

24 MAR 2006
दिनांक..... को विधानसभा
में प्रस्तुत की गई।



Report of the
Comptroller and Auditor General
of India

for the year ended 31 March 2005

(Revenue Receipts)

Government of Madhya Pradesh

THE UNIVERSITY OF CHICAGO

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PREFACE

This Report for the year ended 31 March 2005 has been prepared for submission to the Governor under Article 151 (2) of the Constitution.

The audit of revenue receipts of the State Government is conducted under Section 16 of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971. This Report presents the results of audit of receipts comprising commercial tax, state excise duty, taxes on vehicles, land revenue, other tax receipts, forest receipts, mining receipts and other non tax receipts of the State.

The cases mentioned in this Report are those which came to notice in the course of test audit of records during the year 2004-2005 as well as those noticed in earlier years but not covered in previous years' Reports.

OVERVIEW

This report contains 38 paragraphs, including one review, relating to non/short levy of tax, interest, penalty etc., involving Rs.41.96 crore. Some of the major findings are mentioned below:

I. General

The Government of Madhya Pradesh raised a total revenue of Rs.12,234.83 crore in 2004-2005, comprising tax revenue of Rs.7,772.97 crore and non tax revenue of Rs.4,461.86 crore. The Government also received Rs.5,076.68 crore from the Government of India as its share of the net proceeds of divisible Union taxes and grant in aid (Rs.2,431.74 crore). Total receipts during the year were thus, Rs.19,743.25 crore. Commercial tax/central sales tax (Rs.3,912.01 crore) formed a major portion (50.32 percent) of the tax revenue. Receipts from non ferrous mining and metallurgical industries (Rs.733.72 crore) accounted for 16.44 percent of the non tax revenue.

(Paragraph 1.1.1 to 1.1.3)

Test check of records of sales tax, land revenue, state excise, motor vehicles tax, stamps and registration fees, other tax receipts, forest receipts and other non tax receipts conducted during the year 2004-05 revealed underassessment/short levy/loss of revenue amounting to Rs.992.36 crore in 1,31,736 cases. During the course of the year the departments accepted underassessment and other losses of Rs.319.03 crore in 1,22,867 cases pointed out in 2004-05 and earlier years.

(Paragraph 1.9)

II. Commercial Tax

Review on **Pendency of Revenue Recovery Certificates in Commercial Tax Department** revealed the following:

- Delay in institution of Revenue Recovery Certificates (RRCs) in 99 cases ranged between 15 days to 34 months.

(Paragraph 2.2.10)

- Properties of 71 defaulters attached by the Department were not disposed of resulting in non realisation of Government dues.

(Paragraph 2.2.13)

- One hundred and sixty revenue recovery certificates were sent to other states for realisation of Government dues. No follow up action was taken for realisation of the same.

(Paragraph 2.2.14)

Application of incorrect rate of tax resulted in under assessment of tax amounting to Rs.1.43 crore.

(Paragraph 2.3)

Non recovery of commercial tax from closed units deprived the Government of revenue of Rs.2.96 crore.

(Paragraph 2.5)

Incorrect allowance of deduction on sales items treated as tax free resulted in non levy of tax of Rs.1.54 crore.

(Paragraph 2.6)

III. State Excise

Production of alcohol not in consonance with sugar contents resulted in short levy of tax of Rs.64.82 lakh.

(Paragraph 3.2.1)

Non realisation of excise duty of Rs. 4.06 crore on unacknowledged export of foreign liquor/beer.

(Paragraph 3.4)

IV. Taxes on Vehicles

Non recovery of vehicle tax and penalty on vehicles resulted in non realisation of revenue of Rs.5.80 crore.

(Paragraph 4.3)

Loss of revenue due to allotment of reserve registration numbers to vehicles without levy of fee amounting to Rs.47.12 lakh.

(Paragraph 4.5)

V. Other Tax Receipts

Stamp Duty and Registration Fee

Bonds valued at Rs.28.74 crore were executed but not registered resulting in non realisation of Rs.1.15 crore.

(Paragraph 5.3)

Incorrect classification of two instruments resulted in short realisation of stamp duty and registration fee amounting to Rs.1.80 crore.

(Paragraph 5.4)

VI. Forest Receipts

Short fall in production of timber and fuel wood resulted in loss of revenue of Rs.3.02 crore.

(Paragraph 6.2)

VII. Mining Receipts

Interest and process expenses of Rs.1.81 crore were not included in revenue recovery certificates issued to defaulters.

(Paragraph 7.2)

VIII. Other Non Tax Receipts

Public Works Department

Incorrect categorisation of Government quarters resulted in short levy of licence fee amounting to Rs.5.99 lakh.

(Paragraph 8.2)

Other Tax Receipts

Receipts from the sale of property

Receipts from the sale of property, including the sale of land, buildings, and other real estate, and the sale of personal property, such as automobiles, boats, and other vehicles.

Paragraph 1.1

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Paragraph 1.5

CHAPTER 1 : GENERAL

1.1 Trend of revenue receipts

1.1.1 The tax and non tax revenue raised by the Government of Madhya Pradesh during the year 2004-05, the State's share of divisible Union taxes and grants in aid received from the Government of India during the year and the corresponding figures for the preceding four years are given below :

(Rupees in crore)

Sl No.		2000-01	2001-02	2002-03	2003-04	2004-05
I.	Revenue raised by the State Government					
(a)	Tax Revenue	5,639.58	4,678.98	6,164.55	6,788.86	7,772.97
(b)	Non tax Revenue	1,724.33	1,601.68	1,635.48	1,479.82	4,461.86
	Total	7,363.91	6,280.66	7,800.03	8,268.68	12,234.83
II.	Receipt from the Government of India					
(a)	State's share of divisible Union taxes	3,955.51	3,439.30	3,728.73	4,247.14	5,076.68 ¹
(b)	Grants in aid	1,519.88	1,491.12	1,861.64	1,773.14	2,431.74
	Total	5,475.39	4,930.42	5,590.37	6,020.28	7,508.42
III.	Total receipts of the State	12,839.30	11,211.08	13,390.40	14,288.96	19,743.25
IV.	Percentage of I to III	57	56	58	58	62

¹ For details please see statement No.11 "Detailed Accounts of Revenue by Minor Heads" in the Finance Accounts of the Government of Madhya Pradesh for the year 2004-05. Figures under the head "0021 Taxes on Income other than Corporation Tax - Share of net proceeds assigned to States" booked in the Finance Accounts under A-Tax Revenue have been excluded from Revenue raised by the State and included in State's share of divisible Union taxes in this statement.

1.1.2 The details of tax revenue raised during the year 2004-05 alongwith the figures for the preceding four years are given below:-

(Rupees in crore)

Sl. No.	Head of Revenue	2000-01	2001-02	2002-03	2003-04	2004-05	Per centage increase (+)/ decrease (-) in 2004-05 over 2003-04
1.	(a) Sales Tax (b) Central Sales Tax	2,766.57	2,360.74	2,906.20	3,293.26	3,912.01	(+) 18.79
2.	State Excise	974.94	704.68	890.32	1,085.89	1,192.36	(+) 9.80
3.	Stamps and Registration Fees	477.08	444.96	535.05	614.49	788.71	(+) 28.35
4.	Taxes and Duties on Electricity	447.91	268.19	801.26	697.06	707.18	(+) 1.45
5.	Taxes on Vehicles	405.90	393.33	428.64	454.92	488.65	(+) 7.41
6.	Taxes on goods and passengers	333.85	262.40	351.20	390.99	468.07	(+) 19.71
7.	Other Taxes on Income and Expenditure Tax on Professions, Trades, Callings and Employments	167.50	173.05	187.44	188.90	150.21	(-) 20.48
8.	Other Taxes and Duties on Commodities and Services	22.95	19.99	20.08	15.32	14.28	(-) 6.79
9.	Land Revenue	38.47	48.21	40.44	43.63	46.80	(+) 7.27
10.	Hotel Receipts	4.41	3.43	3.92	4.40	4.75	(+) 7.95
11.	Taxes on Immovable property other than Agriculture Land	-	-	-	-	(-) .05 ¹	
	Total	5,639.58	4,678.98	6,164.55	6,788.86	7,772.97	

¹ Due to deduct of Refund (As per Finance Account 2004-05)

Reasons for variations in receipts during 2004-05 compared to those of 2003-04 as intimated by the respective departments are given below:-

Sales Tax/Central Sales Tax: The increase of 18.79 percent was due to increase in rates of taxes on certain commodities under State Sales Tax Act.

Stamps & Registration Fees: The increase of 28.35 percent was due to abolition of exemption to Primary Housing Societies, prevention of misuse of rebate on Hypothecation, imposition of duty on rental amount, increase in rate on women's share.

Taxes on goods and passengers: The increase of 19.71 percent was due to increase in rates of entry tax on goods entered into local area and normal growth in revenue.

Reason for variation in respect of other departments though called for have not been received (December 2005).

1.1.3 The details of major non tax revenue raised during the year 2004-05 alongwith the figures for the preceding four years are given below: -

(Rupees in crore)

Sl. No.	Head of Revenue	2000-01	2001-02	2002-03	2003-04	2004-05	Percentage increase (+)/ decrease (-) in 2004-05 over 2003-04
1.	2.	3.	4.	5.	6.	7.	8.
1.	Interest Receipts	184.56	246.59	32.05	19.22	25.90	(+) 34.76
2.	Dairy development	0.04	--	--	--	--	--
3.	Other Non Tax Receipts	208.14	237.68	249.32	144.57	157.48	(+) 8.93
4.	Forestry and Wild life	372.56	306.45	497.30	496.75	559.11	(+) 12.55
5.	Non ferrous Mining and Metallurgical Industries	721.04	528.39	590.69	646.71	733.72	(+) 13.45
6.	Miscellaneous general services (including lottery receipts)	75.17	141.03	120.94	22.92	79.61	(+) 247.34
7.	Power	0.28	0.05	0.24	0.12	2,749.49	(+) 2291141.67
8.	Major and Medium Irrigation	47.17	39.15	24.64	37.80	37.92	(+) 0.32
9.	Medical and Public Health	8.76	16.14	20.36	10.98	16.76	(+) 52.64
10.	Co-operation	16.79	13.23	14.45	15.60	17.92	(+) 14.87
11.	Public Works	21.84	6.75	8.57	9.09	9.94	(+) 9.35
12.	Police	32.95	42.49	39.23	24.99	23.23	(-) 7.04
13.	Other Administrative Services	35.03	23.73	37.69	51.07	50.78	(-) 0.57
	Total	1,724.33	1,601.68	1,635.48	1,479.82	4,461.86	(+) 201.51

Reasons for variations in receipts during 2004-05 compared to those of 2003-04 as intimated by the respective departments are given below:

Miscellaneous and General Services: The increase of 247.34 percent was due to more receipts under the head unclaimed deposits.

Forestry and wild life: The increase of 12.55 percent was due to increase in rates on Tendu leaves.

Power: The increase of 2291141.67 percent was due to implementation of recommendations of Ahluwalia Committee.

Non ferrous Mining and Metallurgical Industries: The increase of 13.45 percent was due to more receipts under the head other Receipts.

Reasons for variations in respect of other departments though called for have not been received. (December 2005).

1.2 Variations between Budget estimates and actuals

The variations between the budget estimates and actuals of revenue receipts for the year 2004-05 in respect of the principal heads of tax and non tax revenue are given below:-

(Rupees in crore)

Sl. No.	Head of Revenue	Budget Estimates	Actuals	Variation excess (+) or shortfall (-)	Percentage of variation
A.	Tax Revenue				
1.	Sales Tax	3,960.00	3,912.01	(-) 47.99	1.21
2	State Excise	1,213.06	1,192.36	(-) 20.70	1.71
3.	Stamp and Registration Fees	678.05	788.71	(+) 110.66	16.32
4.	Taxes and Duties on Electricity	740.95	707.18	(-) 33.77	4.56
5.	Land Revenue	61.38	46.80	(-) 14.58	23.75
B.	Non Tax Revenue				
1.	Forestry and Wildlife	450.00	559.11	(+) 109.11	24.25
2.	Non ferrous mining and metallurgical Industries	710.32	733.72	(+) 23.40	3.29
3.	Co-operation	11.33	17.92	(+) 6.59	58.16

The reasons for substantial variation between budget estimates and actuals, though called for, have not been received from the departments (December 2005).

1.3 Cost of Collection

The gross collection in respect of major revenue receipts, expenditure incurred on collection and the percentage of expenditure to gross collection during the years 2002-03, 2003-04 and 2004-05 alongwith the relevant all India average percentage of expenditure on collection to gross collection for 2003-04 were as follows:-

(Rupees in crore)

Sl. No.	Head of Revenue	Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India Average percentage for the year 2003-04
1.	Sales Tax	2002-03	2,906.21	41.14	1.42	1.15
		2003-04	3,293.26	50.84	1.54	
		2004-05	3,912.01	45.06	1.15	
2.	Taxes on Vehicles and Taxes on Goods and Passengers	2002-03	779.84	14.71	1.89	2.57
		2003-04	845.91	16.27	1.92	
		2004-05	956.72	11.87	1.24	
3.	State Excise	2002-03	890.32	106.28	11.94	3.81
		2003-04	1,085.89	226.27	20.84	
		2004-05	1,192.36	230.92	19.37	
4.	Stamp Duty and Registration Fee	2002-03	535.05	56.48	10.56	3.66
		2003-04	614.49	60.37	9.82	
		2004-05	788.71	75.28	9.54	

1.4 Collection of sales tax per assessee

(Rupees in crore)

Year	No. of assessee	Sales Tax revenue ²	Revenue/assessee
2000-01	1,53,735	2,272.42	0.015
2001-02	2,10,104	2,393.44	0.011
2002-03	2,24,298	2,923.62	0.013
2003-04	2,23,157	3,370.75	0.015
2004-05	2,33,672	3,977.88	0.017

² Figures furnished by Department varies with Finance Account figures

During the year 2003-04, revenue was increased by Rs.447.13 crore despite decrease of dealers/assesseees where as the revenue in 2004-05 increased by Rs.607.13 crore only inspite of increase of dealers/assesseees. The reason for non-increase in revenue has been called for from the department which is awaited. (December 2005)

1.5 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2005 in respect of some principal heads of revenue amounted to Rs.1,105.92 crore of which Rs.67.84 crore (excluding Transport Department, Commercial Tax Department) was outstanding for more than five years as detailed in the following table:-

(Rupees in crore)

Sl. No.	Head of Revenue	Amount outstanding as on 31 March 2005	Amount outstanding for more than 5 years as on 31 March 2005
1.	Taxes on vehicle	37.84	Not furnished
2.	State Excise	54.24	35.99
3.	Taxes & Duties on Electricity	27.96	7.21
4.	Sales Tax	766.89	Not furnished
5.	Non ferrous mining and metallurgical industries	153.04 (Rs.130.53 crore was disputed)	11.54 (Rs.2.26 crore was disputed)
6.	Co-operation	9.20	4.18
7.	Stamp Duty and Registration Fees	56.75	8.92
	Total	1,105.92	67.84

Amount outstanding for more than five years was not furnished by Commercial Tax Department & Transport Department. Rs.130.53 crore out of Rs.153.04 crore was disputed amount which is 85.29 percent (Mining Department). It indicates the Control weakness of the department.

