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**REPORT OF THE
COMPTROLLER AND AUDITOR GENERAL
OF INDIA**

FOR THE YEAR ENDED 31 MARCH 2011



No. 3

(REVENUE RECEIPTS)

GOVERNMENT OF ANDHRA PRADESH



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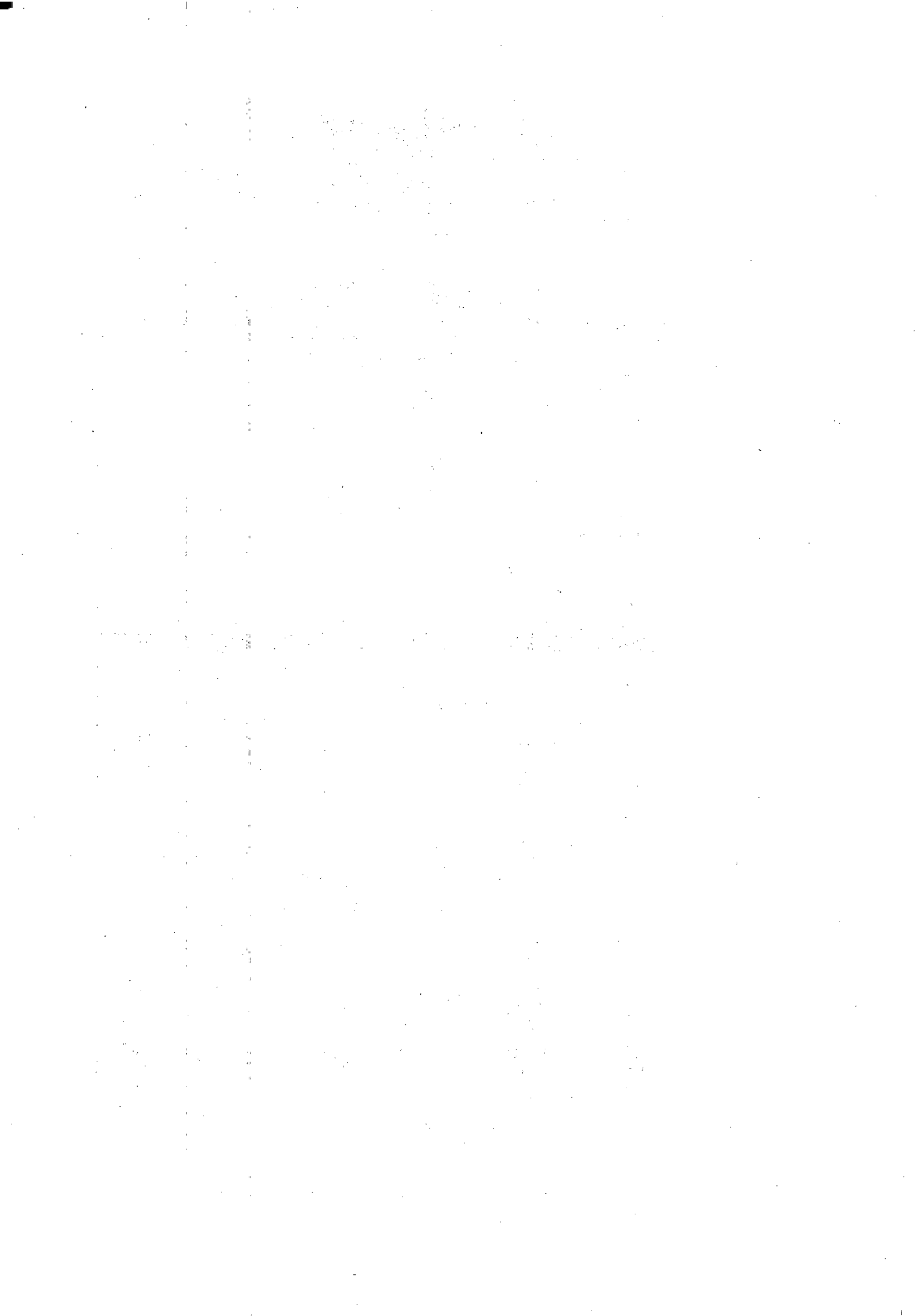


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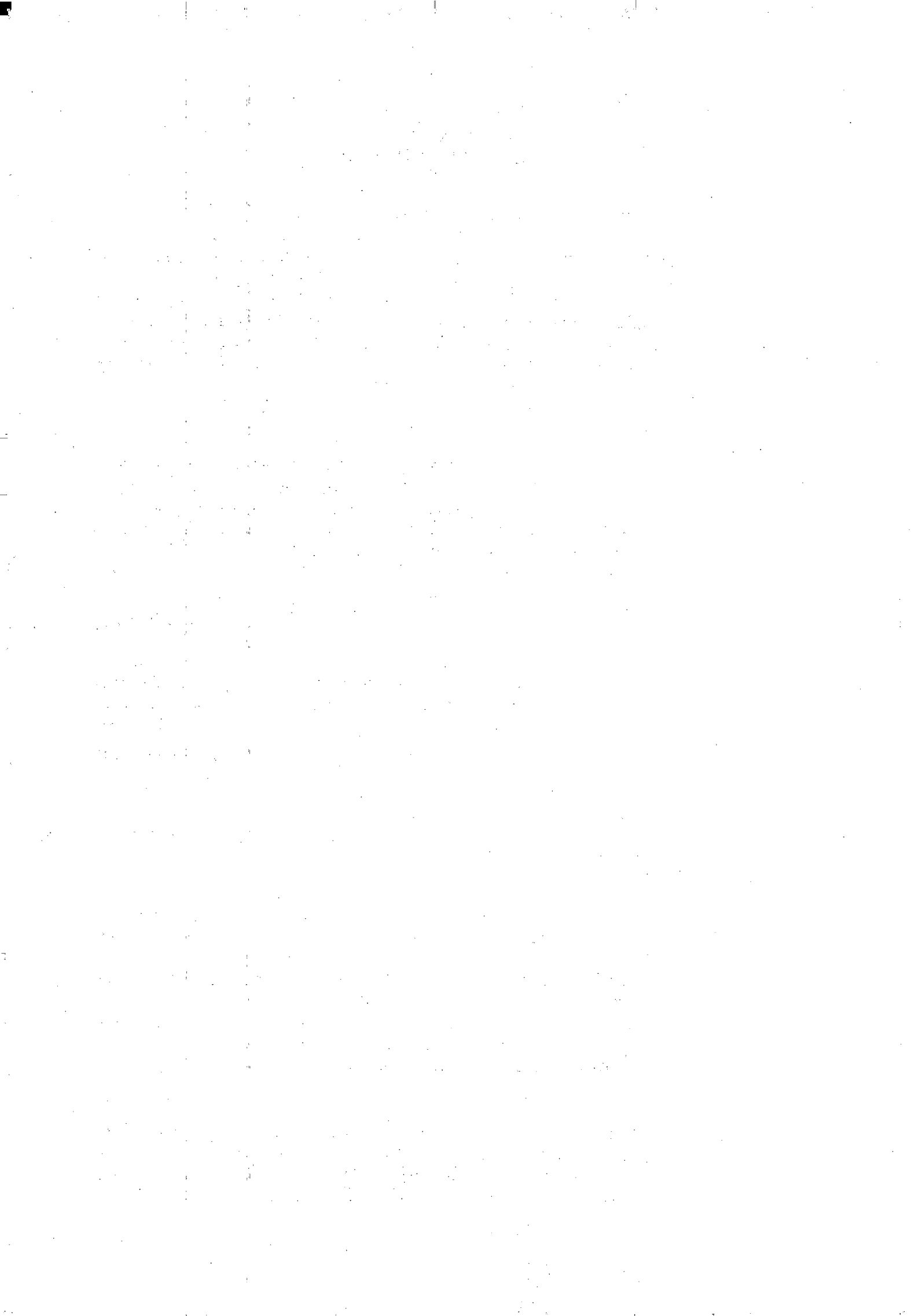


PREFACE

This Report for the year ended 31 March 2011 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 sales tax/VAT, state excise, taxes on motor vehicles, stamp duty and registration fees, land revenue, entertainments tax and betting tax, other tax and non-tax receipts of the State.

The cases mentioned in the Report are among those which came to notice in the course of test audit of records during the year 2010-11 as well as those which came to notice in earlier years but could not be included in previous years' Reports.



