

EVASION OF TAX DUE TO SUPPRESSION OF SALES

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

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

ONE HUNDRED AND THIRTY EIGHTH REPORT

SEVENTEENTH LOK SABHA



**LOK SABHA SECRETARIAT
NEW DELHI**

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(CHANDIGARH ADMINISTRATION)



Presented to Hon'ble Speaker, Lok Sabha 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 One Hundred and Thirty Eighth Report (Seventeenth Lok Sabha) on “**EVASION OF TAX DUE TO SUPPRESSION OF SALES**” based on Para 3.10 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 3.10 of C&AG Report No. 24 of 2022** on the subject “**Evasion of tax due to suppression of sales**”. The above para relates to suppression of sales resulting in evasion of tax of Rs. 8.10 lakhs.

2. Audit noted from the assessment records of Excise and Taxation Department, that the dealer M/s Onkar Alloy House, had business income of ₹ 23.97 lakh from sale of old tyres during the year 2012-13 to 2015-16. Audit further noted that the sales were suppressed by taking the sale of old tyres to Profit and Loss Account instead of Trading Account and the dealer M/s Onkar Alloy House failed to pay the applicable tax. Audit worked out the evasion of tax of ₹ 9.68 lakh, including interest under Section 32(3) and penalty under Section 53 of the Punjab VAT Act.

3. On being pointed out the Excise and Taxation Department Chandigarh, while accepting the audit observation, stated that the assessment orders pertaining to the dealer for the assessment years 2012-13 to 2015-16 had been revised and tax demand including interest and penalty of ₹ 8.10 lakh had been accordingly raised.

4. The Committee have learnt from the audit findings that the cases from 2012-13 to 2015-16 were rectified u/s 29(8) of PVAT Act 2005 as extended to U.T. of Chandigarh. Additional demand of Rs. 8,09,632/- on account of tax including applicable interest and penalty was created as under: -

Assessment Year	Amount of Tax accrued	Amount of Interest + Penalty	Total (Rs)
2012-13	61081	135906	196987
2013-14	76795	147831	224626

2014-15	53743	87332	141075
2015-16	106213	140731	246945
TOTAL			Rs 809633

5. In their Action Taken Note, the Ministry of Home Affairs stated that the above amounts have been duly recovered. The amount accrued as a result of rectification of cases has duly been recovered & no amount of tax is due for recovery.

Also, Chandigarh administration has issued directions to all the ward in-charge vide Memo Nos. 4233 and 4234 dated 18.04.2023 so that such irregularities do not occur in future and officers have been directed to follow the due procedure as per extant Act and Rules.

6. Ministry of Home Affairs further in their Action Taken Note on Audit Para 3.7 stated as under:

“All the cases have been rectified and additional demand of Rs. 8,09,633/- has been created as per the objection raised by the audit. Recovery of Rs. 8,09,633/- has been made”.

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

“We agreed with the findings of the Audit. Rectification order was issued and a demand along with interest and penalty was issued and all demands along with interest and penalty has been recovered from the tax payer and no amount is due to be recovered in this case.”

8. On being asked by the Committee, why did the Excise and Taxation Department, Union Territory of Chandigarh failed to detect the suppression of sales by the dealer and what actions have been taken to avoid such irregularities in future, the Commissioner, Excise and Taxation Department, UT of Chandigarh stated as under:

“Sir, this was an error of judgement on the part of the designated officer who did the assessment and hence due action has been taken against him. For the corrective action, as I submitted before the Hon. Committee, we have now established SOP which is working for rechecking all these assessments done to avoid any cases like this in future.”

PART – II
OBSERVATIONS/RECOMMENDATIONS

- 1. The Committee note that as per Section 2 (zg) of Punjab Value Added Tax (PVAT) Act, 2005 (as extended to UT Chandigarh) provides that sale price means the amount of valuable consideration received or receivable by a person for any sale made including any sum charged on account of freight, storage, demurrage, insurance and any sum charged for anything done by the person in respect of the goods at the time of or before the delivery thereof. Further, sub section (zc) of section 2 of the Act defines “return” as a true and correct account of business pertaining to the return period in the prescribed form.**
- 2. The Committee further note that the assessing authority of Excise and Taxation Department, Union Territory of Chandigarh in the first instance and in their primary assessment failed to detect suppression of sales resulting in registered evasion of tax of Rs. 8.10 lakh.**
- 3. The Committee further find from the reply of the Department that the above amount has been fully recovered. The amount accrued as a result of rectification of cases has duly been recovered and no amount of tax is due for recovery. Here, the Committee appreciate that Chandigarh administration has issued directions to all the ward in-charge vide memo no.3279-81 dated 18.04.2023 so that such irregularities do not recur in**

future and in this sequel officers have been directed to follow the due procedure as per extant Act and Rules.

4. The Committee further find that Show Cause Notice has been issued to the concerned officer and disciplinary action has also been initiated. Advisory on Audit Paras has also been issued to the assessing officers.

5. The Committee, while considering the above facts into account note and opine that the above case should not be viewed in isolation as an evasion of tax due to suppression of sales only but should be viewed as a case casting reflection on the tax evaluation mechanism. Notwithstanding the fact, that the amount is trivial it is of much importance to enable the system to make their mechanism of checks and balances foolproof. The Committee wonder as to why such abrasion was detected only by audit but not the officials of the Department. At this stage the Committee can only recommend that a robust mechanism in addition to the standard operating procedure should be developed under intimation to the Committee so that no amiss of this nature surfaces.

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

ADHIR RANJAN CHOWDHURY
Chairperson,
Public Accounts Committee