1.6 Arrears in assessment

The details of cases pending assessment at the beginning of the year, cases becoming due for assessment during the year, cases disposed of during the year and number of cases pending finalisation at the end of the year 2004-05 as furnished by the Sales Tax

Department in respect of Sales Tax, Profession Tax, Purchase Tax on Sugar cane *, Entry Tax, Lease Tax*, Luxury Tax and Tax on Works contracts etc. are given below:-

Name of Tax		Opening Balance	New cases due for assessment during the year	Total assessment due	Cases disposed of during the year	Balance at the end of the year	Percentage of column 5 to 4
(1)		(2)	(3)	(4)	(5)	(6)	(7)
Finance Department							
Sales Tax	2003-04	2,59,313	3,23,197	5,82,510	2,96,147	2,86,363	50.84
	2004-05	2,86,363	3,26,262	6,12,625	3,31,915	2,80,710	54.18
Profession Tax	2003-04	83,576	99,390	1,82,966	94,912	88,054	51.87
	2004-05	88,054	1,32,834	2,20,888	1,04,411	1,16,477	47.27
Entry Tax	2003-04	1,36,509	1,97,180	3,33,689	1,73,980	1,59,709	52.14
	2004-05	1,59,709	1,98,356	3,58,065	1,98,508	1,59,557	55.44
Luxury Tax	2003-04	471	681	1,152	713	439	61.89
	2004-05	439	755	1,194	725	469	60.72
Tax on Works contracts	2003-04	1,201	883	2,084	1,028	1,056	49.33
	2004-05	1,056	5,898	6,954	3,747	3,207	53.88
Total	2003-04	4,81,070	6,21,331	11,02,401	5,66,780	5,35,621	51.41
	2004-05	5,35,621	6,64,105	11,99,726	6,39,306	5,60,420	53.29

The above position indicate the downfall in percentage disposal of cases in Profession Tax and luxury Tax.

1.7 Evasion of Tax

The details of cases of evasion of tax detected by the sales tax and state excise departments, cases finalised and the demands for additional tax raised as reported by the departments are given below:-

Figures are nil

(Rupees in crore)

Sl. No.	Name of tax/duty	Cases pending as on 31 March 2004	Cases detected during 2004-05	Total	No. of cases in which assessments/investigations completed and additional demand including penalty etc. raised		No. of cases pending finalisation as on 31 March 2005
					No. of cases	Amount of demand	
1.	Sales Tax	150	136	286	107	94.79	179
2.	State Excise	1304	2,919	4,223	2,851	0.09	1,372

1.8 Refunds

The number of refund cases pending at the beginning of the year 2004-05, claims received during the year, refunds allowed during the year and cases pending at the close of the year 2004-05 as reported by the departments are given below:-

(Rupees in crore)

Sl. No.	Category	State Excise		Sales Tax		Works Contract	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
1.	Claims outstanding at the beginning of the year	158	0.94	855	56.26	58	4.18
2.	Claims received during the year	183	2.01	6,942	645.93	533	24.65
3.	Refunds made during the year	24	0.21	6,437	546.61	531	25.84
4.	Balance outstanding at the end of the year	317	2.74	1,360	155.58	60	2.99

1.9 Results of audit

Test check of records of sales tax, land revenue, state excise, motor vehicles tax, stamp and registration fee, other tax receipts, forest receipts and other non tax receipts conducted during the year 2004-05 revealed under assessment/short levy/loss of revenue amounting to Rs.992.36 crore in 1,31,736 cases. During the course of the year the departments accepted underassessment and other losses of Rs.319.03 crore in 1,22,867 cases pointed out in 2004-05 and earlier years. No replies have been received in respect of the remaining cases.

This Report contains 38 paragraphs including one review relating to non/short levy of taxes, duties, interest and penalties etc. involving Rs.41.96 crore. The departments/Government accepted audit observations involving Rs.13.24 crore out of which Rs.27.70 lakh has been recovered upto August 2005. In respect of observations not accepted by the Department, gist of reasons for Departments' non acceptance has been included in the related paragraph itself alongwith suitable rebuttal. However, replies from the Government had not been received (December 2005).

1.10 Failure of senior officials to enforce accountability and protect interest of Government

Accountant General (Works & Receipt Audit) Madhya Pradesh conducts periodical inspection of Government departments to test check transactions and verify the maintenance of important accounting and other records as prescribed in rules and procedures. These inspections are followed up with Inspection Reports (IRs) incorporating irregularities etc. detected during inspection and not settled on the spot, which are issued to the heads of offices inspected with copies to next higher authorities for taking prompt corrective action. The heads of offices/Government are required to comply with the observations contained in the IRs and rectify the defects and omissions promptly and report compliance through initial reply to the Accountant General within six weeks from the dates of issue of the IRs. Serious financial irregularities are reported to the heads of the department and to the Government.

Inspection Reports (IRs) issued upto December 2004, pertaining to various offices of commercial tax, land revenue, registration and other departments under Government of Madhya Pradesh disclosed that 20,146 paragraphs relating to 6,085 IRs remained outstanding since 1980-81 to the end of December 2004. Department wise position of the outstanding IRs and paragraphs was as under:-

(Rupees in crore)

S. No.	Department	No. of IRs	No. of Para	Amount
1.	Commercial Tax	898	5,019	381.64
2.	Land Revenue	1,484	3,830	1,174.08
3.	Excise	365	1,247	550.55
4.	Entertainment	156	226	4.16
5.	Mining	224	698	566.41
6.	M.V.T.	257	1,572	306.81
7.	Electricity	80	251	175.58
8.	Registration and Stamp duty	886	1,999	75.63
9.	D.R.A.P. (PWD Irrigation PHE)	1,103	3,670	397.43
10.	Forest	632	1,634	868.54
	Total	6,085	20,146	4,500.83

A review of the IRs which were pending due to non receipt of replies, in respect of Commercial Tax, Land Revenue and Registration Department revealed that the head of the offices and the heads of the departments did not send reply to a large number of IRs/paragraphs, indicating their failure to initiate action in regard to the defects, omissions and irregularities pointed out by audit in the IRs. The Principal Secretaries/Secretaries of the departments, who were informed of the position through half yearly reports, also did not ensure that the concerned officers of the Department take prompt and timely action.

Inaction against the defaulting officers facilitated the continuance of financial irregularities and loss to the Government, though these were pointed out in audit. It is recommended that Government may re examine the procedure for action against the officials who failed to send replies to IRs/paragraphs within the prescribed time schedule, take action to recover loss/outstanding advances/overpayments in a time bound manner and revamp the system to ensure proper response to the audit observations by the departments.

1.11 Response of the departments to the draft audit paragraphs

The draft audit paragraphs proposed for inclusion in the Report of the Comptroller and Auditor General of India are forwarded by the audit office to the Principal Secretaries/Secretaries of the departments concerned, drawing their attention to audit findings and requesting them to send their response within six weeks. The fact of non receipt of replies from departments is invariably indicated at the end of each paragraph included in the Audit Report.

Draft paragraphs included in this Report were sent to the Principal Secretaries/Secretaries of the respective departments by name. The Principal Secretaries/Secretaries of the departments did not send replies to the draft paragraphs. These paragraphs have been included in this Report without the response of the Principal Secretaries/Secretaries of the departments.

1.12 Follow up on Audit Report

The Report of the Comptroller & Auditor General of India for the year ended 31 March 2004 (Revenue Receipts) was laid on the table of Vidhan Sabha on 01 August 2005. Reports upto the year 1999-2000 have been discussed.

The Audit Reports for the period 2000-01 to 2002-03 have been discussed partially and partial recommendations of Public Accounts Committee (PAC) have been received. Action taken reports (ATN) on the PAC recommendations upto 1992-93 have been received. In respect of Audit Report 1993-94 & onwards, ATNs have not been received from eight departments.

CHAPTER II : COMMERCIAL TAX

2.1 Results of Audit

Test check of assessment cases and other records relating to Commercial Tax Department during the year 2004-05 revealed underassessment, non/short levy of tax and penalty, application of incorrect rate of tax etc., involving Rs.38.58 crore in 1,099 cases which can broadly be categorised as under:

(Rupees in crore)

Sl. No.	Category	Number of cases	Amount
1.	Non/short levy of tax	276	4.44
2.	Application of incorrect rate of tax	132	2.49
3.	Incorrect determination of taxable turnover	90	5.95
4.	Incorrect grant of exemption/deduction/set off	150	9.19
5.	Others	450	14.72
6.	Review : Pendency of Revenue Recovery Certificates in Commercial Tax Department	1	1.79
	Total	1,099	38.58

During the year 2004-05, the Department accepted underassessment of tax of Rs.1.05 crore involving 29 cases, of which 20 cases involving Rs.94.41 lakh had been pointed out in audit during 2004-05 and the rest in earlier years.

A few illustrative cases involving Rs.8.88 crore and a review on Pendency of Revenue Recovery Certificates in Commercial Tax Department involving Rs.1.79 crore highlighting important cases are mentioned in this chapter.

2.2 Review: Pendency of Revenue Recovery Certificates in Commercial Tax Department

Highlights

- Delay in institution of Revenue Recovery Certificates (RRCs) in 99 cases ranged between 15 days to 34 months. (Paragraph 2.2.10)
- Properties of 71 defaulters attached by the Department were not disposed of resulting in non realisation of Government dues. (Paragraph 2.2.13)
- One hundred and sixty revenue recovery certificates were sent to other states for realisation of Government dues. No follow up action was taken for realisation of the same. (Paragraph 2.2.14)

2.2.1 Introduction

The Madhya Pradesh *Vanijyik Kar Adhiniyam*, 1994 (*Adhiniyam*) provides for levy/collection of commercial/purchase tax from dealers whose annual turnover of sales/purchases exceeds the limits prescribed under the Act. The registered dealer is required to submit periodical returns in the prescribed manner to the assessing authority alongwith proof of payment of tax after self assessment of tax. Thereafter, the case is assessed by the assessing authority within a period of two calendar years from the end of the period for which the assessment is to be made. A notice in Form 50 is issued to deposit the amount of additional demand of tax within a period of 30 days of the receipt of such notice failing which the assessing authority or any other officer having jurisdiction over such dealer or persons shall be empowered to recover such amount as arrears of land revenue by issuing Revenue Recovery Certificate (RRC) incorporating the name of dealer, residential address and the amount recoverable. The sum outstanding shall be recoverable as arrear of land revenue according to the provision of Madhya Pradesh Land Revenue Code, 1959 (MPLR Code) and Rules made thereunder for making payment within the specified time in the demand notice. In case of default, warrant of attachment is issued by Recovery Officer for attachment of property.

As specified in Section 32 (13) (b) of the *Adhiniyam* the Deputy Commissioner, Assistant Commissioner (AC), Commercial Tax Officer (CTO), Assistant Commercial Tax Officer (ACTO) are empowered to exercise all the powers and perform all the duties of Collector, Assistant Collector or Deputy Collector and Tahsildars respectively under the said code.

2.2.2 *Recommendations*

It is recommended that, Government may consider:

- developing a management information system to keep a watch on arrears/RRC.
- ensuring that RRCs are issued within the time limit fixed and arrears are realised timely.
- laying down time limits for serving notice of additional demand in Form-50 and for assessing officer to send the RRC to recovery officer.

2.2.3 *Organisational set up*

The Principal Secretary, Commercial Tax Department is the administrative head of the Department at apex level and assisted by Commissioner, Commercial Tax (CCT) with headquarters at Indore. There are four zones at Indore, Gwalior, Jabalpur and Bhopal. The zonal offices are headed by additional commissioners. Apart from this, there are 13 divisions, each headed by deputy commissioner and 75 circles headed by CTOs. The ACs, CTOs and ACTOs are the assessing authorities in the department.

2.2.4 *Scope of audit*

Test check of records of 44 out of 127 units for the year 1999-2000 to 2003-2004 was conducted during June 2004 and May 2005.

2.2.5 *Audit Objectives*

The review was conducted with a view to ascertain:

- extent of compliance of procedure/codal provisions and executive instructions to ensure timely collection of arrears.
- lacunae in the Act/Rules responsible for blockage of revenue in arrears.
- efficiency and effectiveness of efforts made to recover arrear dues as arrears of land revenue.

2.2.6 *Internal Audit Wing*

Internal Audit is considered to be an effective mechanism for evaluating the various internal control systems and identifying their weakness. It is, therefore, the responsibility of the Department to ensure that a proper internal control structure is instituted, reviewed and updated from time to time to keep it effective. In the Commercial Tax Department, internal audit wing was established in 1982.

Information made available to audit with regard to the units test checked revealed that no internal audit was conducted during the period 1999-2000 to 2003-2004. The CCT and Government intimated in July 2005 that internal audit wing was not functioning due to non posting of staff.

2.2.7 *Lacuna in Act/Rules*

Under the provisions of the Madhya Pradesh *Vanijyik Kar Niyam*, 1995, the assessing authority is required to serve upon a dealer an authenticated copy of order of assessment and a notice in Form 50 for payment of any sum payable by him under the Act and Rules made thereunder. However, no time limit has been prescribed for service of notice in Form 50.

Test check of records of two ACs offices at Indore and Jabalpur and five circle offices¹ between September 2004 and April 2005 revealed that in 112 cases, involving a sum of Rs.4.04 crore, notice in Form 50 and order of assessment were served late after the passing of the assessment order. The delay ranged between one to 10 months.

Absence of provisions in the Rules regarding time limit for serving of notice upon the dealer resulted in delay in initiation of recovery proceedings.

Further, as per provisions of the *Adhiniyam*, if any amount of the tax or any other sum remains unpaid on the expiry of the period prescribed for the payment in the notice in Form 50, on the expiry of the period specified in the notice of demand the dealer liable to pay such sum shall be deemed in default. The sum outstanding shall be recoverable as arrears of land revenue according to the provisions of the MPLR, Code. However, no time limit was prescribed for sending of RRCs prepared by the assessing authority to the recovery officer (RO).