OVERVIEW

The Report contains 41 paragraphs involving ₹ 477.58 crore and three performance audits on (i) "Taxation of works contracts under the APVAT Act", involving ₹ 35.23 crore, (ii) "Cross verification of declaration forms used in inter state trade", involving ₹ 77.31 crore, and (iii) "Alienation of Government land and conversion of agricultural land for non-agricultural purposes", involving revenue implication of ₹ 182.31 crore, relating to non/short levy of taxes, interest, penalty etc., and having total financial impact of ₹ 772.43 crore. Some of the significant audit findings are mentioned below:

1 GENERAL

- The total revenue receipts of the State Government for the year 2010-11 amounted to ₹ 80,996.30 crore against ₹ 64,678.35 crore for the previous year. 69 per cent of this was raised by the State through tax revenue (₹ 45,139.55 crore) and non-tax revenue (₹ 10,719.72 crore). The balance 31 per cent was received from the Government of India as State share of divisible Union taxes (₹ 15,236.75 crore) and Grants-in-aid (₹ 9,900.28 crore).

(Paragraph 1.1.1)

- Test check of the records of VAT/sales tax, land revenue, taxes on vehicles, stamp duty and registration fee and other departmental offices conducted during the year 2010-11 revealed under assessment/short levy/loss of revenue etc., amounting to ₹ 1,778.34 crore in 2,497 cases.

(Paragraph 1.6.1)

2 SALES TAX/VAT

A Performance Audit on "Taxation of works contracts under the APVAT Act" indicated the following deficiencies:

- The number of registered works contractors and taxes collected increased during the period 2005-06 to 2009-10 but the Department could have ensured more revenue collections by bringing more dealers under the tax net by utilising TDS details to detect the unregistered dealers and by establishing system of cross verification with agencies and Government Departments/bodies. We have cross verified TDS details in just four circles and have estimated tax dues of ₹ 3.42 crore due to non-registration of contractors in construction and sale of apartments besides penalty of ₹ 0.86 crore.

(Paragraph 2.11.7.1)

- Though the VAT provisions came into force since 1 April 2005, the Department has not established a system of cross verification of transactions with other Taxation Departments as envisaged in the White Paper issued by the Empowered Committee of State Finance

Ministers for VAT (ECSFM) for preventing revenue leakages. We have estimated tax dues of ₹ 141.73 crore due to non-registration of works contractors under the Act, by cross verification of data with the Income Tax Department. Further, due to under reporting of turnovers, we have estimated tax dues of ₹ 36.15 crore in nine cases by cross verifying Income Tax returns details.

(Paragraph 2.11.7.2)

- We saw that there were system deficiencies relating to TDS collections in the form of unique form ID not being followed for TDS credits; non-maintenance of registers for monitoring of receipt of TDS cheques and their credit to Government Account; non-monitoring of receipt of returns with TDS remittances; absence of a system to monitor the filing of option under the prescribed form for claiming benefit of the Composition Scheme. We detected incorrect declaration of tax under the composition scheme of ₹ 1.53 crore.

(Paragraph 2.11.8)

- There was irregular claim of tax credit of ₹ 4.91 crore by nine dealers due to non-submission of TDS certificates with the returns.

(Paragraph 2.11.12.2)

- There was under declaration of tax of ₹ 6.26 crore by 20 Works Contractors due to incorrect allowance of exemption; of ₹ 5.84 crore in 83 cases due to suppression of turnovers with reference to payment received from their contractees and under declaration of ₹ 0.66 crore in two cases due to incorrect exemption of turnover.

(Paragraphs 2.11.13.2, 2.11.13.3 & 2.11.13.4)

- There were incorrect/excess claims of Input Tax Credits (ITC) in composition/non-composition contracts.

(Paragraph 2.11.14.2 & 2.11.14.3)

- Misclassification of sales as works contracts in nine cases resulted in under declaration of tax of ₹ 4.82 crore.

(Paragraph 2.11.16)

- Incorrect determination of taxable turnover in 10 cases resulted in under declaration of tax of ₹ 0.96 crore and incorrect authorisation of refunds in two cases resulted in excess refund of ₹ 1.78 crore.

(Paragraphs 2.11.17.2 & 2.11.17.4)

A Performance Audit on “**Cross verification of declaration forms used in inter-state trade**” indicated the following deficiencies:

- The Department did not maintain a comprehensive database of concessions and exemptions given in Inter-State Trade.

(Paragraph 2.12.8)

- The Department did not have a system for blacklisting dealers utilising fake/invalid declarations.

(Paragraph 2.12.9.2)

- Evasion of tax by fraudulent utilisation of fake 'F' forms in support of branch/consignment transfers resulted in non-levy of tax and penalty of ₹ 73.07 crore.

(Paragraph 2.12.12.1)

- Evasion of tax by fraudulent utilisation of fake 'C' forms in support of inter-State sales resulted in short levy of tax of ₹ 8.65 lakh and non-levy of penalty of ₹ 17.31 lakh.

(Paragraph 2.12.12.2)

- Grant of incorrect exemption from payment of tax of ₹ 2.27 crore due to acceptance of invalid forms (F-forms).

(Paragraph 2.12.12.3)

- Grant of incorrect concession due to acceptance of invalid forms resulted in short levy of tax of ₹ 43.19 lakh.

(Paragraph 2.12.12.4)

- Mis-utilisation of 'C' Forms on inter-State purchases led to non-levy of Penalty of ₹ 35.45 lakh.

(Paragraph 2.12.12.5)

- Incorrect claim of exemption from payment of tax of ₹ 8.40 lakh on forms issued by dealers whose registrations were cancelled.

(Paragraph 2.12.12.6)

- Incorrect allowance of concessional rate of tax of ₹ 83.48 lakh in the absence of declaration forms (C Forms).

(Paragraph 2.12.13)

Audit observations on Returns/Assessments

- In three LTUs and 14 circles, the Department allowed excess incorrect claim of Input Tax Credit of ₹ 5.91 crore in 19 cases.

(Paragraph 2.15)

- VAT of ₹ 10.13 crore was not collected from the rice millers on their sale turnover of rice made to Food Corporation of India (FCI), though the price paid by the FCI to the millers included the element of VAT.

(Paragraph 2.19)

- Irregular exemption of taxable turnover of ₹ 207.04 crore relating to sale of loose liquor in violation of the APVAT Act resulted in under declaration of VAT of ₹ 19.67 crore in 43 circles in 96 cases.

(Paragraph 2.20.1)

- In one LTU and seven circles, incorrect exemption of export sales resulted in non-levy of tax of ₹ 15.87 crore.

(Paragraph 2.24)

3 LAND REVENUE

A Performance Audit on “**Alienation of Government land and conversion of agricultural land for non-agricultural purposes**” indicated the following deficiencies:

- The Department did not finalise alienation proposals on advance possession of land for years together resulting in non-recovery of revenue of ₹ 160.86 crore

(Paragraph 3.6.8.2)

- Absence of a system for cross verification and coordination between Departments and local bodies resulted in non/short levy of revenue of ₹ 50.56 lakh.

(Paragraph 3.6.9)

- We noticed from information collected from five divisions and 10 Tahsildars that conversion fee and fine amounting to ₹ 1,438.11 crore was pending recovery for want of effective pursuance by the Department.

(Paragraph 3.6.10)

- Non-levy of fine on lands converted for non-agricultural purpose without obtaining prior permission - ₹ 70.49 lakh.

(Paragraph 3.6.12)

- Short levy of Conversion fee and fine due to incorrect arithmetic calculations - ₹ 11.13 crore.

(Paragraph 3.6.13)

- Non levy of interest on collected arrears - ₹ 6.04 crore.

(Paragraph 3.6.16)

- Unauthorised occupation of Government Land for 39 years due to non-demarcation.

(Paragraph 3.6.18)

4. TAXES ON VEHICLES

- Non-renewal of fitness certificate in one office of the Joint Transport Commissioner (JTC), 17 offices of Deputy Transport Commissioners (DTCs) and 22 offices of Regional Transport Officers (RTOs), resulted in non-realisation of fitness certificate fee of ₹ 14.60 crore besides compounding fee of ₹ 44.96 crore.

(Paragraph 4.8)

- Quarterly tax of ₹ 2.31 crore and penalty of ₹ 4.62 crore in the offices of one JTC, Hyderabad, seven DTCs and 10 RTOs were not realised.

(Paragraph 4.9)

- Issue of 8,16,868 driving licenses at pre-revised rates in the office of Transport Commissioner resulted in short levy of fee of ₹ 4.08 crore.

(Paragraph 4.10)

- Life tax aggregating to ₹ 1.03 crore was short levied in 13 DTCs and 19 RTOs.

(Paragraph 4.11)

5. STAMP DUTY AND REGISTRATION FEES

- Cross verification of records of the office of the Commissioner and Inspector General of Registration and Stamps and the Registrar of Companies, Andhra Pradesh revealed that stamp duty of ₹ 3.42 crore was not levied on amalgamation/merger of 16 companies.

