

**PUBLIC ACCOUNTS COMMITTEE
(1999-2001)**



**EIGHTY-THIRD REPORT
(TENTH ASSEMBLY)**

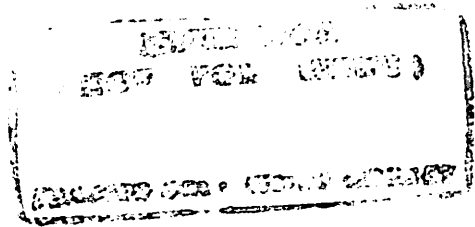
**REPORT OF THE PUBLIC ACCOUNTS COMMITTEE ON THE
REPORT OF THE COMPTROLLER AND AUDITOR GENERAL
OF INDIA FOR THE YEARS 1988-89, 1989-90 AND 1990-91
(REVENUE RECEIPTS) PERTAINING TO THE FINANCE
(TAXATION) DEPARTMENT TO THE
GOVERNMENT OF ASSAM**

PRESENTED TO THE HOUSE ON 2001

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

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**COMPOSITION OF THE PUBLIC ACCOUNTS
COMMITTEE-1999-2001**

Chairman :-

1. Shri Derhagra Mochahary.

Members :-

2. Shri Pulakesh Barua.
3. Shri Kesharam Bora.
4. Shri Atul Sarmah.
5. Shri Hemanta Kalita.
6. Shri Mohan Das.
7. Shri Alauddin Sarkar.
8. Shri Nizamuddin Khan.
9. Shri Abdul Muqtadir Choudhury.
10. Shri Mustafa Shahidul Islam.
11. Shri Gautom Roy.
12. Shri Kali Ranjan Deb.
13. Shri Jogeswar Doley.

Secretariat :-

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

(ii)
PREFATORY REMARKS

1. I, Shri Derhagra Mochahary, Chairman of the Committee on Public Accounts having been authorised to submit the Report on their behalf, present this Eighty-third Report of the Committee on the Audit Paras contained in the Report of the Comptroller and Auditor General of India (R/R) for the years 1988-89, 1989-90 and 1990-91 pertaining to Finance (Taxation) Department, Government of Assam.
2. The Report of the Comptroller and Auditor General of India (R/R) for the years 1988-89, 1989-90 and 1990-91 were laid to the House on 30-7-91, 21-12-92 and 11-10-93 respectively.
3. The Report as mentioned above relating to Finance (Taxation) Department was considered by the erstwhile Committee on Public Accounts of 8th Assembly under the Chairmanship of Shri Sasha Kamal Handique (as at Annexure II) who could not present the Report thereof owing to expiry of their term. The Report was thereafter re-examined by the Sub-Committee 'B' of Public Accounts Committee under the Convenorship of Shri Mohan Das, MLA (as at Annexure III) in their sittings held on 13-2-95, 26-5-95, 7-6-95, 29-6-95, 9-8-95, 28-11-95, 8-9-97, 23-10-97, 5-11-97, 27-2-98 and 8-7-98. The Sub-Committee also adopted the draft Report in their meeting held on 13-2-2001 for the consideration and approval by the main Committee.
4. The present Committee on Public Accounts has considered the draft 83rd Report and finalised in their sitting held on 15-2-2001 for presentation before the House.
5. The Committee places on records their appreciations to the erstwhile Committee on Public Accounts for their strenuous works for obtaining various records, information and clarification pertaining to the Audit Paras relating to Finance (Taxation) Department. The Committee also wishes thanks to the Departmental witness for their Co-operation. The Committee also appreciates the A. G. (Audit) Assam, and his staff for their valuable assistance. The Committee also pleased to offer thanks to the Secretary, Assam Legislative Assembly with his officers and staff of the Public Accounts Committee branch for their valuable services rendered to the Committee.

DERHAGRA MOCHAHARY,
Chairman,
Public Accounts Committee.

CHAPTER - I

Short/incorrect determination of turn-over
(Paras 2.3/CAG-88-89, 2.21/CAG-89-90 and 3.9 & 3.16/CAG-90-91)

1.1.1. Audit has brought-out that in Guwahati 'A' Unit, for the purpose of assessment relating to various return periods from 1982-83 to 1986-87 the aggregate turnover in respect of 5 onion dealers was determined by the assessing officer at Rs. 621.91 lakhs, on the basis of the whole sale prices varying from Rs. 100 to Rs. 300 per quintal of onion (available at the time of assessment), with a tax effect of Rs. 43.53 lakhs. However, the area Tax Inspector's report (December, 1987) which was submitted as per the direction of the assessing officer, indicated that the minimum whole sale price of onion prevailing during the period from 1982-83 to 1986-87 was Rs. 140, the maximum being Rs. 550 per quintal, based on the minimum prices of onion per quintal reported by the Inspector for each of the years mentioned above, the turnover in respect of the 5 dealers during the relevant periods of assessment would not have been less than Rs. 815.45 lakhs having its tax effect of Rs. 57.08 lakhs. Non-verification, from time to time, of the prices of onion disclosed by the assesseees with the prevailing prices in the whole sale market resulted in short determination of turnover by Rs. 193.54 lakhs, with the consequential short levy of tax amounting to Rs. 13.55 lakhs. The assessing officer, while making assessment, had recorded that in the absence of contrary information the turnover in respect of the 5 dealers was determined and assessed to tax on the basis of information, regarding the prices of onion available with the assessing officer at the time of assessment. He, however, did not clarify why based on the information provided by the Inspector, the assessments could not be re-opened. Further, the information contained in the Inspection report which was available in December, 1987 should have been taken into consideration at the time of assessment of one of the dealers, assessed on 6th January, 1988, for the period ending March, 1987. (para 2.3/CAG 88-89).

1.1.2. The Department vide their memorandum, have stated that based on the market reports that the sale prices of onions are much higher than the prices disclosed by the dealers; the A.C.T. Guwahati has initiated suo motu revisional proceeding and had set-aside the assessments made at the lower price by the Superintendent of Taxes and ordered for re-assessment at a higher market price. But the dealers preferred appeal before the A.B.R. against the revisional order and the A.B.R. allowed the appeal and set aside

the revisional orders upholding the original assessment orders of the Superintendent of Taxes, Guwahati. In view of the judgement of the A.B.R., re-assessments on these onion dealers could not be made on the higher sale prices as ordered in the suomot revisional orders.

OBSERVATIONS/RECOMMENDATIONS

1.1.3 In course of oral deposition it revealed that the assessing officer had no information of wholesale price of onion nor followed the report of the Inspector of taxes. As a result the taxable turn-over became less for which tax amounting to Rs. 13.55 lakhs levied short as pointed-out in audit. However, the matter on revision of assessment has been appeared before the Board of Revenue who set aside the revisional order and upheld the original assessment.

1.1.4 In view of the judgement of the Board of Revenue the para has been dropped.

1.2.1 The audit has pointed-out that in Guwahati Sales Tax 'C' Unit, assessment records in respect of a dealer showed that the dealer sold goods (M. S. Rods), valued at Rs. 38.12 lakhs, manufactured by him from out of waste billets. The dealer submitted along with the return for the period ending March 1986 a retailed statement of such sales in two pages covering sale proceeds of Rs. 25.96 lakhs on the first page and Rs. 12.16 lakhs on the second page. The dealer did not include in his return the above sales on the plea that goods so manufactured and sold are not taxable in the State. While determining the turnover in assessment the assessing officer rejected the dealer's plea of tax exemption and included the turnover shown in the first page only but omitted to include turnover shown on the second page of the aforesaid statement. The omission to be taken into consideration the turnover amounting to Rs. 12.16 lakhs resulted in under-assessment of tax of Rs. 46.769. On the omission being pointed out in audit (September, 1989), the department stated (April 1991) that pending final decision on appeal preferred by the dealer against the assessment order levying tax on sales of M. S. Rods no rectification proceedings could be initiated. But the fact remains that the mistake was apparent from the records and was not the subject matter of appeal, and hence it should be rectified, levying additional tax (para 2/21/CAG-89-90).

1.2.2. The department vide their written memorandum have stated that the matter is subjudice under the Hon'ble Guwahati High Court. The Department has already submitted the counter affidavit and requested the Govt. pleader to take necessary steps for early fixing up the date of hearing. The case has till now not come-up for hearing.

OBSERVATION/RECOMMENDATION

1.2.3 As the matter has been subjudice in Guwahati High Court, the committee has no comment to offer except that the copy of the judgement after disposal of the case shall be furnished to the committee..

1.3.1 The audit has pointed out that in Silchar, the net taxable turnover of dealer 'A' from taxable goods (wine taxable at the rate of 40 per cent) for the periods ending September 1986 to March 1988 was determined (March 1987, July 1987, November 1987 and August 1988) by the assessing officer at Rs. 3.04 lakhs and a tax of Rs. 1.22 lakhs was levied. The assessments for the subsequent periods ending September 1988 and March 1989 were made (February 1989 and January 1990) with 'nil' tax liability against the dealer as he had no taxable sale of imported wine except the sale of wine purchased locally during those periods. The assessment orders for the aforesaid periods did not contain any information regarding the purchase of taxable/tax-paid goods made by the dealer 'A'. However, a cross verification of assessment records of dealer 'B' by audit under the Sales Tax Unit Office at Shillong in Meghalaya State revealed (October 1990) that dealer 'A' purchased imported wine valued at Rs. 5.44 lakhs from the dealer 'B' in the course of Inter-State trade, at concessional rate of 4 per cent, by issuing 8 (eight) declarations in Form 'C' during the periods ending September 1986 to September 1987. The dealer 'A' also disclosed the said purchases of imported wine in his utilisation statement of 'C' Forms which were available in the dealer's Central Sales Tax assessment records. Since the dealer 'A' had neither any inter-State sales during the aforesaid periods nor any taxable local sale of imported wine during the periods ending September 1988 and March 1989, the dealer 'A' had concealed taxable turnover of Rs. 2.40 lakhs (Rs. 5.44 lakhs minus Rs. 3.04 lakhs) having a tax effect of Rs. 96.013 calculated at the rate of 40 per cent. Tax effect would be more if the profit elements of the dealer 'A' is taken into consideration (para 3.9/CAG-90-91).

1.3.2. The department has replied that on receipt of the Audit note the Supdt. of Taxes Silchar has revised assessment and enhance the turnover and raised additional demand of Rs. 101626/- being 40% tax on the enhance turnover. Further interest of Rs. 83496 has also been levied. This was against short levy of Rs. 96013 as pointed by the audit. Realisations are in progress.

OBSERVATION/RECOMMENDATION

1.3.3. The Committee observed that the additional demand of Rs. 101626/- being 40% of tax on the enhanced turnover together with interest of Rs. 83496/- could be levied by the assessing officer only when his omission is pointed out in audit. The Committee could not comprehend how such mistake could occur. The Committee recommends that the department will intimate realization of additional tax and interest with action taken against the erring officials.

1.4.1. The audit has pointed out that a contractor dealer of Nalbari, was engaged in execution of works of the Indian Railway Department, on contract basis. As per Agreement with the Railway Department, the dealer had undertaken the work for supply of earth and broken stone ballast at the rate mutually agreed upon, which was inclusive of all charges such as cost of freight upto destination, charges for dressing, levelling, etc. The Assessing Officer determined (August 1989) the gross taxable turnover of the dealer for the periods ending March 1979, March 1980, September 1980 and March 1981 at Rs. 14,000, Rs. 20,000, Rs. 43,000 and Rs. 1,03,135 respectively without taking into account the cost of freight and other charges amounting to Rs. 6.16 lakhs, Rs. 5.84 lakhs, Rs. 50,700 and Rs. 1.00 lakh respectively while allowing necessary deduction at the rate of thirty per cent of gross turnover on account of labour charges. Thus, due to incorrect computation of sale price applicable in the case of execution of any contract of work, the net turnover of the dealer for those periods was under-assessed by the assessing officer to the extent of Rs. 8.67 lakhs resulting in under-assessment of tax of Rs. 50,009. Besides interest amounting to Rs. 1.29 lakhs calculated upto the date of audit (May 1990) is also chargeable. Further interest would be leviable till the date of payment of tax due in full (para 3.16/CAG-90-91).

1.4.2. The department have stated that the assessing officer after re-verification of the accounts in the light of audit objection reported that there was no under assessment as pointed out by audit. However, the Commissioner of Taxes is not satisfied with the replies of the assessing officer and actions are being initiated by the Zonal Deputy Commissioner of Taxes for suo-moto revision of the assessment completed by the assessing officer in the light of the audit objection.

OBSERVATION/RECOMMENDATION

1.4.3. The Committee desires to have the orders on suo-moto revision by the Zonal Deputy Commissioner, Taxes Silchar within a period of 1 (one) month from the date of submission of this report before the House.

CHAPTER - II

Suppression of Sales/turnover paras 2.4/CAG-88-89, 2.7, 2.8, 2.10, 2.23, 2.25 & 2.27/CAG-89-90 and 3.7/CAG-90-91.

2.1.1. The audit has pointed out that --

(A) In Guwahati, a dealer of asbestos products while producing accounts for verification by the assessing officer for the half-yearly period ending September, 1987, furnished a statement showing opening stock of goods as 792.184 Metrictonnes (M.T.) purchases valuing Rs. 159.93 Lakhs (3041.931 M.T.) and closing stock at the end of 30th September, 1987 as 113.920 M.T. of goods. The dealer exhibited sales during the period as Rs. 140.25 lakhs without, however, specifying the quantity of goods sold. The purchase value of goods per M.T. worked out to Rs. 5060 based on the total purchases made by him of 3041.931 M.T. of goods for a total value of Rs. 153.93 lakhs. Based on the total value of sales of Rs. 140.25 lakhs as exhibited in his accounts, at the purchase value of Rs. 5060 per M.T. of goods, as worked out, the total quantity of goods sold during the period should not have been less than 2772 M.T. Thus, the closing stock at the half-yearly period ending September, 1987 should have been 1062.115 M.T., as against 113.920 M.T. shown by the dealer in his return and accepted in assessment. The stock of 948.195 M.T. of goods concealed by him (1062.115 M.T. - 113.920 M.T.) amounted to Rs. 47.98 lakhs (calculated at the purchase value of Rs. 5060 per M.T. of goods) which resulted in nonlevy of tax Rs. 3.36 lakhs (at the rate of 7 percent). The amount of tax leviable would be more if the element of profit is taken into account.

(B) In Tezpur, on his failure to submit return and books of account to the assessing officer for the six-monthly period ending March, 1986, the dealer's turnover was determined on best judgement basis and assessed to tax (March 1987) of Rs. 169. Before payment of the tax assessed (March, 1987) the dealer surrendered his registration certificate intimating (1st April, 1986) the assessing officer that he had closed down his business on 31st March, 1986. At the close of his business, the dealer had only non-taxable goods in stock. However, the dealer got himself registered afresh with tax liability from 1st April, 1986 onwards. During test check of the assessment records in respect of another dealer under the same sales tax unit office, it was noticed in audit (November, 1988) that the former dealer, though not registered for dealing in tea, made purchases of tea valued at Rs. 10.73 lakhs for resale from the latter during the assessment period ending March 1986. The purchase/sales of tea were not disclosed by the dealer either before closure of his business or at the time of assessment (March, 1987) for the relevant assessment period. As a result, the dealer's turnover involving tax effect of Rs. 32,200 on the purchase price of tea escaped

assessment. Penalty amounting to Rs. 48,300 was also leviable for concealment of sales of tea, besides interest on tax payable till the date of its payment.