Test check of records of office of AC Bhopal and two offices of CTOs each at Indore and Jabalpur revealed that 58 RRCs involving Rs.8.08 crore were sent to the ROs after a delay of three weeks to four and half months after their preparation between January 2001 and March 2004 by the concerned assessing authorities.

Absence of time limit for sending the RRC to the RO resulted in delayed initiation of recovery proceedings.

2.2.8 *Position of arrears*

Information relating to amount of arrears pending collection in each division, recovery and addition of arrears made by a division during a year was being compiled in Commissioner office in the form of a statement called "Progress of Recoveries". Each statement comprised details of three preceding years. As per the statements, amount of arrears pending collection had increased from Rs.196.23 crore to Rs.646.47 crore during 2000-01 to 2003-04. The position of arrears pending collection during last five years was as under:-

¹ Circle 2 Bhopal, Circle 1, 2, 3 and 4 Jabalpur

(Rupees in crore)

Year	Opening Balance	Addition of amount	Total	Amount recovered	Balance	Percentage of recovery (Column 5 to 4)
1.	2.	3.	4.	5.	6.	7.
1999-2000	197.13	531.38	728.51	439.41	289.10	60.32
2000-2001	196.23 ²	523.16	719.39	492.53	225.79	68.46
2001-2002	225.79	1,007.07	1,232.86	362.99	869.87	29.44
2002-2003	869.87	684.96	1,554.83	901.56	653.27	57.98
2003-2004	653.27	473.69	1,126.96	480.49	646.47	42.63

An analysis of division wise figures of the statement revealed that in eight divisions figures of "addition of arrears" and "amount recovered" for the year 2001-02 did not tally with figures of 2001-02 shown in statement prepared for successive year 2002-03. Similarly, figures "addition of arrears" and "amount recovered" of year 2002-03 did not tally with the same figures of 2002-03 shown in successive year 2003-04 in respect of nine divisions.

Thus, it would be seen that position of arrears available with the Department was not reliable and needs verification/reconciliation with the respective divisions.

The various stages at which the arrears are pending are as under:

(Rupees in crore)

○ Amount stayed by Court	=	56.74
○ Amount involved in revision pending with additional commissioner and deputy commissioner	=	9.04
○ Amount involved in sick mills pending in BIFR	=	103.12
○ Amount involved in instalments	=	9.01
○ Amount involved in RRC sent: outside State	=	50.41
inside State	=	112.26
○ Amount involved in cases where the whereabouts of defaulters or their property is under investigation	=	120.76
○ Amount involved in attachment of moveable and immovable properties	=	56.66
○ Amount proposed for write off	=	9.05
○ Total normal recovery	=	119.42
Total		<u>646.47</u>

² Excluding the figures of Chhattisgarh State

Agewise analysis of these arrears was not available either with the CCT or in the circles.

2.2.9 Short achievement of targets

CCT issued instructions in November 2000, 2001 and 2004 to all ROs to ensure that the closing balance of arrears was less than 10 *per cent* of the opening balance of arrears for the year 2000-01, 2001-02, 2003-04 while for the year 2002-03 it was fixed at 25 *per cent*. The CTO of each circle was responsible for effecting recovery through a team of officers constituted for the purpose. The Dy. CCT was required to keep a constant watch over the progress of the recovery of arrears made by each circle of this division. He was also required to submit a fortnightly report to the CCT.

The position of targets and achievements as worked out from information furnished by the Department was as under:

(Rupees in crore)

Year	Period of drive	Target fixed for drive	Open- ing balance of arrears	Closing balan- ces as per targets fixed	Actual closing balance of arrears	Shortage in target amount (Percent -age)
1.	2.	3.	4.	5.	6.	7.
2000-2001	1 December 2000 to 31 March 2001	Closing balance should be less at least by 10 <i>per cent</i> of opening balance	196.23	176.61	225.79	49.18 (21.78)
2001-2002	1 December 2001 to 31 March 2002	--do--	225.79	203.21	869.87	666.66 (76.64)
2002-2003	1 January 2003 to 31 March 2003	Closing balance should be less at least by 25 <i>per cent</i> of opening balance	869.87	652.40	653.27	0.87 (0.13)
2003-2004	15 January 2004 to 31 March 2004	Closing balance should be less at least by 10 <i>per cent</i> of opening balance	653.27	587.94	646.47	58.53 (9.05)

It would be seen from the above that the targets were not achieved during 2000-01 and 2001-02. During these years arrears increased by 22 *per cent* and 77 *per cent*.

The Government in July 2005 stated that due to increase in responsibilities and continuous shortage in number of working posts of departmental officers and scarcity of resources in the Department the targets could not be achieved.

2.2.10 Delay in issue/registration of RRCs

According to the provisions of the *Adhiniyam*, a dealer is required to deposit the tax assessed by the assessing authority within 30 days from the date of service of notice of demand failing which the amount is to be recovered as arrears of land revenue. Further in accordance with CCT's circular of November 1992, if the amount remains unpaid, RRCs are to be initiated within 30 days from the date of expiry of period of payment.

○ Test check of records of six offices of CTOs³ and two offices of the ACs,⁴ revealed between June 2004 and April 2005 that RRCs in 99 cases were issued after a delay of 15 days to 34 months. A few instances are given below:

Sl. No.	Name of CTO/AC	Case No. & amount involved (Rs. in lakh)	Date of assessments/ issue of demand notice	Due date of institution of certificate proceedings	Date of certificate proceedings	Delay	
						Months	Days
01	CTO Circle 02 Bhopal	277/2000 2.07	5.6.03	4.8.03	19.8.03	--	15
02.	CTO Circle 15 Indore	48/96 3.20	1.1.03	28.2.03	27.9.03	6	27
03.	-do-	46/96 0.96	-do-	-do-	-do-	6	27
04.	CTO Circle I Jabalpur	3/2000 1.18	17.1.01	16.3.01	29.1.04	34	--
05.	A.C. Jabalpur	22/2001 0.31	16.2.03	15.4.03	16.3.04	11	--

According to the instructions issued by CCT (November 1992), the RO is required to register the case within seven days in a register prescribed by the CCT after receipt of RRCs from the assessing authorities.

RRCs in 104 cases valued at Rs.5.24 crore issued between December 1999 and September 2003 were not entered in the relevant registers.

³ Circle 2 Bhopal, Circle 13 and 15 Indore, Circle 1, 3 and 4 Jabalpur

⁴ A.C. Indore and Jabalpur

After this was pointed out, the ROs entered the cases in the relevant registers and stated that RRCs were issued and registered late due to non availability of RRC books, shortage of staff and its deployment on different duties like election, pulse polio and census etc. The Government confirmed the reply in July 2005.

2.2.11 Non issue/delay in issue of demand notices after issue of RRC

As per provisions of the *Adhiniyam* and Rules, made thereunder and instructions issued by the CCT in October 1978 and November 1992, the RO is required to issue a demand notice within seven days after the receipt of RRC.

- Test check of records of seven circle offices⁵ revealed that in 35 cases registered between December 2000 and March 2004, demand notices involving Rs.96.78 lakh were not issued by the RO even after a lapse of five to 42 months resulting in non realisation of Government revenue to that extent.
- Further test check of records of four circle offices⁶ revealed in March 2005 that in 18 cases registered between January 2002 and February 2004, demand notices involving Rs.1.03 crore were issued late by one month to 22 months by RO. A few instances are given below:

S. No.	Name of CTO	Case No.	RRC No. & date	Amount (Rs. in lakh)	Date of issue of Demand Notice	Delay
1.	CTO Bhopal Circle-6	57/97	$\frac{36644 \times 4}{7.2.04}$	20.43	2.8.2004	5 months
2.	-do-	4/96	$\frac{36644 \times 7}{7.2.04}$	13.33	2.8.2004	5 months
3.	-do-	95/98	$\frac{8232 \times 54}{7.1.02}$	14.23	20.11.2003	22 months
4.	-do-	17/99	$\frac{8234 \times 34}{1.11.02}$	15.33	21.01.2003	2 months
5.	-do-	53/00	$\frac{7824 \times 33}{30.11.02}$	7.81	10.01.2003	1 month

After this was pointed out, the Department stated that demand notices were not issued/issued late due to rush of work and shortage of staff and its deployment for different duties like election, pulse polio and census etc. from time to time. The Government confirmed the reply in July 2005.

2.2.12 Non issue/delay in issue of warrants of attachment

As per instructions issued by CCT in October 1978 and November 1992 if a dealer after issue of RRC fails to deposit the tax within seven to 15 days from the date of

⁵ Circle 2 Bhopal, Circle 11 and 15 Indore, Circle 1,2,3 and 4 Jabalpur

⁶ Circle 6 Bhopal, Circle 1,3 and 4 Jabalpur

issue of demand notice, action is required to be taken for issue of warrant for attachment of property.

⑦ Test check of records of seven circle offices⁷ revealed that though the demand notice involving recovery of Rs.2.06 crore was served upon the defaulters in 71 cases during the period from year 1999 to March 2004, necessary warrants for attachment had not been issued by the RO. Consequently, Government dues amounting to Rs.2.06 crore remained unrecovered even after a lapse of five to 77 months.

⑧ Test check of records of four units⁸ between August 2004 and March 2005 revealed that warrants of attachment in 30 cases involving recovery of Rs.1.25 crore, prepared between August 1999 and February 2004, were issued after a lapse of five to 59 months. Consequently, the properties could not be attached. This indicates that no serious efforts were being made to get the defaulters traced resulting in accumulation of arrears.

After this was pointed out, the Department stated that warrants of attachment could not be issued/could not be served due to non availability of defaulters, as well as due to shortage of staff and its deployment from time to time on different duties like election, pulse polio and census. The Government confirmed the reply in July 2005.

2.2.13 *Non disposal of attached property*

As per instructions of CCT of November 1980, action to auction attached property should be taken within three days of the service of warrant of attachment of property.

In 14 circle offices⁹, test check of records between August 2004 and April 2005 revealed that the properties of 71 defaulters who failed to pay Government dues were attached between August 1999 and March 2004. However these were not disposed of even after a lapse of five months to 65 months. Consequently, Government dues remained unrealised.

After this was pointed out in audit, the Department stated that the properties could not be auctioned due to non attendance of bidders at the venue. The reply of the Department was not tenable as there was no evidence on records to show that wide publicity through local/regional/national paper was given to attract sufficient number of bidder for public auction.

2.2.14 *Failure to follow up the RRCs issued to other State*

In case of defaulting dealers who have shifted their business/residences out of the State, the requisition for RRCs for effecting recovery of outstanding Government dues has to be sent to the district collectors of the concerned States through Dy. Commissioner to which the recovery relates.

⁷ Circle 2 Bhopal, Circle 7 and 11 Indore, Circle 1, 2, 3 and 4 Jabalpur

⁸ Circle 2 Bhopal, Circle 7 and 11 Indore and Circle 1 Jabalpur

⁹ Circle 1,2,4,5 and 6 Bhopal, Circle 4,6,7,10 and 11 Indore, Circle 2 Jabalpur, Circle 1 Satna, Circle Sendhwa and Circle Vidisha

Test check of records of 15 units¹⁰ revealed that in 160 cases RRC for the period 1965-66 to 2002-03 were issued to various States between April 1999 and March 2004. No follow up action to effect the recovery was taken even after a lapse of one to six years. The Department stated that they did not get any information from the concerned States.

A mechanism for prompt transfer of RRC cases to concerned authorities in places outside the State to which they have shifted their business or residence and their follow up is required to be developed for collection of Government dues.

2.2.15 *Non raising of demand for process expenses*

Under the provisions of Madhya Pradesh *Lokdhan (Shodhya Rashiyon Ki Vasuli) Adhiniyam*, 1987, the process expense at the rate of three *per cent* of the principal amount, due from the defaulter, shall be included in addition to other charges in the demand notice to be issued to the defaulter.

Test check of records of 11 circle offices¹¹ revealed that the process expenses amounting to Rs.82.32 lakh on principal amount of Rs.27.44 crore recoverable from 200 defaulters were not included in the relevant demand notices issued to the defaulters during the period between May 1999 and March 2004.

After this was pointed out, the Department and Government stated in July 2005 that recovery proceedings were initiated under the MPLR Code and no process expenses as such were levied/included in the demand notice.

The reply of the Department/Government was not tenable in view of the provisions of section 3 of the Adhiniyam, which clearly provides for inclusion of process expenses at the rate of three *per cent* of the principal amount.

2.2.16 *Conclusion*

It would be seen from the above that there was lack of internal control mechanism for monitoring RRCs cases under MPLR Code and Rules made thereunder. The abnormal delay in initiation of RRCs, non disposal of attached properties and non follow up of action against RRCs sent to concerned authorities of other states for revenue realisation resulted in non recovery of huge amount of Government revenue.

2.2.17 *Acknowledgement*

The findings of review were forwarded to State Government in July 2005 with request to attend the Audit Review Committee meeting. However, neither Government nor Department came forward to attend the meeting.

¹⁰ *Circle 1,2,3,4 and 5 Bhopal, Dy. CCT Division 1,2 and 3 Indore, Circle Itarsi, Hoshangabad, Rewa, Satna 1, Sehore, Sendhwa and Vidisha.*

¹¹ *Circle 2 and 6 Bhopal, Circle 7, 10, 11, 13 and 15 Indore; Circle 1, 2, 3 and 4 Jabalpur*

2.3 Application of incorrect rate of tax

Madhya Pradesh *Vanijyik Kar Adhiniyam*, 1994 (*Adhiniyam*) and notifications issued thereunder specify the rates of commercial tax leviable on sale of different commodities.