(Paragraph 5.10)

- In one District Registry (DR) office, four Sub-Registries (SRs) and two Commercial Tax circles, stamp duty of ₹ 1.96 crore was short levied on 12 lease deeds.

(Paragraph 5.11)

- In one DR, stamp duty of ₹ 1.50 crore on two documents involving distinct matters relating to payment of goodwill was short levied.

(Paragraph 5.12)

6. OTHER TAX RECEIPTS

ENERGY DEPARTMENT

- Electricity duty of ₹ 264.58 crore was not levied by the CEI on the electrical energy generated and sold by 113 private power generating units.

(Paragraph 6.3.1)

TRANSPORT, ROADS AND BUILDINGS DEPARTMENT

- Professions tax of ₹ 27.77 crore was not collected by the Transport Department from the owners of 3,70,288 non-transport vehicles on road for the year 2008-09.

(Paragraph 6.4.1)

INDUSTRIES AND COMMERCE DEPARTMENT

- In seven offices of Assistant Cane Commissioners, penalty amounting to ₹ 5.08 crore was not levied on removal of sugar without payment of purchase tax.

(Paragraph 6.5)

REVENUE DEPARTMENT

- In six Tahsildar offices, remission of water tax amounting to ₹ 65.63 lakh was incorrectly granted without obtaining orders from the Government.

(Paragraph 6.6)

7 NON-TAX RECEIPTS

- In one office of Assistant Director of Mines and Geology (ADMG) seigniorage fee of ₹ 1.29 crore was short recovered.

(Paragraph 7.3.1)

- In three offices of Deputy Director of Mines and Geology and two offices of ADMG, dead rent of ₹ 60.05 lakh was either not levied or short levied in 103 cases.

(Paragraph 7.4)

CHAPTER I

GENERAL

CHAPTER I GENERAL

1.1 Trend of revenue receipts

1.1.1 The tax and non-tax revenue raised by the Government of Andhra Pradesh during the year 2010-11, 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 mentioned below:

(₹ in crore)

Sl. No.	Particulars	2006-07	2007-08	2008-09	2009-10	2010-11
I	Revenue raised by the State Government					
	• Tax revenue	23,926.20	28,794.05	33,358.29	35,176.68	45,139.55 ¹
	• Non-tax revenue	6,487.83	7,064.13	9,683.40	7,802.26	10,719.72
	Total	30,414.03	35,858.18	43,041.69	42,978.94	55,859.27
II	Receipts from the Government of India					
	• State's share of divisible Union taxes	8,866.00	11,183.64	11,801.50	12,141.71	15,236.75
	• Grants-in-aid	4,965.44	7,100.73	8,015.26	9,557.70	9,900.28
	Total	13,831.44	18,284.37	19,816.76	21,699.41	25,137.03
III	Total receipts of the State (I + II)	44,245.47	54,142.55	62,858.45	64,678.35	80,996.30
IV	Percentage of I to III	69	66	68	66	69

The above table indicates that during the year 2010-11, the revenue raised by the State Government was 69 per cent of the total revenue receipts (₹ 80,996.30 crore). The balance 31 per cent of the receipts during 2010-11 was from the Government of India.

¹ For details please see Statement No.11- Detailed accounts of revenue by minor heads in the Finance Accounts of Andhra Pradesh for the year 2010-11. Figures under the major heads '0020-Corporation tax, 0021-Taxes on income other than corporation tax, 0028-Other taxes on income and expenditure, 0032-Taxes on wealth, 0037-Customs, 0038-Union excise duties, 0044-Service tax and 0045-Other taxes and duties on commodities and services - 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 the State's share of divisible Union taxes in this table.

1.1.2 The following table presents the details of tax revenue raised during the period from 2006-07 to 2010-11:

							(₹ in crore)
Sl. No.	Head of revenue	2006-07	2007-08	2008-09	2009-10	2010-11	Percentage of increase (+)/ decrease (-) in 2010-11 over 2009-10
1.	Sales tax	14,222.67	17,593.41	20,596.47	22,278.14	27,443.24	(+) 23.18
	Central sales tax	1,244.41	1,433.08	1,255.19	1,362.07	1,701.61	(+) 24.93
2.	State excise	3,436.63	4,040.69	5,752.61	5,848.59	8,264.67	(+) 41.31
3.	Stamp duty and registration fees	2,865.38	3,086.06	2,930.99	2,638.63	3,833.57	(+) 45.29
4.	Taxes and duties on electricity	151.05	195.36	218.54	159.25	285.88	(+) 79.52
5.	Taxes on vehicles	1,364.74	1,603.80	1,800.62	1,995.30	2,626.75	(+) 31.65
6.	Taxes on goods and passengers	41.25	80.29	15.88	10.28	9.48	(-) 7.78
7.	Other taxes on income and expenditure, tax on professions, trades, callings and employments	312.21	355.72	374.46	430.36	490.33	(+) 13.93
8.	Other taxes and duties on commodities and services	148.84	171.00	203.13	170.01	206.28	(+) 21.33
9.	Land revenue	113.50	144.39	130.35	221.56	170.74	(-) 22.94
10.	Taxes on immovable property other than agricultural land	25.52	90.25	80.05	62.49	107.00	(+) 71.23
	Total	23,926.20	28,794.05	33,358.29	35,176.68	45,139.55	(+) 28.32

The following reasons for variation were reported by the concerned Departments:

- **Land revenue:** The decrease was mainly due to decrease in Land revenue/tax.
- **Taxes and duties on electricity:** The increase was due to realisation of electricity duty revenue pertaining to the financial year 2009-10 during current financial year from four distribution companies of AP Transco and also due to increase in chargeable consumption.
- **Stamp Duty and Registration Fees:** The increase was due to revision of market value of properties and withdrawal of exemption of stamp duty on flats with plinth area of less than 1200 square feet.

- **Taxes on vehicles:** The increase was on account of growth in auto sector; bringing the construction equipment vehicles into lifetime tax fold, increase in life tax for four wheelers and drive for collection of quarterly tax.
- **State Excise:** The increase was mainly due to increase in taxes on foreign liquors and spirits.

The other Departments did not intimate (October 2011) the reasons for variation, despite being requested (April/June 2011).

1.1.3 The following table presents the details of non-tax revenue raised during the period from 2006-07 to 2010-11:

Sl. No.	Head of revenue	(₹ in crore)					Percentage of increase (+)/decrease (-) in 2010-11 over 2009-10
		2006-07	2007-08	2008-09	2009-10	2010-11	
1.	Interest receipts	2,231.17	3,525.34	3,487.40	4,851.52	5,774.29	(+) 19.02
2.	Other non-tax receipts	682.73	711.03	1,187.74	1,126.82	1,497.02	(+) 32.85
3.	Forestry and wild life	87.11	90.92	93.22	103.11	139.06	(+) 34.87
4.	Non-ferrous mining and metallurgical industries (mines and minerals)	1,321.25	1,597.56	1,684.98	1,887.26	2,064.86	(+) 9.41
5.	Miscellaneous general services	1,865.90	778.64	2,944.06	(-) 617.71	806.97	(+) 230.64
6.	Power	22.11	25.13	15.77	26.12	27.61	(+) 5.70
7.	Major and medium irrigation	68.81	42.03	38.33	81.88	65.32	(-) 20.22
8.	Medical and public health	34.19	67.31	48.43	70.58	67.50	(-) 4.36
9.	Co-operation	23.61	39.14	20.09	37.51	29.21	(-) 22.13
10.	Public works	7.09	7.56	7.65	7.52	9.60	(+) 27.66
11.	Police	79.12	99.83	105.36	130.09	170.98	(+) 31.43
12.	Other administrative services	64.73	79.64	50.37	97.56	67.30	(-) 31.02
Total		6,487.83	7,064.13	9,683.40	7,802.26	10,719.72	(+) 37.39

The following reasons for variations were reported by the concerned Departments:

- **Other Administrative Services:** The decrease was mainly due to decrease in collection of other receipts under sub-head 'Elections'.
- **Major and medium irrigation:** Decrease was due to decrease in collection under 'Other receipts'.
- **Miscellaneous General Services:** Increase was due to allowing of debt waiver by Government of India in March 2011.
- **Forestry and wild life:** The increase was mainly due to increase in receipts under 'Other receipts'.
- **Police:** The increase was mainly due to increase in receipts from providing police force to other parties, fees, fines and forfeitures.
- **Interest Receipts:** The increase was due to increase in collection of interest from departmental, commercial undertakings.

The other Departments did not intimate (October 2011) the reasons for variations, despite being requested (April/June 2011).

1.2 Response of the Departments/Government towards audit

Accountant General (AG) conducts test check of the transactions of Government Departments and communicates the audit observations through Inspection Reports (IRs). The Heads of offices report compliance to the observations in IRs within one month from the date of issue of IRs.

