

## 2. STRUCTURE OF SALES TAX IN WEST BENGAL AND DIRECTIONS OF REFORM

### 1. Existing Structure and its Evolution

(a) *The base.* The tax on sale and purchase of commodities is currently administered in West Bengal through four enactments. These are:

- (i) The Bengal Finance (Sales Tax) Act, 1941;
- (ii) The Bengal Raw Jute Taxation Act, 1941;
- (iii) The West Bengal Sales Tax Act, 1954; and
- (iv) The West Bengal Motor Spirit Sales Tax Act, 1974.

Until recently a tax on the purchase of paddy was also administered through a separate legislation (The West Bengal Paddy Purchase Tax Act, 1970). Following the imposition of the tax on sale of rice, the Paddy Purchase Tax Act was repealed with effect from June 1, 1983.

Sales taxation originated in the State with the introduction of a general sales tax on retail sales through the Bengal Finance (Sales) Tax Act, 1941, (hereafter, the '41 Act). Bengal was the second State (then province) in India to introduce a general (as distinguished from a selective) tax on sales. Originally the scheme of the tax was fairly simple. It was levied only on retail sale identified as sale by the last registered dealer at the rate of three pies per rupee or roughly 1.56 per cent on all commodities except those specifically exempted in the Act. The quantum of taxable turnover was Rs 10,000 a year for importers and manufacturers and Rs 50,000 for others. Dealers having turnover of more than Rs 10,000 a year could register voluntarily.

The basic structure of the tax did not undergo any change until 1954. Only the rate of tax was raised to six pies per rupee in 1944 and nine pies in 1945. Some measures were however taken mainly to combat evasion and vary the scope of exemptions. Thus, the exemption of handloom cloth which was available to dealers dealing exclusively in them was replaced by the exemption of dhotis, sarees and lungis of not more than a

specified price. In 1949 the scope of exemptions was reduced by bringing under tax articles like mustard and rape oil and oil-seeds, matches, fresh fruits, coal and coke, coal gas, charcoal, fuel wood, hides and skins and handmade paper. But the exemption was soon restored for the major items.<sup>1</sup>

Evasion and pressing need for more revenue led to extensive changes in the structure of sales taxation after Independence, particularly since the mid-fifties. In order to facilitate administration and curb evasion the point of levy was shifted to the first-point in the case of a few specified commodities. This was brought about through a separate legislation in the form of the West Bengal Sales Tax Act, 1954 (hereafter, the '54 Act). The commodities coming under the first-point taxation—called notified commodities—were originally small in number and the scope of the first-point tax was restricted mainly to commodities whose manufacture or processing was well regulated in the State and those not in the nature of raw materials; or whose import into the State was well canalised. Over the years the number of commodities taxed at the first-point was increased presumably for administrative reasons and now some 85 commodities are taxed under the '54 Act, that is, at the first-point and at varying rates. Commodities taxed under the '54 Act now contribute about 40 per cent of the revenue from general sales tax (vide Table 2.1). Commodity-wise break-up of revenue realised from the first-point tax is given in Table 2.2.

**Table 2.1**  
*Sales Tax Revenue Collection under BF (ST) 1941  
and WBST 1954 in West Bengal*

Year	BF (ST)	WBST	Total of columns (1) & (2)	Column (1)	Column (2)
	1941	1954		as per cent of column (3)	as per cent of column (3)
	(1)	(2)	(3)	(4)	(5)
1981-82	1256311	884111	2140422	58.69	41.31
1982-83	1234083	936579	2170662	56.85	43.15

SOURCE: Government of West Bengal, Directorate of Commercial Taxes.

**Table 2.2**

*Commodity-wise Sales Tax Collection in West Bengal under  
West Bengal Sales Tax Act 1954 (1979-80 to 1980-81)*

Commodity	1979-80		1980-81	
	Sales tax revenue (Rs `000)	Proportion to total revenue from general sales tax (Per cent)	Sales tax revenue (Rs `000)	Proportion to total revenue from general sales tax (Per cent)
(1)	(2)	(3)	(4)	(5)
1. Agarbati	1204	0.07	3668	0.18
2. Aerated water	616	0.03	2385	0.12
3. Aluminium	—	—	5166	0.26
4. Art silk	1908	0.11	1204	0.06
5. Betel nuts	1542	0.09	6432	0.32
6. Biscuits	28354	1.59	15855	0.79
7. Black and white pepper	517	0.029	2445	0.12
8. Bricks and tiles	5013	0.28	5662	0.28
9. Coffee	145	0.01	127	0.01
10. Coir, rope yarn	2234	0.13	3791	0.19
11. Cotton yarn	—	—	1258	0.06
12. Non-cotton yarn	—	—	994	0.04
13. Cooker	—	—	1089	0.05
14. Cosmetics	7063	0.40	7200	0.36
15. Crockeries	5123	0.29	4374	0.22
16. Confectionery	1530	0.09	7451	0.37
17. Chemicals	—	—	1922	0.10
18. Drugs	71252	4.00	96236	4.77
19. Dry cell battery	12251	0.69	42868	2.12
20. Dry fruits	1783	0.10	1048	0.05
21. Electrical appliances	70727	3.97	39668	1.96
22. Fertiliser	11645	0.65	12196	0.60
23. Fireworks	1610	0.09	1316	0.06
24. Fluorescent tubes	—	—	1677	0.08
25. Footwears	8326	0.47	8118	0.40
26. Furniture (iron & steel)	6041	0.34	5073	0.25
27. Foam	—	—	439	0.02
28. Glass wares	429	0.02	167	0.01
29. Gramophone records	—	—	179	0.01
30. Hair oil	12489	0.70	10572	0.52

#### 44 Sales Tax System in West Bengal

(1)	(2)	(3)	(4)	(5)
31. Hosiery yarn	2374	0.13	180	0.01
32. Ice and ice cream	3222	0.18	1220	0.06
33. Jute goods	763	0.04	8054	0.40
34. Kerosene oil	1718	0.10	385	0.02
35. Iron safe and almirah	767	0.04	1472	0.07
36. Lime	—	—	901	0.04
37. Lubricating oil	41022	4.31	92884	4.60
38. Laminated sheets	1907	0.11	1809	0.08
39. Matches	7096	0.39	7638	0.38
40. Motor cars and scooters	—	—	2131	0.11
41. Others	285	0.02	1006	0.05
42. Paper	31340	1.76	61289	3.04
43. Paper board	2508	0.14	3157	0.15
44. Powdered milk	35225	1.98	33954	1.68
45. Radio	—	—	1985	0.10
46. Rubber	64	0.003	52	neg.
47. Stationery	—	—	1592	0.08
48. Spare parts	66237	3.72	82842	4.10
49. Soap	14663	0.82	10875	0.54
50. Shoe polish	114	0.01	—	—
51. Sanitary ware	1839	0.10	556	0.03
52. Spices	18942	1.06	2309	0.11
53. Television	—	—	1778	0.09
54. Toothpaste and brush	5664	0.26	1328	0.07
55. Tractor	—	—	427	0.02
56. Turmeric	1064	0.06	5329	0.26
57. Utensils (Aluminium)	11668	0.66	5166	0.26
58. Vanaspati	73645	4.14	95616	4.74
59. Vacuum Flask	982	0.06	330	0.02
60. Washing powder	—	—	2163	0.11
61. Wool	870	0.05	947	0.05
62. Tyres and tubes	18288	1.03	73646	3.65
63. Shaving set	294	0.01	—	—
64. Fish, frozen meat	1	neg.	—	—
65. Tubes and vapour lamps	3207	0.18	—	—
<b>Total Collections from GST</b>	<b>1779500</b>	<b>100.00</b>	<b>2017800</b>	<b>100.00</b>

SOURCE: Government of West Bengal, Directorate of Commercial Taxes.