Test check of records in 13 regional offices¹² and 11 circle offices¹³ revealed between June 2003 to December 2004 that in 25 cases assessed between July 2001 and January 2005 for the period from April 1996 to March 2002, tax on sales turnover of Rs.24.50 crore was levied at incorrect rates. This resulted in under assessment of tax amounting to Rs.1.43 crore. A few illustrative cases are shown as under:

(Rupees in lakh)

Sl. No.	Name of Unit	No. of cases/ Assessment year	Date of assessment	Taxable turn-over	Rate of tax		Tax paid short	Nature of observation
					levied	leviable		
1.	2.	3.	4.	5.	6.	7.	8.	9.
1.	RAC Ujjain	3 1999-2000 2000-2001 2001-2002	November 2002 December 2002 January 2005	1,149	4.6/ 9.20	13.8	102.72	Pigment (dye) was treated as chemical
Remarks:- The Department stated that the case was decided on the basis of a clarification issued by CCT, wherein pigment was treated as chemical. The clarification was contrary to the provisions of the Act, as pigment (dye) is covered by a specific entry in the Act and is taxable at 13.8 per cent. Tax of Rs.102.72 lakh has been calculated at the rate of 4.6 and 9.2 per cent.								
2.	RAC Indore	1 1999-2000	April 2003	46.75	6.9	9.2	1.07	Mosquito repellent machines treated as electrical goods
Remarks:- The Department stated that mosquito repellent machine was an electric goods and not a machine. The reply was not tenable as Kerala High Court in its decision dated 28.8.2000 held that mosquito repellent is not an electrical goods.								

¹² Regional Offices : Gwalior (2), Indore (6), Jabalpur, Satna and Ujjain (3)

¹³ Circle Offices : Bhopal, Dhar, Gwalior (2), Indore (6) and Sagar

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1.	2.	3.	4.	5.	6.	7.	8.	9.
3.	CTO Sagar	<u>2</u> 1996-97	July 2001	37.65	4	6	0.75	Craft paper is treated as packing material
Remarks:- The Department stated that the craft paper if used as packing material should be at four <i>per cent</i> and tax was levied accordingly. The reply of the Department was not tenable as craft paper in this case was sold by a wholesale dealer to retail dealers. There was nothing on record to say that it was purchased for packing purposes. Consequently, it should have been taxed at six <i>per cent</i> instead of four <i>per cent</i> .								
4.	RAC Gwalior	<u>1</u> 1999-2000	April 2003	128	4	9.2	6.66	Thermit portion was treated as iron steel
Remarks:- The Department stated that thermit portion was mixture of iron steel. The contention was not correct as thermit portion consists of ferric oxide (Fe_2O_3) steel cuttings, ferro alloy and aluminium granules; as such, it is not a mixture of only iron steel and should therefore be taxed at the rate of 9.2 <i>per cent</i> treating it as an unspecified goods.								
5.	RAC Ujjain	<u>1</u> 2000-2001	December 2003	9.49	2.3	9.2	0.65	Ghee was taxed as hydrogenated oil.
Remarks:- The Department stated that dealer sold hydrogenated vegetable oil. Reply is not tenable because as per purchase list ghee was purchased and sold.								
6.	CTO Bhopal	<u>1</u> 1999-2000	April 2003	65.60	6/8	8/12	1.76	Transformers were treated as electronics instead of electrical goods
Remarks:- The Department stated that transformers were classified as electronic goods as per notification dated 14.5.1997. The reply of the Department was not tenable as there was no such entry in the notification. The rate of tax on transformers is 8/12 <i>percent</i> as per schedule II of the Act.								

After this was pointed out, RAC Indore accepted the audit observation in one case and raised a demand of Rs.10.60 lakh. No reply was received in 15 cases while in nine cases the Department did not accept the audit contention.

In remaining cases final reply has not been received (December 2005).

2.4 Non/short levy of purchase tax

Adhiniyam, Rules and notifications issued thereunder, provide levy of tax on purchase value of any raw material or incidental goods purchased without payment of tax and which are consumed or used in the manufacture of finished goods. If goods so purchased or the finished goods manufactured from such goods are transferred outside the state, purchase tax is leviable. The rate of tax on aluminium ingots was enhanced from two *per cent* to four *per cent* with effect from 01.01.2000. Surcharge at the rate of 15 *per cent* of tax was also leviable.

2.4.1 Test check of records of regional office, Indore revealed in June 2004 that a dealer holding an eligibility certificate assessed in March 2003 for the period 1999-2000 purchased aluminium ingots valued at Rs.5.29 crore. The assessing authority levied a tax of Rs.12.16 lakh at the pre-revised rates instead of Rs.24.32 lakh, resulting in short levy of tax.

2.4.2 During audit of regional offices, Gwalior and Indore, it was noticed that PVC compound and other raw material and incidental goods, valued at Rs.7.54 crore were utilised in the manufacture of finished goods by three dealers availing exemption from payment of tax under Sales Tax Incentive Scheme, 1994 assessed for the period 1998-1999 and 2000-2001 in June 2002 and February 2004. Purchase tax at the rate of 4.6 *per cent* was leviable. This resulted in non levy of purchase tax amounting to Rs.34.68 lakh. In one case, regional authority Indore raised demand of Rs.6.84 lakh and in two cases the regional assessing officer Gwalior stated that tax will be calculated/levied.

2.4.3 In five cases of four dealers at Regional Office Gwalior and three circle offices¹⁴ assessed between May 2002 and December 2003 for the period from 1998-1999 to 2000-2001, it was noticed between March and October 2004 that raw material valued at Rs.3.23 crore was purchased and used/consumed in the manufacture of other goods for sale, although the goods were purchased without payment of tax and no purchase tax was levied by assessing authorities. This resulted in non levy of purchase tax of Rs.10.37 lakh.

After this was pointed out, assessing authority Indore raised demand in two cases while reply in the remaining cases has not been received.

The matter was reported to the Department and the Government (between April 2004 and February 2005); their reply has not been received (December 2005).

2.5 Non recovery of commercial tax from closed units

Under *Adhiniyam* and notifications issued thereunder, new industrial units availing exemption from payment of tax under Tax Exemption Scheme 1994; shall keep the unit in operation during the period of exemption and also for a further period of five years from the date of expiry of the exemption, failing which the eligibility certificate

¹⁴ Bhopal, Gwalior and Indore

shall be cancelled with consequent recovery of amount of tax exemption availed by the unit.

Test check of records at two regional offices, Indore and Ujjain, revealed that two industrial units were allowed exemption from payment of tax under exemption scheme for the period from 1.2.1997 to 31.1.2006 and 4.1.1995 to 3.1.2000 respectively. Of these, one unit closed its business during the period of exemption while the other unit closed its business within six months of the expiry of exemption period. Therefore, the amount of tax exemption availed was recoverable. No action was, however, taken by the Department to recover the same. This deprived the Government of revenue of Rs.2.96 crore.

The matter was reported to the Department and the Government (between December 2004 and March 2005); their reply had not been received. (December 2005)

2.6 Non levy of tax on sales incorrectly treated tax free

Under the *Adhiniyam* read with Central Sales Tax Act, 1956 and Rules and notifications issued thereunder, commercial tax is not leviable on sale of goods specified in the schedule-I and those exempted by Government by issue of notification.

Test check of records at regional offices Indore and Gwalior and circle offices Bhopal and Indore in six cases assessed between September 2000 and February 2004 for the period 1997-98 to 2000-01, revealed that incorrect deduction of fibre glass cloth, HDPE/PP** fabrics and diesel engine valued at Rs.11.41 crore treated as tax free items was allowed. This resulted in non levy of tax of Rs.1.54 crore at specified rates.

After this was pointed out between March 2003 and March 2005 the assessing authorities in four cases stated that HDPE fabrics are exempt under schedule-I and notification dated 24.08.2000. Reply was not tenable as PVC fabrics is taxable under entry No. 42 of schedule-II and notification does not exempt goods manufactured in mills, while in case of Indore demand of Rs.2 lakh was raised, which was reduced to Rs.0.17 lakh by appellate authority.

Final reply in other cases is awaited (December 2005).

2.7 Irregular grant of exemption and deferment from payment of tax

As per MP Deferment of Payment of Tax Rules, 1994 and Tax Exemption Scheme, 1995, facility of exemption and deferment can be availed of by non conventional power generating units generating electricity from non conventional sources who hold a provisional eligibility certificate issued by the state level committee. The provisional

* HDPE – High Density Poly Ethelene also known as PVC fabric

** PP – Poly Propylene

certificate is valid for six months or up to the date of issue of permanent eligibility certificate, whichever is earlier.

Test check of records at regional office, Gwalior, revealed in September 2004 that provisional eligibility certificates were issued on 11 July 1997 to an industrial unit for availing exemption and deferment of tax under the scheme. This was not followed by permanent eligibility certificate. The provisional eligibility certificate though liable to be cancelled on 10 January 1998 i.e. after a lapse of six months, was not cancelled. However, the assessing authority while finalising the assessments for the year 1997-98 in December¹⁵ 2003 allowed exemption of tax of Rs.1.17 crore and deferment of Rs.0.50 crore on manufacture and sale of transformers and conductors valued at Rs.24.78 crore, which was incorrect. This resulted in non realisation of Government revenue of Rs.1.67 crore.

After this was pointed out, the assessing authority forwarded the case to higher authority for final action (May 2005).

The matter was reported to the Department and the Government (December 2004); their reply had not been received.

2.8 Incorrect determination of taxable turnover

Under *Adhiniyam* and Rules made thereunder, taxable turnover is determined after allowing admissible deductions. Every dealer is required to maintain a correct account of his transactions, failing which penalty and interest is leviable under the provisions of Act.

Test check of records at four regional offices¹⁶ and three circle offices¹⁷ revealed between June 2003 and October 2004 that in seven cases assessed between May 2002 and February 2004 for the period April 1998 to March 2001, taxable turnover was determined less by Rs.5.27 crore which resulted in short levy of tax of Rs.34.98 lakh besides penalty and interest of Rs.7.47 lakh.

After this was pointed out, the Department accepted audit observations in three cases and raised a demand of Rs.4.31 lakh in these cases. No reply was received in two cases. In one case, the Department did not accept audit observation stating that the total purchases made were Rs.25.71 lakh and not Rs.36.43 lakh. The reply of the Department was not tenable as cross verification of the records with the entry tax assessment order revealed that the dealer purchased goods valued Rs.36.43 lakh from outside the State. As such the dealer suppressed sale of Rs.10.72 lakh. In another case the regional officer, Indore, stated that assessee submitted combined balance sheet for manufacturing and trading units and sale of tyre and tubes for Rs.2.70 crore was disallowed. The reply of the Department is not tenable as the sale disallowed was

¹⁵ Original assessment was made in October 2000

¹⁶ Indore (3) and Satna

¹⁷ Bhopal and Indore (2)

related to excess production of manufacturing unit of the same dealer while audit observation relates to trading unit of the same dealer.

The matter was reported to the Government between December 2003 and April 2005; their reply has not been received.

2.9 Non/short levy of entry tax

Under Madhya Pradesh *Sthaniya Kshetra Me Mal ke Pravesh Par Kar Adhiniyam*, 1976 and notifications issued thereunder, entry tax is leviable on goods entering into local area for sale, use or consumption as raw material or as incidental goods or as packing material, at the rates specified in the schedule.

Test check of records of regional office Gwalior and three circle offices Indore revealed that in six cases of five dealers, assessed between May 2001 and January 2004 for the period April 1998 to March 2001, entry tax on goods valued at Rs.9.30 crore, was either not levied or was levied at lower rates. This resulted in non/short levy of entry tax of Rs.7.42 lakh.

After this was pointed out between March 2003 and December 2004, the assessing authority at Gwalior and Indore raised demand of Rs.8 lakh including penalty of Rs.1.87 lakh in five cases. Final action in one case is awaited.

The matter was reported to the Department and to the Government between July 2003 and December 2004; their reply has not been received.

2.10 Incorrect deduction of tax paid sales

Adhiniyam, Rules and notification issued thereunder, provide deduction of tax paid goods on which tax has been paid within the State, whereas tax paid packing material sold alongwith the taxable goods shall attract tax at the same rate as applicable to such goods.

Test check of records of two regional offices¹⁸ and two circle offices¹⁹ revealed that in five cases of four dealers assessed for the year 1994-1995 to 2000-2001 between July 2000 and September 2003, sale of bitumen, cement and *bardana* i.e. packing material of oil cake valued at Rs.1.52 crore was treated as tax paid goods and deduction of tax was incorrectly allowed. The incorrect deduction resulted in short levy of tax of Rs.11.68 lakh.

After this was pointed out in audit between January 2002 and November 2004, the assessing authority at Bhopal, Gwalior and Guna raised demand of Rs.10.22 lakh, against three dealers whereas the assessing authority at Khandwa stated in November 2004 that tax paid sale of *bardana* was assessed correctly in view of

¹⁸ Bhopal and Khandwa

¹⁹ Guna and Gwalior

decision of Hon'ble High Court of Madhya Pradesh²⁰. Reply of the Department is not tenable in view of specific provisions of the Act as well as in view of the decision of Hon'ble Supreme Court of India²¹ which held that packing material sold with the goods is taxable as goods itself.

The matter was reported to the Department and the Government (between March 2002 and January 2005); their reply had not been received. (December 2005)

2.11 Non recovery of profession tax

Under the Madhya Pradesh *Vrittikar Adhiniyam*, 1995 every person who is in employment either wholly or in part in Madhya Pradesh, shall be liable to pay profession tax as per schedule. In the case of employees of the State and Central Government, drawing and disbursing officer shall deduct the amount of tax payable from paybills of the employees in 12 monthly instalments and deposit it in Government account.

Test check of records at Barwaha office of Commandant, Central Industrial Security Force (CISF) for the period from September 2000 to August 2004 revealed in September 2004 that profession tax of Rs.8.96 lakh for the period from September 2000 to October 2001 was neither deducted by the employer nor deposited by the employees in Government account. This deprived Government of the revenue of Rs.8.96 lakh.

After this was pointed out in September 2004, the officer incharge stated that action to recover the amount has been taken up with higher authorities of CISF.

The matter was reported to the Department and the Government in October 2004; Further progress made in recovery of the amount has not been received (December 2005).

²⁰ *M/s Raymond Cement V/s State of MP (HC) (1997) 30 VKN 219 MP*

²¹ *M/s Premier Breweries V/s State of Kerala (Supreme Court) (1999) 32 VKN 317*

CHAPTER III : STATE EXCISE

3.1 Results of Audit

Test check of records of State Excise conducted during 2004-05 revealed non assessment, under assessment, loss of revenue and non levy of penalty amounting to Rs.149.44 crore in 4,286 cases, which can broadly be categorised as under:

(Rupees in crore)

Sl. No.	Category	Number of cases	Amount
1.	Non levy of penalty on not taking minimum stock by retail seller	254	13.74
2.	Loss of revenue due to low yield of alcohol	384	57.78
3.	Accumulation of arrears of licence fees/ auction money	257	14.60
4.	Non levy of penalty for breach of conditions of licence	548	19.50
5.	Non levy/recovery of duty on excess wastage	727	21.78
6.	Others	2,116	22.04
	Total	4,286	149.44

During the year 2004-05, the Department accepted underassessment of tax of Rs.8.47 crore involved in 1,344 cases. All these cases were pointed out during 2004-05.