The paragraphs remaining unsettled are expedited by the audit committees set up for the purpose. Serious audit observations converted as draft paragraphs proposed for inclusion in the Audit Report are communicated to the Department/Government. The Government is required to furnish the replies to such draft paragraphs within six weeks of their issue. Departmental explanatory notes to the paragraphs included in Audit Reports are required to be submitted within three months of an Audit Report being presented to the Legislature.

1.2.1 Failure of senior officials to enforce accountability and protect the interest of the State Government

Accountant General (Audit) conducts periodical inspection of the Government Departments to test check the transactions and verify the maintenance of important accounts and other records as prescribed in the rules and procedures. These inspections are followed up with Inspection Reports (IRs) incorporating irregularities detected during the inspection and not settled on the spot, which are issued to the heads of the offices inspected with a copy to the next higher authority for taking prompt corrective action. The heads of offices/Government are required to promptly comply with the observations contained

in the IRs, rectify the defects and omissions and report compliance through initial reply to the AG within one month from the date of issue of the IRs. Serious financial irregularities are reported to the heads of Departments and the Government.

IRs issued upto 31 December 2010 disclosed that 32,322 paragraphs involving ₹ 12,175.14 crore relating to 11,417 IRs remained outstanding at the end of 30 June 2011 as mentioned below alongwith corresponding figures for the preceding two years:

	June 2009	June 2010	June 2011
Number of outstanding IRs	10,292	10,689	11,417
Number of outstanding audit observations	27,382	28,990	32,322
Amount involved (₹ in crore)	10,221.24	11,916.66	12,175.14

The Department-wise details of the IRs and audit observations outstanding as on 30 June 2011 and the amounts involved are mentioned below:

(₹ in crore)					
Sl. No.	Department	Nature of receipt	No. of outstanding IRs	No. of outstanding audit observations	Money value involved
1.	Commercial Taxes	VAT/ST/LT/ET	3,797	13,752	3,412.75
2.	Land revenue	Water Tax	3,987	9,005	1,613.63
3.	Registration and Stamps	Stamp duty and Registration fees	2,081	5,733	709.26
4.	State Excise	State Excise	401	835	131.16
5.	Transport	Taxes on vehicles	394	1,908	2,432.47
6.	Forest	Forest Receipts	136	187	98.96
7.	Co-operation	Audit Fee	44	54	70.09
8.	Mines and minerals	Mineral Receipts	252	415	1,722.73
9.	Civil Supplies	Sale proceeds of food stocks	57	78	37.04
10.	Agriculture	Miscellaneous	183	252	--
11.	Sugar and cane	Purchase tax	59	73	249.55
12.	Energy Department	Electricity duty	16	20	809.45
13.	Municipal Administration and Urban Development	Royalty on water	2	2	83.19
14.	Finance and planning	Interest	4	4	474.81
15.	Irrigation and command area development	Road cess	4	4	330.05
Total			11,417	32,322	12,175.14

Even the first replies required to be received from the heads of offices within one month from the date of issue of the IRs were not received for 338 IRs issued upto December 2010. This large pendency of the IRs due to non-receipt of the replies is indicative of the fact that the heads of offices and

heads of the Departments failed to initiate action to rectify the defects, omissions and irregularities pointed out by the AG in the IRs.

It is recommended that the Government should introduce a system for sending prompt and appropriate response to audit observations as well as taking action against those failing to send replies to the IRs/paragraphs as per the prescribed time schedules and also fail to take action to recover loss/outstanding demand in a time bound manner.

1.2.2 Departmental audit committee meetings

The Government set up audit committees to monitor and expedite the progress of the settlement of IRs and paragraphs in the IRs. The details of the audit committee meetings held during the year 2010-11 and the paragraphs settled are mentioned below:

(₹ in crore)

Sl. No.	Head of revenue	No. of meetings held	No. of paras settled	Amount
1.	Commercial Taxes	6	647	433.79
2.	Mines and Geology	8	262	22.62
3.	Taxes of Vehicles	1	321	18.18
4.	Stamp Duty and Registration Fee	1	228	0.29
5.	Land Revenue	5	1,472	0.42
Total		21	2,930	475.30

Thus, out of six principal Departments the State Excise Department failed to take advantage of the audit committee meetings set up.

As the pendency of IRs and paragraphs are accumulating, the Government may instruct all the Departments to conduct more audit committee meetings to expedite clearance.

1.2.3 Non-production of records to Audit for scrutiny

The programme of local audit of Tax/Non-tax receipts offices is drawn up sufficiently in advance and intimations are issued, usually one month before the commencement of audit to the Department to enable them to keep the relevant records ready for audit scrutiny.

During 2010-11, audit of 933 offices was conducted. Out of these, in 210 offices certain important records like 311 Sales Tax assessment files, DCB registers, Receipt books, Motor Vehicle Inspectors' (MVI) Records, documents relating to letter of intent, special fee, professions tax remittances, copies of agreements etc., were not produced to audit though the audit programme was intimated well in advance.

There is a need for issuing suitable instructions by the Government to the heads of Departments concerned for production of all the relevant records for audit scrutiny.

1.2.4 Response of the Departments to draft audit paragraphs

The draft paragraphs/reviews proposed for inclusion in the Audit Report are forwarded by the AG to the Principal Secretaries of the concerned Departments through demi-official letters. According to the instructions issued (September 1995) by the Government, all the Departments are required to furnish their remarks on the draft paragraphs/reviews within six weeks of their receipt. The fact of non-receipt of replies from the Government is invariably indicated at the end of each such paragraph included in the Audit Report.

162 draft paragraphs clubbed into 44 paragraphs (including three performance audits) proposed for inclusion in the Report of the Comptroller and Auditor General of India (Revenue Receipts) for the year ended 31 March 2011 were forwarded to the concerned Principal Secretaries to the Government and copies endorsed to the concerned heads of the Departments between April and September 2011. Of these, replies to 12 draft paragraphs have been received. The draft performance audits on "Taxation of works contracts under the AP VAT Act" and "Alienation of Government land and conversion of agricultural land for non-agricultural purposes" were discussed with the Government in the exit conferences held in July/August 2011. The replies to the audit observations given in the exit conferences held in July/August 2011 and at other points of time have been appropriately reflected in the Report.

1.2.5 Follow up on Audit Reports – Summary

As per the instructions issued by Finance and Planning Department in November 1993, the Departments of the Government are required to prepare and send to the Andhra Pradesh Legislative Assembly Secretariat, detailed explanations (Departmental notes) on the audit paragraphs within three months of an Audit Report being laid on the table of the Legislature.

A review of the position in this regard revealed that as of October 2011, 14 Departments had not furnished the Departmental notes in respect of 202 paragraphs included in the Audit Reports for the years 2000-01 to 2009-10 due between June 2002 and June 2011. The delays ranged from 4 months to over 9 years as mentioned in the following table:

Sl. No.	Department	Year of the Audit Report	Dates of presentation to the Legislature	Last date by which Departmental notes were due	No. of paragraphs for which the Departmental notes were due	Delay in months
1.	Commercial Taxes	2007-08 to 2009-10	September 2009 to March 2011	November 2009 to June 2011	57	4 to 23
2.	State Excise	2008-09 & 2009-10	July 2010 & March 2011	October 2010 & June 2011	5	4 to 12
3.	Transport	2006-07 to 2009-10	March 2008 to March 2011	June 2008 to June 2011	28	4 to 40
4.	Registration and Stamps	2009-10	March 2011	June 2011	7	4
5.	Co-operation	2000-01 & 2008-09	March 2002 & July 2010	June 2002 & October 2010	4	12 to 112

Sl. No.	Department	Year of the Audit Report	Dates of presentation to the Legislature	Last date by which Departmental notes were due	No. of paragraphs for which the Departmental notes were due	Delay in months
6.	Irrigation	2000-01 & 2006-07	March 2002 & March 2008	June 2002 & June 2008	4	40 to 112
7.	Land Revenue	2001-02 to 2009-10	March 2003 to March 2011	June 2003 to June 2011	56	4 to 100
8.	Industries and Commerce	2002-03 to 2009-10	July 2004 to March 2011	October 2004 to June 2011	29	4 to 84
9.	Home	2006-07	March 2008	June 2008	1	40
10.	Energy	2001-02	March 2003	June 2003	1	100
11.	Municipal Administration and Urban Development	2002-03 & 2003-04	July 2004 & October 2005	October 2004 & January 2006	3	69 to 84
12.	Finance	2001-02 & 2009-10	March 2003 & March 2011	June 2003 & June 2011	2	4 to 100
13.	Forests	2003-04, 2005-06, 2007-08 & 2008-09	October 2005, March 2007, September 2009 & July 2010	January 2006, June 2007, November 2009 & October 2010	4	12 to 69
14.	General Administration	2005-06	March 2007	June 2007	1	52
	Total	2000-01 to 2009-10	March 2002 to March 2011	June 2002 to June 2011	202	4 to 112

This indicates that the executive failed to take prompt action on the important issues highlighted in the Audit Reports that involved large sums of unrealised revenue.