Until 1968 the tax was leviable only at one point—mostly sales by the last registered dealer to an unregistered dealer or to

final consumers and on the first sale of a few commodities which were notified. Intermediate sales did not attract any tax. Since 1969, resale, that is, sale by a registered dealer to another, was made taxable at the rate of one per cent. Earlier, inputs when sold by a registered dealer to a manufacturer did not come under the purview of sales tax, if the manufacturer happened to be a registered dealer, but since 1968 sale of inputs by a registered dealer to another registered manufacturing dealer was subjected to tax but at a concessional rate of 1 per cent. With the introduction of the tax on intermediate sellers the sales tax in West Bengal lost its single-point character. Not all goods liable to sales tax however have to suffer the multipoint tax. Commodities taxable under the '54 Act and also those listed separately in a schedule (Schedule II) to the '41 Act are excluded from its purview, apart from the "declared goods".

Since October 10, 1977, in addition to the sales tax a purchase tax is payable by every manufacturer on (a) all purchases from an unregistered dealer of goods other than gold and fertiliser intended for use in manufacturing, in West Bengal, goods for sale in the State and (b) on inputs purchased from a registered dealer at the concessional rate prescribed for inputs for use in manufacturing taxable goods if the end-products are transferred by him otherwise than in the course of sale in West Bengal (which includes sales in the course of inter-State trade and export).

A dealer who purchases goods for use in the execution of any contract is also liable to pay a purchase tax if the "notified purchase price" exceeds Rs 2 lakh. The rate of the tax is 2 per cent if the notified purchase price exceeds Rs 50 lakh in the year and 1 per cent if it does not go beyond Rs 50 lakh.

Mainly on considerations of administrative convenience, raw jute is taxed at the purchase point under the West Bengal Raw Jute Taxation Act, 1941. The number of purchasers being few, as compared to growers of jute, it is obviously expedient to tax raw jute in the hands of the purchasers. Paddy was also subjected to a purchase tax on similar considerations until its recent withdrawal in the wake of the levy of sales tax on rice.

As under most sales tax systems, only registered dealers are liable to pay the sales tax. Under the '41 Act only dealers exceeding a specified limit are required to register. Until recently

(1981), the exemption limit for registration was Rs 10,000 for importers, Rs 25,000 for manufacturers and Rs 50,000 for others. With effect from April 1, 1981, these limits were raised to Rs 20,000, Rs 50,000 and Rs 1,00,000, respectively. The provision permitting voluntary registration for dealers having turnover of more than Rs 10,000 continues.

For dealers of commodities taxable under the other legislations, *viz.*, the '54 Act, the Motor Spirit Sales Tax Act and the Bengal Raw Jute Taxation there is no exemption limit for registration. Anyone dealing in these commodities is liable to register under the Act. However, for first-point taxation only an importer or a manufacturer comes within the category of a 'dealer' and so intermediate dealers do not have any obligation to register.

There is also no exemption limit for importers and manufacturers of certain goods notified under the '41 Act. Importers and manufacturers of such goods, called 'certified dealers', are liable to pay the tax irrespective of their turnover. The notification of goods taxable under the '41 Act is intended to ensure proper accounting of their import into the State as the import of a notified commodity requires a "permit" to be obtained from the sales tax authorities and has to be surrendered at the checkposts.

Since April 1, 1979, dealers having an aggregate gross turnover (GT) of more than Rs 50 lakh under the '41 Act and the '54 Act taken together are required to pay a 'turnover tax' at the rate of 1 per cent if the GT exceeds Rs 1 crore, otherwise at the rate of half per cent. The law specifically stipulates that the turnover tax cannot be passed on to purchasers. Earlier (from February 1972 to April 1979) there was a surcharge of 2 per cent on the tax payable. An additional surcharge was also payable at a graduated rate by dealers whose GT exceeded Rs 1,00,000 in a year. Both the surcharge and the additional surcharge were withdrawn with effect from April 1, 1979.

(b) *Rates.* The general rate of sales tax which applies to goods not specified elsewhere is currently 8 per cent. Goods listed in Schedule II to the '41 Act, which was added in 1949, are taxed at the rate of 15 per cent. The special rate has been prescribed mainly to tax at a higher rate goods which are considered to be in the nature of "luxuries". The rate on a few of

these items has been brought down to 13 per cent (e.g., watches) by notification. For some (e.g., motor vehicles) the rate was reduced to 7 per cent through provisos in the Act in order to stimulate demand. The item "motor vehicles" was transferred to the first-point in 1978 and the rate was raised. Gold and also rice and wheat are taxed at the rate of one per cent, the latter two items having been brought under taxation only in 1983. Mustard oil, rape oil and mixtures of the two which too were brought under the sales tax in 1983 are taxed at the rate of 2 per cent. Sale of gold ornaments is taxable at the rate of 3 per cent. "Declared goods", i.e., those referred to in Section 14 of the Central Sales Tax Act, 1956 other than rice and wheat are taxed at the rate of 4 per cent.

The rates of tax on articles notified for taxation under the '54 Act, that is, at first-point, vary from 2 to 18 per cent. The low rates of 2-5 per cent apply mainly to inputs of industry and agriculture like non-cotton yarn, fertilisers, lubricating oils, etc., and also to articles of common consumption or essential articles like drugs. By and large, notified commodities are taxed at relatively high rates ranging between 10 and 18 per cent. In the case of some items like footwear the rates are varied with reference to the price. Footwear of not more than Rs 15 per pair are taxed at 6 per cent, those in the price range of Rs 15 to Rs 50 at 10 per cent, and those of higher price at 15 per cent. Very recently footwear has been brought under the '41 Act again to be taxed at the last-point. The rate for footwear in the price range of Rs 15-50 per pair has been brought down to 8 per cent. Sales to Government Departments and Government undertakings are taxable at 4 per cent.

Inputs purchased by a manufacturer-dealer from a registered dealer for manufacturing goods in West Bengal are taxed at the rate of 2 per cent if the final product is "sold" in the State. Inputs for raising coal are taxed at the rate of 3 per cent while inputs for generation of electricity are taxed at the rate of 1 per cent.

The rate of the multipoint tax, that is, the tax on sales between registered intermediate dealers which is leviable on sale of goods other than gold, declared goods, Schedule II goods and notified commodities, is 1 per cent. Rice and wheat although taxable under the '41 Act are not subject to multipoint sales tax,

being taxable only at the first-point, contrary to the general pattern of taxation contemplated in the '41 Act.

The provisions granting concessional treatment of inputs mentioned above were applicable originally only to materials taxable under the '41 Act used for manufacturing in West Bengal goods taxable under the '41 Act. Inputs taxable under the '41 Act but used for manufacturing a notified commodity were not taxable upto April 1975. Since April 1975 such inputs were also taxed. The rate was 1 per cent (as against the rate of 2 per cent charged for inputs used for manufacturing a '41 Act good). There was no provision for concessional treatment of inputs under the '54 Act. This created no problem so long as the articles notified for first-point taxation were few and did not include industrial inputs. With the expansion of the ambit of commodities notified for taxation under the '54 Act, some input items came to be taxed at the first-point, e.g., chemicals and lubricants. A provision was therefore introduced in the '54 Act also in 1975 to permit concessional taxation of notified commodities used for the '41 Act or the '54 Act (section 23A of the '54 Act). Both under the '41 Act and the '54 Act, a purchase tax at the rate of 3 per cent is realised in respect of inputs used in the manufacture of products taken out of the State otherwise than in the course of sale in West Bengal (until recently the rate was 2 per cent). The computation of the purchase tax in such cases is made on the basis of a formula laid down in the rules, which however is not simple to apply. The rate of the purchase tax on the purchases made by a manufacturer from an unregistered dealer is a 4 per cent.