(C) In Doom Dooma, a dealer 'A' dealing in tea chests and commercial plywood was assessed on his returned turnover amounting to Rs. 8.87 lakhs and Rs. 10.13 lakhs for the periods ending March and September, 1986 respectively. During test check in audit of the assessment records of another dealer 'B' it was noticed that the dealer 'B' had purchased taxable goods from the selling dealer 'A' during the above periods amounting to Rs. 24.98 lakhs. The concealment of turnover by the selling dealer escaped the notice of the assessing officer, which resulted in short levy of tax by Rs. 39,124. Penalty amounting to Rs. 58,686 was also leviable in this case but has not levied, besides interest on tax payable till the date of its payment. (para 2.4/CAG-88-89)

2.1.2. The Department have clarified that -

(A) On receipt of the audit objection, the books of accounts of the dealer was re-verified thoroughly by the assessing officer. It is reported by the assessing officer that the dealer maintained complete books of accounts including stock account. The dealer dealt in various products of asbestos goods like corrugated asbestos sheet of different sizes and other building materials like redging barbed board, ventilator expansion joint etc. The rates differs according to the sizes. The audit worked out the cost per M.T. at Rs. 5060/- on the basis of a statement of the dealer and not on the basis of the accounts and assessments. The statement referred to by the audit found to be not correct. On receiving the audit objection the accounts of the dealer were verified thoroughly by the assessing officer. It was found that his actual stock transfer during the period ending 30/09/97 was 3039 M.T. value at Rs. 1.12 crores and not 3042 M.T. valued at Rs. 1.60 crores as pointed out by the audit. His opening stock on 01/04/87 was 792.18 M.T. Thus during this period total goods at his disposal was found at 3823 M.T. the sales were found at 3442 M.T. plus stock transfer at 13.93 M.T. and breakage at 62.02 M.T. Therefore, the closing stock was at 113.92 M.T. On re-verification of the accounts it has been observed that due to calculation mistake, the receipt of goods by stock transfer was wrongly shown at 3041.93 M.T. valued Rs. 1.54 crores in the statement referred to by the audit. On through re-verification of the dealers accounts, the above figures were found to be wrong and correct amount of stock transfer was found at 3039.85 M.T. valued at Rs. 1.12 crores which is supported by evidences and records. Therefore in the face of above, there was no loss of revenue as reported by the audit.

It may be mentioned here that the objection was settled as per minutes of discussion in the audit committee meeting held in the office of the

Accountant General, Shillong on 9/6/92 and 11/6/92.

(B) In pursuance of the audit objection the dealer was re-assessed as follows :-

- (i) Tax assessed of Rs. 35,562/-
- (ii) Interest levied of Rs. 25,580/-
- (iii) Penalty imposed for non payment of demanded taxes of Rs. 17,710/-

The dealer preferred revision before the Commissioner of Taxes, the revision petition has been dismissed vide order dated 2.6.97. The dealer further moved the Hon'ble High Court in this respect and the Hon'ble High Court had issued orders dated 07/07/97 in Civil Rule No. 308597 staying all proceedings.

The matter is now under sub-judice in the Hon'ble Gauhati High Court.

(C) As per the audit report the dealer was re-assessed for period ending 3/86 and 9/86 and levied taxes and interest of Rs. 42,561/-.

The dealer preferred appeal before the A.C.T.(A) Tinsukia.

The then A.C.T.(A) Tinsukia had set-aside the re-assessment and directed fresh assessments as per appellate orders.

As a result of further re-assessment as per appellate orders, the above demand was reduced to Rs. 717/- and the said amount was adjusted the excess payment in period ending 9/86.

OBSERVATION/RECOMMENDATION

2.1.3.(A) The Department, against the audit para at 2.1.1.(A), has clarified that the objection has been settled with A. G. Assam. In view of this, committee has no comment to offer except that the same could have been settled promptly and prior to its inclusion in the C.A.G. Report but for negligence of the concerned officer for which a lot of un-necessary exercises have been done. The defaulting officer may be cautioned for future.

2.1.4. As per the audit objection at sub-para (B) the same is stated to be subjudiced in the Guwahati High Court since 7.7.97. The Committee has no comment to offer.

2.1.5. The Committee expresses its dissatisfaction that the objection at (c) also could be disposed off on revision.

2.2.1. The audit has brought out that -

(A) In Guwahati Sales Tax Unit 'A' a manufacturer of PSC poles, registered as a dealer under the Assam Sales Tax Act, 1947, showed, in his returns for the period ending September, 1984 to March, 1986 turnover amounting to Rs. 5.97 lakhs. The turnover thus shown by the dealer was accepted in assessment (December 1988) and a tax of Rs. 33,758 was levied. On cross verification by Audit of the records of an Electrical Division of the Assam State Electricity Board to which the PSC poles were supplied by the said dealer, it was noticed (April 1989) that the dealer had sold PSC poles valued at Rs. 27.91 lakhs during the aforesaid periods. Due to suppression of sales by the dealer his turnover was assessed less by Rs. 21.94 lakhs which resulted in short levy of tax of Rs. 1.24 lakhs. Besides levy of interest till the tax due was paid in full, penalty not exceeding one and half times (Rs. 1.86 lakhs) the amount of tax divided was also leviable.

(B) In the case of another dealer of the Guwahati Sales Tax 'A' Unit registered in October, 1978, it was noticed in audit (April 1989) that his sales of Pre-stressed concrete (P.S.C.) poles amounting to Rs. 56,019 effected by him upto March 1984 were brought to assessment for the first time in the return for the period ending March 1984. Subsequently, for the period ending September 1984 to March 1985 the dealer did not disclose any sale of P.S.C. poles in his return and as such the assessing officer closed his assessment proceedings in respect of the above periods with the 'nil' tax liability. However, a cross verification by audit (May 1989) of the records of the Nagaon Electrical Division revealed that the dealer had sold to that division P.S.C. poles value at Rs. 21.55 lakhs during the year 1979-80 to 1984-85. The suppression of sales for at least Rs. 20.99 lakhs detected during audit, indicated short levy of tax of Rs. 1.19 lakhs. Besides, penalty not exceeding one and half times of tax evaded by the dealer was also leviable. (para 2.7/CAG.89-90).

(C) In Guwahati Sales Tax 'A' Unit, on receipt of an application, a dealer was registered fixing his tax liability with effect from 25th June, 1984. While applying (April 1984) for registration the dealer did not disclose the fact that he had been carrying on business in taxable goods for the year 1980-81 onwards as explained below. There was no evidence on record that the registering authority also did ever make any enquiry to satisfy himself about the correctness of the information supplied by the dealer in his application for registration. A cross verification by audit of the records of an electrical division of the Assam State Electricity Board revealed that the dealer, before being registered with Sales Tax authority under the Act *ibid* had sold goods (Pre-stressed concrete poles) valued at Rs. 5.82 lakhs during the years 1980-81 and 1981-82 to the said division. No tax was paid by the dealer nor was it deducted at source by the buying electrical division. Taking the advantage of non-registration and

non-deduction of tax at source the dealer evaded tax amounting to Rs. 32,920, realisation of which was not possible because the assessments for the years 1980-81 and 1981-82 had become time barred. On this being pointed out in audit, the assessing officer stated (June 1989) that there was no evidence in their records regarding supply of goods by the dealer to the said electrical division during the year 1980-81 and 1981-82. (para 2.23/CAG-89-90).

2.2.2. The Department in their written memorandum have stated as follows :-

(A) On the basis of audit objection assessment were revised and the demand of tax and interest was raised and arrear certificate issued to the Superintendent of Taxes (Recovery) concerned.

(B) Although the dealer manufactured Pre-stressed concrete poles and supplied it to the Nagaon Electrical Division he did it so under a works contract only and the materials required for manufacture were all supplied by the Executive Engineer, Electrical Division, Nagaon. Hence there was no tax liability.

(C) In pursuance of the audit objection the assessment were rectified, demand raised and arrear certificate issued to the Recovery Officer. In course of Joint discussion with Finance and A.S.E.B., the Committee obtained detail report which are as follows :-

By Finance Department :

Audit pointed out evasion of Tax in Guwahati Sale Tax (A) Unit for an amount of Rs. 32,920/- by a dealer who was un-registered during the years 1980-81 and 1981-82. The realisation become time barred. The assessing authority made no enquiry when the dealer come subsequently for registration. This apart on being pointed-out in audit the assessing officer denied having any records on the supply of taxable goods by the dealer.

2. The A.S.E.B. in their reply named M/S. Brahmaputra Concrete Pipe Industry and stated that the due tax @ 6% on the value of Rs. 5.83 lakhs was recovered and necessary action is being taken to deposit the same.

3. The Finance Department in their written reply on the para for to-day's meeting found the E. E. (R.E.C.) Division A.S.E.B., Nagaon responsible. The dealer was subsequently registered and due taxes with interest was levied, but the dealer is found untraceable.

4. It appears that the mandatory provision of deducting tax at source was not followed strictly in earlier years for which such evasion could occur.

There may be some more divisions under A.S.E.B receiving taxable goods and omitting deduction of tax at source on the strength of the circular dated 6th February 1978.

By Assam State Electricity Board :

On scrutiny of the relevant records of Nagaon Electricity Division II (earstwhile Nagaon REC Division) under ASEB, it has been detected that during 1980-81 and 1981-82 M/S. Structural Concrete Pvt. Ltd. supplied PSC poles to ASEB. The divisional records further disclosed that no recovery on account of sales tax against supply of PSC poles were made for the period from 1980 to May '86.

The supply of PSC pole contract was initially considered as work contract and as per terms and condition of clause 23 of part II of the contract agreement, the supplier was liable to deposit all statutory levies direct to the concerned department. And as such no recovery on sales tax accounts were made from the party's bill.

However, when the matter was got clarified that 6% sales tax was recoverable from the supplier's bill, directly at source, necessary recovery was made with effect from June, 1986. As per divisional records total amount of sales tax recovered from the above named supplier for the period from 20th June 1986 to 28th March 1989 was Rs. 3,93,120.68 and the entire recovered amount were deposited to the State Government from time to time.

OBSERVATION/RECOMMENDATION

2.2.3. In so far as the objection at (A) is concerned the Committee observes that had the omission not been pointed out by Audit, no additional demand could have been made. It is also not clear if the arrear with interest could be realised in full. The Committee therefore, recommends that the erring officer may be cautioned for future and an intimation of full recovery of arrear dues may be made within one month.

2.2.4. As for the objection at 'B' the Committee is not satisfied with the written reply and deposition made before it. Anybody who is a seller and whose annual turn-over is above certain limit is liable to pay sales tax unless he is a work contractor. The Committee, therefore, recommends that the matter may be enquired into thoroughly and report furnished within a month.

2.2.5. In course of discussion with both Finance and A.S.E.B., it appears that the Executive Engineer, R.E.C. Division, A.S.E.B., Nagaon is responsible for the time barred cases taken place during 1980-81 and 1981-82. The Committee recommends that disciplinary action against the

irresponsible officer should be taken with intimation to the Committee. The Committee, however, expresses its satisfaction at the corrective measures initiated by the A.S.E.B. for the subsequent period.

2.3.1. The Audit has pointed out that :-

(i) In Dhubri, taxable turnover of a raw jute dealer was determined (March 1989) at Rs. 2.62 lakhs being the last purchase value of 1,24,332 Kilograms of jute during the quarter ending December 1988. A cross verification by Audit, of the records of the Superintendent of Taxes, Boxirhat Check-gate, however, revealed that the said dealer had despatched 20.74,500 kilograms of raw jute outside the State during the quarter ending December 1988, which escaped the notice of the assessing officer, even though despatch particulars of the said dealer were received in his office from the Superintendent of Taxes, Boxirhat Check gate well before completion of assessment (21st March, 1989). The omission to take into consideration the actual despatches as evidenced by the waybills resulted in turnover amounting to Rs. 41.15 lakhs (Rs. 43.77 lakhs - Rs. 2.62 lakhs) escaping assessment and consequent non-levy of tax of Rs. 1.65 lakhs calculated at the rate of 4 per cent.

(ii) In Dhubri, purchases of-jute by a dealer for the assessment period April, 1987 to March, 1988 were determined at Rs. 30.60 lakhs on best judgement basis and taxed accordingly. But a cross check, by audit, with the records of the Superintendent of Taxes, Boxirhat Check-gate revealed that the said dealer despatched 200 truck load of jute during the period of April, 1987 to March, 1988. The value of jute despatched by the dealer worked out to Rs. 40.95 lakhs calculated at the lowest rate of inferior variety of jute approved by the Jute Corporation of India. The suppression of turnover amounting to Rs. 10.35 lakhs by the dealer resulted in evasion of tax of Rs. 41,398 calculated at the rate of 4 per cent ; and

(iii) At Dhubri, as per way-bills received by the Sales Tax unit office from a Check-gate, the despatches of raw-jute by a dealer during the quarterly period ending March 1986, amounted to Rs. 38.70 lakhs. While assessing (November 1986) the dealer, the turnover was, however, determined at Rs. 20.91 lakhs on the basis of his return. The omission to take into consideration the despatches as evidences by way-bills resulted in turnover amounting to Rs. 17.79 lakhs escaping assessment and consequent short levy of tax of Rs. 71,167 calculated at 4 per cent. The dealer closed down his business from 1st July, 1988 and surrendered the Registration certificate, which was not cancelled (April, 1991). (Para 2.8/CAG-1989-90).

2.3.2. The Department in their written replies against all the objections have stated that arrear certificates are issued to recovery officer for collection of tax dues.

OBSERVATION / RECOMMENDATION

2.3.3. In course of oral deposition, the committee expresses their total dis-satisfaction over the written reply given to the committee as well as the action taken against the erring officials. For proper appraisal, a selective portion of the proceedings is quoted below :-

Chairman : In these cases total amount involve is Rs. 2.88 lakhs. Though Superintendent of Taxes (Recovery), Dhubri had started Bakijai proceedings against the three defaulters, none could be traced-out as all of them had closed down their business and left the place. No movable or immovable property of the defaulters could be traced-out. But Superintendent of Taxes (Recovery), Dhubri still continuing efforts in this regard. How his effort would be successful.

Shri Zoi Nath Sarma :

At first in these three cases you have knowingly suppressed the turnover in favour of the dealer.

Secondly - What sort of action you have initiated against this sort of officers who have assessed wrongly with intention and Thirdly the audit objection was suppression of turnover but you have replies in another way. Follow-up action should immediately be taken for punishing the guilty officers.

Dr. A. M. Mazumder : It is almost certain that some tax officers connivance with the tax payers had done such irregularities and it is the duty of the Govt. to apprise the Hon'ble Committee with detail information and Govt. should also take-up departmental proceedings against the guilty officers.

Secretary ; Finance : I have submitted before the committee that I have entrusted my officer to enquire into it and submit the report within 15 days and a action will be taken against the guilty officers as soon as the report of enquiry is received.

2.3.4. The committee recommends that the report of enquiry and action taken against the guilty officers may be furnished within a period of one month. The committee is also interested to know if the traders could be traced-out and arrear taxes recovered.

2.4.1. The audit has pointed out that in Guwahati, a dealer sold damaged transformers valued at Rs. 20.30 lakhs to two firms based in New Delhi in July, 1986 and October, 1987. However, the dealer neither showed the sales in his returns submitted to the assessing officers nor paid the tax due. In the absence of 'C' form declaration, tax not levied and thus not realised

on such inter State sales amounted to Rs. 2.03 lakhs, computed at the rate of 10 percent. The assessing officer contended that the dealers sale of the damaged transformers was occasional in nature and as such, the dealer was not liable to pay tax. The contention of the department is not tenable in view of the fact that even such occasional sales are exigible to tax under the definition of 'Business' in the Act. (Para 2.10/CAG-89-90).

2.4.2. The department in their written memorandum have stated that assessment was completed ex-parte when the dealer (Assam State Electricity Board) failed to comply. The realisation of tax assessed is under process.

OBSERVATION / RECOMMENDATION

2.4.3. The committee observes that the assessing officer had not utilised his mind while assessing tax from the dealer of damaged transformer. All assessing officers should be very careful in their duties in future. As Govt. have taken steps for realisation of arrear dues from the statutory Authority (A.S.E.B.) the committee is pleased to drop the para.