1.2.6 Compliance with the earlier Audit Reports

During the years 2005-06 to 2009-10, the Departments/Government accepted audit observations involving ₹ 1,861.06 crore out of which an amount of ₹ 20.38 crore was recovered till October 2011 as mentioned below:

(₹ in crore)

Year of Audit Report	Total money value	Accepted money value	Recovery made
2005-06	189.69	49.60	4.45
2006-07	401.59	245.39	3.42
2007-08	443.46	177.31	4.42
2008-09	628.76	342.25	3.84
2009-10	1,168.41	1,046.51	4.25
Total	2,831.91	1,861.06	20.38

The recovery in respect of accepted cases was very low (1.10 per cent) compared to the accepted money value. The Government may advise the concerned Departments to take necessary steps for speedy recovery.

1.3 Analysis of the mechanism for dealing with the issues raised by Audit

The succeeding paragraphs 1.3.1 and 1.3.2 discuss the performance of the Registration and Stamps Department to deal with the cases detected in the

course of local audit conducted during the last five years and also the cases included in the Audit Reports for the years 2005-06 to 2009-10.

1.3.1 Position of Inspection Reports

The summarised position of Inspection Reports issued during the last five years, paragraphs included in these reports and their status as on 31 March 2011 are tabulated in the following table:

(₹ in crore)

Year	Opening balance			Additions during the year			Clearance during the year			Closing balance during the year		
	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value	IRs	Para-graphs	Money value
2006-07	1,140	1,828	297.05	260	329	28.33	18	35	0.31	1,382	2,122	325.07
2007-08	1,382	2,122	325.07	228	449	20.45	54	98	1.54	1,556	2,473	343.98
2008-09	1,556	2,473	343.98	230	508	47.98	12	33	0.72	1,774	2,948	391.24
2009-10	1,774	2,948	391.24	220	590	275.20	17	39	0.46	1,977	3,499	665.98
2010-11	1,977	3,499	665.98	215	514	152.96	52	173	1.65	2,140	3,840	817.29

The above position indicates that the performance of the Department in clearance of the paragraphs is minimal when compared to the addition of IR paragraphs each year.

1.3.2 Assurances given by the Department/Government on the issues highlighted in the Audit Reports

1.3.2.1 Recovery of accepted cases

The position of paragraphs included in the Audit Reports of the last five years, those accepted by the Department and the amount recovered are mentioned below.

(₹ in lakh)

Year of AR	Number of paragraphs/ reviews included	Money value of the paragraphs	Number of cases involved	Number of cases accepted	Money value of accepted cases	Amount recovered during the year	Cumulative position of recovery of accepted cases
2005-06	6	5,495.50	196	4	31.98	0.25	0.25
2006-07	6	2,575.89	125	2	76.39	--	0.25
2007-08	11	1,483.45	100	1	33.01	--	0.25
2008-09	11	2,916.38	145	40	580.28	6.34	6.59
2009-10	7	623.94	17	11	557.94	16.92	23.51
Total	41	13,095.16	583	58	1,279.60	23.51	

Against the money value of ₹ 1,279.60 lakh involved in the accepted cases a meagre amount of ₹ 23.51 lakh only was collected. This indicated that the recovery during the five year period as against the money value in accepted cases is very poor. Regarding mechanism for recovery, Government reported (September 2011) that orders were passed and entry made in the indexes to reflect the amount as charge in the Encumbrance Certificates of the relevant properties as the parties did not come forward to pay the amounts inspite of demand notices. It was stated that the District Collectors were also intimated to recover the dues under the Revenue Recovery Act.

1.3.2.2 Action taken on the recommendations accepted by the Department/Government

The draft performance reviews conducted by the AG are forwarded to the concerned Departments/Government for their information with a request to furnish their replies. Most of these reviews are also discussed in an exit conference and the Department's/Government's views are included while finalising the review for the Audit Reports.

The following are the issues highlighted in the reviews on the Registration and Stamps Department that featured in the last 10 Audit Reports including the recommendations and action taken by the Department on the recommendations accepted by it as well as the Government:

Year of Audit Report	Name of the Review/Number of recommendations included	Details of recommendations accepted	Status
2002-03	Exemptions, Remissions and concessions of Stamp Duty and Registration fee/ 2	Nil	Action taken not furnished by the Department.
2003-04	Review on Stamp Duty/ 4	<ol style="list-style-type: none"> 1. Prescribed procedure for indenting and supply of stamps should be enforced. 2. Monitoring mechanism should be instituted to watch the usage of NJ stamps with the sale of stamps in order to detect circulation of fake stamps. 3. Periodical verification of accounts of Stamp Vendors records by the concerned Sub-Registrars should be enforced. 4. Ensure that the licensed stamp vendors draw stamps from the concerned treasuries only and sell the stamps in their jurisdiction. In order to ensure this, an electronic database be maintained with suitable validation alert. 	Action taken not furnished by the Department.
2007-08	Computer aided Administration of Registration Department – CARD/ 10	Nil	Action taken not furnished by the Department.

Though all the recommendations made in the review for Audit Report 2003-04 were accepted by the Department/Government, no tangible action was initiated to implement the recommendations already accepted.

1.4 Arrears in assessment

The details of assessments relating to Sales Tax, Motor spirit tax, Professions tax, Entry tax, Lease tax, Luxury tax, pending at the beginning of the year, additional cases that are due for assessment during the year, cases disposed during the year and cases pending at the end of each year during 2006-07 to 2010-11 as furnished by the Commercial Taxes Department were as under:

Year	Opening balance	Cases which became due for assessment	Total	Cases disposed during the year	Cases pending at the end of the year	Percentage of disposed to total assessment
2006-07	99,164	27,077	1,26,241	97,768	28,473	77.45
2007-08	28,473	14,469	42,942	40,192	2,750	93.60
2008-09	2,750	17,052	19,802	17,042	2,760	86.06
2009-10	2,760	13,704	16,464	12,658	3,806	76.88
2010-11	3,806	11,995	15,801	11,545	4,256	73.06

The above table indicates that the percentage of assessments completed to the total assessments ranged between 73.06 *per cent* and 93.60 *per cent*. Further, the percentage of completion of assessments to the total assessments in 2010-11 was 73.06 *per cent*, which was the lowest when compared to the previous four years. The Department, however, did not attribute any reasons for the decline. Action plan drawn up by the department to liquidate these arrears has not been furnished by the Department (October 2011).

1.5 Audit planning

The unit offices under various Departments are categorised into high, medium and low risk units according to their revenue position, past trends of audit observations and other parameters. The annual audit plan is prepared on the basis of risk analysis which *inter-alia* includes critical issues in Government revenues and tax administration i.e. budget speech, white paper on state finances, reports of the finance commission (state and central), recommendations of the taxation reforms committee, statistical analysis of the revenue earnings during the past five years, features of the tax administration, audit coverage and its impact during past five years etc.

During the year 2010-11, the audit universe comprised 2120 auditable units, of which 933 units were planned and audited during the year, which is 44 *per cent* of the total auditable units. The details are shown in Annexure-I to the Audit Report.

Besides the compliance audit mentioned above, two performance audits on “Taxation of Works Contracts under the APVAT Act” and “Cross verification of Declaration Forms used in Inter-State trade” in respect of Commercial Taxes Department and a performance audit on “Alienation of Government land and conversion of agricultural land for non-agricultural purpose” in respect of Land Revenue Department were also taken up to examine the efficacy of the tax administration of these receipts.

1.6 Results of audit

1.6.1 Position of local audit conducted during the year

Test check of the records of 933 units of commercial tax, stamp duty and registration fees, state excise, motor vehicles, land revenue and other Departmental offices conducted during the year 2010-11 revealed under assessments/short levy/loss of revenue aggregating to ₹ 1,778.34 crore in 2,497 cases. During the course of the year, the Department concerned accepted under assessments and other deficiencies of ₹ 1,059.12 crore involved in 1,221 cases of which 338 cases involving ₹ 688.51 crore were pointed out in audit during 2010-11 and the rest in the earlier years. The Departments collected ₹ 18.50 crore in 307 cases during 2010-11.