(c) *Exemptions.* As in other States, the scheme of the sales tax in West Bengal allows exemption for certain commodities and for certain uses or categories of buyers. Section 4 of the '41 Act provides for exemption of goods specified in Schedule I subject to certain conditions. The State government is vested with powers to exempt any dealer or class of dealer from the tax by issuing a notification, if it is considered necessary in the public interest, subject to such conditions as may be specified. Exemption is also provided through another route, namely, under rule 3 read with Section 5 (2) (a) (vi) of the '41 Act. The idea in providing two alternative routes for granting exemption presumably was to ensure that all exemptions of a general nature



granted on a more or less permanent footing would be set out in Schedule I while conditional exemptions and exemptions granted temporarily or on an experimental basis would be provided through rule 3.

The number of goods exempted through Schedule I of the '41 Act now exceeds 50. Broadly speaking, perishable goods and also goods which are considered to be items of common consumption (as, for example, bread, meat, fresh fish, vegetables except when sold in sealed containers, eggs, milk, livestock including poultry, etc.) figure in the exemptions listed in Schedule I.

Goods of several categories have been exempted from the tax through rule 3 also. Some of the notable items exempted under this rule are mepacrine or any other quinine substitute distributed by the State government, fresh fruits, periodicals and books (textbooks for classes I-IV and sacred books being exempt under Schedule I), seeds for flower plants, exercise books, fodder seeds, betel leaves, soap and biscuits manufactured otherwise than in a factory, oil cakes, certain categories of balanced poultry food, fodder for cattle, chanachur, writing slates, cards and calendars of the UNICEF, candles, toys and dolls of clay and hand-made paper. Rule 3 also sets out a list of exemptions granted to specified users, as, for example, sale of goods despatched by road to any place on the West Bengal or Bhutan or Nepal border for onward transmission to places in Bhutan, or Nepal, sale of goods made by ITDC from its duty-free shops at Dum Dum airport, sales by a departmental cooperative canteen provided conditions are fulfilled and so on.

It appears that the line of demarcation between exemptions granted through Schedule I and those provided rule 3 has got blurred over time. Certain items which have been granted exemption under Schedule I do not seem to satisfy the criterion of essentiality or perishability, as for example, synthetic knitwear shirts (item 49 of the Schedule). But by and large the exemptions have been confined to either essential or perishable goods or those which are taxed separately, as, for example country liquor which is taxed under State excise.

Rule 3 is used also to grant exemptions to newly set up small-scale industries. Goods manufactured by a new industrial unit registered with the Cottage and Small Scale Industries Department of the State is exempt from sales tax for a period

of three years from the date of first sale if located within the Calcutta Metropolitan Area and for five years if outside, subject to certain conditions. The exemption is available for goods taxable under the '41 Act and also notified commodities barring a few exceptions. Goods excluded from the benefit of exemption under rule 3 of the '41 Act are: blended and graded tea, sawn timber, sweetmeat, mustard oil, coconut oil, groundnut oil, rape oil and mixture, goods of rubber or synthetic rubber and PVC, blended, reclaimed and refined mineral oils, laminated hessian bag or cloth, rice and power generating sets. Notified commodities not eligible for the small-scale unit exemption are: electrical fans, ice-creams, bricks, cushions, mattresses, etc., made of foam rubber, PVC tiles, lubricating oils and greases and specified jute goods. Exemption in respect of these goods or commodities has been withdrawn because of misuse. Well-established units were reported to be splitting up or setting up fictitious new units to avail of the benefit. An industry which uses the trade mark or the brand name of an already existing unit has also been debarred from the exemption.

Sub-rule (4) of rule 3 grants exemption to a person intending to set up a manufacturing unit to buy plant, machinery and raw material tax-free on production of provisional certificate subject to the condition that he would apply for registration as soon as the sales exceeds Rs 50,000. Any person committing the breach of terms and conditions under which a provisional certificate is granted or misusing the certificate is punishable with fine of not more than Rs 500 and a daily fine not exceeding Rs 25.

## **2. Appraisal of the Existing Structure**

As may be seen from the review presented above, all in all, the system of sales taxation in West Bengal operating at present is an extremely complex one. Starting as a simple uniform levy on retail sale of all commodities with a few exemptions, the tax has now grown into a formidable structure containing elements of both first-point and last-point as well as multi-point taxation. The rates too are no longer uniform and vary all the way from 1 to 18 per cent. The principles behind the variation in rates or rationale for deciding the point of levy are not very clear. Luxury goods are taxed at relatively high rates but some like colour TV manufactured in West Bengal have been exempted

from tax to encourage production in the State and help the producers to face competition from neighbouring States. There is a purchase tax too on a few commodities and on purchases of inputs in certain circumstances. In addition to the sales and purchase taxes, dealers with taxable turnover exceeding Rs 50 lakh in a year have to pay a tax which goes up from  $\frac{1}{2}$  to 1 per cent as the turnover exceeds Rs 1 crore.

Inevitably, the system of administration of such a structure has also become complex and the complications have been compounded by the simultaneous operation of two separate enactments for the implementation of the tax. Administration and, for that matter, compliance, were not unmanageable so long as the two Acts operated in two clearly demarcated areas, the '54 Act applying to a few selected commodities at the first-stage and the '41 Act applying mainly to retail sale even though that involved additional burden both on the assessing officials and the taxpayers as separate returns had to be filed by dealers dealing with goods taxable under the two Acts apart from the return in respect of inter-State sales. The complications became acute when the rates came to be varied and the '41 Act lost its simplicity such as when certain articles at the last stage were taxed at a higher rate than others with a separate schedule (Schedule II) supposedly meant for "luxury" goods and the rate on some of these commodities was varied through notifications. The difficulties were compounded further by the introduction of the multi-point tax, concessional treatment of inputs and the levy of the purchase tax on inputs in certain cases. Another source of complication is the exemptions granted through notifications issued from time to time and shifting of the point of taxation through notifications. A number of commodities have been notified at the first-point under the '54 Act with varying rates and their number has increased in recent years while some have been "denotified" (that is, brought back under the last-point tax) within a few years because of suspicion of widespread evasion. The '41 Act also provides for notifying goods prone to evasion but goods so notified are taxable nevertheless at the last point (sec. 4A of '41 Act).

The complexity of the system is illustrated by the fact that the multi-point tax applies selectively, being confined mainly to the goods taxable under the '41 Act, i.e., at the last-point. Not

all items taxable under the '41 Act however suffer the m.p. tax. Goods enumerated in Schedule II of the '41 Act do not attract the multi-point tax but goods notified under the '41 Act attract the multi-point tax.

Tea sold in auctions to registered dealers either for resale or for use for purposes of manufacturing, e.g., blending, is taxed at the rate of 3 per cent, if the buyer does not produce any declaration form in support of the purchase. Auction sale of tea to a registered dealer against declaration forms is taxable at the normal multi-point rate of 1 per cent. The idea in taxing auction sales unsupported by declaration forms at 3 per cent presumably is to ensure that purchases which are intended to be transferred out of the State through consignments, etc., also bear some tax while avoiding the need to realise any purchase tax on such purchases. Tea sold in the course of inter-State trade, if purchased by a dealer at the auctions in Siliguri, is taxed at the rate of 1 per cent and, if bought at Calcutta auctions, at 2 per cent.

Concessional treatment of inputs too has given rise to complexities especially with the stipulation of a purchase tax on inputs where the end-product is not sold in West Bengal or transferred otherwise than by way of inter-State sale. Purchase of inputs from unregistered dealers is subject to a purchase tax in the hands of manufacturers at a slightly higher rate than the tax payable to registered dealers. Sifting purchases made from unregistered dealers out of the total purchases of a manufacturer has posed problems for the assessing officers.

