

**GRANT OF CONCESSION WITHOUT THE SUPPORT OF
DECLARATION IN FORM - F**

**MINISTRY OF HOME AFFAIRS
(CHANDIGARH ADMINISTRATION)**

**PUBLIC ACCOUNTS COMMITTEE
(2023-24)**

HUNDRED AND THIRTY SIXTH REPORT

SEVENTEENTH LOK SABHA



**LOK SABHA SECRETARIAT
NEW DELHI**

HUNDRED AND THIRTY SIXTH REPORT

PUBLIC ACCOUNTS COMMITTEE (2023-24)

(SEVENTEENTH LOK SABHA)

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MINISTRY OF HOME AFFAIRS
(CHANDIGARH ADMINISTRATION)



Presented to Hon'ble Speaker on 23.02.2024

Presented to Lok Sabha on:

Laid in Rajya Sabha on:

LOK SABHA SECRETARIAT
NEW DELHI

February 2024/ Phalguna 1945 (Saka)

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*Not appended in the report

COMPOSITION OF THE PUBLIC ACCOUNTS COMMITTEE
(2023-24)

Shri Adhir Ranjan Chowdhury - Chairperson

MEMBERS

LOK SABHA

2. Shri Subhash Chandra Baheria
3. Shri Thalikkottai Rajuthevar Baalu
4. Shri Bhartruhari Mahtab
5. Shri Jagdambika Pal
6. Shri Pratap Chandra Sarangi
7. Shri Vishnu Dayal Ram
8. Shri Rahul Ramesh Shewale
9. Shri Gowdar Mallikarjunappa Siddeshwara
10. Dr. Satya Pal Singh
11. Shri Brijendra Singh
12. Shri Rajiv Ranjan Singh alias Lalan Singh
13. Shri Jayant Sinha
14. Shri Balashowry Vallabhaneni
15. Shri Ram Kripal Yadav

RAJYA SABHA

16. Shri Shaktisinh Gohil
17. Dr. K Laxman
18. Shri Derek O'Brien*
19. Shri Tiruchi Siva
20. Dr. M. Thambidurai
21. Shri Ghanshyam Tiwari
22. Dr. Sudhanshu Trivedi

SECRETARIAT

1. Shri Sanjeev Sharma - Joint Secretary
2. Shri Bharti Sanjeev Tuteja - Director
3. Shri Pankaj Kumar Sharma - Deputy Secretary

*Elected w.e.f. 19.08.2023 consequent upon retirement of Shri Sukhendu Sekhar Ray, MP on 18.08.2023.

INTRODUCTION

I, the Chairperson, Public Accounts Committee (2023-24) having been authorized by the Committee, do present this Hundred and Thirty Sixth Report (Seventeenth Lok Sabha) on “**GRANT OF CONCESSION WITHOUT THE SUPPORT OF DECLARATION IN FORM - F**” based on Para 3.7 of C&AG Report No. 24 of 2022.

2. The Report of Comptroller and Auditor General of India was laid on the Table of the House on 20.12.2022.

3. The Public Accounts Committee took oral evidence of the representatives of Ministry of Home Affairs (Chandigarh Administration) on 20-11-2023. The Committee considered and adopted this Report at their sitting held on 20-02-2024. The Minutes of the sittings of the Committee are appended to the Report.

4. For facility of reference and convenience, the Observations and Recommendations of the Committee have been printed in bold and form Part-II of the Report.

5. The Committee would like to express their thanks to the representatives of the Ministry of Home Affairs (Chandigarh Administration) for tendering evidence before them and furnishing the requisite information to the Committee in connection with the examination of the subject.

6. The Committee also place on record their appreciation of the assistance rendered to them in the matter by the Committee Secretariat and the Office of the Comptroller and Auditor General of India.

NEW DELHI
23 February, 2024
4 Magha, 1945 (Saka)

ADHIR RANJAN CHOWDHURY
Chairperson,
Public Accounts Committee

REPORT

PART – I

INTRODUCTION

The Public Accounts Committee decided to take up for detailed examination and Report **Para 3.7 of C&AG Report No. 24 of 2022** on the subject “**Grant of Concession without the Support of Declaration in Form – F**”. The above para relates to assessment done under Section 29 of the Punjab Value Added Tax Act, 2005 as extended to U.T. of Chandigarh read with Section 9 of the Central Sales Tax Act 1956.