1.6.2 This Report

This Report contains 41 paragraphs involving ₹ 477.58 crore (selected from the audit detections made during local audit referred to above and during earlier years which could not be included in earlier reports) and three performance audits involving revenue implication of ₹ 294.85 crore relating to non/short levy of tax, duty, interest, penalty etc., involving total financial effect of ₹ 772.43 crore. The Government/Departments have accepted audit observations involving ₹ 548.39 crore out of which ₹ 79.62 lakh had been recovered. The replies in the remaining cases have not been received (October 2011). These are discussed in the succeeding Chapters II to VII.

CHAPTER III

SALES TAX/VAT

CHAPTER II SALES TAX/VAT

EXECUTIVE SUMMARY

Appreciable increase in tax collection	As indicated at para 1.1.2 of Chapter-I, in 2010-11, the collections of taxes from Sales Tax and Central Sales Tax increased by 23.18 <i>per cent</i> and 24.93 <i>per cent</i> respectively over the previous year.
Lack of a structured Internal Audit Wing	The Department did not have a structured Internal Audit Wing that would plan audits in accordance with scheduled audit plan, conduct audits and follow up thereof. However this function was being performed under the supervision of Divisional head and rectificatory action is taken on the observations made in the Internal Audit Report.
Very low recovery by the Department in respect of observations pointed out by us in earlier years	During the period 2005-06 to 2009-10, we had pointed out non/short-levy, non/short-realisation, underassessment/loss of revenue, incorrect exemption, concealment/suppression of turnover, application of incorrect rate of tax, incorrect computation etc., with a revenue implication of ₹ 1,343.43 crore in 6,749 cases. Of these, the Department/Government had accepted audit observations in 3,022 cases involving ₹ 366.85 crore but recovered only ₹ 7.61 crore in 710 cases. The recovery position as compared to acceptance of objections was very low at 2.07 <i>per cent</i> during the five year period.
Results of audits conducted by us in 2010-11	<p>In 2010-11 we test-checked the records of 223 offices of the Commercial Taxes Department and noted underassessments of tax and other irregularities involving ₹ 373.64 crore in 1,622 cases.</p> <p>The Department had accepted underassessments and other deficiencies of ₹ 87.55 crore in 582 cases, of which 145 cases involving ₹ 42.05 crore were pointed out in audit during the year and the rest in earlier years. An amount of ₹ 49.78 lakh was realised in 43 cases during the year 2010-11.</p>
What we have highlighted in this chapter?	In this chapter we present two performance audits on 'Taxation of works contracts under APVAT Act' involving tax effect of ₹ 35.23 crore and 'Cross verification of Declaration Forms used in Inter-State Trade' involving tax effect of ₹ 77.31 crore and illustrative cases involving ₹ 58.13 crore. These cases were selected from observations noticed during

our test check of records relating to Commercial Taxes Department in the offices of Commercial Tax Officers (CTOs) and Large Tax Payers Units (LTUs), where we found that the provisions of the Acts/Rules were not observed.

It is a matter of concern that similar omissions were pointed out by us repeatedly in the Audit Reports for the past several years, but the Department had not taken corrective action. We are also concerned that though these omissions were apparent from the records which were made available to us, the CTOs and Assistant Commissioners failed to detect them.

With reference to performance audit on 'Taxation of works contracts under APVAT Act', we observed that the Department had not made enough efforts to register works contracts dealers, check/scrutinise their returns by using information of TDS remittances received and by cross verification with other tax Departments. There was no system to monitor the filing of option for Composition Scheme for the dealers, as a result of which concessional rate of tax was being allowed to ineligible dealers. Though the Departmental Audit Manual prescribed the percentage of audits to be conducted, audit of most of the contractors was in arrears.

As regards performance audit on 'Cross Verification of Declaration Forms used in Inter-State Trade, we observed that there were several deficiencies in the printing and custody of declaration Forms as well as in acceptance of these Forms governing Inter-State Sales. These included absence of a system for ascertaining the genuineness and correctness of declaration Forms submitted by the dealers for claiming concessions and exemptions of tax on inter-state sales/stock transfers through cross verification of transactions from the States concerned, absence of system for blacklisting dealers and absence of a reliable database for concessions and exemptions and the revenue forgone.

Our conclusion

The Department needs to improve the internal control system including establishment of a structured Internal Audit Wing so that weaknesses in the system are noted timely for appropriate remedial action by the Department.

It also needs to initiate immediate action to recover the non/short-levy of tax, interest/penalty etc., pointed out by us, more so in those cases where it has accepted our contention.

2.1 Tax Administration

The Commercial Taxes Department is under the purview of Principal Secretary to Revenue Department at the Government level. The Department is mainly responsible for collection of taxes and administration of the AP Value Added Tax (VAT) Act, the Central Sales Tax (CST) Act, the AP Entertainments Tax Act, the AP Luxury Tax Act and the Rules framed thereunder. The Commissioner of Commercial Taxes (CCT) is the Head of the Department entrusted with over all supervision and is assisted by Additional Commissioners, Joint Commissioners (JC), Deputy Commissioners (DC) and Assistant Commissioners (AC). Commercial Tax Officers (CTO) at circle level are primarily responsible for tax administration and are entrusted with the registration of dealers and collection of taxes while the DCs are controlling authorities with overall supervision of the circles under their jurisdiction. There are 218 offices (25 Large Tax Payer Units (LTUs) headed by the ACs and 193 Circles headed by the CTOs) functioning under the administrative control of the DCs. Further, there is an Inter-State Wing (IST) headed by a Joint Commissioner within the Enforcement wing, which assists CCT in cross verification of inter-state transactions with different states.

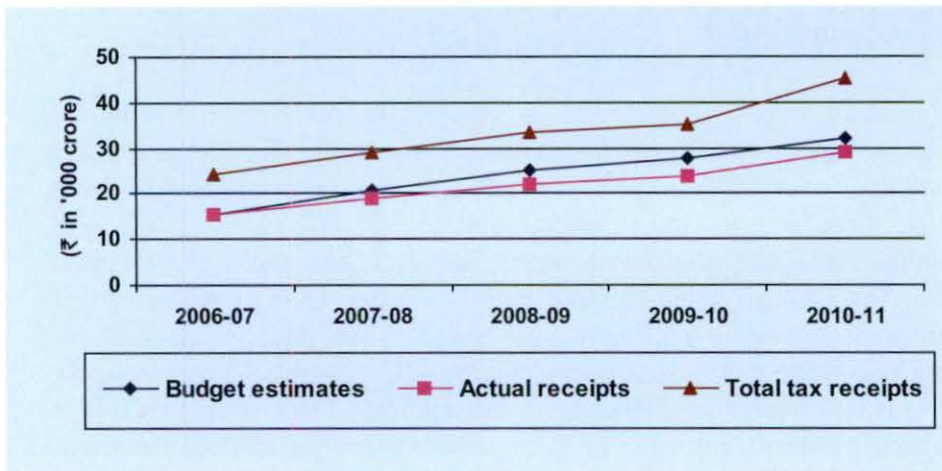
2.2 Trend of receipts

Actual receipts from VAT during the last five year period from 2006-07 to 2010-11 along with the total tax receipts during the same period are exhibited in the following table and graphs:

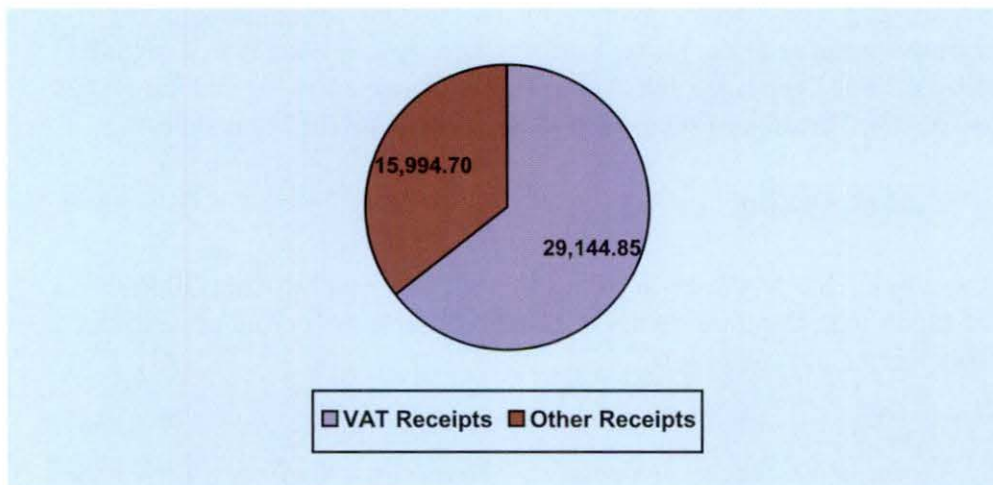
(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual VAT receipts vis-a-vis total tax receipts
2006-07	15,465.33	15,467.08	(+) 1.75	(+) 0.01	23,926.20	64.64
2007-08	20,568.00	19,026.49	(-) 1,541.51	(-) 7.49	28,794.05	66.08
2008-09	24,887.28	21,851.66	(-) 3,035.62	(-) 12.20	33,358.29	65.51
2009-10	27,685.00	23,640.21	(-) 4,044.79	(-) 14.61	35,176.68	67.20
2010-11	31,838.00	29,144.85	(-) 2,693.15	(-) 8.46	45,139.55	64.57

Graph 1: Budget estimates, actual receipts and total tax receipts



Graph 2: Actual receipts vis-à-vis Other tax receipts (₹ in crore)



The variations in the budget estimates and actual revenue persisted during the years 2007-08 to 2010-11 thus failing to give an assurance that the budget estimates prepared are realistic. The Department did not furnish (October 2011) the reasons for shortfall despite being requested in May 2011.