2.5.1. The audit has pointed out that in Jorhat as per assessment records, a dealer had as on the 1st day of April, 1984, an opening stock of goods, valued at Rs. 64,162 which were taxable at 12 percent. The dealer purchased during the financial year 1984-85, similarly taxable goods (imported) valued at Rs. 8.55 lakhs, the total stock of goods available with the dealer for sale during the year being worth Rs. 9.19 lakhs. But while making the assessments for the periods ending September, 1984 and March, 1985, the assessing officer computed the sales of taxable (12 percent) goods made by the dealer as Rs. 2.19 lakhs and Rs. 2.55 lakhs respectively and reckoned the closing stock of 12 percent taxable goods as on 31st March, 1985 as Rs. 2.48 lakhs. However, even if the profit element was ignored, the purchase value of 12 percent taxable goods sold by the dealer during the year 1984-85 should not have been less than Rs. 4.23 lakhs (after deduction of Rs. 50,751 being 12 percent tax on sales of Rs. 2.19 lakhs + Rs. 2.55 lakhs). Thus, the closing stock of 12 percent taxable goods would be actually worked out to Rs. 4.96 lakhs (Rs. 64,162 + Rs. 8.55 lakhs - Rs. 4.23 lakhs) against Rs. 2.48 lakhs recorded in the assessment order. The concealed taxable purchase valued at Rs. 2.48 lakhs involving a tax effect of Rs. 29,850 thus escaped assessment. (Para 2.25/CAG-89-90)

2.5.2. The Department have stated that the figures mentioned by the audit regarding stock purchase and sale were all related to locally purchase this but not imported goods. Figures in respect of imported goods (12% taxable) were as follows :-

Opening stock as on 1/4/84	Rs. 2,31,401/-
Purchases during the year 84-85	Rs. 3,56,047/-

		Rs. 5,87,448/-
Less closing stock on 31/3/85	...	Rs. 2,47,903/-

		Rs. 3,39,545/-
Add profit and tax	Rs. 1,34,140/-

Sales figures for P.E. 30/9/84 & 31/3/85		Rs. 4,73,685/-

So, there was no irregularity.

OBSERVATION / RECOMMENDATION

2.5.3. The committee, after thread-bare discussion, asked the Department to furnish a copy of re-varification order. The same has been furnished and annexed. The committee is pleased to drop the para.

2.6.1. The audit has pointed-out that in Tezpur, a manufacturer of furniture registered under the Assam Finance (Sales Tax) Act, 1956 effected inter-State sale of goods for a net amount of Rs. 1.75 lakhs to four Forest Division of Arunachal Pradesh during the period from October, 1987 to March, 1990 and collected 4 percent Central Sales Tax of Rs. 6,621 without, however, being registered as a dealer under the Central Sales Tax Act, 1956. While assessing the dealer under the Assam Finance (Sales Tax) Act, 1956 for the periods noticed above his inter-State sales to those Forest Division during the same periods remained undetected. Thus, lack of proper survey and failure of the Department to detect the inter-State sales while determining tax liability in respect of the dealer resulted in evasion of tax of Rs. 22,791/-, calculated at 13 percent (State rate) in absence of certificate in Form 'D'.

Further, the dealer is also liable to simple imprisonment, or fine or both, for collection of tax without being registered as dealer. (Para 2.27/CAG-89-90)

2.6.2. The Department have replied that the accounts of the dealer concerned re-examined. During examination the dealer could substitute that furnitures which were supplied to Arunachal Pradesh were actually manufactured within Arunachal Pradesh by the dealer. For this he set-up a temporary camp in Arunachal Pradesh. This was supported by a certificate from D.F.O. who allotted timbers to the dealer for the purpose. Hence liability under C.S.T. Act as pointed-out by the Audit was not attracted.

OBSERVATION / RECOMMENDATION

2.6.3. The committee observes that the para has come-out due to wrong information furnished by the field officer. The committee therefore, recommends that the Deptt. will issue a general warning to all concerned so that no wrong information is supplied by field officer. The para is dropped.

2.7.1. Audit has pointed-out that in Dibrugarh, the assessing officer assessed a dealer (March 1988, September 1988 and April 1989) for the period ending September 1986 to September 1988 with 'nil' Tax liability. But on cross verification of assessment records of another registered dealer 'B' it was noticed (December 1989) that the dealer purchased tea valued at Rs. 9.75 lakhs in June 1987, at concessional rates, by issuing declaration form. The said purchase was not exhibited in the books of accounts of dealer 'A' which were produced by him before the assessing authority at the time of assessment. This resulted in short levy of tax by Rs. 58,521. Penalty amounting to Rs. 87,782 being one and half times the amount of tax evaded was also payable. Para 3.7(CAG-90-91)

2.7.2. The department have replied that in the light of the objection the dealers accounts were reverified and suppression of sales were detected. Out of the total purchase as reported by audit the dealers has sold goods worth Rs. 7.60 lakhs to a registered dealer of Guwahati and submitted AST declaration in support of his sales. Further he has sold tea worth Rs. 2.07 lakhs in Calcutta Auction. As proviso to Sec. 15(1)(b) was violated in this case, since purchase of any goods by AST declaration should be re-sold within the State, Rs. 2.70 lakhs was brought under assessment and tax and interest amounting to Rs. 18,884 was levied and realised vide Challan No. 2029, dated 18-4-90.

For the suppression of sales the officers were compounded at Rs. 2000/- and the compounded money was realised by vide Challan No. 705, dated 6.3.90.

OBSERVATION / RECOMMENDATION

2.7.3. The committee is pleased to drop the para as the amount found due on re-assessment could be realised.

CHAPTER - III

Irregular Exemption

(Paras 2.5, 2.6 & 2.7 of CAG - 88-89, 2.15, 2.16, 2.18, 2.24, 2.26 & 2.28 of CAG - 89-90 and 3.4, 3.5, 3.6, 3.10 and 3.13 of CAG - 90-91)

3.1.1. Audit has pointed out that in Dibrugarh, a scrutiny in audit, of six declarations in Form 'F' submitted by the dealer in plywood to the assessing authority revealed that the transfer of goods to other States, valued at Rs. 4.25 lakhs, during the quarter ending March, 1985 and March, 1986 was authenticated by the persons (transferees) signing the declarations in Form 'F'. The goods, so transferred, having been supported by declarations in Form 'F' qualified for exemption. The Audit scrutiny further revealed that on the reverse of all those 'F' Forms some additional entries showing further transfer of goods valued at Rs. 13.31 lakhs were made. Although the particulars of additional entries in the 'F' Forms were not authenticated by the transferees in token of receipt of goods stated to have been transferred to them, the assessing officer allowed exemption from levy of tax on such transfer of goods also. The exemption allowed on the transfer of goods valued at Rs. 13.31 lakhs, based only on the additional entries in the 'F' Forms but not having been authenticated by the transferees, was irregular which resulted in short levy of tax of Rs. 1.33 lakhs (Para.2.5/CAG-88-89).

3.1.2. The Department, in their written memorandum, have clarified that in pursuance of the audit objection the assessments were rectified as per the provision of the law. The rectification of assessment has resulted in additional demand as below.

<u>P.E.</u>	<u>Tax</u>	<u>Interest</u>
31.3.85	24,423/-	11449 = 35872/-
31.3.86	96,555/-	34926 = 1,31,481/-

out of the above demand Rs. 20,000/- was deposited by the assessee vide challan No. 996 dated 20.8.91. The balance amount is being realised through recovery proceedings.

OBSERVATION / RECOMMENDATION

3.1.3. Committee observed that the assessing officer could make good the loss to State Exchequer on revision only when the same had been pointed out in audit. The Committee recommends that the erring officials may be cautioned for future and intimate the latest position of recovery of the due tax with penalty/interest.

3.2.1. Audit has brought out that in Guwahati 'C' Unit, a dealer engaged in canning and bottling of fruits among other things was originally assessed (between September, 1975 and February, 1980) under the Central Sales Tax Act for the periods falling between 1st April, 1972 and 30th September, 1976 and for the return period ending March, 1978, allowing exemptions on dealer's sales of tinned fruits and tinned vegetables. Subsequently, on being directed by the Commissioner, the Assistant Commissioner of Taxes, who examined the assessments, in his revisional orders held (June, 1987) that the tinned fruits in this case should be classified as fresh fruits and their inter-State sales exempted from levy of Central Sales Tax as in the processing of fruits and packing them in containers after removing inedible portions like skins, inner core etc., and adding preservatives, no new commodity was produced. It was pointed out in audit (August, 1988) that the commodity (fruit products) sold in containers after processing cannot be taken as fresh fruits in their original and natural form and should be classified under the category 'Tinned food' taxable under the Assam Finance (Sales Tax) Act, 1956 and in turn, assessable under the Central Sales Tax Act for their Inter-State sales at the appropriate rate. Irregular exemptions of such sales not covered by declarations in form 'D' resulted in non-levy of tax amounting to Rs. 1.32 lakhs, calculated at the rate of 10 per cent (para 2.6/88-89).

3.2.2. The Department in their written memorandum, stated that on the basis of Audit objection the concerned Supdt. of Taxes referred the matter to Commissioner of Taxes for decision. The Revisional Authority held the view that items in question were not taxable goods and no sales tax was leviable on the turnover from the sale of the said goods. He upheld the judgement of the Asstt. Commissioner of Taxes passed in the course of his suo-moto revision.

OBSERVATION / RECOMMENDATION

3.2.3. In course of oral deposition the department referred to a Supreme Courts judgement and pleaded that in the instant case the dealer purchased fresh fruit like pine-apple, mango, plum etc. and removed inedible parts before its packing in tin containers after additions of preservative for market. Committee agreed to the contention and dropped the para.

3.3.1. Audit has pointed out that in Dibrugarh, a dealer assessed (November, 1987) for the period ending March, 1985, September, 1985 and March, 1986 was allowed exemption for Rs. 13.25 lakhs towards sale of goods in the course of export to Nepal. However, it was noticed (December, 1988) in audit that transactions worth Rs. 1.94 lakhs were only covered by the customs certificates and Form 'H' resulting in irregular allowance of exemption amounting to Rs. 11.31 lakhs on which a tax of Rs. 1.13 lakhs was leviable (Para 2.7/CAG-88-89).

3.3.2. The Department in their written memorandum have stated that the audit para relates to realisation of assessed tax and interest amounting to Rs. 1.47 lacs from M/s. Rafiullah Tea and Industry (P) Ltd. Out of Rs. 1.47 lacs an amount of Rs. 1.21 lacs has already been realised by the Superintendent of Taxes (Recovery) Dibrugarh. The Superintendent of Taxes (Recovery) Dibrugarh has stepped-up recovery proceedings for realisation of the balance amount.

OBSERVATION / RECOMMENDATION

3.3.3. Committee observed that the initial assessment allowing exemption without customs certificates and Form 'H' in respect of a turnover of Rs. 11.31 lakhs having tax affect of Rs. 1.13 lakhs was irregular. On this being pointed out in audit the omission was rectified and an additional tax with interest for Rs. 1.47 lakhs had been raised.

The Committee expresses its dissatisfaction over the irregular grant of exemption made initially and recovery of outstanding dues. The Committee, therefore, recommends that erring officials should be cautioned for future.

3.4.1. Audit has brought-out as follows --

(A) In Guwahati Sales Tax 'A' Unit, in support of the claim for exemption on sales of gas stoves, television, gas light, heater etc., to Bhutan for the period ending September, 1985 to September, 1988 a dealer produced certificates from certain authorities other than those prescribed under the Assam Sales Tax Act, 1947, but even so, the sales were exempted from levy of tax by the assessing officer. More importantly, a scrutiny by audit of the assessment records revealed that sales on which exemption was allowed were actually completed in Guwahati itself i.e. inside the State of Assam and goods sold were taken to Bhutan by the purchaser on his own arrangement, which rendered the sale taxable under Assam Finance (Sales Tax) Act, 1956. While on the one hand, due to non-fulfilment of conditions laid down in the Assam Sales Tax Act, 1947, the dealer was not entitled to any exemption on sales of goods to Bhutan, on the other hand, since the sale and Purchases were effected in Guwahati, the entire transaction should have been treated as normal sale (first point sale) of taxable goods inside the State for the purpose of levy of tax at the rate of 7 percent under the Assam Finance (Sales Tax) Act, 1956. The irregular grant of exemption on sales valued at Rs. 16.17 lakhs resulted in non-levy of tax amounting to Rs. 1.13 lakhs (Para 2.15(a)/CAG-89-90).

(B) In the case of a dealer under the Guwahati Sales Tax 'C' Unit, exemption on sales of Hume Pipes amounting to Rs. 2.98 lakhs to Bhutan during the period ending March, 1983 to September, 1984 was allowed by the assessing officer on the basis of certificates produced by the dealer after

obtaining the same from an officer of the Government of Bhutan (Executive Engineer of the Public Works Department) who is not a prescribed authority under the Assam Sales Tax Act, 1947. Therefore, the exemption allowed in this case was irregular which resulted in short levy of tax of Rs. 20,883 calculated at the rate of 7 percent. In reply the assessing officer stated (September, 1989) that the transaction was supported by certificates of an officer of the Government of Bhutan and hence exemption was allowed. The reply of the assessing officer is not tenable because acceptance of certificates issued by an officer of the Government of Bhutan is not provided for under the Act *ibid*, and was, therefore, irregular. (Para 2.15 (b)/CAG-89-90)

3.4.2. The Department in their written reply, have stated as follow :--

(A) Due to various formalities to be observed at international border a persons of Bhutan can not import goods directly from Assam and vice versa. So, goods have to be purchased in Assam and carried to Bhutan if a person at Bhutan wants to do. The only binding for tax exemption under Assam Sales Tax Act is that such sale/purchase must be supported by the Sub-Divisional Officer, Sarbhang (Border Check Post).

Further, in the instance case goods purchased/delivered at Guwahati against orders from the purchaser of Bhutan.

(B) As per records produced by the dealer it was established that the goods under question were exported to Bhutan and accordingly the sales were granted exemption from tax.

OBSERVATION / RECOMMENDATION

3.4.3. The subject matter in both the cases is export of goods to Bhutan for which tax exemption is admissible. The matters became controversial to audit as the sales took place within Assam. The Committee, therefore, observed that a copy of the assessment orders of such sales to Bhutan should invariably be furnished to audit and the department should instruct the assessing officers accordingly. Secondly, the system of sale on export to Bhutan should also be simplified so that no confusion should arise.

3.4.4. The Committee, with the above examination is pleased to drop the para.

3.5.1. Audit has brought-out that in Gauhati Sales Tax Unit 'A' sales proceeds of lime amounting to Rs. 18.93 lakhs in respect of a dealer were exempted from levy of tax during the periods ending September, 1986 to September, 1988 treating the same as chemical fertiliser. The irregular exemption resulted in non-levy of tax of Rs. 1.14 lakhs. On this being pointed out in audit (April, 1989) the assessing officer stated (June, 1989)

that lime supplied by the dealer was nothing but fertiliser, and hence the commodity was treated as non-taxable goods for exemption from tax. The contention of the assessing officer is not tenable. Lime is not a fertiliser under common parlance and as such, cannot be recognised as an item exempted under Schedule III to the Act *ibid.* (para 2.16/CAG-89-90)

3.5.2. The Department have stated that the tax was assessed on the basis of audit observation and the same has been realised.

OBSERVATION / RECOMMENDATION

3.5.3. The Committee observes that had the omission not been pointed out by audit, the State would have lost an amount of Rs. 1.14 lakhs due to irregular exemption granted by the assessing officer. The committee, however, expresses its satisfaction that the mistake is rectified and due tax is realised. The para is dropped with the observation that the concerned officer may be cautioned for future.