2. The Committee have learnt that according to the para, the Designated Officer while framing the assessment u/s 29(2) of PVAT Act 2005 & u/s 9 of CST Act 1956 of one taxpayer for the year 2011-12 assessed the case with a Gross Turn Over (GTO) of Rs.1.54 crores, as against Rs.2.58 crores shown in Trading Account and granted concession of Rs.1.04 crores treating it as branch transfer rather than sale, without the production of declaration in Form-F, which is mandatory for grant of concession as per Section 6-A of the CST Act, 1956. This resulted in non-levy of tax of Rs.32.33 lakh.

3. Form ‘F’ is a declaration, duly filled and signed by the Principal Officer of the other place of business, which is required to be produced as a proof of stock transfer to the concerned tax authority under Section 6-A of CST Act, 1956.

4. Audit in their Report noted that Section 6-A of the CST Act, 1956 provides that where any dealer claims that he is not liable to pay tax in respect of any goods, on the ground that the movement of such goods from one State to another State was occasioned by reason of transfer of such goods by him to any place of his business or to his agent or principal, as the case may be and not by reason of sale, the burden of proving that the movement of those goods was so occasioned shall be on that dealer. For this purpose, he may furnish to the assessing authority, within the prescribed time, a declaration, duly filled and signed by the Principal officer of the other place of business or his agent or principal as the case may be, containing the

laid down particulars in the prescribed form obtained from the prescribed authority, along with the evidence of dispatch of such goods. If the dealer fails to furnish such declaration, then the movement of such goods shall be deemed for all purpose of this Act to have been occasioned as a result of sale.

5. Audit noted from the assessment records of one Firm for the year 2011-12, that the Designated Officer assessed the case with a Gross Turn Over (GTO) of ₹ 1.54 crore, as against ₹ 2.58 crore shown in Trading Account. This was due to fact that movement of goods worth ₹ 1.04 crore was treated as branch transfer of store & not sales by the Designated Officer. However, Audit noted that the amount stated to pertain to branch transfer of stock was without the production of prescribed declaration in Form 'F', which is mandatory for grant of concession. Thus, the Designated Officer granted concession without support of declaration, resulting in non-levy of tax of ₹ 32.338 lakh, including interest and penalty under relevant section of the VAT Act.

6. On being pointed out (June 2020 and August 2020), the Department, while admitting the objection, stated (September 2021 & January 2022) that a notice under Section 29(7)9 of the Punjab VAT Act, 2005 was issued to the assessee. However, Audit noted that despite agreeing to the audit contention, the designated officer, only added the amount of branch transfer of store of ₹ 103.96 lakh to the GTO without assessing any tax on the same, thus resulting in short levy of tax. Further, the Department stated that the notice could not be delivered due to nonavailability of the firm at the last known premises and even after due efforts the dealer was not traceable. The case was decided ex-parte after approval of Excise and Taxation Commissioner, UT Chandigarh.

7. Audit noted that grant of concession without support of declaration resulted in non-levy of tax of ₹ 32.33 lakh, (including interest and penalty).

8. The Public Accounts Committee (2023-24) took oral evidence of the representatives of Ministry of Home Affairs and Chandigarh Administration on the above mentioned para at their sitting held on 20th November 2023. On the

basis of oral evidence and the written information obtained on various aspects of the para under consideration, the Committee made in depth examination of the subject as detailed in the succeeding paragraphs.

9. In their Action Taken Note on Audit Para 3.7, the Ministry of Home Affairs has stated as under:

“As informed by the Chandigarh Administration, the assessment of the firm was framed by the assessing officer and allowed ₹ 1.04 crore as Branch transfer without taking on record the corresponding statutory forms(F-Forms) . This resulted into short assessment of turnover (Rs.10396081/-) and short levy of tax of Rs. 1299510/- (@ 12.5%of Rs.10396081/-). Besides this interest under section 32 of Punjab VAT Act 2005 (as extended to UT Chandigarh) for Rs. 604314/- (@ 0.5 percent per6 month for 93 months) and Penalty under section 53 of the Act for Rs. 2417070/- (@ 2 percent per month for 93 months) is also leviable. Total loss to Govt. Exchequer was Rs. 4320894/- (1299510/-+604314/-+2417070/-).