2.3 Assessee and returns profile

The CTD had 2,16,110 VAT dealers registered under the APVAT Act as on 31 March 2011, out of which 625 dealers were Large Tax Payers. The following table indicates the position of returns received by the Department during 2010-11:

No. of assessee on rolls	No. of assessee required to file monthly returns	No. of returns received in 2010-11 (12 months)	No. of returns not received	No. of returns scrutinised by Department
2,16,110	2,16,110	23,48,684	1,18,718	NA

The Department did not furnish (October 2011) the details of action initiated against those dealers who have not filed the monthly returns.

2.4 Cost of VAT per assessee

The Commercial Taxes Department spent ₹ 256.98 crore on their tax administration during 2010-11 with reference to 2,16,110 VAT dealers on their rolls. The average cost of VAT per assessee stood at ₹ 0.12 lakh *per annum* during 2010-11, and the cost *per cent* at 0.05.

2.5 Status of VAT Audit

There is no concept of assessment under the APVAT Act. But, as per paras 3.1(i) and 4.8.2 of the APVAT Manual of Commercial Taxes Department, all the VAT dealers should be audited in a period of two years and such audits should not exceed 12.5 *per cent* in a quarter. The progress of audits conducted during the years 2008-09 to 2010-11 as furnished by the Department is given in the following table:

Year	Total No. of dealers	No. of dealers to be audited	No. of dealers actually audited	Shortfall in audits	Percentage of shortfall
2008-09	2,69,153	1,34,576	18,693	1,15,883	86.11
2009-10	1,98,640	99,320	22,254	77,066	77.59
2010-11	2,16,110	1,08,055	1,04,390	3,665	3.39

It is seen from the above that the percentage of audits completed to the total audits to be conducted had shown an improvement during the year 2010-11 as compared to the preceding two years.

2.6 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2011 amounted to ₹ 5,113.53 crore. A comparative figure of arrears of revenue for the last five years is mentioned below:

(₹ in crore)				
Year	Opening balance	Additions*	Collection	Balance
2006-07	9,059.81	NA	691.02	8,368.79
2007-08	8,368.78	NA	1,112.69	7,256.09
2008-09	7,256.09	NA	609.00	6,647.09
2009-10	6,647.09	NA	629.44	6,017.65
2010-11	6,017.65	NA	904.12	5,113.53

* Information not furnished by the Department.

2.7 Cost of collection

The figures of gross collection of Commercial Taxes Department, expenditure incurred on collection and the percentage of such expenditure to gross collection during the years 2008-09, 2009-10 and 2010-11 along with the relevant all India average percentage of expenditure on collection to

gross collection for the previous year is given below:

(₹ in crore)

Head of revenue	Year	Gross collection	Expenditure on collection of revenue	Percentage of cost of collection to gross collection	All India average percentage for the previous year
Taxes/VAT on sales, trade etc.	2008-09	21,851.66	190.79	0.87	0.83
	2009-10	23,640.21	215.88	0.91	0.88
	2010-11	29,144.85	261.98	0.90	0.96

The percentage of cost of collection to gross collection decreased by 0.01 per cent during 2010-11 over the previous year.

2.8 Impact of Local Audit

During the last five years, audit had pointed out non/short levy, non/short realisation, under assessment/loss of revenue, incorrect exemption, concealment/suppression of turnover, application of incorrect rate of tax, incorrect computation etc., with a revenue implication of ₹ 1343.43 crore in 6,749 cases. Of these, the Government/Department had accepted audit observations in 3,022 cases involving ₹ 366.85 crore and had since recovered ₹ 7.61 crore. The details are shown in the following table:

(₹ in crore)

Year	No. of units audited	Objected		Accepted		Recovered	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
2005-06	212	1,577	210.16	910	48.01	568	2.33
2006-07	227	1,264	389.08	548	122.22	14	0.24
2007-08	209	980	196.63	141	80.26	43	1.02
2008-09	198	1,282	267.95	776	43.90	21	1.19
2009-10	210	1,646	279.61	647	72.46	64	2.83
Total	1,056	6,749	1,343.43	3,022	366.85	710	7.61

The insignificant recovery of ₹ 7.61 crore (2.07 per cent) as against the money value of ₹ 366.85 crore relating to the accepted cases during the period 2005-06 to 2009-10 highlights the failure of the Government/Department machinery to act promptly to recover the Government dues even in respect of the cases accepted by them.

2.9 Working of Internal Audit Wing

The Department did not have a structured Internal Audit Wing that would plan audits in accordance with a scheduled audit plan, conduct audits and follow up thereof. Internal audit is organised at Division level under the supervision of Assistant Commissioner (CT). There are 25 Large Tax Payers Units (LTUs) and 193 circles in the State. The internal audit of returns is conducted during the first quarter of the financial year and gets extended up to September. Each LTU/Circle is audited by audit team consisting of five members headed by either CTOs or Deputy CTOs. The internal audit report is submitted within 15 days from the date of audit to the DC (CT) concerned, who would supervise

the rectification work giving effect to the findings in such report on internal audit.

2.10 Results of audit

Test check of the records of 223 offices of the Commercial Taxes Department during 2010-11 relating to VAT, revealed under assessments of tax and other irregularities involving ₹ 373.64 crore in 1,622 cases, which fall under the following categories:

(₹ in crore)			
Sl. No.	Category	No. of cases	Amount
1	“Taxation of Works Contracts under the APVAT Act” (A Performance Audit)	1	35.23
2	“Cross verification of Declaration Forms used in Inter-State Trade” (A Performance Audit)	1	77.31
3	Short levy of tax under works contract	313	88.07
4	Non/Short-levy of tax under VAT	377	44.67
5	Excess allowance of input tax	266	27.36
6	Incorrect exemption of taxable turnover	137	17.53
7	Non-payment of VAT by rice millers	1	10.13
8	Application of incorrect rate of tax	55	6.47
9	Non-levy of interest/penalty/TOT	78	6.57
10	Cross verification of transit passes	7	2.62
11	Irregularities in availment of sales tax incentives by industrial units	11	2.53
12	Other irregularities	375	55.15
Total		1,622	373.64

During the course of the year 2010-11, the Department accepted under assessments and other deficiencies of ₹ 87.55 crore in 582 cases, of which 145 cases involving ₹ 42.05 crore were pointed out in audit during the year and the rest in the earlier years. An amount of ₹ 34.49 lakh was realised in 40 cases during the year 2010-11.

After the issue of three draft paragraphs, the Department reported (August 2011) recovery of ₹ 15.29 lakh in respect of three cases.

This chapter also includes two Performance Audits on “**Taxation of works contracts under the APVAT Act**” involving ₹ 35.23 crore and “**Cross verification of Declaration Forms used in Inter-State Trade**” involving ₹ 77.31 crore. The paragraphs cover systems and compliance deficiencies relating to VAT administration pertaining to incorrect application of rates, non/short levy of tax, excess allowance of input tax credit and non/short levy of penalty in violation of the VAT provisions. Illustrative audit observations involving ₹ 58.13 crore are also reported in the Chapter.

2.11 Performance Audit of “Taxation of Works Contracts under APVAT Act”

Highlights

- The number of registered works contractors and taxes collected increased during the period 2005-06 to 2009-10 but the Department could have ensured more revenue collections by bringing more dealers under the tax net by utilising Tax Deducted at Source (TDS) details to detect the unregistered dealers and by establishing systems of cross verifications with agencies and Government Departments/bodies. We have cross verified TDS details in just four circles and have estimated tax dues of ₹ 3.42 crore due to non-registration of contractors in construction and sale of apartments besides penalty of ₹ 0.86 crore.