As part of the machinery for enforcing the last-point tax, intermediate dealers are required to prove that these sales have been made to other registered dealers and the evidence for establishing this claim is a declaration from the buying dealers and such declaration forms are security printed and have to be obtained from the sales tax authorities. The system of requiring intermediate dealers to produce security printed declaration forms was introduced in place of the earlier practice of getting certificates by buying dealers on their own stationery because of widespread evasion through spurious certificates. The present system has checked evasion in this way but has led to complaints of harassment and corruption. It is noteworthy that there is no corresponding provision for requiring the issue or

production of declaration forms for the enforcement of the first-point tax even though a substantial amount of revenue is also collected from the first-point levy. In the case of rice and wheat which are now taxed only at the first-point though under the '41 Act, a declaration from the selling dealer has to be produced but it can be given on their own stationery. In fact an intermediate seller of articles taxed at the first-point under the '54 Act is not required to furnish any account of his sale of such articles unless he happens to be either a manufacturer or an importer. The enforcement of the first-point tax thus relies heavily on the operation of the checkposts. No wonder that there is a feeling that articles notified for taxation under the '54 Act escape taxation altogether if they somehow get into the market *via* manufacturers or importers or through smuggling. Anyone found dealing in the notified commodities without taking out registration can get away by claiming to have purchased them from the local market. The onus of proving the contrary is on the tax authorities. This is because under the '54 Act only the manufacturers and importers of notified commodities come within the definition of "dealers" as contemplated in that Act.

Another device introduced for helping the enforcement of the first-point tax is to compel all manufacturers and importers of notified commodities for first-point taxation to register without any exemption limit. The assumption presumably is that if an obligation is cast on all manufacturers and importers of these commodities to register and pay the tax, evasion cannot take place or at least will be minimised. In the absence of any arrangement for compelling dealers of '54 Act goods at the intermediate stages to file any account of their purchase and sale of such commodities this presumption does not seem to be justified. Except for items for which the producers or importers are truly few and clearly identifiable as in the case of petroleum products, evasion is believed to have taken place on a wide scale in several commodities which were brought under taxation and, as already mentioned, some of them were subsequently denotified in order to take them back to the last-point tax for better enforcement (e.g., footwear and cassette tapes).

Goods taxable under the '41 Act also can be "notified" to stipulate that manufacturers and importers of such goods must

register irrespective of the size of their turnover. In other words, the exemption limits for registration laid down for dealers under the '41 Act are not applicable in the case of manufacturers and importers of these goods even though they remain taxable at the last-point. About 17 items have been so notified under the '41 Act. These are: groundnut oil, coconut oil, timber, articles of coir but excluding coir carpets, certain seeds used as spices (like coriander), cardamom, chillies, poppy seed, linseed, hides and skins, bidi leaves, raw rubber excluding synthetic rubber, reclaimed rubber and masticated rubber, mustard oil, rape oil including mixture of the two and bicycles and parts thereof, generators of electricity. For importing any notified commodity into the State a permit is required to be obtained from the Sales Tax Department. Such commodities if imported without a valid permit are liable to be seized.

Not surprisingly, the administration of a complex structure such as the one operating in West Bengal has encountered problems and given rise to complaints of corruption and harassment. The principal instruments relied upon for enforcement of the Sales Tax in the State are (i) registration of dealers liable to pay the tax; (ii) declaration forms for enforcing the last-point tax; (iii) operation of checkposts for monitoring the import of commodities notified for taxation under the '54 Act and certain goods under the '41 Act, (iv) quarterly payment of tax and filing of quarterly return by dealers (in some cases monthly return can also be asked for with the approval of the Assistant Commissioner) and (v) monthly payment of tax and filing of return in respect of notified goods taxable under the '55 Act.

Registration, of course, is indispensable for enforcement of sales tax in any form. So are declaration forms for the implementation of a single-point as distinguished from multi-point system of sales taxation. For under a single-stage sales tax, if it is a last-point one, intermediate dealers not liable to pay the tax have to substantiate their claim of intermediate status by producing evidence to show that their sales were made only to registered dealers. Similarly, where the tax is leviable at the first-point, an intermediate dealer can claim exemption from the tax provided he can prove that his purchases were made from registered dealers. Since the number of registered dealers liable to pay the tax under a first-point tax is usually smaller than the

number of dealers at the last-point, there has been a trend in West Bengal, as in most of the other States in India, towards greater reliance on the first-point levy. A combination of first-point taxation for some commodities and last-point for others is also not peculiar to West Bengal. Several factors have however contributed to make the tax structure of West Bengal particularly difficult for administration as well as compliance. The main factors are briefly noted below:

(i) While, as stated, a combination of first-point and last-point taxation is not unusual, perhaps in no other State, with the exception of Assam, two separate legislations are relied upon for levying the general sales tax, one for the last-point and another for the first-point. The result of the operation of these two legislations along with the CST Act, the Motor Spirit Sales Tax Act, and Raw Jute Purchase Tax Act is that a dealer having transactions in goods liable to tax under the '41 Act, '54 Act and the CST Act has sometimes to file as many as 20 returns in a year; 12 for the '54 Act commodities, 4 for the '41 Act goods and another 4 for inter-State sales. This casts a heavy burden on the administration too as separate files have to be maintained for the returns filed under each Act and separate assessments have to be made for goods liable to be taxed under different Acts. This is one of the main factors responsible for the growing volume of backlog in assessment work and the time-lag in the completion of assessments, noted in the previous chapter, with consequent ill-effect on the efficacy of the administration in tackling evasion and efficiency in general.

(ii) While basically the present structure relies predominantly on single-stage sales tax for revenue, there is multi-point taxation for many commodities inasmuch as all goods taxable under the '41 Act suffer a tax on sales between registered dealers though at a mild rate. Items like gold, rice and wheat are not liable to multi-point taxation. The rates and the point of levy are often shifted from one point to another through notifications and it is not easy either for the taxpayers or the assessing officers to keep track of the changes all the time.

(iii) The exemption limit for registration varies for different groups of commodities. For '41 Act goods the limits are Rs 20,000 for importers, Rs 50,000 for manufacturers and Rs 1 lakh for others. For notified commodities, whether under the '54 Act

or the '41 Act, there is no exemption limit (under the '41 Act this is true only so far as importers and manufacturers of notified commodities are concerned; for others the specified limits are applicable) and everyone having any transaction in these commodities has to register. Since registration confers certain facilities, some inquiry before granting a registration certificate is perhaps unavoidable. But this too is said to have been a source of harassment. When a dealer applies for registration his application is first processed by the Commercial Tax Officer (CTO) having territorial jurisdiction over the case. As a preliminary step, an enquiry is made by the inspector of the assessing CTO. The CTO then makes a report to the Central Section from where another enquiry is conducted. The report of the Inspector of the Central Section is examined by the CTO of the Central Section who makes appropriate recommendations to the assessing CTO. The registration is granted by the assessing CTO. Some security is also asked for from new dealers for which the appropriate authority is the Assistant Commissioner (to whom the CTO has to make a reference for the purpose). Granting that caution is needed in granting registration, one wonders whether the procedure could not be simplified and scope for harassment reduced.

(iv) There is no uniformity of procedure for verification of purchases/sales by intermediate dealers. There is no requirement for an intermediate dealer of any commodity notified under the '54 Act to substantiate his claim for intermediate status, while dealers of goods taxable under the '41 Act have to produce declaration forms obtained from the CTOs concerned to show that they are not the last-point dealers accountable for the retail sales tax. As in most States where this practice is in vogue, dealers complain of harassment at the hands of tax officers while obtaining declaration forms. The requirement of a permit for importing notified commodities to be obtained from the sales tax authorities and the operation of checkposts to monitor the entry of such goods into the State are also considered a source of harassment and hindrance to trade.

(v) Even with permits, checkposts and declaration forms, it has not been possible to counter evasion of tax effectively either in the case of the first-point or the last-point tax. Cases involving substantial evasion are detected every year by the Bureau of



Investigation. In the case of goods taxable at the last-point, the misuse of declaration forms continues though perhaps on a much reduced scale than was the case when dealers could use their own stationery. Evasion of tax on notified goods on a substantial scale is also believed to be practised at least in the case of some commodities largely because of the absence of any provision requiring intermediate dealers in these goods to file any return or account of their transactions. The tax authorities are in no position to contest any claim by a dealer if he takes the plea that he obtained the supply of commodity from the local market. In such cases, the onus is on the tax authorities to prove that the dealer is not an intermediate dealer. Thus the benefit of first-point taxation is not fully reaped under the present system.