A few illustrative cases involving Rs.9.60 crore are mentioned in this chapter.

3.2 Production of Alcohol not in consonance with sugar contents

3.2.1 Production of Alcohol not in consonance with the provisions of Rules

Madhya Pradesh Distillery Rules, 1995 require the distillers to maintain minimum fermentable and distillation efficiencies at 84 and 97 per cent respectively. Every quintal of fermentable sugar present in molasses as per departmental laboratory reports should yield minimum 91.8 proof litres (PL) of alcohol. For this purpose, composite samples of the molasses are required to be drawn by the officer in charge of the distillery after the end of each week and sent for examination to the departmental laboratory. In case, the distiller fails to maintain prescribed efficiencies and recovery of alcohol, the Excise Commissioner may impose maximum penalty of Rs.30 per PL.

Test check of records of two distilleries¹ revealed between September and December 2004 that as per chemical analysis report of departmental laboratory 37,551 quintal fermentable sugar was contained in 99,915 quintal of molasses used by the distillers during the period from November 2003 to August 2004. The production of alcohol should have been 34,47,184 PL instead of actual production of 32,31,101 PL resulting in short production of 2,16,083 PL of alcohol. However, the district excise officers (DEOs) did not refer the cases to the Excise Commissioner for levy of penalty of Rs.64.82 lakh.

After this was pointed out in audit, the DEOs (Distilleries) stated that production was according to the Rules. The reply of the DEOs (Distilleries) was not tenable as the production was not according to the chemical analysis report of the departmental laboratory as provided in the Rules, but was lower than the prescribed norms. As such proceedings for levy of penalty should have been initiated by the DEOs.

3.2.2 Non provision of norms for production of alcohol from base other than molasses

The State Government has not laid down any norms for production of alcohol from base other than molasses even after commitment given by the Excise Commissioner (EC) in June 1997. However, as per provisions of Technical Excise Manual (TEM), a quintal of grain that may consist of wheat, *jawar* and *bajara* should yield 40.03 PL of alcohol while starch should yield 118.6 PL of alcohol.

¹ M/s Associated Alcohol and Breweries Khodigram Barwah, Khargone
M/s Som Distillery Sehatganj, Raisen

Test check of records of three distilleries² revealed that the distilleries used 1,13,160 quintal grain and 81,494 quintal of flour during November 2003 to October 2004 and produced 86.97 lakh PL of alcohol as against 141.95 lakh PL produceable under the provision of TEM. This resulted in short production of 54.98 lakh PL of alcohol involving excise duty of Rs.44.73 crore.

The matter was reported to the Department in August 2004 and to the Government in March 2005; their reply has not been received.

3.3 Non realisation of excise duty due to non disposal of foreign liquor

Madhya Pradesh Foreign Liquor Rules, 1996 provide that on expiry or cancellation of the licence in form FL-9/FL-9A, the licensee may place the entire stock of spirit and bottled foreign liquor, under the control of the DEO/Assistant Excise Commissioner (AEC). However, he can be permitted to dispose of such balances to any other licensee within 30 days of such expiry or cancellation, failing which the Excise Commissioner may ask any other licensee of the state to purchase such stocks or may give necessary direction for the disposal of the stock.

Test check of records of AEC Bhopal revealed in March 2005 that 2,791.53 PL foreign liquor and 42,120.94 PL of spirit involving excise duty of Rs.67.37 lakh was not disposed of even after 24 months of expiry of licence of one licensee on 31 March 2003. No efforts were made by licensee/Department to dispose of the stock. This resulted in non realisation of Government revenue to that extent.

After this was pointed out in audit, AEC stated that the matter was reported to EC for disposal.

The matter was reported to the Department and to the Government in April 2005.

3.4 Non realisation of excise duty on unacknowledged export of foreign liquor/beer

Madhya Pradesh Foreign Liquor Rules, 1996 provide for export of foreign liquor/beer within India on payment of duty or on furnishing a bank guarantee or on executing a bond with adequate solvent sureties for the amount of duty involved. Rules also provide that the leviable duty is to be recovered if verification reports from importing units of foreign liquor/beer are not furnished by the exporter within the specified period of 21 days.

Test check of records of seven districts³ between June 2004 and March 2005 revealed that excise duty of Rs.4.06 crore was recoverable from licensees on export of

² M/s Great Gallion Sejwaya, Dhar
M/s Associated Alcohol and Brewery Khodigram Barwah Khargone
M/s Som Distillery Pvt. Ltd. Sehatganj Raisen

³ Bhind, Bhopal, Chhatarpur, Gwalior, Indore, Morena and Raisen

2,11,893.55 PL of foreign liquor and 7,77,270 bulk litre (BL) of beer on 193 permits during June 2003 to January 2005 as verification reports were not received even after a lapse of 15 to 457 days over and above the specified period of 21 days. No action for recovery of duty was taken by the Department. Failure of the Department to recover duty resulted in non realisation of excise duty of Rs.4.06 crore.

After this was pointed out in audit, the excise officers stated between June 2004 and January 2005 that action to collect verification reports would be taken. The reply was not tenable as non receipt of verification within 21 days attracted levy of duty.

The matter was reported to the Department and the Government in August 2004 and February 2005; their reply has not been received (December 2005).

3.5 Incorrect fixation of selling rates of country liquor in sealed bottles

The selling rates of sealed country liquor bottles of different sizes are fixed by the Excise Commissioner. As per instructions issued by the Government in June 1999, the selling rates are to be so fixed that besides the cost of empty bottles and sealing charges, the price obtained for a specific quantitative unit of liquor sold remains uniform irrespective of the size of the bottle.

Test check of records of four district excise offices⁴ revealed between August 2004 and March 2005 that selling price of country liquor per BL in bottles with different quantities viz 180 ml., 375 ml. and 750 ml. were fixed by the Excise Commissioner inclusive of cost of empty bottles and sealing charges. This resulted in incorrect determination of rate of country liquor by Rs.8.61 in masala, Rs.9.73 in plain of size of 180 ml. and Rs.4 for both masala and plain bottles with size of 375 ml. during April to August 2004.

This resulted in loss of revenue of Rs.48.24 lakh on sale of 6.67 lakh BL of country liquor.

After this was pointed out in audit all the excise officers stated (between September 2004 and March 2005) that the liquor was sold at the rate fixed by the Excise Commissioner. The reply is not tenable as the selling rate was not fixed in accordance with the instructions issued by the Government in June 1999, keeping in view the cost of bottles and sealing charges.

The matter was reported to the Department and the Government (between November 2004 and March 2005); their reply has not been received (December 2005).

⁴ *Bhopal, Khandwa, Khargone and Raisen*

3.6 Non maintenance of minimum stock of spirit at distillery

Madhya Pradesh Distillery Rules, 1995 require licensees to maintain prescribed minimum stock of spirit at the distillery. A penalty not exceeding Rs.5 per PL may be leviable on the quantity found short of the minimum prescribed stock by the Excise Commissioner.

Test check of records of DEO's of five distilleries⁵ between June and December 2004 revealed that the distillers did not maintain prescribed minimum stock of spirit on 41 occasions during December 2003 to November 2004. DEOs did not initiate any action to send the case to EC for levy of penalty of Rs.2.85 crore on 57.13 lakh PL spirit found short. The EC also did not monitor the maintenance of stock though a return in this regard was being sent to him by the DEOs.

The matter was reported to the Department and the Government between August 2004 to February 2005; their reply has not been received. (December 2005)

3.7 Non recovery of difference of cost price

Madhya Pradesh Country Spirit Rules, 1995 provide that the licensee is liable to maintain uninterrupted supply of country spirit to the retail vendors and prescribed minimum stock of spirit and filled bottles at the warehouses, failing which, the DEO may purchase rectified spirit at the prevalent open market at the risk and cost of the licensee. Further, the Excise Commissioner may impose a penalty not exceeding Rs.2 per PL on the quantity found short of the prescribed minimum stock.

Test check of records of DEOs of Barwani and Bhopal revealed between January and March 2005 that a distillery was granted a licence for supply of country liquor for the period from 25 May 2004 to 31 March 2005. As the licensee failed to maintain supply of liquor during October 2004 to February 2005, the excise officers purchased 1,41,770 PL of rectified spirit from another distillery at the rate of Rs.21.50 per PL against the licensee's rates between Rs.0.43 and Rs.0.88 per PL. The Department did not initiate any action to refer the cases to EC for imposition of penalty and recovery of difference amount. This resulted in non recovery of Rs.29.77 lakh. Besides a penalty of Rs.22.94 lakh was also not imposed on 11.47 lakh PL of spirit found short of the prescribed minimum stock.

The matter was reported to the Department and to the Government between February and April 2005; their reply has not been received (December 2005).

⁵ M/s Great Galleon Sejwaya Dhar
M/s Rairu Distillery Rairu, Gwalior
M/s Associated Alcohol and Breweries, Khargone
M/s Som Distillery Sehatganj, Raisen
M/s Ratlam Alcohol and Carbon dioxide, Ratlam

3.8 Non realisation of expenditure incurred on Government establishment

Madhya Pradesh Distillery Rules, 1995 provide that if the expenditure incurred on the establishment in a distillery exceeds five *per cent* of revenue earned on the issue of spirit therefrom by export fee or any other levy, the amount in excess of five *per cent* shall be realised from the distiller.

Test check of records of four district excise offices⁶ between June and December 2004 revealed that expenditure incurred on establishment in six distilleries⁷ was Rs.17.51 lakh and the revenue earned by Government was Rs.47.29 lakh during 2002-03 to 2003-04. Consequently an amount of Rs.15.15 lakh incurred in excess of five *per cent* of revenue earned was required to be realised from the distilleries. No action was taken by the Department to recover the same.

After this was pointed out in audit, all the excise officers stated between June and December 2004 that excess expenditure on establishment was not deposited by the distillers. The reply is not tenable as the officers have not taken any steps to recover the same.

The matter was reported to the Department and the Government (between August 2004 and March 2005); their reply has not been received (December 2005).

3.9 Inadmissible wastage of country liquor

Madhya Pradesh Country Spirit Rules, 1995 allow a maximum wastage of 0.5 per cent in transit by breakage of bottles transported from manufacturing warehouses to storage warehouses. On deficiencies occurring in excess of the allowable wastage, the distillery/supply contractor is liable to pay excise duty with penalty not exceeding Rs.30 per PL.

Scrutiny of the records of six districts⁸ revealed that transit wastage of 0.23 lakh PL of country liquor allowed during transit in 1,316 cases during the period between October 2000 and September 2004 was in excess of the permissible limits. The licensee was liable to pay excise duty of Rs.7.70 lakh on excess wastage of country liquor. Besides penalty of Rs.6.90 lakh was also leviable. The Department did not levy the same resulting in short realisation of Government revenue of Rs.14.60 lakh.

The matter was reported to the Department and the Government between May 2003 and February 2005; their reply has not been received. (December 2005)

⁶ Dhar, Gwalior, Khargone and Raisen

⁷ 1. M/s Great Galleon Pvt. Ltd. Sejwaya, Dhar

2. M/s Oasis Distillery Borali Dhar

3. M/s Gwalior Distillery Rairu, Gwalior

4. M/s Associated Alcohol and Brewery Khodigram Khargone

5. M/s Agrawal Distillery Sabalpur Barwah, Khargone

6. M/s Som Distillery Sehatganj Raisen

⁸ Dhar, Harda, Panna, Sidhi, Sheopur and Ujjain

3.10 Non recovery of cost of empty bottles & sealing charges from the retail vendors

Madhya Pradesh Excise Act and Rules made thereunder provide that any licenced vendor of intoxicant may be required to purchase the intoxicants left by another licensee on the payment of such price as the DEO may determine.

Test check of records of AEC Shajapur revealed in November 2004 that 10 country liquor shops run departmentally between April and October 2004 were allotted to the retail vendors for the rest of the financial year. The balance of liquor in these shops was transferred to the new licensees, but the excise duty, cost of empty bottles and sealing charges amounting to Rs.5.93 lakh were not recovered from them.

After this was pointed out, AEC stated in November 2004 that action for recovery would be taken.

The matter was reported to the Department and the Government between January and March 2005; their reply has not been received (December 2005).

CHAPTER - IV : TAXES ON VEHICLES

4.1 Results of Audit

Test check of records relating to taxes on vehicles during the year 2004-05 revealed non assessment of tax and losses of revenue amounting to Rs.68.79 crore in 2,100 cases which can broadly be categorised as under:

(Rupees in crore)

Sl. No.	Category	Number of cases	Amount
1.	Non/short levy of vehicle tax, penalty and composition fee on public service vehicles	620	5.57
2.	Non/short levy of vehicle tax and penalty on goods vehicles	695	1.58
3.	Others	784	39.25
4.	Arrears of Motor Vehicle Tax	1	22.39
	Total	2,100	68.79

During the year 2004-05, the Department accepted underassessment of tax of Rs.46.40 crore involving 2,099 cases which were pointed out in audit during 2004-05. An amount of Rs.27.70 lakh had been recovered in seven cases during the year 2004-05.

A few illustrative cases involving Rs.6.35 crore highlighting important cases are mentioned in this chapter.

4.2 Arrears of Motor Vehicle Tax

4.2.1. Introduction

Madhya Pradesh Motor Karadhan Adhiniyam, (Adhiniyam) 1991 provides that tax shall be levied on every motor vehicle used or kept for use in the State at the rate specified in the *Adhiniyam* and in accordance with the Madhya Pradesh Motor Vehicle Rules, 1994 (Rules) made thereunder. The tax levied under the *Adhiniyam* shall be paid either monthly, quarterly, half yearly or yearly in advance by the owner of the motor vehicle. Where the owner of a vehicle fails to file declaration of payment of tax, taxation authority may on the basis of information available with it, after giving the owner of vehicle an opportunity of being heard in writing, determine the amount of tax and penalty and initiate proceedings to recover the amount of tax, penalty and interest without any delay. Where tax in respect of a motor vehicle is paid, the taxation authority shall issue a certificate to the owner of the vehicle. The fact of tax being paid shall be recorded in the RC of the vehicle.

If the tax dues are not paid within the prescribed time, the owner of the vehicle is liable to pay a penalty for the default of each month or part thereof. In addition, interest is also required to be levied after six months from the expiry of the due date.