3.6.1. Audit has brought out that in Guwahati Sales Tax 'C' Unit, a dealer was assessed (October, 1988) allowing exemption from tax on sales of locally purchased tax paid goods (at the rate of 7 percent) valuing Rs. 3.83 lakhs and Rs. 9.12 lakhs during the return periods ending September, 1986 and March, 1987 respectively. But the dealer's statement submitted to the assessing officer (May, 1988) showed that 7 percent tax paid goods purchased locally for resale by him amounted to only Rs. 2,363 and Rs. 1.39 lakhs during the above mentioned period. Accordingly the dealer was entitled to the benefit of exemption only to the extent of Rs. 1.41 lakhs in aggregate. The dealer's statement (May, 1988) also showed that he had no stock of 7 percent tax paid goods as on 1st April, 1986. Therefore, the sales of locally purchased goods valuing Rs. 11.54 lakhs during both the return periods (Rs. 3.81 lakhs in September, 1986 and Rs. 7.73 lakhs in March, 1987), which were not supported by dealer's statement locally purchased goods did not qualify for exemption from levy of tax. The excess allowances of exemption resulted in loss of revenue amounting to Rs. 80,780. (para 2.18/CAG-89-90)

3.6.2 The Department in their written reply have clarified that the audit reported the tax paid goods purchased by the dealer in period ending 30th September, 1986 at Rs. 2,363/- and in P.E. 31st March, 1987 at Rs. 1.39 lacs. Whereas the exemptions for tax paid goods were allowed at Rs. 3.83 lacs and Rs. 9.12 lacs respectively. In pursuance of the audit objection, the dealer's accounts were again verified and the locally purchased goods were found as Rs. 13.41 lacs. Therefore, it appears that there were no irregularities in the exemptions allowed for locally purchased goods for the above two periods and there was no loss of Govt. revenue.

OBSERVATION/RECOMMENDATION

3.6.3. The Committee observes that on the basis of records made available, the audit found excess allowances of exemption resulting loss of revenue amounting to Rs. 80,780/-. The department have now come-up with a different version in support of their action. In course of oral deposition, the department has stated that the firm has since been desolved and it become very difficult to realise the tax liabilities. The registration of the firm is also cancelled.

3.6.4. The Committee further observes that there is clear evidance of negligence on the part of the assessing officer for cancelling the registration without realising the amount and recommends that the department should persue realisation vigorously and the out come should be intimated within a period of two months from the date of submission of this Report before the House.

3.7.1. Audit has pointed-out that in Guwahati Sales Tax Unit 'A' on an application (February 1988) certificate of registration in respect of a dealer was amended (March 1989) by the assessing officer with retrospective effect from the 1st day of December 1987 with the inclusion of items 'Iron scrap and old unserviceable vessels' therein. But before the amendment of the registration certificate the dealer purchased (2nd day of December 1987) as unregistered dealer an old and unserviceable vessel as scrap from a registered dealer at a cost of Rs. 5.31 lakhs against sales tax declaration issued by him and claimed exemption from payment of tax. The claims for exemption allowed (January 1989) by the assessing officer although the dealer was not registered for dealing in scrap iron and old unserviceable vessels on the day of the above purchase (2nd December 1987) and was not, therefore, entitled for such exemption. This resulted in non-levy of tax of Rs. 31,860. On this being pointed out in audit (June 1989), the department intimated (April 1991) that the assessment was revised by levying tax on the exempted turnover of Rs. 5.31 lakhs and demand notice issued (Para 2.24/CAG 89-90)

3.7.2. The Department in their written reply have stated that though the dealer filed appeal, the same was dismissed. As the demand was not paid Bakijai proceedings were started vide B.O. Case No. 4/95-96. No realisation have been reported.

OBSERVATION / RECOMMENDATION

3.7.3. The committee recommends that the department should conduct an enquiry by a superior officer to fix up responsibility on the defaulting officer who underassessed the tax. The committee further recommends to

expedite the Bakijai drive and intimate the result thereof within a period of three months from the date of submission of this Report before the House.

3.8.1 Audit has brought out that in Dhubri, an assessee (Tea Company) had effected stock transfer of tea valued at Rs. 5.28 lakhs and Rs. 3.74 lakhs respectively to its head office outside the State, during the periods ending March, 1986 and March, 1987 without furnishing declaration in Form 'F' or other evidence in support of stock transfer, as required under the Act *ibid*. Transfer of stock effected thus was to be treated as inter-State sales and tax was to be levied thereon ; but in assessment, the transfer of stock was not treated as such. The assessment proceedings were closed (July, 1988) with 'nil' tax liability which was irregular. The irregular treatment of the above transaction resulted in under assessment of tax of Rs. 27,052. Besides levy of tax, interest upto the date of tax due was also leviable. (Para 2.26/CAG-89-90).

3.8.2. The department, vide their written reply, have stated that on through re-verification of the dealer's accounts and records in the light of audit objection by the assessing officer, it was found that these were actually not stock transfer, but these teas were sold at Guwahati action market including brokers certificate and therefore found not liable to pay tax as sales in the Guwahati Action Market during the relevant years (1985 and 1986) were exempted. However, after re-verification, the dealer was assessed tax amounting to Rs. 27,329/- + Rs. 17,054/- as some sales to commission agent were not supported by relevant documents. But the dealer preferred appeal against this. Appeals have not been disposed of.

OBSERVATION / RECOMMENDATION

3.8.3. The Committee is pleased to drop the para with the direction that since the appeal in with the departmental officer the same should be disposed of within a period of 3 (three) months with intimation to the Committee.

3.9.1. Audit has pointed out that the North Lakhimpur, two dealers (millers) purchased paddy valued at Rs. 9.04 lakhs during the return periods ending March, 1986 and March, 1987 and after milling and processing the same in their mills supplied rice to the Food Corporation of India (F.C.I.). In the assessment (May 1986) August 1986 and May 1987) purchases of paddy which was milled and supplied to the F.C.I. in the form of rice were erroneously exempted from levy of tax, though the dealers were the last purchasers of the paddy inside the State and as such, were liable to pay purchase tax on the purchase turnover of the paddy which was milled in their own mills and supplied to F.C.I. in the form of rice. The irregular grant of exemption by the assessing authority resulted in tax amounting to Rs. 18,077 and interest thereon amounting to Rs. 12,621,

calculated upto the date of audit (August 1989), not being levied and realised. Further interest would be leviable until the tax due was paid in full. On this being pointed out in audit (August 1989), the department stated (June 1991) that the dealers were assessed and tax amounting to Rs. 26,967 and interest amounting to Rs. 12,580 were levied but both the dealers filed appeals against the assessment orders. The report on the disposal of appeal cases has not been received (July 1991). (Para 2.28/CAG-89-90)

3.9.2. The Department in their written reply have stated that the appeal against the rectification of the assessments were dismissed. The entire tax amount of Rs. 26,967/- and interest of Rs. 12,580/- were realised.

OBSERVATION / RECOMMENDATION

3.9.3. The Committee observes that the irregular grant of exemption by the assessing officer has subsequently been rectified. The concerned officer should be extremely careful for future. The para is dropped.

3.10.1 Audit has pointed out that in Tinsukia, it was noticed, (December, 1990) that an Industrial Unit set up in October, 1957, was registered as a dealer with tax liability from 1st October 1957. The assessment records showed that the dealer was registered with the Industries Department as a Small Scale Industrial Unit on 3rd October, 1969. On the strength of a certificate showing the eligibility for tax exemption issued (April, 1988) by the Udyog Sahayak, District Industries Centre, Dibrugarh the dealer claimed exemption from payment of tax on the turnover of Rs. 54.89 lakhs during the periods ending September, 1988 to September, 1989. The assessing officer allowed (October, 1989) exemption on the ground that the Assam Industrial (Sales Tax Concessions) Act, 1986 was in force during the periods the transactions took place. The action of the assessing officer was not correct because the provisions of the said Act for tax exemption was not applicable to this industrial unit as it was set up prior to 15th October, 1982. Thus exemption granted (October, 1989) to the dealer was irregular and resulted in non-levy of tax of Rs. 4.01 lakhs and interest of Rs. 1.83 lakhs leviable thereon upto March, 1991. Further interest is also payable by the dealer upto the date of payment of tax due in full (Para 3.4/CAG 90-91)

3.10.2. The Department clarified in their written statement that the dealer was re-assessed as per the audit report and he preferred an appeal before the Hon'ble Guwahati High Court, vide CR. No. 637/97. The case is not yet disposed of.

OBSERVATION / RECOMMENDATION

3.10.3. As the matter is sub-judiced the Committee has no comment to offer. However, a copy of the judgement when the case is decided, may be furnished to the Committee.

3.11.1. Audit pointed out the following :-

(a) While assessing (between August, 1982 to August, 1988) a dealer of Sales Tax Unit 'A' in Guwahati, sale proceeds of dolomite amounting to Rs. 65.95 lakhs were exempted by the assessing officer from levy of tax during the periods ending September, 1980 to March, 1988 treating the same as chemical fertilizer. The irregular exemption resulted in non-levy of tax of Rs. 3.96 lakhs.

(b) While assessing (April, 1989) another dealer of Sales Tax Unit 'A' in Guwahati, his sale proceeds of dolomite amounting to Rs. 6.71 lakhs were exempted from levy of tax during the periods ending March, 1984 to March, 1986 and March, 1987 treating the same as chemical fertilizer. The irregular exemption resulted in non-levy of tax of Rs. 40,287. On this being pointed out (June, 1990) in audit, the assessing officer stated (June, 1990) that the dealer is a manufacturer of dolomite powder and sales/supply were made as dolomite fertilizer but not as dolomite chips. He further added that dolomite powder is a non-taxable commodity under item No. 10 of Schedule III attached to the Assam Sales Tax Act, 1947 as clarified (July 1989) by the Deputy Commissioner of Taxes, Assam. The reply of the department is not tenable as dolomite powder cannot be treated as chemical fertilizer as per clarification given (January, 1979) by the Commissioner of Taxes, Assam. However, the clarification given by the Deputy Commissioner of Taxes, Assam cannot over rule the earlier clarification given by the Commissioner of Taxes, Assam. (Para 3.9/CAG-90-91)

3.11.2. The Department, against both the objections, clarified that the matter was again enquired into and dealer was found to have sold his goods under the brand name chemi-He-Lime as chemical fertilizer which contained over 94% calcium and magnesium Carbonate almost in equal proportion. This is used in Agriculture and Tea Industries as Chemical fertilizer as certified by the Director of Research, Assam Agriculture University, Jorhat.

OBSERVATION / RECOMMENDATION

3.11.3. The Committee is pleased to drop the para.

3.12.1. Audit has brought out the following :-

(a) During the audit of the office of the Superintendent of Taxes, Tinsukia, it was noticed (December, 1990) that declarations in Form 'F' submitted (Between March, 1988 and November, 1989) by a dealer in plywood, to the assessing authority revealed that the 'F' forms in support of transfer of goods to other States, valued at Rs. 12.72 lakhs, during the periods ending September, 1986 to March, 1988 were issued in the name of the dealer 'A' of Andhra Pradesh, who was an authorised agent of the

dealer at Tinsukia, but registered under the Central Sales Tax Act, 1956 only from April 1988. It was further noticed in audit that 11 out of 19 declarations in Form 'F' relating to the period ending March, 1988 were signed by another registered dealer 'B' of Andhra Pradesh (who was not an authorised agent of the dealer at Tinsukia) but with valid Central Sales Tax registration with effect from April, 1987. In the remaining 8 Form 'F' declarations relating to the periods ending September, 1986 to September, 1987, the registration certificate number of the issuing dealer and the date from which it was valid, were not quoted. The assessing officer erroneously accepted (March, 1988, January, 1989 and November, 1989) all the 19 declarations at the time of assessment and the entire turnover of Rs. 12.72 lakhs was exempted from levy of tax. Since the issuing dealer of Andhra Pradesh (who was an authorised agent of the dealer at Tinsukia) was not a registered dealer under the Central Sales Tax Act, 1956 till 17 April, 1988 and since the issue and signing of Form 'F' declarations by another registered dealer 'B' in Andhra Pradesh in favour of an unregistered dealer 'A' (who was the authorised agent of the dealer at Tinsukia) was not permissible under the provisions of the Central Sales Tax Act, 1956 and the rules made thereunder, the exemption granted to the dealer was irregular and had resulted in non-levy of tax amounting to Rs. 1.27 lakhs. Interest amounting to Rs. 97,948 was also leviable upto the end of March, 1991. Further interest shall also be payable by the dealer upto the date of payment of the tax due in full.

(b) In Guwahati Sales Tax 'C' unit another dealer effected stock transfer of water supply materials valued at Rs. 2.31 lakhs during the periods ending March and September, 1989, to its branch office at Shillong wherein the dealer was also registered under the Act. The assessing authority (Guwahati) allowed (December, 1989) exemption on the stock transfer of goods valued at Rs. 2.31 lakhs, as the claim of the dealer for tax exemption was supported by Form 'F'. A cross verification (September, 1990) in audit of assessment records of the dealer in Shillong Sales Tax Unit revealed that all his Registration Certificates were cancelled with effect from the 1st day of April, 1986. But the dealer, instead of surrendering the unused form 'F' (issued on 20th November, 1981 from the Shillong Sales Tax Unit), utilised during the period from October, 1988 to September, 1989, in violation of the provision of the Act and the Rules mentioned *ibid*. This resulted in non-levy of tax of Rs. 23,061. Besides, interest of Rs. 9,084 was also leviable (para 3.6/CAG-90-91)

3.12.2. The Department in their written reply stated as follows :-

(a) The assessing officer has already revised the assessment levying tax and interest as below :- P.E. 30.9.86 = Rs. 33,304/- P.E. 31.3.87 = Rs. 29,957/- P.E. 30.9.87 = Rs. 23,026/- P.E. 31.3.88 = Rs. 118,375/-.

The dealer preferred appeal against the re-assessments for P.E. 31.3.87 to 31.3.88 and the appellate authority of Tinsukia had set-aside the assessments of the above periods. The re-assessed tax for P.E. 30.9.86 of Rs. 34,304/- has been realised in full.

(b) The Supdt. of Taxes, Guwahati Unit 'C' had already written to the Supdt. of Taxes, Shillong, Meghalaya to intimate whether the Registration Certificate of the dealer was cancelled or not. Though a reminder has again been issued no reply has yet been received from the Supdt. of Taxes, Shillong, Meghalaya.

OBSERVATION / RECOMMENDATION

3.12.3. The Committee recommends that (a) the para is dropped in view of the explanation given by the departmental witness and (b) the matter may be taken-up by the Commissioner of Taxes, directly as reviewing authority. The result of review may also be intimated to the Committee. The Sub-para (b) is also dropped with the above suggestions.

3.13.1. Audit has pointed out as follows :-

(i) During the audit of the office of the Superintendent of Taxes, Tinsukia it was noticed (December, 1990) that a dealer despatched goods (tea) valued at Rs. 22.45 lakhs and Rs. 11.05 lakhs during the periods ending September, 1987 and March, 1988 respectively outside the State and claimed exemption from payment of tax on the ground that the movement of such goods was occasioned by way of transfer. The assessing officer while making the assessment (May, 1990), disallowed the dealer's claim treating the above transactions as having been made by reason of sale and not by transfer, incorrectly determined (May, 1990) the net taxable turnover and allowed deduction of Rs. 2.04 lakhs and Rs. 1.00 lakhs respectively on account of tax without adding the same while arriving at the net taxable turnover. The mistake resulted in short levy of tax of Rs. 30,456. Interest leviable thereon worked out to Rs. 23,160 upto March, 1991. Further interest is also leviable upto the date of payment of tax due in full.

(ii) In the case of another dealer under the same Sales Tax Unit, it was seen in audit that his turnover in respect of inter State sales of commercial plywood was determined (May, 1988) by the assessing officer at Rs. 7.45 lakhs and Rs. 62.47 lakhs during the periods ending March, 1987 and September, 1987 respectively. The dealer claimed exemption from payment of Central Sales Tax on his entire inter-State sales during the aforesaid periods on the ground that he was registered as a Small Scale Industrial Unit by the Industries Department of the Government of Assam, and as such he did not collect any tax on such sales. In the absence of any documentary evidence, however, the dealer's claim was disallowed (May, 1988) by the

assessing officer and tax was levied accordingly. The assessing officer while determining his taxable turnover (exclusive of any tax elements) erroneously allowed deductions of Rs. 35.373 and Rs. 2.82 lakhs on accounts of tax during the periods ending March, 1987 and September, 1987 respectively. This resulted in short levy of tax amounting to Rs. 13,639. Interest leviable thereon worked out to Rs. 28,622 upto March, 1991. Further interest is also leviable upto the date of payment of tax due in full (Para 3.10/CAG-90-91)

3.13.2. The Department, in their written reply have stated as follows :-

(i) The dealers was reassessed in the light of the audit observation raising the additional demand as pointed out by the audit. On being aggrieved on the reassessment the dealer had preferred appeal before the A.C.T.(A) and the appellate authority has set aside the revised assessment.