(vi) Concessional treatment of inputs used for manufacture of taxable products for sale in the State also has given rise to problems. The concession is available against the issue of a declaration on the part of the manufacturers. The declaration is to be furnished in the prescribed form (Form XXIV A). This declaration was also originally allowed to be given in the own stationery of the manufacturer dealer but with effect from April 1, 1983, this facility was withdrawn and the declaration by manufacturer dealers is now required to be furnished in security printed forms only. The levy of the purchase tax on inputs in respect of end-products not sold in West Bengal or transferred outside the State otherwise than through interest sale or exports is also not simple to enforce.

(vii) The exemption granted to small-scale industries in respect of their sales for the past few years and to new industrial undertakings from sales tax on the purchase of plant and machinery and raw material has also opened up scope for abuse. The most glaring instance of such abuse was found in the tea industry. As a result of abuse the concession had to be withdrawn for a number of commodities, as already mentioned. While the scope for undue revenue loss from this concession has been reduced considerably by narrowing down the coverage of commodities eligible for the relief, the possibility of misuse remains.

While the problems created by the complexities of the structure are obvious enough, it is not easy to assess the impact of

the system on the economy of the State or judge how equitable the incidence of the tax is, in the absence of relevant data. No information is available regarding the quantum of total turnover. Commodity-wise break-up of tax paid is available only for the notified commodities. For goods contributing more than fifty per cent of the revenue (i.e., 41 Act goods) no commodity-wise detail of tax or turnover is available. There is no reliable information even on the number of dealers liable to pay sales tax. Only figures of registration under the different Acts are there. However, it may not be wrong to conclude that a system like this is uncertain in its economic and equity effects and can scarcely be conducive to industrial growth or promotion of economic activity. Evasion if widespread is itself a source of inequity and can cause distortions thwarting any kind of planned growth. The need for a thorough overhaul of the structure is thus evident.

### 3. Directions of Reform

(a) *Recommendations of the Study Committee.* The structure of the sales tax in the State and the problems which it has given rise to for the administration and the taxpayers were gone into at length by a Study Team on Sales Tax appointed by the Government of West Bengal in 1978 to which a reference has been made already. In its report submitted in 1979, the Committee made recommendations for wide-ranging reform of the sales tax system and its administration in the State. The recommendations aimed at the reform of the basic structure are briefly as follows :

(i) The various legislations in operation for the implementation of the sales tax in the State should be consolidated in one Act.

(ii) The last-point retail sales tax should be the predominant form of taxation of sales in the State. While a combination of first-point and last-point tax may be retained, the first-point levy should be restricted to a few commodities to be selected by applying the criteria originally stipulated for notification of commodities for first-point taxation, namely: (a) there should be few importers and the channels of import into West Bengal should be well-established; (b) for commodities manufactured in West Bengal, the manufacturers should be well-

established and few in number; (c) the commodity in question should be a finished product itself; (d) if exported out of West Bengal, the exporters are either manufacturers or importers themselves; (e) there is substantial evasion and (f) the commodity is amenable to precise and unambiguous definition.

The Committee was of the view that "first point tax should be the exception rather than the rule". The Committee felt that many of the commodities now taxed at the first-point did not satisfy the above criteria and a few commodities not suitable for first-point taxation were notified for taxation under the '54 Act. The Committee accordingly mentioned a number of commodities to be brought back to the last-point, by way of illustration (e.g., storage batteries, radios and transistor sets, "alta, nailpolish" included under cosmetics, bricks, incense sticks, spare parts of motor vehicles, upholstered furniture, furniture made of iron, steel or aluminium, steel almirahs and footwear).

(iii) There should be a minimum limit of taxable turnover for a dealer to become liable to pay the tax.

(iv) Sales of all goods (except those specifically exempted, declared goods and luxury goods) should be taxed uniformly at the general rate whether the sale is taxed at the first-point or at the last-point. Luxury goods may be taxed at a different rate.

(v) There should be a multi-point tax at a concessional rate on all intermediate sales.

The Committee thought that the multi-point tax at low rate has come to stay as an integral part of the sales tax system of the State and cannot be done away with; rather it should be extended to all commodities, including luxury goods listed in Schedule II of the '41 Act and all commodities subject to the first-point levy. Resellers of first-point-tax commodities also will thus be required to register and file returns.

(vi) Intermediate sales of all goods (including those subject to first-point tax) should be supported with declaration forms.

(vii) The system of permits should be discontinued except in respect of a commodity in which evasion is found to be widespread. Such commodities might be notified for the purpose under a provision similar to section 4A of the present '41 Act.

(viii) Checkposts should continue for checking all incoming and outgoing consignments.

(ix) There should be a purchase tax on all purchases of

inputs by manufacturing dealers irrespective of whether the purchase is made from a registered dealer or an unregistered dealer.

(x) The purchase tax should be levied in place of sales tax in all cases where the purchase tax is easier to collect than the sales tax, that is to say, where purchasers can be easily identified and are fewer in number than sellers. The Committee recommended in particular a tax on purchase of materials necessary to build a house.

(xi) The existing 16 rates of tax should be replaced by 5 or 6.

(xii) The high turnover tax should be retained.

There can be no two opinions that the first step towards reform of the complicated system of sales taxation in the State would be to consolidate the legislations for implementing its tax. Multiplicity of legislation and *ad hoc* changes made in them in response to requirements of revenue and administrative convenience is the most important single source of difficulties encountered in the administration of the tax and compliance by taxpayers. A step towards consolidation has already been taken by the abrogation of the Paddy Purchase Tax Act of 1970. The other four Acts however continue to operate and the first-point tax on the one hand and the last-point and multi-point tax on the other continue to be levied under two different Acts, with consequent complications in administration, legislation and compliance. Consolidation of these two Acts as also of the Raw Jute Purchase Tax Act is thus essential for any rationalisation and simplification of the tax structure and its administration. Sale of motor spirit through a separate enactment has its merits as the channels of distribution of motor spirit have some special features. There are only 5 major dealers and the pricing of petroleum products is looked after by the Government through a Committee. Hence, while consolidating the sales tax laws, the law relating to the taxation of motor spirit need not be disturbed.

Mere consolidation of the legislations would however not be enough to reform the sales tax system or simplify its administration and compliance. Complications which have arisen from *ad hoc* changes in the system and the grafting of elements of single-point and multi-point, first-stage and last-stage taxation with an overall tax on "high turnover" at a graduated rate can

not be removed without a radical reform of the basic structure of the tax and procedure.

(b) *Suggestions for reform of basic structure.* The ideal form of sales taxation, it is generally acknowledged by experts, is either a tax on retail sales or a tax on value-added.<sup>2</sup> The retail sales tax has the merit of neutrality inasmuch as the incidence does not depend on the pattern of trade, unlike the tax on manufacturers and wholesalers, and does not discriminate against commodities having relatively small proportion of value-added at the intermediate stages. Nor does it run into the problems of valuation which apparently have assumed rather serious proportions in countries where the tax is levied on wholesale sales or at the manufacturers' level.<sup>3</sup> It also does not cause any cascading effect which is associated with the unrelieved first-point tax, and more so with the multi-point tax which is the most undesirable form of commodity taxation from the economic point of view. However, a last-point tax may also cause cascading and consequent distortions unless the tax on inputs is relieved either through suspension of the tax on inputs or a system of set-off. Hence the most rational and least distortionary way of taxing sales is believed to be the taxation of value-added. The tax on value-added also lends itself to harmonisation of the tax systems among countries and this seems to have been an important factor in its adoption by the EEC countries.