If any owner fails to pay the tax due, penalty or interest payable under this Act, the taxation authority to whom such amount is payable shall serve on the owner a notice in Form 'E-2' for the sum payable to the State Government. After service of notice, if within seven days, the sum is not paid, it is recoverable as arrears of land revenue under Madhya Pradesh Land Revenue Code (MPLR Code), 1959. The power of recovery of arrears as arrears of land revenue was delegated by the State Government to all Regional Transport Authorities (RTOs), Additional Regional Transport Authorities (ARTOs) with effect from 9 December 1969.

4.2.2 Position of arrears

With a view to assess the position of arrears in the Department, the Rules provide for the maintenance of demand and recovery register. The Commissioner Transport (TC) also prescribed submission of monthly, quarterly and yearly returns in order to watch the progress of recovery of arrears of tax.

Test check of records in TC office in 2004 revealed that though monthly returns were being sent by the units, these were not compiled in the TC office; as such, the year wise position of arrears pending collection was not available. After this was pointed out, the Department stated that information was being collected and on its receipt would be furnished to audit.

The yearwise position of outstanding arrears collected from Audit Reports as on 31 March 2004 was as under:

(Rupees in crore)

Sl. No.	Year	Motor vehicle tax revenue collected during the year	Arrear of motor vehicle tax at the end of the year (private owners)
1.	1999-2000	402.01	20.80
2.	2000-2001	405.90	11.09
3.	2001-2002	393.33	18.39
4.	2002-2003	428.64	18.34
5.	2003-2004	454.92	20.35

• **Correctness of the arrears**

Test check of records of the five RTOs¹, five ARTOs² and DTO Sidhi and Tikamgarh revealed that there was wide variation in the figures of arrears furnished to TC by the units and actual arrears available with the units.

(Rupees in lakh)

Sl. No.	Name of Units	Figure of arrears as per TC record	Actual figure of arrears as per units audited	Difference	Percentage of variation
1.	Bhopal	42.06	176.70	134.64	320.11
2.	Chhatarpur	9.24	64.77	55.53	600.97
3.	Chhindwara	66.00	145.51	79.51	120.46
4.	Gwalior	660.91	770.65	109.74	16.60
5.	Hoshangabad	06.40	42.26	35.86	560.31
6.	Khandwa	26.47	30.72	4.25	16.06
7.	Morena	149.84	258.50	108.66	72.51
8.	Sagar	78.13	106.50	28.37	36.31
9.	Seoni	3.22	125.98	122.76	3812.42
10.	Shahdol	15.48	132.11	116.63	753.42
11.	Sidhi	165.31	180.31	15.00	9.07
12.	Tikamgarh	12.10	73.84	61.74	510.25
		1,235.16	2,107.85	872.69	

¹ Bhopal, Gwalior, Hoshangabad, Morena and Sagar

² Chhatarpur, Chhindwara, Khandwa, Shahdol and Sidhi

This indicates that report of position of arrears was not reliable and needed reconciliation. A close monitoring for watching correctness of arrears was required to be done at the apex level.

- **Age wise analysis of arrears of units test checked**

Private owners

(Rupees in crore)

S. No.	Period	Amount
1.	More than 10 years	1.69
2.	5 to 10 years	3.96
3.	3 to 5 years	4.60
4.	1 to 3 years	11.34
	Total	21.59 crore³

- **Madhya Pradesh State Road Transport Corporation**

(Rupees in crore)

S. No.	Period	Amount
1.	More than 15 years old	239.41
2.	10 to 15 years old	244.53
3.	5 to 10 years old	1,182.91
4.	3 to 5 years old	245.47
5.	1 to 3 years old	719.48
	Total	2,631.80

Four DTO's⁴ were separated from RTO Bhopal from July 1999. These DTOs were empowered as assessing authority of their respective districts. Arrears of tax, penalty and interest Rs.58.22 lakh pertaining to these districts was shown as transferred by RTO Bhopal in January 2001 to respective districts. This amount was deducted from the arrears of statement of RTO Bhopal. However, cross verification of arrears dues in the respective districts revealed that no such amount was accounted for. This resulted in non accounting of arrears of Rs.58.22 lakh.

After this was pointed out in audit in September 2004, RTO Bhopal stated that audit would be intimated after examination of the cases. Further progress had not been received (December 2005).

This includes arrears of Rs.51.41 lakh in respect of ARTO Satna, Rajgarh, Raisen, Sehore and Vidisha

4.2.3 *Improper maintenance of initial records*

Under the provisions of the *Adhiniyam*, every taxation authority shall maintain a demand and recovery register of taxes in the prescribed form showing details of payment made by vehicle owners and position of arrears pending collection.

Test check of the four RTOs⁵ and four ARTOs⁶ revealed that the registers were not properly filled in. The position of arrears of previous years and that at the end of the quarter/year was not worked out by the taxation authorities.

Further test check of records of five RTOs⁷, four ARTOs⁸ and DTO Tikamgarh revealed that the taxation authorities had not maintained the register at all. In absence of this, Department was not in a position to exercise effective watch over the recovery of outstanding arrears from defaulters.

4.2.4 *Internal audit*

An internal audit wing had been constituted in 1992 under the control of the TC to ensure compliance with the rules and departmental instructions which help in prevention and detection of fraud and other irregularities.

Test check of records of TC office revealed in August 2004, that no internal audit was conducted during the year 2000-2001, 2001-2002 and 2003-2004 while during 1999-2000 and 2000-01 percentage of units test checked was negligible.

After this was pointed out in audit in August 2004, the TC stated that audit could not be conducted due to shortage of staff.

4.2.5 *Failure of the Department to recover arrears of tax*

● According to the provisions of the *Adhiniyam*, where the owner fails to file a declaration of payment of tax required under sub section 8 (1) or (2), the taxation authority may on the basis of information available with it and after giving an opportunity of being heard, by an order in writing determine the amount of tax payable by such owner and intimate the same to him in such form and within such time as may be prescribed.

Test check of records of five RTOs⁹, five ARTOs¹⁰ and four DTOs¹¹ revealed that an amount of Rs.14.86 crore was outstanding against private vehicle owners for the period between April 1999 to March 2004. There was nothing on records to show when first notice for payment of the dues was issued to the defaulters. Besides the penalty and interest payable by the defaulters was not worked out by the Department. The Department had not taken any action to recover the dues as arrears of land revenue.

⁵ Bhopal, Gwalior, Morena and Sagar

⁶ Chhattarpur, Chhindwara, Seoni and Shahdol

⁷ Bhopal, Gwalior, Hoshangabad, Morena and Sagar

⁸ Chhindwara, Satna, Seoni and Shahdol

⁹ Bhopal, Gwalior, Hoshangabad, Morena and Sagar

¹⁰ Chhattarpur, Dhar, Khandwa, Satna and Shahdol

¹¹ Bind, Shivpuri, Sidhi and Tikamgarh

After this was pointed out in audit between June 2004 and August 2005, the concerned RTOs/ARTOs and DTOs stated that action for recovery of arrears would be taken after examination of the cases. Further progress of action taken had not been received (December 2005).

- According to the provisions of *Adhiniyam* and Rules made thereunder, where any owner fails to pay the tax or penalty or both, the taxation authority shall serve on such owner a notice of demand for the sum payable to the State Government. In case of failure to pay the sum contained in the notice within seven days of the service of notice, the taxation authority may proceed to recover the amount as arrears of land revenue.

Test check of records of four RTOs¹², four ARTOs¹³ and five DTOs¹⁴ between June 2004 and August 2005 revealed that though demand notices were issued between April 1999 and March 2004 to 1,739 owners for recovery of arrears of tax and penalty amounting to Rs.6.53 crore for the period falling between April 1999 and March 2004, the same was not paid by the owners of the vehicle. Thereafter, no action for issue of RRC was taken by the Department. Failure on the part of the taxation authorities resulted in non recovery of tax including penalty of Rs.6.53 crore.

After this was pointed out in audit between June 2004 and August 2005, the RTO's/ARTO's and DTOs stated that action for recovery would be taken after examination of the cases, whereas ARTO Seoni stated in one case that as per information furnished by the Tahsildar Seoni there was no immovable property in the name of defaulter. The reply of the department is not tenable as a letter of Tahsildar mentioned that there was a *pucca* double storey shop in the name of the defaulter. Further progress of recovery had not been received (December 2005).

4.2.6 *Failure in taking follow up action in cases where dues are irrecoverable*

Under section 15(1)(2) of the *Adhiniyam* and the Rules made thereunder, a notice is to be issued to the defaulter to deposit the dues within seven days from the date of service of notice, failing which property of the defaulter is to be attached.

Test check of records of ARTO, in Seoni February 2005 revealed that in 37 cases, recovery of tax of Rs.71.82 lakh for the period April 1999 to March 2004 could not be made, as the details of property of the defaulters were not available with the Department. In the absence of these details, no action could be taken by the Department for recovery of the amount as arrears of land revenue. This resulted in non recovery of arrear of Rs.71.82 lakh.

After this was pointed out in audit in February 2005, the ARTO Seoni stated that all the channels for recovery have been exhausted. The reply of the Department was not tenable as neither any effort was made to obtain details of property from Revenue Department nor was the fact brought to the notice of TC.

¹² *Bhopal, Hoshangabad, Indore and Sagar*

¹³ *Chhatarpur, Chhindwara, Seoni and Shahdol*

¹⁴ *Jhabua, Narsinghpur, Raisen, Ratlam and Tikamgarh*

4.2.7 *Delay in reassessment of tax inspite of court orders*

Test check of record of the ARTO, Shahdol revealed that tax for six public service vehicles for the period between June 1997 and September 2001 was assessed and notice of demand for Rs.30.60 lakh was issued in the month of February 2003. The owner filed petition in the court of law in August 2003 against the assessment order passed by the taxation authority. The Honourable High Court Jabalpur (14.11.2003) afforded an opportunity of hearing to the petitioner after depositing a sum of Rs.3 lakh within a period of eight weeks with direction to assessing authority for finalising the assessment as expeditiously as possible. Despite the deposit of Rs.3 lakh within the prescribed period, the case was not finalised by assessing authority till September 2004. Delay on the part of the taxation authority in reassessing the tax, resulted in non-recovery of tax of Rs.27.60 lakh.

After this was pointed out in audit, the TC stated (August 2005) that action is being taken for reassessing the case. Further progress had not been received. (December 2005)

4.2.8 *Recommendations*

The following recommendations are made to improve and strengthen recovery efforts:

- the Department should evolve an effective mechanism for regular monitoring and follow up of recovery action in each pending case.
- the Department should insist on the owners furnishing full details of their residential address of business and properties both movable and immovable, at the time of application for registration of vehicles which should thereafter be properly recorded by the Department and regularly updated for reference in the event of default;
- the Department needs to take urgent action to improve the maintenance of records which had proved to be a major hindrance in the initiation and pursuance of effective recovery action.

The matter was reported to the Government between December 2003 and April 2005; their reply had not been received (December 2005).

4.3. Non recovery of vehicle tax and penalty on vehicles

According to the provisions of the *Adhiniyam*, and Rules made thereunder, a tax shall be levied on every motor vehicle used or kept for use in the State at the rate specified in the first schedule of the *Adhiniyam*. If the tax due has not been paid, the owner shall in addition to the payment of tax due be liable to pay a penalty at the rate of one third of the unpaid amount of tax for the default of each month or part thereof but not exceeding twice the unpaid amount of tax upto February 2003 and thereafter on percentage basis. Where the owner fails to pay the tax or penalty or both, the taxation authority shall serve a demand notice and recover the dues as arrears of land revenue.

Test check of records of seven RTOs, six ARTOs and five DTOs revealed that vehicle tax amounting to Rs.3.23 crore in respect of 1,262 vehicles plying between July 1999 and March 2004 was neither paid by the vehicle owners nor was levied by the taxation authorities. This resulted in non levy of tax of Rs.3.23 crore. Besides, penalty of Rs.2.57 crore though leviable was not levied. This resulted in short realisation of Government revenue of Rs.5.80 crore as shown in the table.

(Rupees in lakh)

Name/number of offices	Category of vehicle	Tax payable	Penalty leviable	Total short levy
RTOs (seven)* ARTO (six)# DTO (four)@	154 public service vehicles plying on stage permits	98.93	60.90	159.83
Remarks: After this was pointed, the taxation authorities recovered Rs.9.14 lakh. Action taken in remaining cases has not been received (December 2005)				
RTOs (seven)* ARTO (six)# DTO (five)&	338 reserved/spare vehicle	148.00	111.00	259.00
Remarks: After this was pointed, the taxation authorities recovered Rs.3.95 lakh. Action taken in remaining cases has not been received (December 2005)				
RTOs (seven)* ARTOs (six)# DTOs (five)&	702 goods vehicles	68.42	74.24	142.66
Remarks: After this was pointed, the taxation authorities recovered Rs.6.33 lakh. Action taken in remaining cases has not been received (December 2005)				
RTO (Jabalpur) ARTOs (Chhatarpur and Dhar) DTOs (Vidisha)	41 mini buses	3.49	5.13	8.62
Remarks: After this was pointed, the taxation authorities recovered Rs.0.81 lakh. Action taken in remaining cases has not been received (December 2005)				
RTOs (Gwalior, Jabalpur, Morena) ARTOs Dhar	27 Private Service vehicles	4.45	5.82	10.27
Remarks: After this was pointed, the taxation authorities recovered Rs.1.20 lakh. Action taken in remaining cases has not been received (December 2005)				
Total	1,262	323.29	257.09	580.38

- * Bhopal, Gwalior, Hoshangabad, Indore, Jabalpur, Morena and Sagar
 # Chhatarpur, Chhindwara, Dhar, Satna, Seoni and Shahdol
 @ Betul, Sidhi, Tikamgarh and Vidisha
 & Betul, Panna, Sidhi, Tikamgarh and Vidisha

4.4 Non levy of vehicle tax and penalty on public service vehicles of other States plying on inter state routes

As per provisions of the *Adhiniyam* and *Niyam*, 1991 any motor vehicle of other State is permitted to ply in the State under reciprocal transport agreement on payment of tax to the designated authority at the rate prescribed, failing which the owner shall be liable to pay a penalty at the rate specified in the *Adhiniyam*. In case, the owner does not pay the tax or penalty or both, the taxation authority may proceed to recover the dues as arrears of land revenue.

Test check of records of RTO Morena and Addl. RTO Mandsaur revealed that vehicle tax of Rs.4.15 lakh and penalty of Rs.3.86 lakh in respect of 15 public service vehicles of Rajasthan State plying on inter State routes under reciprocal transport agreement during the period between April 2002 and March 2004 was neither paid by the vehicle owners nor was it recovered by the taxation authorities. This resulted in non levy of tax and penalty of Rs.8.01 lakh.