(ii) The assessing officer has reassessed the dealer and raised the additional demand of tax and interest as pointed out by the audit. But the dealer preferred appeal before the Hon'ble High Court against the revised assessment vide Civil Rule No. 2800/97. The case is not yet disposed of.

OBSERVATION / RECOMMENDATION

3.13.3. The Committee recommends as follows :

(i) The Committee expresses its satisfaction on the action taken by the department, and hence the para is dropped.

(ii) As the matter is sub-judiced, the committee has no comment to offer at this stage and desires that the latest position, after disposal of Hon'ble High Court's case may be intimated to the committee.

3.14.1. Audit has pointed out that in Guwahati Sales Tax 'A' Unit, the gross taxable turnover for the period ending March, 1988 and September, 1988 in respect of a dealer who is a manufacturer of aluminium wire and steel conductors, was determined (December, 1988 and December, 1989) by the assessing officer at Rs. 180.52 lakhs and Rs. 120.82 lakhs, after allowing deductions of Rs. 3.51 lakhs and Rs. 1.83 lakhs being the cost of freight and insurance charged separately in the bills by the dealer, during the periods ending March, 1988 and September, 1988 respectively. During the aforesaid periods, the dealer supplied goods mainly to Assam State Electricity Board (a Government of Assam Undertaking). A scrutiny by audit (May, 1990) of the contract deed and supply orders revealed that the accepted rates of goods as per contract agreement made with the dealer by the Assam State Electricity Board, were inclusive of the cost of freight and insurance and supply was to be made F.O.R. destination only. Thus, the

'sale price', in this case, was inclusive of the cost of freight and insurance, even though it was claimed separately in the bill by the dealer, and as such, the exemption of turnover of Rs. 5.34 lakhs being the freight and insurance charges allowed (December, 1988 and December, 1989) by the assessing officer was irregular. This resulted in under assessment of tax amounting to Rs. 57,222. Besides, interest was also leviable upto the date of payment of tax due in full. (Para 3.13/CAG-90-91)

3.14.2. The Department in their written memorandum, have stated that the Act allows exclusion of freight from the sale price of goods when it is charged separately in the bill. It is reported by the assessing officer that as per the contract agreement with the ASEB the dealer is to charge tax on the actual value of goods excluding freight, insurance, loading and unloading charge etc. Therefore, the assessing officer had rightly assessed the dealer excluding the freight and insurance charges as these are charged separately in the bill. The audit observation was found to be not correct and there was no loss of Government revenue.

OBSERVATION / RECOMMENDATION

3.14.3. In course of oral deposition, the departmental witness interpreted the term "freight charge" on the line of a judgement of Supreme Court. The Committee therefore, accepts the departmental conception and recommends that the Commissioner of Taxes, should take necessary measures to assess and collect taxes as per verdict of the Hon'ble Supreme Court, in this regard.

CHAPTER - IV

Incorrect assessment/Delay in Assessment etc. (paras 2.8, 2.9, 2.14 & 2.16 of C.A.G. 88-89 & 2.3, 2.6, 2.17, 2.20, 2.9 & 2.22 of C.A.G. 89-90 and 3.14/C.A.G.-90-91)

4.1.1. Audit has pointed out that in Tinsukia, a manufacturing dealer in polythene tube/sleeves had indicated in his accounts, for the periods ending March, 1986 to September, 1987 tax paid sales (i.e. sale of tax paid goods procured by purchase within the State) amounting to Rs. 11.53 lakhs. The assessing officer allowed deduction of tax paid sales, as disclosed by the dealer, from his gross turnover to arrive at the taxable turnover and assessed the dealer accordingly. The assessment records, however, did not indicate purchase by the dealer of tax paid goods for resale within the State. Hence, deduction on account of tax paid sales, as allowed by the assessing officer, was irregular resulting in short levy of tax by Rs. 75,432. (Para 2.8/CAG-88-89)

4.1.2. The Department, in their written memorandum, have clarified that in the instant case the dealer M/S Kaziranga Udyog, Tinsukia (R/C No. TIN/F-702) is a manufacturer of Polythene Tubes and sheets, Wirenails and steel wool. For Manufacturer of Polythene Tube and sheets the dealer purchases polythene granules from the local market against quota. It did not purchase polythene tubes and sheets as observed by the Audit. There was no import of polythene granules from outside the State of Assam during the period of review i.e. for P.E. 31/3/86 to 30/9/87. The factory has its own capacity and the excess granules purchased within the State were sold in the same form in the local market. The tax paid sales shown in the assessment orders were the sale proceeds of polythene granules only which were procured locally. Therefore, there is no short levy of tax.

OBSERVATION / RECOMMENDATION

4.1.3. The Committee is pleased to drop the para.

4.2.1. Audit has pointed out that in Guwahati 'C' Unit, a manufacturer of Pre-stressed concrete poles was registered (August, 1983) as a dealer fixing his tax liability with effect from 1st April, 1981. Owing to non-submission of returns for the periods ending September, 1981 to March, 1986, the turnover of the dealer was determined at Rs. 21.16 lakhs and assessed to

tax on best judgement basis. On cross verification by audit of the records of one division of the Assam State Electricity Board (ASEB) which made purchases of pre-stressed concrete poles from the said dealer ; it was noticed (August, 1988) that the dealer had sold to that Division Pre-stressed concrete poles valued at Rs. 31.38 lakhs during the aforesaid periods. Besides, the dealer had also made sale of such poles amounting to Rs. 1.35 lakhs during the year 1980-81 i.e. before being registered as a dealer. Thus, total sale made to one division of Assam State Electricity Board alone worked out to Rs. 32.73 lakhs. The turnover so escaped assessment amounted to at least Rs. 11.57 lakhs which resulted in non-levy of tax amounting to Rs. 64,352. By his failure to submit returns of sales the dealer also committed an offence, for which he was liable to pay, by way of penalty, in addition to the tax payable by him, a sum not exceeding one and half times the amount of tax due. Besides, the dealer was also liable to pay interest under the provisions of the Act, till the amount of tax payable by him was paid in full (para 2.9/CAG-88-89)

4.2.2. The Department have clarified that in the instant case in pursuance of the Audit objection the assessing officer assessed the dealer from P.E. 30/9/80 to 31/3/86 on the gross turnover of Rs. 34.71 lakhs levying tax of Rs. 1,96,477 and interest of Rs. 1,77,582/- out of the above amount Rs. 64,877/- has been realised. The balance amount is under process of recovery.

OBSERVATION / RECOMMENDATION

4.2.3. The Committee observed that the assessing officer failed to ascertain the correctness of the returns of the dealer before it was pointed out in audit on cross verification. The audit also pointed out imposition of penalty not exceeding one and half of the tax due together with interest. The Committee could not comprehend as to why penalty was not imposed.

The Committee, therefore, recommends that the working of the assessing officers should be streamlined to prevent evasion of taxes.

4.3.1. Audit has pointed out that in Tinsukia, three dealers, who procured goods from registered dealers within the State, after furnishing the declaration for resale within the State, neither accounted nor disclosed the purchases so made during the return periods ending March 1985 and March 1987. During the test check of the assessment records (July 1988 to October 1988) of the selling dealers, it was noticed that during the above mentioned periods the three dealers made purchases of taxable goods amounting to Rs. 4.60 lakhs for resale. While making assessments of these dealers for the said periods, the assessing officer had recorded that the dealers had neither made any purchase nor sales of any taxable goods, and hence, they had no tax liability. The omission to make use of the information in respect of purchases of taxable goods, which should have been available to the assessing officer at the time of assessment had he verified the accounts of the selling dealers, resulted in evasion of tax amounting to Rs. 27,592. Tax effect would be more if the elements of profits are taken into consideration. (para 2.14/C.A.G. 88-89)

4.3.2. The Department in their written memorandum have clarified that three dealers are involved in this case, namely 1. M/S Purbanchal Stores, Tinsukia. 2.M/S Eastern Trade & Agency, Tinsukia. 3. M/S Vakti Engineering (Assam), Tinsukia.

The main objection in those cases is that the three dealers purchased goods taxable under the Assam Sales Tax Act on the strength of Assam Sales Tax declaration form. But these purchases were not accounted for in the relevant periods of their books of accounts and hence tax due was evaded in the subsequent sales of these goods.

1 M/S Purbanchal Stores.

It is a fact that the dealer purchased goods worth Rs. 2,61,965/- against the issue of Assam Sales Tax declaration forms in period ending 31/3/85. These purchases were not accounted for in the purchase account under the Assam Sales Tax goods in P.E. 31/3/85. The Superintendent of Taxes has stated that the dealer wrongly classified these goods through oversight as locally purchased Assam Finance (Sales Tax) goods and were shown in that account. As reported by the Superintendent of Taxes the goods were lying in stock and were sold only during the P.E. 30/9/88. The sale of these goods were shown in the Assam Sales Tax return for P.E. 30/9/88. 60% taxable goods for P.E. 30/9/88 were shown as Rs. 3,29,215/- Tax including interest on these turnover amounting to Rs.19,994.95 was also deposited by the dealer in challan No.1322 dated 13/3/89 (Rs. 18,637/-) challan No. 714 dated 7/10/88 (Rs. 50.95) and challan No.2346 dated 28/7/89 (Rs.1,308/-).

Though the tax was realised the department is not satisfied in the handling of the case by the Superintendent of Taxes. The Commissioner of Taxes, Assam has taken note of the lapse on the part of the assessing

officers for not properly examining the books of accounts before completion of the assessment and appropriate action has been initiated against the erring officer. (Show cause notice has been issued on the erring dealer).

2. M/S Eastern Trade and Agency.

It is a fact that the dealer purchase goods taxable under the Assam Sales Tax Act 1947 amounting to Rs.1,05,107/- against the issue of Assam Sales Tax declaration form in P.E. 31/3/87 but the dealer submitted Nil return in P.E. 31/3/87.

The assessing Officer on scrutiny found that the said goods were sold in the course of inter-state Trade and Commerce and Tax has been paid under the Central Sales Tax Act 1956. The dealer is not entitled to make inter-state Sale of those goods which were purchased free of Tax on the strength of Assam Sales Tax declaration form. Therefore, the assessment under the Assam Sales Tax Act for P.E. 31/3/87 was revised on 1/6/89 under Section 19A of the Assam Sales Tax Act 1947 imposing Tax on the entire purchase amount under the Assam Sales Tax Act amounting to Rs.6,306/- and interest amounting to Rs.3,027/- have already been realised vide challan No.933 dated 12/7/89 for Rs.9,333/- .

3. M/S Vakti Engineering, (Assam).

It is a fact that the dealer purchased goods amounting to Rs. 92,800/- taxable under the Assam Sales Tax Act on the strength of Assam Sales Tax declaration form during P.E. 31/3/87. This amount was not shown in the purchase account of the dealer under the Assam Sales Tax Act in the relevant period. The assessing Officer has reported that the goods were wrongly classified by the dealer as local Assam Finance (Sales Tax) goods. As per report of the Superintendent of Taxes the Goods were lying in the stock till 30/9/88. However, the goods were sold at Rs. 1,06,000/- during the P.E. 31/3/89 and was included in that period. The tax involvement was found to be Rs.6,000/- which was realised vide Challan No.27308 dated 29/3/89.

Though the tax has been realised the department is not satisfied with the action of the Superintendent of Taxes in handling the instant case. He should have properly examined the books of accounts including the Assam Sales Tax declaration form before completion of the assessment for P.E. 31/3/87.

The Commissioner of Taxes, Assam has taken note of the lapse on the part of the assessing officer and appropriate action has been initiated against the erring Officer.

OBSERVATION / RECOMMENDATION

4.3.3. In course of oral deposition, it has been clarified that the dealers have been re-assessed and due taxes realised. For the lapses of the assessing officer at the time of original assessment, the department cautioned the erring officer for future. In view of this the Committee is pleased to drop the para.

4.4.1. Audit has pointed out that in Mangaldoi, a person was registered as a dealer in and as a manufacturer of exercise book and bound register. During the period ending March 1987 the dealer purchased, free of tax, paper valued at Rs.3.67 lakhs from a registered dealer of Guwahati by issuing sales tax declaration. The dealer utilised the purchased goods in the manufacture of exercise books and sold them as tax-free goods under item No.37 B of the Scheduled III to the Act *ibid*. As the item (paper) was not specified in his certificate of registration and as the goods were utilised for purposes other than those mentioned in the declaration against which such goods were purchased, the value of goods was required to be included in his turnover. But while completing assessment of the dealer this was not done and as a result, turnover of Rs.3.67 lakhs escaped assessment. This resulted in short levy of tax of Rs. 21,993 calculated at the rate of 6 percent. Besides levy of interest, penalty at one half times the amount of Tax levied short was also leviable for misuse of registration certificate. (para 2.16/C.A.G. 88-89)

4.4.2. The Department, vide their written memorandum, have stated the case has a reference to an assessee of Kharupetia covered by Mangaldoi Unit office. In pursuance of the Assessing Officer the dealer was re-assessed taking into consideration the escaped turnover of Rs.3,66,545/-. The resultant demand of tax including interest came to Rs.31,230/-. The amount was fully realised vide Challan No. 32/27/13-12-89 and 21/6-3-90.

OBSERVATION / RECOMMENDATION

4.4.3. Committee observes that the incorrect assessment has been rectified on being pointed out in audit and due taxes realised. However, necessary action against the erring official should be taken. With this observation, Committee is please to drop the para.

4.5.1. Audit has pointed out that in Guwahati, a registered dealer, while submitting returns for the periods ending March and September 1988, disclosed purchases of timber valued at Rs.7.32 lakhs from a timber dealer of Meghalaya. The dealer's statement of purchases was accepted in assessment. However, on cross verification by Audit of the records of the selling dealer of Meghalaya, it was noticed (December 1989) that actual purchases made by the purchasing dealer of Assam amounted to Rs.61.54

lakhs. This showed that the purchasing dealer had concealed purchases valued at Rs.54.22 lakhs having tax effect of Rs.5.22 lakhs, calculated at the rate of 10 percent (treating the transactions as having been made without the supporting declarations in form 'C' and without taking into account the element of profit. Besides, interest upto the date of full realisation of the tax due and penalty amounting of Rs.8.13 lakhs (at one and half times the amount of tax due) was also leviable for deliberate concealment of taxable turnover. (para 2.3/CAG-89-90)

4.5.2. The Department have stated that in the light of objection raised by the Audit the assessments are completed as follows :--

<u>Period</u>	<u>Tax assessed</u>	<u>Tax paid</u>	<u>Interest levied</u>	<u>Balance</u>
31/3/88	2,60,000/-	1396/-	15,5314/-	4,13,928/-
30/9/88	2,91,062/-	7791/-	12,9987/-	4,12,358/-
Total	5,51,062/-	9187/-	28,5301/-	8,26,286/-

Demand notice could not be served as the dealer was not traceable.

OBSERVATION / RECOMMENDATION

4.5.3. Committee observes that an amount of Rs.8,26,286/- only would be lost if the dealer could not be traced out. The Committee therefore, recommends that vigorous action would be taken to findout the dealer and to realised the amount due. Action taken in this regards will be communicated to the Committee within a periods of two months from the date of presentation of this Report before the House.

4.6.1. Audit has pointed out following :--

- (a) In Guwahati Sales Tax Unit 'A' two dealers ('D' and 'E') were assessed (January 1989) to 'Nil' tax liability on the basis of 'Nil' turnover disclosed by them in their returns. Records of another dealer ('C') of the same Sales Tax Unit, however, revealed that he had supplied goods valued at Rs. 54.71 lakhs to the Guwahati Municipal Corporation after purchasing the same locally from the dealers 'D' and 'E' and had secured exemption from payment of tax on the consideration that goods so purchased had already suffered tax in the hands of 'D' and 'E'. It was clear that 'D' and 'E' had thus deliberately concealed their sales to 'C' which escaped assessment, resulting in non-levy of tax amounting to Rs.2.10

lakhs. Penalty not exceeding one and half times (Rs.3.15 lakhs) the amount of tax due was also leviable on the dealers for concealment of taxable turnover, besides levy of interest till the tax due was paid in full.