Sales taxation originated in West Bengal in a form which is widely considered to be the ideal form of commodity taxation (next to the VAT), *viz.*, as a tax on retail sales only. Several other States in India followed this pattern. Ironically, West Bengal had to move away from the ideal system and turn increasingly to taxation at the first-point for facility of administration. Widespread evasion compelled the authorities to shift taxation to the first-point for several commodities and their number has steadily gone up although recently a few commodities were "denotified". First-point taxation also had its problems as it called for monitoring of imports and manufacturing and thus the setting up of checkposts, introduction of permits and so on. Even so, evasion is believed to be widespread as the raids carried out by the Bureau of Investigation in several cases show that the turnover disclosed formed only a fraction of the

actual turnover.

For simplicity of administration a uniform tax at each point of sale is obviously the best. When a tax is payable by dealers at all stages of sale excluding the specified limit of turnover, evasion is unlikely to be high. But as is well-known, a turnover tax, which an unrelieved multi-point sales tax essentially is, suffers from several serious drawbacks. Its incidence is difficult to control and the overall impact is too damaging from the economic angle (*e.g.*, cascading, vertical integration) to entitle it to merit consideration as an alternative.

While the tax on value-added or a last-point retail sales tax would be the ideal from considerations of economic rationale and amenability to control of incidence, a complete switch-over to a value-added tax or to an exclusively last-point tax has to be ruled out for administrative reasons. The value-added tax would call for providing set-off at each stage of sale. Given the present state of account-keeping and administrative resources it may not be feasible to introduce such a tax in the very near future. The retail sales tax, though a second best, cannot also be depended upon exclusively in view of the experience of West Bengal and other States with the problems encountered in its administration. The number of dealers coming under the net of a last-point tax is usually very large. The last-point dealers being small also find it easier to slip away after indulging in some malpractice like trading in declaration forms and so on. Therefore, given the environment prevailing in the country and other constraints, one has to look for some alternative which can incorporate the merits of the retail sales tax and the value-added tax and at the same time would not give rise to, or at least provide reasonable safeguard against, abuses of the kind which a retail sales tax has been found to generate. Keeping these considerations in view, the following two alternatives are put forward to provide the basic framework for reform of the system of sales tax in West Bengal.

### **Alternative I**

There will be a first-point tax on most commodities including inputs. A tax at the last-point instead of the first-point may be levied on some commodities which are produced by a large number of dealers and are relatively easy to tax at the

last point and also have a relatively high proportion of value-added at the intermediate stages of trade. Examples of articles on which the last-point tax may be levied are footwear, agricultural implements and some high value articles like refrigerators, TVs, videos, etc. The system however would be predominantly first-point in character. Items not mentioned specifically for taxation at the last-point will be taxable at the first-point, *i.e.*, first sale by a registered dealer in the State.

The rate of tax may be varied as between essential commodities, inputs and luxuries. There should be not more than five to six rates of tax. Goods largely used as inputs should be taxed at the rate of 4 per cent. This rate should apply to all purchases and not merely to purchases by manufacturers. Articles of relatively high value like gold and bullion may be taxed at the rate of  $\frac{1}{2}$  to 1 per cent, luxury goods at 15 per cent and other articles at 8 to 10 per cent. While fixing the rates attention has to be paid to the rates prevailing in the neighbouring States. A comprehensive rate chart of sales tax in West Bengal and a few other States is given in Appendix II.1.

Full set-off of tax paid on inputs (but not on plant and machinery) should be allowed, with a proviso that no set-off will be allowed in respect of inputs where the final product is not disposed of in the course of sale in West Bengal (or in the course of inter-State sale or export). With full set-off of inputs there would be no need for declaration forms to be obtained by suppliers of inputs from manufacturers. Since the tax on inputs would be fully relieved there would be no incentive for purchasing inputs from unregistered dealers or from outside. There would be no need to levy a purchase tax on inputs to be recovered from dealers either.

A set-off for the tax paid at the first-point should be allowed also to dealers who sell their commodities across the State or export them out of the country so that the incidence of sales tax on such sales does not exceed the level laid down for inter-State sales taxation. Such set-off is allowed in the sales tax system of Gujarat and Maharashtra. With a comprehensive system of set-off as suggested above, the first-point tax becomes fully rational within the manufacturing sector. Cascading will be confined to post-manufacturing and post-import stages—certainly a vast improvement.

With a predominantly first-point tax it will be necessary to require all intermediate dealers having turnover exceeding the limit specified for exemption to file accounts of their turnover and produce necessary evidence to show that they had made their purchases from registered dealers only. At present, dealers of commodities notified for taxation at the first-point, unless they are importers and manufacturers, have no obligation to file any return on account of their turnover of the notified commodities. This is scarcely conducive to the effective administration of a first-point tax. In order however to avoid the problems encountered in the operation of a system dependent on declaration forms, the evidence of purchase from a registered dealer in respect of a first-point commodity may be furnished on the purchase voucher or memo itself indicating the registration number and other particulars of the selling dealer (as in Gujarat).

It may be argued that the requirement of producing security printed declaration forms to show sales by an intermediate dealer to another registered dealer was relaxed in 1980 in respect of sales of goods for relatively small sales. Registered dealers were permitted to issue the declaration in their own stationery as long as the value of the goods sold covered in a form did not exceed Rs 5000 and the individual bills did not exceed Rs 2000. But the facility was abused and sales involving much larger value of goods were sought to be supported with ordinary certificates (*i.e.*, declaration in their own stationery) by splitting up the bills. So much so, that the relaxation had to be withdrawn from April 1, 1983. It would therefore appear to be extremely risky to do away with the declaration forms.

It cannot be denied that declaration forms have helped to check evasion through issue of bogus certificates of purchase on the part of registered dealers to a considerable extent. However, a more effective method of checking evasion by showing purchases or sales to have been made from or to intermediate dealers under a system of single-stage sales taxation is to cross-check the sales and purchases of registered dealers in a scientific and regular manner. Our enquiries show that such cross-checking is not done as systematically as would be needed to detect or check evasion effectively. One important reason why this cannot be done effectively now is that assessments are taken



up with a long time lag (almost invariably after more than two years). With simplification of assessment procedure suggested elsewhere it should be possible for the tax authorities to pay more attention to this aspect of the work and also to undertake surveys for detecting dealers liable to register so that no one with turnover exceeding the exemption limit can get away without registration. If the system of cross-checking works properly, there would be no need for compelling intermediate dealers to produce declaration forms obtained from the tax authorities to support their purchases or sales from or to registered dealers. We feel that this would be true at least as far as first-point goods are concerned, as Gujarat experience shows. If, however, it is felt that doing away with the declaration forms for the last-point would be risky because of the large number of dealers, the declaration forms might be retained for new and small dealers only (that is, those with a turnover below a specified limit of, say, Rs 10 lakh). It is unlikely that well-established dealers would indulge in malpractices such as trading in fictitious bills or certificates of purchase or sale.

With greater reliance on the first-point tax, it may not be possible to do away with the checkposts completely. However, considering the problems of checking transport vehicles for all commodities coming in, especially on busy highways, the surveillance on the import of goods into the State might be confined only to commodities which carry high value but are convenient to bring in and sell in small lots and which are found to be evasion-prone through imports (as, for example, timber carried by trucks). The system of permits now in vogue for monitoring the import of notified commodities may, therefore, have to continue. But the number of commodities covered under permits should be limited to a few; otherwise the task becomes unmanageable. Simultaneously, measures should be taken to improve the working of the checkposts and to ensure that the information flowing in from the checkposts is made full use of. Some suggestions in this regard were made in a note submitted separately to the Government in August, 1982. It needs to be added here that the suggestion put forward by some for subjecting out-going vehicles also to inspection at the checkposts does not appear to be desirable as it would multiply the volume of work without any commensurate gain. The purpose, *viz.*, to

put a check on inter-State transportation of goods without payment of tax can be served equally well if CTOs (or their Inspectors) are given powers to check consignments at the offices of the transport operators so that the parties attempting to transport goods without payment of tax can be traced. In any case, ST authorities should have the powers to collect information regarding consignments carried by transport operators, as are conferred under the Railway Act. A provision authorising ST Department to check outgoing vehicles may be made only for vehicles passing through West Bengal in transit to some States.