After this was pointed out, the Transport Commissioner stated in August 2005 that an amount of Rs.2.23 lakh has been recovered. In other cases action is being taken to recover the amount.

The matter was reported to the Government between March 2004 and January 2005; their reply had not been received (December 2005).

4.5 Loss of revenue due to allotment of reserve registration numbers to vehicles without levy of fee

As per Government of Madhya Pradesh notification of February 2001, the registering authority shall allot the reserve registration mark in any series in operation to any vehicle on receipt of application from the vehicle owners and on receipt of payment of fee prescribed.

Test check of records of ARTO, Dhar and DTO, Panna revealed that registration numbers reserved by the State Government were allotted by the registering authorities to 434 vehicles between 20 February 2001 and 31 March 2004 without recovery of prescribed fee from the vehicle owners. This resulted in loss of revenue amounting to Rs.47.12 lakh.

After this was pointed out, the Transport Commissioner stated in August 2005 that an amount of Rs.4.04 lakh has been recovered and in remaining cases action for recovery is being taken.

The matter was reported to the Government between August and November 2004; their reply had not been received (December 2005).

CHAPTER V : OTHER TAX RECEIPTS

5.1 Results of Audit

Test check of records relating to stamp duty, registration fee, entertainment duty, assessment and collection of land revenue during the year 2004-05 revealed non-assessment/underassessment of revenue and non raising of demand amounting to Rs.197.96 crore in 1,19,765 cases which can broadly be categorised as under:

(Rupees in crore)

Sl. No.	Category	Number of cases	Amount
A: STAMP DUTY & REGISTRATION FEES			
1.	Inordinate delay in finalisation of cases	2,773	10.99
2.	Short realisation of stamp duty and registration fee due to under valuation of properties	136	0.67
3.	Incorrect exemption from payment of stamp duty and registration fees	762	0.68
4.	Loss due to misclassification of documents	113	0.66
5.	Other irregularities	591	2.20
	Total	4,375	15.20
B: ENTERTAINMENT DUTY			
1.	Non/short deposit of entertainment duty by the proprietors of VCR's and VCP's	110	0.12
2.	Non recovery of security deposit/entertainment duty from cable operators	406	0.31
3.	Non recovery of entertainment duty	-	-
4.	Others	173	0.19
	Total	689	00.62
C: LAND REVENUE			
1.	Delay in collection of revenue against Revenue Recovery Certificate	25,670	67.08
2.	Non/short assessment and non revision of diversion rent and premium	4,372	24.16
3.	Non levy of <i>Panchayat</i> cess and non realisation of fines and penalties	44,123	22.44
4.	Others	40,536	68.46
	Total	1,14,701	182.14
	Grand Total	1,19,765	197.96

During the year 2004-05, the Department accepted underassessment of tax of Rs.194.54 crore involving 1.19 lakh cases of which 1.15 lakh cases involving Rs.181.95 crore had been pointed out in audit during 2004-05 and rest in earlier years. An amount of Rs.0.35 lakh had been recovered in one case.

A few illustrative cases involving Rs.8.75 crore are mentioned in this chapter.

A. STAMP DUTY AND REGISTRATION FEES

5.2 Loss of revenue on instruments executed in favour of co-operative housing societies

As per Government notification of 24 October 1980, instruments executed in favour of primary co-operative housing societies (Societies) for acquisition of land for housing purpose are exempted from payment of stamp duty. Department directed in August 2001 to review all such cases where the societies were granted exemption from payment of stamp duty as conveyance deeds and later on the land was used for purpose other than housing to its members. In such cases, stamp duty and registration fees which were exempted at the time of purchase of such land were to be recovered.

Test check of records in sub registrar (SR) office, Bhopal and Gwalior between May and June 2004 revealed loss of revenue of Rs.16.44 lakh in seven instruments executed by or in favour of societies as under:-

- Land valued at Rs.95.80 lakh purchased between April 2002 and March 2003 for housing purpose in four instruments was not utilised for housing purpose of the members of the societies and was subsequently disposed of in 2003-04 to other societies/individuals. The exemption of stamp duty and registration fee of Rs.10.28 lakh granted, therefore, became recoverable. However, action to recover the amount was not taken.
- In three instruments valued at Rs.57.06 lakh, there was no mention of purchase of land for housing purpose. However, exemption from payment of stamp duty and registration fee of Rs.6.16 lakh was given, treating the purpose as housing.

After this was pointed out in audit, the SR Bhopal stated May 2004 that deficiencies would be made good after execution of correction deed in favour of societies. The reply is not tenable, as the duty is payable on the instruments presented and registered. The SR Gwalior stated in July 2004 that cases would be referred to Collector for necessary action.

The matter was reported to Inspector General of Registration and Superintendent of Stamps (IGR) and Government (between October 2004 and February 2005); their reply had not been received. (December 2005)

5.3 Non recovery of stamp duty

Article 15 of schedule 1 of Indian Stamp Act, 1899 (IS Act) as applicable to the state of Madhya Pradesh, provides for levy of stamp duty at four *per cent* of amount or value of bond executed in terms of section 2(5) of the Act.

Information obtained from Director Town and Country Planning revealed that Chief Executive Officer Special Area Development Authority, Gwalior executed two bonds on 16 March 2001 and 20 May 2002 in favour of Director, Town and Country Planning MP, Bhopal in lieu of repayment of loan of Rs.10.74 crore and Rs.18 crore respectively without payment of leviable stamp duty of Rs.1.15 crore. This resulted in short realisation of Government dues to the extent of Rs.1.15 crore.

After this was pointed out in November 2004 the Collector of Stamps, Gwalior stated that a case against the defaulter has been registered and demand notice for recovery has been issued in January 2005.

The matter was brought to notice of IGR and Government between November 2004 and February 2005; their reply had not been received. (December 2005)

5.4 Instrument relating to several distinct matters

According to section 5 of IS Act, any instrument comprising or relating to several distinct matters shall be chargeable with the aggregate amount of stamp duty with which separate instruments each comprising or relating to one of each matter would be chargeable under the Act.

Test check of records of SRs Bhopal and Indore revealed between June 2004 and October 2004 that two vendors purchased a flat and bungalow for Rs.39 lakh. Scrutiny of deeds executed by the vendors with the builder further revealed that builder had purchased land from another person on execution of sale agreement/exchange basis. The recitals of the deed indicate that possession and other rights of property were given to the vendors. These instruments were required to be classified as conveyance deed instead of sale agreement/exchange. This resulted in short realisation of stamp duty and registration fee Rs.1.80 crore.

After this was pointed out in audit, the SR Indore stated in October 2004 that document under question was agreement of sale of land with builder and further sale of flat constructed on the said land to sub purchaser and accordingly the stamp duty was charged on the sale of flat only. The reply of Department was not tenable as the recital of land was transferred to the builder on the basis of sale agreement dated 20 July 1994.

The matter was brought to notice of IGR and Government between November 2004 and February 2005; their reply had not been received. (December 2005)

5.5 Misclassification of instruments

Under the IS Act, 1899 stamp duty is leviable on instruments as per their classification at the rate specified in the schedule or as prescribed by the Government through notifications issued from time to time.

Test check of the records of SR Bhopal revealed that 16 instruments registered between June 2001 and March 2004 were misclassified by treating eight of them valued at Rs.72 lakh as power of attorney instead of settlement cum power of attorney while other eight instruments valued at Rs.24 lakhs were treated as settlement deeds instead of gift deeds. Consequently stamp duty and registration fee of Rs.1 lakh was levied instead of Rs.5.91 lakh. This resulted in short realisation of government revenue of Rs.4.91 lakh. Similarly, two instruments valued at Rs.4.36 crore registered in Jabalpur and Lateri were treated as agreement to sale without possession though in both cases possession was granted and it should have been treated as agreement to sell with possession. Due to incorrect classification stamp duty and registration fee of Rs.0.80 lakh was levied instead of Rs.38.44 lakh. This resulted in short realisation of Government revenue of Rs.37.64 lakh.

After this was pointed out between March 2004 and May 2004 the registering authorities accepted the audit observation. Further action taken has not been received.

5.6 Delay in disposal of cases

Under the provisions of the IS Act, Collector of Stamps has been authorised to determine market value of the property and the amount of duty earnable thereon in the cases referred to him by SRs. The Government of Madhya Pradesh prescribed in March 1977 a maximum period of nine months for disposal of such cases.

Test check of records of 14 SRs¹ revealed (between September 2003 and November 2004) that 1,625 documents referred to Collector of Stamps between April 1999 and January 2004 for determination of market value of the properties had not been finalised. This resulted in non realisation of revenue amounting to Rs.5.16 crore as proposed by the concerned SRs.

After this was pointed out in audit (between September 2003 and November 2004) all the SRs stated that Collector of Stamps would be requested for early disposal of cases.

The matter was reported to the Department and the Government (between November 2003 and February 2005); their reply had not been received (December 2005).

Badnagar, Bhind, Chhindwara, Depalpur (Indore), Dhar, Harda, Hoshangabad, Jabalpur, Katni, Kalaras (Shivpuri), Pandhana (Khandwa), Satna, Ujjain and Shajapur

B. ENTERTAINMENT DUTY

5.7 Non recovery of entertainment duty from cable operators

Madhya Pradesh Entertainments Duty and Advertisement Tax Act, 1936 and Rules made thereunder provide that every proprietor of cable television network and hotel or lodging house providing entertainment through cable service shall pay entertainment duty at prescribed rates.

Test-check of records of eight² Assistant Commissioners Excise/district excise offices revealed between February and November 2004 that entertainment duty of Rs.16.88 lakh from 320 cable operators and six proprietors of hotels or lodging houses providing entertainment through cable service during the period from May 1999 to October 2004 was not recovered by the Department. This resulted in non recovery of entertainment duty of Rs.16.88 lakh.

The matter was reported to the Government between February and March 2005; their reply had not been received (December 2005).

C. LAND REVENUE

5.8 Non registration of Revenue Recovery Certificates

Madhya Pradesh Land Revenue Code, 1959 and *Madhya Pradesh Lokdhan (Shodhya Rashion Ki Vasuli) Adhiniyam* and Rules made thereunder provide that the recovery officer shall register a case on receipt of the revenue recovery certificate (RRC) in revenue case register and issue a notice of demand within 15 days to the defaulter.

Test check of records of nine tahsils³ revealed between January and August 2005 that 1,393 RRCs involving recovery of Rs.4.84 crore received during the period 2001-02 to 2004-05 were either lying unregistered or no further action was taken. As a result, outstanding dues remained unrecovered for a period ranging from 05 to 48 months.

After this was pointed out all the tahsildar stated that cases will be registered after verification of records and audit would be intimated accordingly.

The matter was reported to the Commissioner Land Records and Government between April 2004 and August 2005; their reply had not been received. (December 2005).

² Damoh, Katni, Panna, Rewa, Seoni, Shahdol, Sagar and Shajapur

³ Betul, Bhind, Badnagar (Ujjain), Chitrangi (Sidhi), Indore, Katni and Keshli (Sagar), Morena, Lahar (Bhind)

5.9 Non recovery of process expenses

Under the provisions of *Lokdhan Adhiniyam*, 1987 and notification issued on 23 March 1995 by the Directorate, Institutional Finance, the banking authority who issues RRC is responsible for paying the cost of process expenses at the rate of three percent of the principal amount recovered and depositing it into the treasury by challan. This is a statutory requirement.

Test check of records of eight tahsils⁴ and recovery figures furnished by lead banks revealed between February 2003 and January 2004 that an amount of Rs.6.58 crore was realised between April 1999 and March 2005 against RRCs issued. Process expenses of Rs.19.74 lakh were neither included by recovery officers nor deposited by the bank. There exists no system to monitor that the process expenses are deposited by the banks.

After this was pointed no reply has been received.

The matter was reported to Commissioner Land Records and Government between February 2004 and August 2005; their reply had not been received (December 2005).

⁴ Barwani, Betul, Bhind, Ganj Basoda (Vidisha), Hatta (Damoh), Lahar (Bhind), Morena and Sendhwa (Barwani)

CHAPTER VI : FOREST RECEIPTS

6.1 Results of Audit

Test check of records of forest receipts during 2004-05 revealed loss of revenue amounting to Rs.191.65 crore in 185 cases which can broadly be categorised as under:

(Rupees in crore)

S. No.	Category	Number of cases	Amount
1.	Loss due to non exploitation of bamboo/timber coupes	37	83.68
2.	Loss due to sale below upset price	18	7.53
3.	Loss due to deterioration/shortage of forest produce	43	13.48
4.	Loss of revenue due to remeasurement of timber	08	0.59
5.	Loss due to non accountal of forest produce	08	3.05
6.	Loss due to low yield of timber/bamboos against estimated yield	19	15.81
7.	Others	52	67.51
	Total	185	191.65

During the year 2004-05, the Department accepted loss of Rs.43.68 lakh involved in five cases of which four cases involving Rs.22.22 lakh had been pointed out in audit during 2004-05 and rest in earlier years.

A few illustrative cases involving Rs.4 crore are mentioned in this chapter.

6.2 Loss of revenue due to low yield of timber

As per departmental manual, the quantity of timber and fuel wood to be obtained from trees marked for felling are recorded in the marking register separately at the time of marking of coupes. The work of marking and felling of trees is to be done under the supervision of range officers and sub divisional officers. Further, departmental instructions dated January 1984 stipulate that variation not more than 10 per cent should be allowed between estimated and actual yield of timber.

Test check of records of two forest divisions revealed that 5,16,796 trees were marked and felled in 16 coupes in which the actual yield during 2002-03 and 2003-04 was 19,621.47 cu. m. timber and 18,148 fuel stacks against the revised estimated yield of 26,874.358 cu.m. timber and 23,399 fuel stacks. The shortfall in actual production ranged between 26 and 30 per cent in case of timber and 16 to 33 per cent in case of fuel wood. Even after allowing permissible variation of 10 per cent, the actual production fell short by 4,565.453 cu. m timber and 2,911 fuel stacks involving loss of revenue of Rs.3.02 crore after adjustment of exploitation and transportation charges of Rs.49.79 lakh as detailed below:

Sl. No.	Division	Year	No. of coupes	No of trees	Particulars	Yield		Shortfall	Loss of revenue in Rs.	Percentage
						Estimated Cu.m.	Actual Cu.m			
1	DFO (Production) Khandwa	2002 to 2004	09	395558	Timber	21461 ¹	15853	5608	1,75,35,030	26
				395558	Fuel	14694	12285	2409	5,11,985	16
2	DFO (Production) Harda	2003 to 2004	07	121238	Timber	5413.358	3768.470	1644.888	1,09,64,903	30
				121238	Fuel	8705	5863	2842	11,46,465	33
	Total	2002 to 2004	16	516796	Timber	26874.358	19621.47	7252.888	2,84,99,933	27
				516796	Fuel	23399 Nos	18148 Nos.	5251 Nos.	16,58,450	22
								G.T.	3,01,58,383 or 3.02 crore	

After this was pointed out in audit, Divisional Forest Officer (DFO) (Production) Khandwa stated in March 2004 that estimated quantity has since been revised. The reply is not tenable as audit observation is based on revised estimates prepared by DFO (G), Khandwa in May and June 2004 long after the felling has taken place. DFO (P) Harda could not furnish the reasons for low production.