- (b) In Jorhat, on failure of a dealer (a Forest Mahaldar) to furnish returns for the periods ending September 1983 to September 1985, his gross taxable turnover for the period was determined (March 1986) as Rs.40,000 by the assessing officer on best judgement basis. The dealer paid (March 1986) tax and interest on the turnover thus assessed and applied (April 1986) for cancellation of his certificate of registration on the closure of his business from October 1985. However, a cross verification by audit with the records of the Divisional Forest Officer, Golaghat Forest Division revealed that the royalty value of the timber operated by the dealer during the years 1983-84 and 1984-85 was Rs.5.76 lakhs and Rs. 3.48 lakhs respectively. Thus his net turnover of Rs. 8.84 lakhs (Purchase value of timber) escaped assessment resulting in short levy of tax of Rs. 61,885 calculated at the rate of 7 percent. The amount of tax leviable would be more if the element of profit was taken into account. Besides levy of interest till the date of actual payment of tax due, penalty at one and half times the amount of tax due was also leviable. (para 2.6/CAG-89-90)

4.6.2. The Department in their written statement, have states :--

- (a) As per Audit objection assesment, were rectified, demand raised and arrear Certificate issued to the Recovery Officer concerned for realisation of tax.
- (b) Tax and interest amounting to Rs.38,792/- was realised.

OBSERVATION / RECOMMENDATION

4.6.3. The Committee, expresses its great concern for non-realisation of arrear dues, in so far as the audit objection at para 4.6.1. (a) is concerned and recommends that the Department will overcome the practical difficulties and take all possible steps for realisation of arrear dues. Action taken report in this regard will be furnished to the Committee within a period of three months from the date of presentation of this report before the House.

4.6.4. Committee observes that in respect of the objection as at para 4.6.1. (b), audit pointed out short levy of tax of Rs. 61,885/- in addition to interest and penalty. The Department realised Rs.38,792/- only. The Committee asked the department to settle up realisation of the balanced

amount within a period of 2 months. The required information has not yet been received as yet. The Committee recommends that the matter may be reviewed on the line of the audit comments and findings may be intimated within a period of 2 months from the date of presentation of this report before the House.

4.7.1. Audit has pointed out the following :-

- (i) In Jorhat, inter State sale of dealer for the period ending September 1987 to September 1988 were determined (February 1989) by the assessing officer as Rs.31.64 lakhs, against which the dealer submitted declarations in Form 'C' for only Rs.23.57 lakhs. Thus the inter-State sales of the dealer amounting to Rs. 8.27 lakhs which was not supported by declarations in Form 'C' were liable to tax at the rate of 12 percent (State rate) against which tax was levied at the concessional rate of 4 percent. The mistake resulted in under assessment of tax of Rs.63,599/-. In addition, interest was also leviable upto the date of actual deposit of tax due.
- (ii) Similarly, in the case of another dealer at Jorhat, inter-State sales to registered dealer for the periods ending September 1987 to September 1988, were determined (January and February 1989) as Rs. 26.70 lakhs against which the declarations in Form 'C' and 'D' were available on assessment records for only Rs.22.62 lakhs. The balance turnover of the dealers of Rs.4.08 lakhs not supported by declarations was taxed at the concessional rate of 4 percent instead of at the correct rate of 12 percent, which resulted in under assessment of tax of Rs.31,419/-. In addition, interest was also leviable upto the date of payment of tax due in full (para 2.17/CAG-89-90).

4.7.2. The Department in their written reply have stated that in both the cases as pointed out by the audit re-assessments have been completed. In the first case taxes amounting to Rs.0.87 lakhs were levied out of which the dealer has already paid Rs.0.27 lakhs for non-payment of the balance amount, a penalty of Rs.0.15 lakhs was also levied. In the other case, taxes amounting to Rs.0.44 lakhs have been levied out of which Rs.0.31 lakhs have already been collected. For non-payment of the balance amount, of Rs.0.13 lakhs have been levied. The entire amount the both in cases have been realised.

OBSERVATION / RECOMMENDATION

4.7.3. The Committee is pleased to drop the para as the entire amount in both the cases have been realised.

4.8.1. Audit has pointed out that a dealer of Dibrugarh, who was dealing in citronella oil in course of inter-State trade and commerce, submitted the returns for the period ending 30th September 1982 to 30th September 1983 on 16th March 1984 alongwith the declaration in Form 'C'. When the dealer failed to produce the books of accounts on demand, the area Inspector of Taxes was asked (13th June 1984) by the assessing officer to collect full particulars about the business of the dealer for the purpose of summary assessment. The area Inspector reported (22nd October 1984) that the dealer was not traceable at his given address. Departmental records showed that the assessing officer also made enquiries in this regard and came to know that the dealer had no permanent residence of his own and had no moveable or immoveable property. Again the area Inspector was asked (30th October 1984) to submit a detailed report about the business of the dealer. No report was submitted till 13th December 1989 and the assessment for the period ending 30th September 1982 to 30th September 1983 was also not completed (December 1989). As per returns, the dealer was to pay tax of Rs.0.90 lakh for the period ending 30th September 1982 to 30th September 1983 (over the amount of tax of Rs.3632.82 paid on self-assessment). Interest of Rs.1.40 lakhs (upto December 1989) was also leviable on the amount of tax due. Thus, the failure of the department to take prompt action against the dealer resulted in non-realisation of both tax and interest of Rs.2.30 lakhs from the dealer. (para 2.9/CAG-89-90).

4.8.2. The Department in their written reply have stated that as the dealer was not traceable, no assessment could be made.

OBSERVATION / RECOMMENDATION

4.8.3. In course of oral deposition, the departmental witness expressed their helplessness in realisation of arrear dues as the dealer is found 'not traceable'. Committee views it with great concerns and desires that the Department should reduce such "Untraceable" with due case and caution. So that no dealer can default payment of due taxes by absconding closer of business. The Committee, is, however, please to drop the para.

4.9.1. Audit, on their test check of the records of Jalukbari Check Gate, has brought out that a coal dealer obtained (March 1985) 100 road challans duly countersigned by the Superintendent of Taxes, 'C' Unit Guwahati on security deposit of Rs. 20,000/-. The dealer neither submitted any returns for the period ending March 1985 onwards nor paid any tax on coal despatched outside the State against road challans. When the dealer was not traceable at his given address, the Inspector of Taxes, determined (April 1987) the dealer's turnover, on the basis of check-gate records, as Rs.3.13 lakhs and Rs.18.60 lakhs respectively for the periods ending March 1985 and September 1985. Tax payable by the dealer for the period ending March

1985, worked out to Rs.25,056 at the rate of 8 percent, against which security deposit amounting to Rs.20,000/- was adjusted. The balance tax of Rs.5,056/- could not be realised as the whereabouts of the dealer were not known. Similarly, during the period ending September 1985, against the dealer's tax liability of Rs.1.49 lakhs, an amount of Rs.1.14 lakhs had been realised between May and August 1985. The balance tax of Rs.35,024/- could not be realised because the dealer was not traceable at his given address. There was no evidence on record that action had been taken to assess the dealer on best judgement basis on his failure to submit the periodical returns. Due to delay in taking action for assessment of the dealer on his failure to submit periodical return with admitted tax, the Government had to forego revenue of Rs.40,080/-, besides interest chargeable thereon upto the date of payment of such tax. (para 2.22/CAG-89-90).

4.9.2. The Department have stated that from the coal dealer registered at Jalukbari check-gate, an amount of Rs.20,000/- only had already been collected leaving a balance of Rs.5056/- against his total dues of tax up to March, 1985 of Rs.25,056/-. Similarly for the period ending September 1985 against his liability of Rs.1.49 Lakhs, an amount of Rs.1.14 lakhs had already been realised leaving a balance of Rs.35,024/- the total balance of Rs.40,080/- could not be realised afterwards from the dealer as he closed down his business and left the place and his whereabouts could not be traced out.

OBSERVATION / RECOMMENDATION

4.9.3. Committee observes that the dealer paid the major portion of his arrear dues keeping a balance of Rs. 0.40/- lakhs and closed down his business. The Departmental witnesses regarded their inability to realise the entire amount as the whereabouts of the dealer is not known to them. Hence the Committee, decided to drop the para.

4.10.1. Audit has pointed out that in Dibrugarh, on the failure on the part of the dealer to produce his books of accounts, the gross turnover of a dealer for the period ending March 1987 was determined (December 1988) by the assessing officer at Rs.14.15 lakhs on the basis of the report (June 1987) of the Area Inspector of Taxes and the assessment was completed (December 1988) to the best of his judgement. However, in determining the taxable turnover, the assessing officer erroneously allowed a deduction towards tax element amounting to Rs.23,491 instead of Rs.80,094 (tax leviable at the rate of 6 percent) from the gross turnover assessment of tax amounting to Rs.56,603. Besides, interest was also leviable on the dealer for non-payment of tax (para 3.14/CAG-90-91).

4.10.2. The Department have stated that on receipt of the audit objection the assessment has been rectified by the assessing officer and additional demand of Rs.56603 was raised. The said amount was realised

by vide challan No.5133 dated 22.1.87 and challan No.165 dated 30.3.87. No interest was found due as the taxes were deducted at source as per provision of section 34 (5).

OBSERVATION / RECOMMENDATION

4.10.3. Committee is pleased to drop the para.

CHAPTER - V

Non-levy/Short-levy of tax and interest

(Paras 2.10, 2.11 & 2.17 of CAG 88-89; 2.4, 2.5, 2.11, 2.13, 2.19 & 2.20 of CAG 89-90 and Para 3.3, 3.8, 3.11, 3.12, 3.17, & 3.19 of CAG 90-91)

5.1.1. Audit has pointed out that in Guwahati 'C' Unit, on the failure of a dealer to pay the tax assessed (Rs. 3.27 lakhs) and interest (Rs.56,346) for the period ending September 1986, the case was referred (May 1988) to the Tax Recovery Officer for recovery of tax with interest charged upto the date of assessment (August 1987). Interest, however, should have been charged up to the date of referring the case to the Tax Recovery Officer which was not done. This resulted in short demand of interest amounting to Rs.57,401. Further amount of interest due up to the date of actual payment of the tax in full would also be leviable separately. (Para 2.10/CAG 88-89)

5.1.2. The Department have stated that in pursuance of the Audit objection the assessing Officer levied interest amounting to Rs.57,401 for P.E.30/9/86. Out of the above amount the dealer has already deposited Rs.46,177/- vide Challan No.342 dated 12/6/89 and Challan No.772 dated 14/8/89. The balance amount is under the process of recovery.

OBSERVATION / RECOMMENDATION

5.1.3. Audit pointed out short demand of interest of Rs.57,401/- only together with further interest till the date of full payment of all dues. The assessing officer levied interest of Rs.57,401 only without indicating additional interest levied to the assessee, as pointed out in audit. The information of full recovery is also wanting.

The Committee, therefore, recommends that the recovery of entire amount in full satisfaction of audit observation may be furnished within a period of one month from the date of presentation of this report before the House.

5.2.1. Audit has brought-out that two dealers under Guwahati 'A' Unit purchased timber logs from Kamrup Forest Division at a cost of Rs.20.59 lakhs during May 1984 to October 1985. The Divisional Forest Officer (D.F.O.) under the same sales tax assessing circle, who made the first point sale, realised tax amounting to Rs.1.04 lakhs only as against the total tax amounting to Rs. 1.44 lakhs due which resulted in short realisation of tax amounting to Rs.0.40 lakh. On this being pointed out in audit, the assessing officer stated (July) 1988) that the Divisional Forest Officer was responsible for short realisation of tax. The fact remains, however that the assessing officer is the final tax collecting authority and cannot absolve itself from the responsibility of cross verifying the records of both the purchasing and selling dealers, while making assessments to ascertain the particulars of purchases, their tax effect and the position of realisation of the tax due. (Para 2.11/CAG 88-89)

5.2.2. The Department in their written statement have clarified that the discrepancies pointed by audit as to short realisation of tax by the concerned District Forest Officer has been duly taken note of and the sale accounts of the District Forest Officer are being examined by the concerned assessing officer for final assessment and realisation of the balance tax.

OBSERVATION / RECOMMENDATION

5.2.3. The Committee observed that the entire amount of sales tax was due to be deducted at source by the District Forest Officer, However, as the matter is taken up for further scrutiny by the Finance Department the para is dropped.

5.3.1. Audit has brought out that an assessee of Mangaldoi produced declarations in Form 'F' in support of transfer of goods worth Rs.6.56 lakhs to his agent in Shillong in the State of Meghalaya, during the return period ending March 1986, September 1986 and March 1987, claiming exemption from levy of tax, which was accepted (December 1986 and February 1988) by the assessing authority. However, a cross verification by audit of assessments records of the agent in the sales tax unit office at Shillong in the State of Meghalaya revealed that he was not the assessee agent. The fraudulent claim of the assessee for exemption resulted in non-levy of tax amounting to Rs.19,694, besides interest amounting to Rs.14,221 calculated up to the date of audit (December 1988). (Para 2.17/CAG 88-89).

5.3.2. The Department, in their written reply stated that in the instant case the audit objection was that the party outside the State who was claimed by assessee to be his agent was infact not an agent of the assessee and hence the Form 'F' supposedly issued by the said agent cannot be valid and the value of the goods so despatched by the assessee should from his turnover

and assessed to . In pursuance of the above audit objection the concerned assessing officer reassessed the dealers taking into consideration the value of the quantity of tea despatched against 'F' Form as sales in the course of inter-state trade. The assessee, being agrieved preferred appeal. The Appellate authority after examining the agreement between the said agent and the assessee and 'F' Form issued by the said agent together with his sales note revealing commission at the rate of 2% and also local tax paid by the agent annulled the subsequent assessment of the concerned assessing officer.

OBSERVATION / RECOMMENDATION

5.3.3. The Committee observed that the re-assessment made after the audit objection has been annulled on appeal. The committee, therefore, pleased to drop the para.

5.4.1. Audit has pointed out that in Guwahati, cross verification by audit (August 1989) of the records of the Assam State Transport Corporation revealed that during the period from 1970-71 to 1984-85 number of condemned vehicles (which included 719 vehicles sold during 1974-75 to 1984-85) with all accessories were sold for an aggregate amount of Rs.1.53 crores on the basis of tenders. But no tax was realised from the successful tenderers. As a result, Government suffered loss amounting to Rs.9.18 lakhs by way of sales tax. The records of the Sales Tax Department did not indicate any action was ever taken by them against the Corporation for realisation of tax dues. On this being pointed out in audit (January 1990) the department stated (March 1991) that the condemned vehicles are taxable as "other goods" under the Assam Sales Tax Act. The department further intimated (April 1991) that the assessment relating to the periods from 1970-71 to 1981-82 could not be done as these were barred by limitation of time. However, assessments were done (November 1990) for the periods ending March 1982 to September 1989 and tax amounting to Rs.12.71 lakhs and interest amounting to Rs.8.82 lakhs (up to the date of assessments) were levied. On the failure of the Assam Transport Corporation to pay the outstanding dues, the cases were referred (July 1991) to the Bakijai Officer for effecting recovery. The report on the progress of realisation, if any, has not been received (July 1991). (Para 2.4/CAG 89-90).

5.4.2. The department have clarified that no realisation has yet been made by the Recovery Officer. Assam State Transport Corporation being a Government undertaking is itself reportedly taking the matter with Government.

OBSERVATION / RECOMMENDATION

5.4.3. The Committee expresses its dissatisfaction that due to delay on the part of the assessing officer a substantial amount of tax due to be paid to the State become time barred. The department should shoulder responsibility for such lapses and laxity. The erring officials should be cautioned so that such omission should not be occurred.

5.4.4. The Committee recommends that the department should take prompt action to realise the outstanding dues and intimate to the committee result thereof within a period of 2 (two) months from the date of presentation of this report before the House.