Under the system suggested above, there would be no place for the multi-point tax. The loss of revenue, if any, on this account should be amply made up by the gain from better enforcement and by adjusting the rates suitably for commodities which are at present relatively lightly taxed, keeping in view the rates prevailing in neighbouring States.

The "high turnover" tax also is undesirable because of the uncertainty of incidence and the detrimental effect it can have on the competitive position of dealers in the State as compared to those in other States. The stipulation in the law that it can not be passed on to buyers is of no avail as the dealers can always recover the tax by raising their price.

The exemption limit for registration of dealers under the system suggested above may be fixed at Rs 25,000 for importers and Rs 50,000 for manufacturers irrespective of whether the dealer deals in a first-point or a last-point tax good. The exemption limit for all resellers may be fixed at Rs 2 lakh. The present limit of Rs 1 lakh seems to be little too low. The exemption limits and salient features of sales tax systems prevailing in a few States are briefly noted in Appendix II.2.

Raising the exemption limit to Rs 2 lakh for resellers should help to cut down the volume of infructuous work considerably. From information furnished to the Study Committee, it is seen that (as on April 1, 1978) about 53 per cent of the registered dealers had turnover of less than Rs 1 lakh, while those with turnover of Rs 50 lakh or more constitute less than 3 per cent of the total (Table II.3). But dealers with turnover of Rs 50 lakh or more contribute over two-thirds of the revenue. Distribution of dealers with large turnover is given in Table 2.4). Increasing the exemption limit *thus is unlikely to affect revenue*

adversely. Rather it will help the administration in many ways.

The present provision allowing voluntary registration should be tightened up. No one should be permitted to avail of the facility of voluntary registration except importers, manufacturers and those intending to avail of the concessional tax on inter-State sale under the CST Act.

### Alternative II

If it is felt that the abolition of the multi-point tax which is now leviable on goods taxable under the '41 Act (other than the Schedule II goods) would lead to substantial loss of revenue,

**Table 2.3**  
*Turnover-wise (State Acts) Number of Registered Dealers*  
*as on 1st April 1978*  
(As per Last Assessment)

<i>Turnover</i>	<i>Number of Importers</i>	<i>Number of Manufacturers</i>	<i>Others</i>	<i>Total</i>	<i>Percentage</i>
(1)	(2)	(3)	(4)	(5)	(6)
1. Below Rs 1 lakh	...	...	...	31,410	52.60
2. Rs 1 lakh and above but below Rs 5 lakh	1,438	4,948	10,313	16,699	27.96
3. Rs 5 lakh and above but below Rs 20 lakh	819	2,187	4,639	7,645	12.80
4. Rs 20 lakh and above but below Rs 50 lakh	225	577	1,567	2,369	3.97
5. Rs 50 lakh and above but below Rs 1 crore	123	262	498	883	1.48
6. Rs 1 crore and above	91	309	308	708	1.19
7. Total of items 2 to 6	2,696	8,283	17,325	23,304	47.40
8. Total of items 1 to 6	2,696	8,283	17,325	59,714	100.00

SOURCE: Government of West Bengal (1979). Report of the Study Committee, Table 1.

**Table 2.4**

*Distribution of Dealers with Turnover of Rs 50 lakh or more  
According to Turnover Range  
(Excluding Asansol and North Bengal Charges)  
(As of August 1983)*

<i>Turnover</i>	<i>No. of dealers</i>
(1)	(2)
Between Rs 50 lakh and 1 crore	490
Between Rs 1 crore and 2 crore	228
Between Rs 2 crore and 5 crore	183
Between Rs 5 crore and 10 crore	203
Above Rs 10 crore	077
Total	1181

SOURCE: Government of West Bengal, Directorate of Commercial Taxes, Central Section (rough estimates).

it may be retained but at a very low rate of  $\frac{1}{2}$  per cent or so. The rate should in no case be more than 1 per cent. A multi-point tax would not be objectionable if it is allowed to be set off against the tax payable by a dealer at the immediately preceding stage. In the absence of such set-off, a multi-point tax gives rise to various ill-effects, as noted earlier. However, in view of the fact that such a tax is already in vogue and cannot be dispensed with immediately, a low-rate multi-point tax might be retained. If in future it is desired to raise the rate, a system of regular set-off should be introduced. That would then become the precursor of the value-added tax at the State level. Because of the multi-point tax, the three rates suggested earlier, *viz.*, 15, 10 and 8 may be scaled down somewhat.

Treatment of inputs should be the same under this alternative as under Alternative I.

Under both the systems the purchase tax on raw jute may be retained in view of the fact it is convenient to tax raw jute in the hands of purchasers, the number of growers of jute being large. The suggestions for imposing a purchase tax on the purchase of inputs for hotels and house builders made by the Study Committee does not seem to be advisable as by virtue of

the Constitutional amendment it should now be possible to tax food supplied in hotels and also material supplied in works contracts by the State themselves. In the case of hotels, the purchase of inputs like foodstuffs such as vegetables, etc., need not be taxed as their sales are not usually taxable. Food sold in hotels is now being taxed again by the States and West Bengal also has started taxing hotel food at the rate of 8 per cent (excluding of course the value of the service element). In the case of works contracts, no doubt some of the material should bear tax but there is no reason to tax them in the hands of the buyers.

(c) *Suggestions for procedural reform.* The reform of the basic structure of the sales tax on the lines suggested above both under Alternative I as well as Alternative II would call for some radical change in the procedural provisions in the law also. The changes which would be required are briefly indicated below:

(i) *Periodicity of returns.* The practice of requiring submission of return every quarter under the '41 Act and every month under the '54 Act should be done away with. All dealers should be required to pay the tax on a monthly basis, accompanied by only a summary return showing the total turnover (gross as well as taxable). A detailed return should be filed by every dealer annually. The Commissioner should, however, have the power to call for return on monthly or quarterly basis in cases where he thinks fit, e.g., in the case of defaulters.

(ii) *Provision for charging interest.* There should be a provision for charging interest if the tax collected in the month by a dealer is withheld beyond the month in question without valid reasons.

(iii) *Summary assessment.* The provision for summary assessment which was introduced some time ago but could not be given effect to should be revived in a revised form. Returns should be accepted in all cases of dealers having a turnover of not more than a specified amount except in new cases and where there is any suspicion of evasion. A fixed percentage of these cases may be taken up for thorough scrutiny every year, as suggested by the Study Committee while recommending the scheme of 'Special Assessment'. The sample should be chosen by the Headquarters of the ST administration. At present assessments are taken up mostly in the time-barring year, as a result of

which the arrears position seems to be worsening every year. With such heavy load of arrears it is not possible for the Assessing Officers to undertake any cross-verification of sales and purchase among registered dealers promptly. The procedure regarding filing of returns and assessment should be so designed as to enable the officers to undertake prompt verification and cross-checking and not allow the returns to accumulate for years before they are taken up for scrutiny.

(iv) *Security for registration, etc.* Under the existing system, as a measure of safeguard against misuse of the facility of registration, some security can be asked for by the Sales Tax Department from dealers applying for new registration. Security can be asked for also for supply of declaration forms. There is, however, no fixed rule about the amount of security taken in a given case. It is a matter for discretion of the appropriate officers concerned. Perhaps some guidelines can be laid down regarding the amount of security to be taken in each case. Besides, the requirement of security may be given up after a dealer has proved his bonafide and there is no suspicion of any malpractice on his part. As an alternative to monetary security, a surety should also be acceptable if furnished by a reliable person or concern or another registered dealer.