Section 29 (8) of PVAT Act, 2005 as extended to U.T., Chandigarh provides that designated officer may, within a period of 1 year, from the date of assessment order, rectify an assessment, made under (2) or (3) of Section 29 of the said Act, if he discovers that there is a mistake apparent from the record provided that no order of rectifying such assessment shall be made without affording an opportunity of being heard to the effected person.

In the present case there was mistake apparent on the record that F forms were not taken while framing the assessment. On the application of the dealer, the F forms produced by the taxpayer were taken on record and the order dated 05.11.2018 was rectified.

Post Audit following action has been taken, the case of the firm was rectified u/s 29(8) of PVAT Act 2005 as extended to U.T., Chandigarh. The complete F-forms of Rs.10396081/- were produced by the taxpayers during the rectification proceedings and allowed.

Rectified order was issued on 07.12.2020 taking F forms on record and making calculation accordingly.

After rectification and production of F-Forms by the taxpayer, there is no tax due, hence no revenue loss.”

10. During oral evidence held on 20.11.2023, the Excise and Taxation Commissioner Union Territory of Chandigarh stated as under:

“This para is regarding the Punjab VAT Act. In this case, Audit has found that the Assessing Officer had given concession without checking form availability on the assessment file and by which it was highlighted that Rs. 32 lakh tax was not levied.

Sir, this issue has been rectified and when it was rectified, opportunity was given to the assessee and he submitted the ‘F’ Forms and post submission of the said form it has been decided that now there is no tax which has to be levied but nevertheless we have taken strict action against the officer concerned and a chargesheets has been issued against the officer concerned under major penalties. For future corrective actions, a standard operating procedure has been established which was unfortunately not properly followed then.”

10. On being asked about corrective actions taken in this regard especially on charge- sheets issued, the Excise and Taxation Commissioner Union Territory of Chandigarh clarified as under:

“Where we have found that there was not due diligence on the part of officer, strictest disciplinary action has been initiated because we think that all officers who are not following these SOPs should be strictly dealt with. Now, the SOP has been put in place so that there is a self-check of the system. Now, before processing any assessment form, we have made a checklist of all documents. When the checklist is completed then only the assessment case is done.”

PART – II OBSERVATIONS/RECOMMENDATIONS

After sifting all the documents and information available, the Committee note that the Designated Officer, assessed a case for the year 2011-12, with a Gross Turn Over (GTO) of ₹ 1.54 crore, as against ₹ 2.58 crore shown in Trading Account by allowing movement of goods worth ₹ 1.04 crore as branch transfer of store without production of prescribed declaration in Form 'F', which is mandatory for grant of concession, resulting in non-levy of tax of ₹ 32.33 lakh, including interest and penalty under relevant section of the Punjab VAT Act, 2005. The Committee also note from the reply of the Ministry that there was mistake apparent on the record that F forms were not taken while framing the assessment. However, on the application of the dealer, the F forms produced by the taxpayer were taken on record and the order was rectified and a conclusive determination had been made that no outstanding tax was due or recoverable from the dealer. The Committee further note that charge-sheet has been issued against the officer concerned and for future corrective action, a standard operating procedure has been established. The Committee are disappointed to note that due diligence was not followed by the assessing officer and desire to be apprised whether the internal audit in the Department had pointed out any such lapses. Further, noting that CAG Audit is only a test check, the Committee recommend that all such records in the department may be checked to ensure that due diligence was exercised by other assessing officers. The Committee while noting that SOPs have since been issued, recommend that robust monitoring mechanism may also be simultaneously established to ensure that SOPs are

followed in letter and spirit. The Committee further recommend that internal controls, internal checks and internal audit in the department may be strengthened to avoid recurrence of such lapses. The Committee also desire to be apprised of the action taken against the charge-sheeted official.

NEW DELHI
23 February, 2024
4 Magha, 1945 (Saka)

ADHIR RANJAN CHOWDHURY
Chairperson,
Public Accounts Committee
