. 12,256.00

**Total = Rs. 46,894.00**

**OBSERVATIONS/RECOMMENDATIONS**

**1.69** The Committee satisfied with the departmental reply and decided to drop the para.

**Incorrect allowance of exemption against transfer of documents  
during inter-state sales against E-I/E-II forms  
(Audit para 2.25/C & AG(R/R) /2010-2011)-P-67)**

1.70 The Audit has pointed out that while finalizing the assessments of two dealers between September 2009 for the assessment years 2005-06 and 2006-07, the AOs exempted turnover of goods valued at Rs. 2.53 crore from payment of tax as goods were sold in transit. Scrutiny in audit revealed that the sales were supported by defective declarations in form 'E-I/E-II' and thus, allowance of exemption was irregular. This resulted in non-levy of tax and interest of Rs. 20.33 lakh. The Audit reported the cases to the Department and the Government in September 2011. The Audit is yet to receive their replies.

1.71 The Department by their written reply has stated that M/s. Redington India Ltd., Guwahati Unit 'C' (2006-07 & 2007-08): The dealer has been assessed on the point raised and demand raised. The aggrieved dealer appealed before the Appellate Authority vide its order dated 24/08/2012 annulled the re-assessment order and upheld the original order. M/s. Sharma and Co., Jorhat (2005-06): As per condition laid down in 3(b) of the CST Act, 1956, for sales in transit there must be an Inter-State movement of goods and sale is to be effected in the course of movement of goods. L & T Ltd., imports goods from outside Assam and effects transit sale to M/s. Sharma and Co., Jorhat. Hence, there was no irregularity detected.

**Observations/ Recommendations**

1.72 The Committee satisfied with the departmental reply and decided to drop the para.

## **Annexure-I**

### **COMPOSITION OF THE OUT GOING COMMITTEE (2016-2018)**

#### **Chairman :**

1. Shri Rajdeep Goala

#### **Members :**

2. Shri Prasanta Phukan
3. Shri Padma Hazarika
4. \* Shri Pijush Hazarika
5. Shri Bir Bhadra Hagjer
- 6.\* Shri Topon Kumar Gogoi
- 7.\* Shri Bhabesh Kalita
8. Shri Ramendra Narayan Kalita
9. Shri Utpal Dutta
10. Shri Rabiram Narzary
11. Shri Wazed Ali Choudhury
12. Shri Rekibuddin Ahmed
13. Hafiz Bashir Ahmed

**\*Ceased the Memberships from the Committee for inclusion to  
the Council of Ministers w.e.f. 26<sup>th</sup> April, 2018.**