(v) *Measures for mitigating hardship of small industrial units.* It was represented that under the existing system of sales taxation, small-scale industrial units (SSI) suffer from a disadvantage as compared to the large units despite the concession granted to new SSI units under rule 3 (66) of the Sales Tax Rules framed under the '41 Act. The disadvantage stems mainly from the delay and difficulty encountered in:

- (i) obtaining registration;
- (ii) eligibility certificate; and
- (iii) fixation of security deposits.

As mentioned earlier, a new application for registration is subjected to a double check, once by the assessing CTO and again by Central Section.

An eligibility certificate (EC) is required for availing the benefit of exemption under rule 3 (66). For obtaining an EC a separate application is to be made, that is, apart from registration. The authority for granting an EC lies with the Assistant Commissioner of the area concerned. For security deposit the

assessing CTO first makes a recommendation to the Assistant Commissioner who then decides the amount to be deposited by the new dealer. In case the new dealer considers it too high he can appeal to the Additional Commissioner. All this, it was represented, takes an inordinate length of time during which the SSI unit does not get either the benefit of rule 3 (66) or the input concession available to manufacturers generally. It was also said that the small units are subject to harassment at every stage.

The suggestion for allowing the input relief in the form of a set-off put forward in the reform proposals outlined here will dispense with the need for ECs. The registration procedure cannot possibly be cut down without risking registration of bogus dealers. However, in order to reduce the points of contact and thus the occasions for harassment, it may be provided that the consideration of the registration application and the security deposit fixation can be done simultaneously. The amount of security to be demanded, which is now a matter of discretion of the CTOs, may be related to the estimated turnover of the new dealer. A specified fraction, say two per cent, of the estimated turnover of the dealer in the first year may be asked for as security. Once the amount of security to be asked for is laid down through a formula which can be done through guidelines, the scope for any harassment would be very much reduced.

Some discrimination in favour of well established units with a good record is unavoidable in the matter of issue of declaration forms. However, under the scheme of taxation envisaged in the proposals put forward here, the use of declaration forms may be limited principally to transactions in goods liable to tax at the last-point.

The exemption from sales tax on machinery and raw materials available to new industrial units under rule 3 (4) may continue. But in view of the misuse, the concessions for the small-scale unit is better given in the form of an interest-free loan of the sales tax payable by a new unit for the first three years commencing from the year in which the unit becomes liable to sales tax. The loan may be granted for a period of five years. Another alternative could be to allow some differential in the set-off for the tax on input in favour of small-scale units as compared to the large ones. However, the risk of misuse

through splitting up of units or creation of bogus small units is inherent in any scheme of concession to small-scale industries. It is considered better to provide cheap inputs like power, raw materials, working capital, etc., to newly started small enterprises rather than concession in tax. Withdrawal of the concession under rule 3 (66) should not cause undue hardship to tiny or cottage industries as the products of cottage industries are mostly exempt and tiny units would not come within the purview of sales tax by virtue of the exemption limit which is recommended here for manufacturers also, irrespective of the commodity produced.

The suggestions made above under either of the two alternatives would unavoidably lead to an increase in the workload as all intermediate dealers would be brought under the control of the Sales Tax Department, unlike under the existing system wherein intermediate dealers of notified commodities are not required to submit any account of their sale or purchase. But if the assessment procedure is simplified the work should not be unmanageable. The existing staff would be able to handle the additional work. If necessary, the staff may be strengthened. It also needs to be stressed that no system of taxation can be enforced effectively or conducted satisfactorily without a proper information system. This the West Bengal Sales Tax Department lacks.

In summary, what is suggested here to reform the sales tax structure of West Bengal is a system which will be predominantly first-point in character. Only a few selected commodities consisting mainly of those having a high proportion of value-added at the intermediate stages of trade or are easier to tax at the last-point will be taxed at the retail stage (*i.e.*, sale by the last registered dealer). There will be no multi-point tax, or high turnover tax. If the multi-point tax is to be retained it should be at a low rate, not exceeding 1 per cent. If the multi-point tax rate is raised above 1 per cent, set-off for the tax paid at the previous stages should be allowed. Purchase of all inputs will be taxed at a uniform rate but full (or at least partial) set-off will be allowed in the hands of manufacturers (except for the tax paid, if any, on plant and machinery) against the tax payable on the final product. Set-off of the tax paid at the first-point should be allowed also to dealers who sell their goods



across the State or export them out of India so that the overall incidence does not exceed the rate laid down for inter-State sales. There will be no purchase tax except in the case of raw jute. The exemption limit for registration should be Rs 25,000 for importers, Rs 50,000 for manufacturers and Rs 2 lakh for others. All intermediate dealers with turnover exceeding the exemption limit should be required to file returns and produce evidence to establish vouchers/memos of the dealers. Declaration forms may be insisted upon only for goods taxable at the last-point. More attention ought to be paid to cross-checking and verification of sales and purchases among registered dealers. Checkposts should be used to monitor the import of only a few commodities to be notified specifically for the purpose.

All dealers should be required to file only a summary return showing their total turnover every month along with evidence of payment. A detailed return should be filed annually. The Commissioner should have power to call for monthly or quarterly returns from any dealer if he thinks fit. The scheme of summary assessment should be revived for dealers with turnover not exceeding a specified limit. A fraction of the cases coming under the summary assessment scheme should be subjected to thorough scrutiny on the basis of a sample to be drawn at the headquarters. The processes of registration and obtaining security deposit should be combined. ECs may be done away with. Incentives for new or small industries are better provided in the form of deferred payment of tax rather than complete exemption.

There should be not more than 5 or 6 rates of tax. Inputs should be taxed at 4 per cent but with set-off for manufacturers. Articles of high value like gold may be taxed at  $\frac{1}{2}$  to 1 per cent, luxury goods at 15 per cent and others at 8 to 10 per cent. The rate structure is not gone into in detail in this report. It may only be noted that a look at the rates prevailing in West Bengal as compared to those in other States suggests that some revision might be in order in respect of a few commodities. For instance, the rate on the following commodities may be raised to 10 per cent: hair oil, cakes and pastries, toffees and chocolates, articles made of ivory, ladies handbags and vanity purses, leather goods excluding footwear, suitcases and motor cars. The rates on domestic electrical appliances may be raised to 15 per

cent. The tax on items now taxed at last-point may have to be revised upward if the levy is shifted to the first-point. The upward revision may however be moderated in case the multi-point tax is retained without set-off. Some upward revision may in any case be required to protect revenue in respect of commodities on which excise duties have been reduced recently as the base for the ST has consequently undergone some diminution.

### **Concluding Remarks**

The suggestions under both the alternatives put forward above would unavoidably lead to an increase in the work-load as all intermediate dealers would be brought under the control of the Sales Tax Department unlike under the existing system wherein intermediate dealers of notified commodities are not required to submit any account of their sale or purchase. But if the assessment procedure is simplified, and in the case of small dealers scrutiny is undertaken only on a sample basis, the work should not be unmanageable. The existing staff would be able to handle the additional work which will consist more of intensive checking of a few cases rather than routine assessment of all cases with no deterrent effect. If necessary, the staff may be strengthened. It also needs to be stressed that no system of taxation can be enforced effectively or conducted satisfactorily without a proper information system. There is pressing need for the West Bengal Sales Tax Department to design and activate an appropriate information system, whereby all pertinent data are effectively collected, collated and put to use in the larger effort of optimising the working of the Department.

### **NOTES AND REFERENCES**

1. Report of the Taxation Enquiry Commission 1953-54, Vol. III, pp. 19-20.
2. See for instance the survey of "Sales Taxation in OECD Countries," by S. Cnossen in *Bulletin of the International Bureau of Fiscal Documentation*.
3. For a discussion of these problems, see "The Wholesale Sales Tax in Australia and New Zealand" by J.F. Due in *Canadian Tax Journal*, Vol. 31, No. 2, 1983.