5.5.1. Audit pointed out the following :-

- (a) In Jorhat, under the Central Sales Tax Act, 1956 a firm was assessed (December 1984) summarily for the period ending March 1982 to September 1984 and tax was determined by the assessing officer at Rs.9.91 lakhs, out of which Rs.50,232 only relating to the period ending March 1982 was paid (July 1982) by the firm leaving a balance of tax of Rs.9.41 lakhs and interest of Rs.2.55 lakhs and interest of Rs.2.55 lakhs levied thereon upto November 1984. The demand notice could not be served as the partners of the firm were not traceable at their given address. The case was thereafter referred to the Tax Recovery Officer (September 1987) but while doing so, the assessing officer omitted to include interest payable on the outstanding taxes of Rs.9.41 lakhs upto the date of the reference. The omission resulted in short levy of interest of Rs.6.26 lakhs up to the date of referring (8th September 1987) the case to the Bakijai Officer. On this being pointed out in audit, the Department in their reply (August 1989 and June 1991) stated that fresh demand notice charging up-to-date interest had been issued to the firm. Further report on realisation of tax and interest thereon has not been received.
- (b) In Guwahati Sales Tax 'A' Unit in the case of two dealers, interest amounting to Rs.26,467/- for the periods ending March and September 1987 and March 1988 was leviable for non-payment of the balance tax of Rs.2.19 lakhs. But no interest was levied in one case while in another case interest of Rs.10,030/- was short levied. The amount of interest leviable would be more if the same is calculated up to the date of actual deposit of tax in full.

On this being pointed out in audit (June 1989) the department intimated (April 1991) that interest amounting to Rs.16,590/- was levied in one case but the reply was silent about the short levy of

interest in respect of the other case. The report on the progress of realisation of interest has not been received (July 1991). (Para 2.5/CAG 89-90)

5.5.2. The Department in respect of both the cases have stated that arrear certificates are issued to realise the short fall of interest.

OBSERVATION / RECOMMENDATION

5.5.3. In course of oral deposition the department have stated that the dealer in the first case is found untraceable for which the due tax could not be realised as yet. However, they are trying to locate the dealer. In the second case, the matter relates to a Government College and hence there will be no problem in realising the outstanding dues. However, the report of realisation has not been received till now.

5.5.4. The committee therefore, recommends that the department will initiate strong action for realisation of outstanding tax in both the cases and intimate its result to the committee.

5.6.1. Audit has pointed out that (a) a dealer of Dibrugarh dealing in electronic calculators, inter-cum systems etc., did not submit returns for the five consecutive periods ending opening stock of tea worth Rs.18.23 lakhs as on the 1st day of April 1985. Out of the total quantity of tea valued at Rs.134.47 lakhs thus available in stock, the declaration sales of the value at Rs. 66.76 lakhs under the Assam Sales Tax Act, 1947 inside the State during the periods ending September 1985 and March 1986 leaving a balance of tea worth Rs.66.71 lakhs in stock for inter-State sales. But while assessing (October 1988) the dealer for the periods ending September 1985 and March 1986 under the Central Sales Tax Act, 1956, the assessing officer allowed exemption as per Government Notification of July, 1972, on inter-State sales of tea covered by Form 'C' valued at Rs.120.85 lakhs, which was far in excess of the purchase value of the balance quantity of tea (Rs.67.71 lakhs). The omission to detect the discrepancies between the sales and purchase of the dealer resulted in an irregular exemption on inter-State sales of tea valued at Rs.53.14 lakhs involving a tax effect of Rs.1.59 lakhs calculated at the rate of 3 percent. (Para 2.13/CAG 89-90)

5.7.2. The Department clarified that the records were re-verified and it is found that dealer's total purchasers together with the opening stock during the financial year 1985-86 were 187.56 lakhs and sales made during the year were found at Rs.188 Lakhs. This is because sale figures include margin of profit and tax elements and there is no discrepancy.

OBSERVATION / RECOMMENDATION

5.7.3. The Committee observed that if the departmental replies as adduced before the committee would have been given to A.G. (Audit) in time, the financial discrepancy could have been shorted out. Hence, the department should be very particular in furnishing replies to audit objections in future with the above observations the para is dropped.

5.8.1. Audit has pointed out that in Guwahati Sales Tax 'C' Unit, it was noticed in audit (June 1989) that the certificate of registration in respect of a firm was cancelled (April 1988) on its dissolution on the 18th February 1988. The firm was assessed (November 1988) to tax of Rs.42,607 for the return period ending September 1985 to September 1987 and interest of Rs.25,252 was charged thereon upto the date 31st March 1984 to 30th September 1986 under Assam Finance (Sales Tax) Act, 1956. Assessments for these periods were completed (September 1988) summarily levying a total tax of Rs.91,463/- without levying any penalty for not submitting any returns. The maximum penalty leviable in this case was Rs.1.37 lakhs.

- (b) A dealer of Jorhat dealing in radios did not submit return for the six consecutive periods ending 30th September 1984 to 31st March 1987. The assessments for these periods were completed ex-parte levying a total tax of Rs.25,078 without levying any penalty. The maximum penalty leviable in this case amounted to Rs. 37,017. (Para 2.11/CAG 89-90).

5.6.2. The Department have stated as follows :-

- (a) In pursuance Audit objections assessment for the period in question were completed. As the proposal for imposition of penalty was not kept opened in the order of assessment for non-submission of return, penalty cannot be imposed for same at the subsequent stage. But other penal measure such as levy interest and to imposition of penalty for non-payment of taxes can be resorted to.
- (b) The dealer was assessed summarily for the periods ending from 30/2/83 to P.E. 31/3/87. The dealer paid the tax alongwith the interest on different dates during the year 1986 to 1987.

No penalty proceedings against the dealer were initiated because of the fact that the dealer was not a habitual defaulter in submission of returns and payment of taxes prior to the P.E. 30/9/83 and the dealer during the period in question failed to submit the return due to his illness and also that the dealer paid the demand raised for the above period.

OBSERVATION / RECOMMENDATION

5.6.3. The Committee is pleased to drop the para in view of the explanation adduced before the committee.

5.7.1. Audit has pointed-out that in Jorhat, a dealer's (Tea Company) total purchase of tea during the financial year 1985-86 were determined (October 1988) at Rs.116.24 lakhs. The dealer had an of assessment. For realisation of the assessed tax, an arrear certificate was issued (April 1989) but no amount of tax has realised till the date of audit (June 1989). There was no evidence on the assessment records to show that the demand and ever been pursued vigorously to realise the admitted tax before closing of the firm's business. On the contrary, on the please of the firm that it had closed down its business the registration certificate was cancelled abruptly without verifying whether the firm had any dues payable to Government by way of tax. The omissions of the assessing authority is not ensuring before the dissolution and cancellation of the registration certificate of the firm that the firm had submitted all the returns due and paid tax due thereon, enabled the firm to default in payment of the dues (Para 2.19/CAG 89-90) .

5.8.2. The Department have stated that although the firm was dissolved, case records of the dealer have never been closed. The arrear taxes are under recovery proceedings. Bakijai proceedings have already been started for the amount of Rs. 0.70 lakhs payable by the dealer. Though efforts have been made by Superintendent of Taxes (Recovery), Guwahati, no tax has yet been collected from the dealer.

OBSERVATION / RECOMMENDATION

5.8.3. The Committee recommends that the recovery drive should vigorously pursued and submit a report regarding disposal of Bakijai case within a period of three months from the date of presentation of this report before the House.

5.9.1. Audit pointed-out that in Guwahati Sales Tax 'A' Unit, sales of a dealer in procelin insulator cups during the periods ending September 1987 and March 1988 amounting to Rs.9.68 lakhs were assessed (November 1988) to tax at the rate of 7 per cent instead of at the correct rate of 12 per cent. The incorrect application of rate of tax resulted in short levy of tax of Rs.48.384. (Para 2.20/CAG 89-90) .

5.9.2. The Department, in their written reply have stated that in pursuance of the audit objection, dealer's accounts and records have been re-verified and the assessing officer also personally visited the dealer's

factory premises. The dealer was found to be a manufacturer of nut bolts, nails and pins and not a manufacturer of porcelain cups. He never supplied any porcelain cups to A.S.E.B. What the dealer supplied to the A.S.E.B. was actually pin insulators, the function of which is to keep the insulator cup standing on the transmission line post. Therefore, the dealer did not supply any electrical goods like porcelain insulator as observed by the audit. Therefore, there was no under assessment and no loss of Government revenue as pointed out by the audit.

OBSERVATION / RECOMMENDATION

5.9.3. The Committee observes that the reply now adduced before the committee could have been given to audit earlier to short out the discrepancies. However, the committee is pleased to drop the para.

5.10.1. Audit pointed-out that in Nalbari, an unregistered dealer, dealing in M.S. Rounds, Flats, Angles etc., carried on business in taxable goods from the period ending March 1985 in contravention of the provision of the Act. It was only in March 1987 that the Superintendent of Taxes, attached to the Bureau of Investigation (Economic Offence), Assam enquired into the case and intimated (December 1987), the Commissioner of Taxes, Assam requesting him to issue necessary instructions to the assessing officer concerned for realisation of tax due but being evaded by the dealer after verification of seized documents (March 1987). The Commissioner of Taxes, Assam, in turn, directed (January 1988) the assessing officer to take appropriate steps for realisation of taxes from the dealer after proper verification of the dealer's accounts and initiation of penal action as per provision of the Act. The dealer applied (14th November 1988) for registration under the Act and accordingly, the assessing officer granted (14th April 1989) registration fixing his tax liability from 27th day of October 1984. The assessments for the periods ending March 1985 to March 1987 were made (July 1989 and September 1989) by the assessing officer on the dealer's concealed turnover of Rs.118.38 lakhs and a tax of Rs.4.55 lakhs was levied. However, no penalty was levied by the assessing officer despite the specific instructions (January 1988) of the Commissioner of Taxes, Assam for imposition of penalty against this dealer. The penalty leviable in this case amounted to Rs.6.83 lakhs, calculated at the rate of one and a half times the amount of tax of Rs.4.55 lakhs evaded by the dealer. (Para 3.3/CAG 90-91).

5.10.2. The Department have stated that the assessing officer has already availed the conceal T.O. of Rs.118.38 lakhs and levied tax of Rs.4.55 lakhs. Out of which all but Rs.0.99 lakhs have been realised. Realisation of the balance amount are in progress with S.T. (Recovery). As regards non-levy of penalty the assessing officer failed to levy any penalty

without recording any reasons, actions are being taken to draw proceedings against the defaulting officers. However, the present assessing officer has initiated actions to levy penalty for the above concealment of the above T.O..

5.10.3. The committee observed that in this case as well as in similar cases, the defaulting officers could not be brought to book due to delay in the enquiry. The committee therefore, recommends that in future Finance department will conduct internal enquiry in such cases as soon as the audit Report is available. In view of the fact that the amount of tax with interest have already been realised. The committee is pleased to drop the para.

5.11.1. Audit has pointed-out as follows :-

(a) During the audit of the office of the Superintendent of Taxes, Dhubri, it was noticed (February 1991), that the original assessment made (March 1989) in respect of a dealer was revised (May 1990) by the assessing officer for the quarter ending December 1988, levying an additional tax of Rs.1.65 lakhs but no interest was levied. On the failure of the dealer to pay the tax due, the case was referred (November 1990) to the Tax Recovery Officer for recovery of balance tax due without charging any interest thereon. The interest leviable in this case worked out to Rs.66,746 upto the date (8.11.1990) of referring the case to the Tax Recovery Officer. The extent of interest leviable, however, would be more if it was calculated upto the date of the full recovery of tax due.

(b) In the case of another dealer of the same sales tax Unit, the original assessments made (October 1988) for the quarterly periods ending June 1987 to June 1988 were revised (May 1990) by the assessing officer, for realisation of balance tax amounting to Rs.1.04 lakhs payable by the dealer, the case was referred (July 1990) to the Tax Recovery Officer without charging interest thereon. The interest payable by the dealer worked out to Rs.54,038 (upto the date of referring the case to the Tax Recovery Officer i.e., on 5.7.1990). Further, for the subsequent quarterly periods ending September 1988 and December 1988, interest of Rs.30,332 leviable upto the date of referring (November 1989) the case to the Tax Recovery Officer for realisation of the balance tax of Rs.1.83 lakhs was due, against which Rs.12,631 only was levied, resulting in short levy of interest of Rs.17,701. Further interest was also leviable in this case until the tax due was paid in full. (Para 3.8/CAG 90-91).

5.11.2. The Department have stated that though the assessing officer has re-assessed the dealers levying tax and interest and issued Arrear Certificate to Superintendent of Taxes (Recovery) Dhubri, the then

Superintendent of Taxes (Recovery) could not realise the amount as the dealer was found not traceable.

OBSERVATION / RECOMMENDATION

5.11.9. The Committee recommends that prompt action should be taken to realise the outstanding amount and to intimate the committee about the latest position of collection within a period of 1 month from the date of presentation of this Report before the House.

5.12.1 Audit pointed-out that in Guwahati Sales Tax Unit 'C' the assessing officer assessed (March 1990) the gross turnover of a broker dealer for the period ending March 1989 at Rs.17.09 crores and levied a tax of Rs.16.92 lacs at the rate of one paise in every rupee against which a tax of Rs.17.12 lakhs was paid by the dealer. Scrutiny of assessment records revealed (August 1990) in audit that tea valued at Rs.75.40 lakhs was sold by a dealer through the said broker during the period from 28.3.1989 to 31.3.1989 and these sales were taxable at the rate of two paise in every rupee instead at the rate of one paise in every rupee, as per amended provision of the Act *ibid*. This resulted in short levy of tax amounting to Rs.74,656. However, the net tax effect in this case would be Rs.54,719 after deduction of excess tax of Rs.19,937 already paid. Besides, the dealer was also liable to pay interest till the date of payment of taxes in full. (Para 3.11/CAG 90-91)

5.12.2 The Department have stated that on receipt of the Audit note about the sale of tea at Gauhati Auction market of Rs.75.40 lakhs between 28-3-89 to 31-3-89 the dealers account were re-verified by the assessing officers. It was found that the above 75.40 lakhs was sold between 8.3.89 to 15.3.89 under sale No.10(D), 11(CTC) & 11 (orth). Though the sales were completed on 8.3.89, 14.3.89 and 15.3.89 respectively, but the payment were made to the brokers on 28.3.89, 30.3.89 and 31.3.89 by the auction buyers to the brokers. On the prompt date which is 13th day after the date of sale suffixing holidays as per the norms of G.A. T.C. Therefore the above sales were completed by 15.3.89 on which date the rate of tax was 1%. The rate was increased at 2% with effect from 28th March 1989. Hence there is no short levy of tax.

OBSERVATION / RECOMMENDATION

5.12.3. The Committee is pleased to drop the para.

5.13.1. Audit has pointed-out that in Silchar, on cross checking with the records of the Divisional Forest Officer, Silchar Forest Division revealed (December 1990) that eight forest mahaldars, who took settlement of ten

sand mahals at Rs.11.71 lakhs during the periods from March 1985 to October 1989, had neither applied for registration nor paid any tax although tax is payable at the last stage of sale in respect of sand. Thus, turnover of Rs.11.71 lakhs, even at the settled value of mahals, escaped assessment resulting in non-levy of tax amounting to Rs.70,262, calculated at the rate of 6 per cent. Tax effect would have been more if the operation cost and profit elements are taken into consideration. (Para 3.12/CAG 90-91)

5.13.2. The Department have stated that out of the eight Mahalders, 6 Mahalders have been assessed to tax on the turnover determined after collection of necessary particulars from D.F.O. and range forest officers total demanded tax raised on the 6 dealers including interest amounted to Rs.1,88,160 out of which an amount of Rs.24,394 have already been realised. Action for realisation are in progress for the balance amount. In respect of one Mahalder it is found that total turnover was below the taxable quantum and hence found not liable for registration. This was found after collecting necessary particulars from ranged office. In respect of one Mahalder, he was not traceable in given address. After necessary local enquiry, his proper and correct address has been collected and action has been taken to assess and realise the taxes. A further realisation of Rs.2800/- was made by the Superintendent of Taxes (R) Karimganj after his vigorous steps. Most of the Mahalders are found to be casual ones who stopped doing any business long back and no such attachable properties were found by the Superintendent of Taxes (R).