The matter was reported to the Principal Chief Conservator of Forests (PCCF) and the Government in November 2004 and March 2005; their reply had not been received (December 2005).

6.2.1 Undue benefit to a company due to irregular release of industrial bamboo

As per conditions for sale of industrial bamboo through auction, if bamboo is sold but not removed from the depot by the purchaser within six months from the date of sale order or any period extended by the Conservator of Forests (CF) in exceptional cases, then the left over material alongwith its sale value shall be forfeited to the

¹ Revised estimates

Government and reauctioned. The original purchaser shall have no claim on such forfeited material. There is no provision in the auction conditions to review the orders for forfeiture of material or to extend the period for removal of material after its forfeiture.

Test check of records of DFO (P), Betul revealed (October 2002) that 7,121.973 sale unit (SU)² of industrial bamboo stored at Gawasen depot was sold in auction on 22 September 2001 to a mill. The sale order was issued on 3 November 2001. The entire quantity was therefore, required to be lifted by the mill from the depot by 2 May 2002. However, the mill could not lift 3,075.175 SU of bamboo valued at Rs.21.46 lakh within the stipulated period. DFO (P) Betul forfeited the unlifted material on 6 May 2002 in favour of Government in accordance with auction conditions, as no application for extension was received.

After forfeiture, instead of re-auctioning the bamboo, the DFO sent a proposal on 17 May 2002 to the CF recommending extension for two months without disclosing the fact that such bamboo had already been forfeited by him on 6 May 2002.

The CF accorded on 23 May 2002 extension for two months and the mill was, allowed to lift the balance quantity. Thus, undue benefit for Rs.21.46 lakh was allowed to the mill.

The Government stated in March 2005 that no order of extension was received from the senior officers up to 6 May 2002, therefore, forfeiture of the bamboo by the DFO was in order in view of the auction condition No. 14 (b).

The reply confirms the fact that irregular recommendation for extension by the DFO after 11 days from the date of order of forfeiture of bamboo resulted in irregular benefit to the mill.

6.2.2 Loss of revenue due to non observance of the provisions of the Agreement

As per clause 7 (ii) of the agreement (7 March 2003) between M/s Orient Paper Mill and C F Betul circle, Betul, bamboo sold but not removed by the purchaser within the contract period i.e. upto 31 October 2003 will be forfeited in favour of the Government who will be free to dispose of the bamboo, the way it feels appropriate.

Test check of the records of DFO (P) Betul revealed (January 2004) that 5,190.832 SU of industrial bamboo was sold to a mill through tender. The entire quantity was required to be lifted by 31 October 2003, of which only 1,927.868 SU of bamboo could be lifted within the stipulated period. The remaining quantity of 3,262.964 SU of bamboo valued at Rs.37.52 lakh was forfeited in November 2003 by the CF in favour of Government as per provisions of the agreement. The purchaser made an appeal in November 2003 with Addl. PCCF (Production) against the forfeiture requesting that payment was delayed due to financial crisis, bad roads, heavy rains and shortage of railway wagons and, hence, the period of transportation may be extended upto June 2004.

² Sale Unit is 2400 Running Meter

Although there was no provision in the agreement for granting extension of period of transportation, the period was extended by 120 days by the Addl. PCCF on the appeal of the purchaser. The decision of the Addl. PCCF resulted in loss of revenue of Rs.37.52 lakh.

6.3 Loss of revenue due to failure in system of disposal of forest produces

As per provisions of the Forest Manual, forest produce shall be disposed of in public auction after determination of upset price. In case the sale price obtained is not equal to upset price, sealed tenders shall be invited to dispose of the forest produce.

Test check of records of DFO North Narmada (Production), Khandwa revealed January 2005 that 408.527 cu.m timber and 69,685 poles kept in 128 lots were sold in auction at Rs.24.22 lakh as against the upset price of Rs.63.47 lakh which resulted in loss of revenue of Rs.39.25 lakh to the Government. The timber was put in auction two to five times but the sale price of these lots ranged between 50 and 88 *per cent* below the upset price during the period between November 2002 and February 2004. The Department made no efforts to dispose of the forest produce through sealed tenders.

The Government to whom the matter was reported stated (June 2005) that it was neither practical nor considered necessary to follow the system through tender. The reply is not tenable as the provisions of Forest Manual were not followed.

CHAPTER VII : MINING RECEIPTS

7.1 Results of Audit

Test check of records relating to assessment and collection of mining revenue during the year 2004-05 revealed non/short assessment of royalty, dead rent, non recovery of contract money, royalty, mineral area development cess and short levy of interest on belated payment of royalty etc. amounting to Rs.250.71 crore in 1,286 cases which can broadly be categorised as under:

(Rupees in crore)

S. No.	Category	Number of cases	Amount
1.	Non/short realisation of mineral area development cess and revenue against Revenue Recovery Certificates	317	9.40
2.	Non assessment of royalty and dead rent	87	90.49
3.	Short levy of interest on belated payments of royalty	22	12.52
4.	Non levy of royalty and penalty on minor mineral and non recovery of contract amount, stamp duty and registration fee	53	42.87
5.	Others	807	95.43
	Total	1,286	250.71

During the year 2004-05, the Department accepted underassessment of royalty, dead rent of Rs.88.92 lakh involved in 340 cases. All these cases were pointed out during 2004-05.

A few illustrative cases involving Rs.2.53 crore are mentioned in this chapter.

7.2 Non levy of interest and process expenses

According to Mines and Mineral (Development and Regulation) Act, (MMDR Act), 1957 and Mineral Concession Rules, 1960, if any rent, royalty, fee and other sum is due as arrear for payment to the State Government, the lessee is liable to pay simple interest at the rate of 24 *per cent* per annum on arrears from sixtieth day of the expiry of the stipulated date until payment of such royalty, fee or other sum etc. Under the provisions of *Lokdhan Adhinyam*, 1987 and notification issued on 23 March 1995 by the Directorate, Institutional Finance, the banking authority which issues RRC is responsible for paying the cost of process expenses at the rate of three *per cent* of the principal amount recovered and depositing it into the treasury by challan.

Test check of records of mining offices, Morena and Vidisha revealed that though Revenue Recovery Certificates (RRCs) on arrear of royalty of Rs.1.04 crore outstanding on March 2004 were issued to defaulters, interest of Rs.1.78 crore and process expenses of Rs.0.03 crore as leviable were not included in RRCs. This resulted in non levy of interest including process expenses amounting to Rs.1.81 crore.

After this was pointed out in audit the Department admitted the facts. However, reasons for non inclusion of the amounts in RRCs and action taken to recover the same were not intimated.

The matter was reported to the Government in December 2004; their reply had not been received (December 2005).

7.3 Non levy of dead rent

According to MMDR Act, the holder of mining lease, whether granted before or after the commencement of the MMDR Act, shall notwithstanding anything contained in the instruments of lease or in any other law for the time being in force, pay to the State Government every year, dead rent at such rate as may be specified in the third schedule for all the areas included in the instrument of lease. If dead rent was not paid within stipulated date, interest at the rate of 24 *per cent* is also leviable.

Test check of records of mining office Shahdol and Diamond Officer Panna revealed between September 2004 and January 2005 that dead rent for the period from 1999 to 2004 amounting to Rs.33.04 lakh was outstanding from lessee. In addition, interest amounting to Rs.9.30 lakh was also leviable on the outstanding amount. The Department had not taken any action for recovery. This resulted in non realisation of revenue amounting to Rs. 42.34 lakh.

After this was pointed out in audit (between September 2004 and January 2005) Mining Officer Shahdol and Diamond Officer Panna stated between September 2004 and January 2005 that action would be taken and intimated to audit. Further progress of action taken had not been received (December 2005).

The matter was reported to the Government in December 2004 and March 2005; their reply had not been received (December 2005).

7.4 Non/short levy of royalty/interest

According to the MMDR Act, the holder of a mining lease granted before the commencement of this Act shall, notwithstanding anything contained in the instrument of lease or in any law in force at such commencement, pay royalty in respect of any mineral removed or consumed by him or by his agent, manager, employee, contractor or sub lessee from the leased area after such commencement at the rate for the time being specified in the *Second Schedule* in respect of that mineral. If the royalty is not paid within the specified date, interest at the rate of 24 *per cent* is also leviable.

◦ Test check of records of Mining Office, Katni revealed between July 2004 and May 2005 that a lessee had not paid royalty amounting to Rs.4.50 lakh pertaining to period from July 1999 to December 2003. The Department had not taken action for the recovery of outstanding amount of royalty and interest thereon leviable to the tune of Rs.1.32 lakh. This resulted in non realisation of revenue amounting to Rs.5.82 lakh.

After this was pointed out in audit (July 2004) the mining officer stated that audit would be informed after verification.

◦ Besides, another lessee was using white clay during April 2003 to March 2004 for production of cement and paid royalty at the rate of Rs.10 per tonne instead of Rs.21 per tonne. This resulted in short levy/payment of royalty including interest of Rs.25.50 lakh.

The matter was reported to Director Geology and Mining and Government (between July 2004 and May 2005); their reply in first case had not been received while in the second case Government stated in June 2005 that demand has been raised against the lessee (August 2005).

7.5 Evasion/short realisation of royalty and interest

The Mineral Concessions Rules, 1960 provide that every lessee will submit to the Mining Officer every month a return of despatch of mineral by the 10th of the following month. The Mining Officer shall assess the dead rent/royalty payable by lessee after such enquiry and verification, as he may deem necessary. The rate of royalty of lime stone was Rs.40 per tonne.

Test check of records of Mining Office Damoh, revealed that lessee M/s Diamond Cement had in his annual return for 2002-03 shown despatch of lime stone as 15.32 lakh tonne and paid royalty of Rs.5.83 crore instead of Rs.6.13 crore. This resulted in evasion of royalty of Rs.29.61 lakh. Besides, interest of Rs.10.81 lakh was also leviable.

After this was pointed out in audit (September 2004), the Department stated that the matter would be considered and action would be taken (December 2005).

CHAPTER VIII : OTHER NON TAX RECEIPTS

8.1 Results of Audit

Test check of records relating to Public Works, Water Resources, Co-operative, Food & Civil Supplies, Agriculture, Public Health, Electricity Duty and Safety departments during the year 2004-05 revealed non/short realisation and loss of revenue amounting to Rs.95.23 crore in 3,015 cases which can broadly be categorised as under:

(Rupees in crore)

Sl. No.	Category	Number of cases	Amount
PUBLIC WORKS DEPARTMENT			
1.	Non recovery of lease rent	19	1.03
2.	Non levy of licence fee at penal rates	1,019	0.19
3.	Non recovery of loss	11	0.27
4.	Non imposition of penalty for non employment of technical staff	29	0.02
5.	Others	618	2.28
	Total	1,696	3.79
WATER RESOURCES DEPARTMENT			
1.	Non levy of betterment contribution	31	2.79
2.	Non imposition of penalty for non employment of technical staff	144	0.23
3.	Non levy of penalty on delayed payment	71	10.19
4.	Others	642	58.03
	Total	888	71.24
CO-OPERATIVE DEPARTMENT			
1.	Short/non recovery of audit fee	84	0.77
2.	Others	05	0.04
	Total	89	0.81
FOOD & CIVIL SUPPLIES DEPARTMENT			
1.	Non disposal of seized goods	19	0.32
2.	Others	24	0.09
	Total	43	0.41

Sl. No.	Category	Number of cases	Amount
AGRICULTURE DEPARTMENT			
1.	Non deposit of revenue in treasury	01	0.07
2.	Loss due to non registration of institutions	03	0.04
3.	Others	64	1.34
	Total	68	1.45
PUBLIC HEALTH DEPARTMENT			
1.	Others	55	0.01
	Total	55	0.01
ELECTRICITY DUTY & SAFETY			
1.	Short assessment of electricity cess	05	16.93
2.	Non recovery of electrical appliances and payable interest	01	0.05
3.	Loss due to irregular rebate	09	0.53
4.	Others	161	0.01
	Total	176	17.52
	Grand Total	3,015	95.23

During the year 2004-05, the Department accepted underassessment of tax of Rs.67.24 lakh involved in 836 cases. All these cases were pointed out during 2004-05.

An illustrative case involving Rs.5.99 lakh is mentioned in this chapter.

PUBLIC WORKS DEPARTMENT

8.2 Short levy/recovery of licence fee due to incorrect categorisation of Government Quarters

The Government of Madhya Pradesh, Finance Department clarified in July 1990 that uncategorised accommodations allotted to senior officers were to be categorised on the basis of plinth area and licence fee would be recovered accordingly. The Government of Madhya Pradesh revised in June 2000 the rate of licence fee recoverable from Government servants, ranging from Rs.50 to Rs.1,150 per month depending upon the category of quarters allotted.

Test check of records of Public Works (Building and Roads) Division I, Gwalior revealed in July 2004 that licence fee in respect of 45 residential buildings under

occupation by senior officers/Government servants during the period from April 2001 to March 2004 were assessed and recovered at lower rates due to incorrect categorisation of the Government quarters by executive engineer. This resulted in short levy/recovery of licence fee amounting to Rs.5.99 lakh.

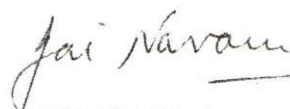
After this was pointed out in July 2004, the Executive Engineer stated that action would be taken.

The matter was reported to the Department and Government between August 2004 and March 2005; their reply had not been received. (December 2005)

Gwalior

The

17 MAR 2006



(J.N.GUPTA)

Principal Accountant General
Madhya Pradesh

Countersigned

New Delhi

The

21 MAR 2006



(VIJAYENDRA N. KAUL)

Comptroller and Auditor General of India