OBSERVATION / RECOMMENDATION

5.13.3. The Committee could not comprehend at whose fault the Mahalders escaped assessment and defaulted payment of tax when assessed on being pointed out in audit. The Committee, therefore, recommends that the department would submit a detail report to the committee in this regard within a period of 1 (one) month from the date of presentation of this Report before the House.

5.14.1. Audit has pointed-out that an assessing officer while assessing (September 1989) a dealer of Unit 'A' in Guwahati for the assessment year ended September 1987 determined his gross taxable turnover at Rs.26.19 lakhs and levied tax of Rs.86,135 at the flat rate of 4 per cent after allowing deduction of Rs.3.80 lakhs, being the value of tax-paid goods sold by the dealer during the period, from the gross turnover. The Scrutiny of the assessment records revealed that his gross turnover included 7 percent sales of Rs.2.16 lakhs (included 7 percent tax paid sales of Rs.39,556) and 4 per cent sales of Rs.29.99 lakhs (including 4 per cent tax paid sales of Rs.3.80 lakhs). Tax payable by the dealer, as per return, amounted to Rs.1.21 lakhs. Thus, due to incorrect application of the rate of tax and wrong determination of gross turnover of the dealer by the

assessing officer, there was under assessment of tax of Rs.26,140. Besides the dealer was also liable to pay interest amounting to Rs.16,207 calculated upto the date of audit (i.e. 30.6.1990). Further, interest is also leviable upto the date of payment of taxes in full. (Para 3.19/CAG 90-91).

5.14.2. The Department have stated that the assessing officer reported that the dealer supplied most of the goods to Guwahati Medical College and Hospital, Chief Medical and Health Officer of Kamrup, Dhubri, Kokrajhar, Goalpara, North Lakhimpur, Karimganj, Sibsagar etc; the Purchasing Government Department had deducted taxes at source. So far challans for Rs.20,574/- have been received from the different Departments.

OBSERVATION / RECOMMENDATION

5.14.3. The Committee observed that there is wrong determination of gross turnover and incorrect application of rate of taxes on which points the department could not adduce a satisfactory reply. The Committee, therefore, recommends that the department will take action for realisation of the taxes outstanding against the dealer within a period of 3 (three) months and to submit a report to the Committee accordingly. The department should also fix responsibility on the erring officer and initiate action against him.

CHAPTER - VI

MISCELLANEOUS IRREGULARITIES

(Paras 2.12, 2.13 & 2.15 of CAG 88-89;
2.2, 2.12 & 2.14 of CAG 89-90 and
3.15, 3.17 & 3.18 of CAG 90-91)

6.1.1. Audit has pointed out that in Guwahati 'C' Unit, a person, engaged in tea business, was registered as a dealer under the Assam Sales Tax Act, 1947 and the Central Sales Tax Act, 1956. The dealer's tax liability under both the Acts was fixed with effect from 1st April 1984 and 1st November 1984 respectively. Although the dealer filed for the first time a return showing his turnover amounting to Rs.25,650 for the period ending March 1985, he did not file any returns from the period ending September 1985 and onwards nor did the assessing officer take any action against the dealer for his defaulter, on the ground that the dealer could not be traced at his given address. However, on cross verification of the records of another Sales Tax Unit Officer (Guwahati 'A' Unit), it was noticed in Audit (August 1988) that the dealer had purchased tea valued at Rs.10.95 lakhs for resale from another registered dealer by furnishing two sales tax declarations during the period ending September 1985. By not filing returns indicating the sales thereof the dealer had evaded tax of Rs.32,836 calculated at the rate of 3 percent on the purchase price of goods, without taking into consideration the element of profit. Due to the reported non-availability of the dealer, no demand could be raised and no account of declaration forms issued by the sales tax authority could be obtained. (Para 2.12/CAG 88-89)

6.1.2. The Department in their written memorandum have clarified that in the instant case the dealer could not be traced out for starting proceedings against him and realisation of tax thereof. However, all possible steps including cancellation of registration certificate, invalidation of all declaration forms have been taken to instant future evasion of revenue by the concerned assessee.

OBSERVATION / RECOMMENDATION

6.1.3. The Committee observed that such losses of revenue could arise due to carelessness of the assessing officer at the time of registration of the dealer and for non-verification of his accounts. Government proposed to take action against the responsible officer, who has since retired, under pension Rules. The Committee recommends that responsibility should be fixed against the erring official and punishment inflicted with intimation to the Committee.

6.2.1. Audit has pointed out that in the case of a dealer under the Tinsukia Sales Tax Unit, obsolete 'C' forms covering total transaction amounting to Rs.5.45 lakhs, though liable to be rejected were accepted by the assessing officer and tax at the concessional rate of 4 percent was realised in each case for the period ending September 1987. The acceptance of invalid 'C' forms led to short levy of tax amounting to Rs.30,832. (Para 2.13.CAG 88-89)

6.2.2. The Department in their written replies clarified that in the instant case the Audit pointed out that there was under assessment under the Central Sales Tax Act due to acceptance of obsolete 'C' forms against turnover of Rs.5,45,703/-. The case being pointed out the concerned Assistant Commissioner of Taxes directed the Superintendent of Taxes to ask the concerned assessee to submit valid 'C' form in place of obsolete 'C' form. The assessee complied with the order of Superintendent of Taxes by submitting valid 'C' form covering the entire sale in question and hence the proceeding for re-assessment of the assessee was dropped.

The fact being submitted before the Accountant General. The objection was dropped.

OBSERVATION / RECOMMENDATION

6.2.3. The Committee could not comprehend as to why the assessing officer accepted the obsolete forms and completed the assessment. As the Department has since warned the erring officer for future, therefore the Committee is pleased to drop the para as the omission is rectified and the matter is settled with audit.

6.3.1. Audit has pointed out that in Tinsukia, on a dealer's sales of wirenails amounting to Rs.12.43 lakhs during the periods ending March 1986, March 1987 and September 1987, tax was levied at the rate of 4 percent as declared goods, which resulted in short levy of tax amounting to Rs.24,866. (Para 2.15/CAG 88-89)

6.3.2. The Department have stated that in the instant on the turnover in question of the assessee was a manufacturer on wirenails which was not from sale of "Wirenails but from sale of black iron rods" which was imported and sold as such because the said iron rods were not found fit for manufacture of "Wirenail" due to excess carbon formation.

OBSERVATION / RECOMMENDATION

6.3.3 The Committee recommends that the matter may be revised *suo moto* appropriate level and report thereof be furnished to the Committee.

6.4.1 Audit pointed out that a scrutiny of records (December 1989) of the Superintendent of Taxes, Jhalukbari Check gate revealed that 993 Bank Drafts involving a revenue of Rs.1.34 crores were issued by the Guwahati Co-operative Town Bank Limited a sub-member of the Clearing House under the United Bank of India during the period from 30th January 1989 to 13th June 1989 in favour of the Taxation Department of the Government of Assam on presentation of these Bank Drafts by the assessing authority to the State Bank of India (S.B.I.) during the period from 30th May 1989 to 21st June 1989 for credit of the money to Government account, who in turn presented the same to the clearing house on 19th June 1989 and 23rd June 1989, the issuing Bank (Guwahati Co-operative Town Bank Limited) refused to honour these drafts bearing their own pay-orders on the plea that the drafts were presented by the S.B.I. after one month. The fact was reported (June 1989) to the Reserve Bank of India, Guwahati Branch by the State Bank of India. Meanwhile, the Commissioner of Taxes, Assam ordered (24th June 1989) not to accept henceforth any Bank Draft of Guwahati Co-operative Town Bank Limited. All the dishonoured Bank Drafts were lying in the personal custody of the assessing authority. No further action was taken by the Department to get the amount credited to Government account and thus the entire revenue of Rs. 1.34 crores remained out of Government account August 1990. Non-remittance of the amount to Government accounted not only effected the ways and means position of the Government but also resulted in accrual of undue benefit to the Bank issuing the Bank Drafts. (Para 2.2/CAG 89-90).

6.4.2. The Department, in their written reply have state that an amount of Rs.1,34,37,000.00 were blocked by the Guwahati Co-operative Town Bank Ltd. Out of which Rs.9,17,000/- has been realised from the concerning dealers (returning the original on product on of New P.O. from other Banks).

The remaining amounts of Rs.1,25,20,000/- are still now blocked by the said Bank.

An FIR was lodged in the Panbazar P.S. on 27.10.90 against the Bank. A case was registered (No.PNB.P.S. case nos, 359/90) u/s 409 & 410 I.P.C. The pay orders and other relevant documents were sized by the police. The case is now under investigation, develoment of which is not known. Registration Co-operative society has however given us clearance to start Bakijai Proceedings against the defaulting bank. Accordingly have taken action to start such proceedings.

OBSERVATION / RECOMMENDATION

6.4.3. In course of oral deposition, it has been stated that Government has filed an appeal petition against the judgement at the criminal case passed in the lower court and the whole matter is subjudiced.

In view of this, committee make no comments except that the latest position may be intimated .

6.5.1. Audit has pointed out that in Guwahati Sales Tax 'C' Unit, a dealer 'A' registered under both the Assam Sales Tax Act, 1947 and Central Sales Tax Act, 1956, applied (October 1988) for cancellation of the certificate of registration on closure of his business. On the basis of Area Inspector's report (February 1989) the registration certificate of the dealer were cancelled with effect from 1st October 1988 and his case records were closed. However, based on the turnover amounting to Rs.27.47 lakhs returned by the dealer and in the absence of contrary information from the Area Inspector, the dealer was assessed to tax Rs.1.56 lakhs for the periods ending March 1988 and September 1988. But a scrutiny by Audit of the case records in respect of dealer 'B' registered with the Guwahati Sales Tax 'A' Unit, revealed that the dealer 'A' effected consignment sale of turmeric valued at Rs.56.45 lakhs inside the State after receiving the same from a dealer 'C' of Tamilnadu. Thus the dealer 'A' had returned lesser turnover by Rs.28.98 lakhs which escaped assessment. This was rendered possible because of lack of proper survey by the department about the dealer's business and lack co-ordination between the Unit Offices. This mistake resulted on loss of revenue of Rs.1.64 lakhs. (Para 2.12/CAG 89-90).

6.5.2. The Department have stated that the dealer has been assessed to tax to Rs.1.80 lakhs on the escaped turnover as pointed out by Audit. Only realisation of interest amounting to Rs.59,146/- is under process of realisation.

OBSERVATION / RECOMMENDATION

6.5.3. In course of oral deposition, the Government witness has categorically stated that the omission being pointed out in Audit, the dealer has been reassessed to tax and an amount of Rs.1.80 lakhs (against Rs.1.64 lakhs as pointed out in audit) has been realised. In addition, interest of Rs.59,146/- only is under process of realisation through Bakijai proceedings. The Committee therefore, expresses its satisfaction on the steps taken by the Department and pleased to drop the para.

6.6.1. Audit has pointed out that in Guwahati Sales Tax Unit 'A' in the case of inter-State sales to the Canteen Stores Department, Nagaland, made by a dealer against the certificate in Form 'D' tax was erroneously levied at concessional rate of 4 per cent, though the certificate in Form 'D' can be issued by Government department only in case the goods purchased are not meant for resale. Since the Canteen Stores Department is making purchase of goods for resale they should have been registered as a dealer under the Central Sales Tax Act, 1956 so that the benefits of concessional rate of tax on inter-State purchases by issued declaration in form 'C' to the

selling dealer could accrue to them. Thus acceptance of certificate in Form 'D' by the assessing authority in support of sales by the dealer to the Canteen Stores Department and allowance of concession in the rate of tax resulted in short levy of tax amounting to Rs. 1.40 lakhs on the turnover Rs. 23.32 lakhs. (Para 2.14/CAG 89-90).

6.6.2. The Department in their written statement has clarified that Canteen Stores Department are Central Government Department (Defence Department). They are entitled to issue 'D' forms, if they are not registered dealers. The selling dealer of Guwahati was not in a position to know whether Canteen Stores Department, Dimapur was registered or not under Central Sales Tax Act. But he was to collect 4% tax whether he received 'C' form or 'D' form whichever is applicable. So, there was no loss of revenue.

OBSERVATION/RECOMMENDATION

6.6.3. The Committee, is pleased to drop the para.

6.7.1. Audit has pointed out that in the case of a dealer in Tinsukia Sales Tax Unit, obsolete 'C' forms covering total transaction amounting to Rs. 5.41 lakhs, though liable to be rejected were accepted erroneously (May 1988 & April 1990) by the assessing officer and tax at the concessional rate of 4 per cent was realised in each case during the periods ending September 1987 and March 1988. The acceptance of invalid 'C' forms resulted in short levy of tax amounting to Rs. 32,119, interest amounting to Rs. 22,822 was also leviable up to March 1991. (Para 3.15/CAG 90-91)

6.7.2 The Department, vide their written reply, have stated that the assessing officer has reassessed the dealer in the light of the Audit objection rejecting the obsolete 'C' form raising the additional demand of tax and interest as pointed out by the audit. Actions for realisation are in progress.

OBSERVATION/RECOMMENDATION

6.7.3. The Committee, on its initial examination, asked the Department to cause an enquiry against the officers at fault and to take appropriate action, who accepted the obsolete forms most immediately with intimation to the Committee. The Department later intimated that the enquiry was initiated through a Deputy Commissioner of Taxes who, however, could not complete the same as the case records were taken to Gauhati High Court in connection with another case.

6.7.4. The Committee expresses its dis-satisfaction on the explanation given by the Department and recommends the further enquiry should be made and details thereof including action initiated against the defaulting officials should be intimated to the Committee within a period of two months.

ANNEXURE - I

Para 2.25.

1989-90 (R/R)--The dealer's accounts were reverified after receiving the audit objections under P.O.S. No. 4 and found the following figures of stock, purchase and sales during P.E. 30.9.84 and 31.3.85 :-

	<u>Local goods.</u>	<u>Imported goods</u>
OP stock on 1.4.84	Rs. 64162.00	Rs. 231401.19
Purchases 30.9.84 and 31.3.85	Rs. 85336.27	Rs. 356046.96
	-----	-----
Total	Rs. 149498.27	Rs. 587448.15
Less clo. stock on 31.3.85	Rs. 43561.00	Rs. 247902.61
	-----	-----
	Rs. 105937.27	Rs. 339545.54
Add. G.P.	Rs. 12990.75	Rs. 83422.00
Add. Tax realised	Rs. x	Rs. 50707.63
	-----	-----
Sale figure 30.9.84 & 31.3.85	118927.52	473675.17

Form the above findings it has been found that the figures of locally purchased goods of Rs. 85336.00, closing stock of taxable goods of Rs. 247902.61 and closing stock of local goods of Rs. 43561.00 were correctly shown in the assessment order in respect of P.E. 31.3.85. But the opening stock of taxable goods shown as Rs. 54152.00 was actually that of local goods. The purchase figure of taxable goods shown as Rs. 855863.00 was wrong which should be Rs. 356046.96. The difference in turnover has come only because the purchase figure of taxable figure was wrongly shown in the asstt. order.

After careful scrutiny of the books the actual figures of stock, purchase and sales have been worked out above and on that basis assessments made found to be correct and there were no under assessment as pointed out by audit.

The objection raised may, therefore, please be dropped.

ANNEXURE - II

The Members of the foregoing Committee on Public Accounts
(1991-93)

Chairman :

1. Shri Sasha Kamal Handique.

Members :

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

ANNEXURE - III

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

Convenor :

1. Shri Mohan Das

Members :

2. Shri Pulakesh Baruah
3. Shri Nizamuddin Khan
4. Shri Gautam Roy
5. Shri Hemanta Kalita
- * 6. Shrimati Renupoma Rajkhowa
7. Shri Jogeswar Doley

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