(Paragraph 2.11.7.1)

- Though the VAT provisions came into force since 1 April 2005, the Department has not established a system of cross verification of transactions with other Taxation Departments as envisaged in the White Paper issued by the Empowered Committee of State Finance Ministers for VAT (ECSFM) for preventing revenue leakages. We have estimated tax dues of ₹ 141.73 crore due to non-registration of works contractors under the Act, by cross verification of data with the Income Tax Department. Further, due to under reporting of turnovers, we have estimated tax dues of ₹ 36.15 crore in nine cases by cross verifying Income Tax returns details.

(Paragraph 2.11.7.2)

- We saw that there were systems deficiencies relating to TDS collections in the form of unique form ID not being followed for TDS credits; non-maintenance of registers for monitoring of receipt of TDS cheques and their credit to Government Account; non-monitoring of receipt of returns with TDS remittances; absence of a system to monitor the filing of option under the prescribed form for claiming benefit of the Composition Scheme. We detected incorrect declaration of tax under the composition scheme of ₹ 1.53 crore.

(Paragraph 2.11.8.3)

- There was irregular claim of tax credit of ₹ 4.91 crore by nine dealers due to non-submission of TDS certificates with the returns.

(Paragraph 2.11.12.2)

- There was under declaration of tax of ₹ 6.26 crore by 20 Works Contractors due to incorrect allowance of exemption; of ₹ 5.84 crore in 83 cases due to suppression of turnovers with reference to payment received from their contractees and of ₹ 0.66 crore in two cases due to incorrect exemption of turnover.

(Paragraphs 2.11.13.2, 2.11.13.3 & 2.11.13.4)

- There were incorrect/excess claims of Input Tax Credits (ITC) in composition/non-composition contracts.

(Paragraphs 2.11.14.2 & 2.11.14.3)

- Misclassification of sales as works contracts in nine cases resulted in under declaration of tax of ₹ 4.82 crore.

(Paragraph 2.11.16)

- Incorrect determination of taxable turnover in 10 cases resulted in under declaration of tax of ₹ 0.96 crore and incorrect authorisation of refunds in two cases resulted in excess refund of ₹ 1.78 crore.

(Paragraphs 2.11.17.2 & 2.11.17.4)

2.11.1 Introduction

Consequent on the amendments made by the Constitution (46 Amendment) Act, 1982, States derived power to levy tax on the transactions of works contracts. In accordance with the amendments made from 1 July 1985, the goods involved in the execution of works contract became taxable under the APGST Act, 1956, at the rates mentioned in the Schedules to the Act or at the reduced rates contained in the notifications issued. A separate charging section 5F was inserted in the Act and a uniform rate of tax for all goods used in the works contract, except declared goods had been provided with effect from 1 April 2005. The following are the provisions governing taxation of works contractors under the APVAT Act, 2005 and Rules there under including the composition of Tax Scheme for works contractors.

Subject	Details/Provisions	Section	Rule
Definition	'Works Contract' includes any agreement for carrying out for cash or for deferred payment or for any other valuable consideration, the building construction, manufacture, processing, fabrication, erection, installation, laying, fitting out, improvement, modification, repair or commissioning of any movable or immovable property.	2(45)	Nil
Levy of tax under Regular Scheme	Tax is payable on the value of goods at the time of incorporation, at the rates applicable to the goods. Such dealer is eligible for Input Tax Credit (ITC) to the extent of 90 per cent of the related input tax.	4(7)(a)	17(1)(e)
	In the absence of the detailed accounts, tax has to be paid on the value of goods at the rate of 12.5 per cent after availing the statutory deductions. The dealer shall not be eligible to claim ITC.	4(7)(a)	17(1)(g)
Levy of tax under Optional Scheme (Composition) in respect of works executed for the Government or local authority	Any dealer executing any works contract for the Government or local authority may opt to pay tax by way of composition at the rate of four per cent on the total value of the contract executed for the Government or the local authority. Such contractor has to opt for composition and file form VAT 250 before commencement of execution of works.	4(7)(b)	17(2)
Levy of tax under Optional Scheme (Composition) in respect of works executed for other than the Government or local authority	Any dealer executing any works contract other than for Government or local authority may opt to pay tax by way of composition at the rate of four per cent of the total consideration received or receivable for any specific contract subject to conditions as may be prescribed. Such contractor has to opt for composition and file form VAT 250 before commencement of execution of works.	4(7)(c)	17 (3)

Subject	Details/Provisions	Section	Rule
Levy of tax under Optional Scheme (Composition) for builders	Tax has to be paid at the rate of four <i>per cent</i> of 25 <i>per cent</i> of the consideration received or market value, whichever is higher, under composition subject to filing of option in form VAT 250 before commencement of the work.	4(7)(d)	17(4)
Exemption towards payments made to sub-contractors	No tax shall be payable on the turnover relating to amounts paid to the sub-contractor as consideration for the execution of works contract. In other words sub-contractor is liable to pay tax on his turnover whereas the same is allowed exemption in the hands of main contractor.	4(7)(h)	17(1)(c) 17(2)(h) and 17(3)(g)
Provisions relating to Input Tax Credit under Composition Scheme	No input tax credit shall be allowed on the works contracts where the dealer pays the tax under the provisions of clauses (b), (c) and (d) of Section 4 (7).	Sn.13 (5) (a)	Rule 17(2), (3) and (4)
Provisions relating to Input Tax Credit under Non-Composition Scheme	Where any VAT dealer pays tax under Section 4 (7) (a), the input tax credit shall be limited to the 90 <i>per cent</i> of the related input tax.	Sn.13 (7)	Rule 17(1)
Registration	Every dealer whose estimated taxable turnover for 12 consecutive months is more than ₹ 40 lakh shall be liable to be registered as a VAT dealer before the commencement of the business.	17 (2)	4
	Every dealer executing any works contract exceeding ₹ 5 lakh for the Government or local authority and every dealer opting to pay tax by way of composition on works contract shall be liable to be registered as a VAT dealer.	17(5)(g)	17 (2), (3) and (4)
Tax deducted at source (TDS)	<p>The rate of tax for the purpose of TDS shall be as prescribed below:</p> <p>i. All categories of contracts except mentioned in sub clause (ii) at four <i>per cent</i> of 70 <i>per cent</i> of consideration.</p> <p>ii. Contracts for laying or repairing of roads and contracts for canal digging, lining and repairing at two <i>per cent</i> of 70 <i>per cent</i> of consideration.</p> <p>Tax deducted at source under the Act by the contractees is to be remitted in the manner as prescribed. Such contractee shall issue certificate of TCS/TDS in form VAT 501 and 501A to the contractor from whom tax was deducted. Credit shall be given to the said contractor on production of certificate of TCS/TDS along with monthly returns.</p>	22(3)	18(1)(bb)

Subject	Details/Provisions	Section	Rule
Transfer of TDS relating to sub-contractor	Where any tax is deducted at source in respect of works contract and work in whole or any part of such work is awarded to a registered sub-contractor, the tax proportionate to the amounts paid as consideration to the sub-contractor out of the tax deducted by the contractee shall be transferred to the sub-contractor by issuing Form 501B.	22 (3)	18(1)(e)
Forfeiture of excess tax deducted	Where tax collected at source is in excess of the liability of the contractor, who has not opted for payment of tax by way of composition, such amount of tax, collected in excess of the liability shall be deemed to have been payable by the contractor and shall be liable to be forfeited.	22 (3A)	18(3)(b)

2.11.2 Organisational set up

The Commercial Taxes Department is under the purview of the Principal Secretary, Revenue Department at the Government level. At the Commissionerate level, CCT heads the Department and is assisted by AC, JC, DC, and AC. Divisional offices at field level are headed by the DC who is assisted by the CTO, DCTO and ACTO at the circle level.

There are 218 offices (25 Large Tax Payer Units headed by the AC's and 193 circles headed by the CTO's) functioning under the administrative control of the DC's. The CTOs are entrusted with registration of the dealers and collection of tax while the DCs are controlling authorities with overall supervision of the circles under their jurisdiction.

2.11.3 Audit Objectives

We conducted a review on "Taxation of Works Contract under the APVAT Act" to assess the efficiency and effectiveness of

- the system of registration of works contractors by the Department and monitoring the filing of their returns;
- the system, if any, of cross verification of data with other Departments;
- the system of tax deduction at source and its proper accountal;
- the system of filing of returns/options and supporting documents;
- the system of self assessment by works contractors and scrutiny of such assessments i.e., VAT Audit by the Department;
- the implementation of the Regular and Optional Scheme of assessment of Works Contractors as per the provisions of the APVAT Act ; and
- the system of internal control in the Department.

2.11.4 Scope and Methodology of Audit

We conducted the review for the period from 2005-06 to 2009-10 between September 2010 and March 2011. We covered 120 circle offices and 25 large tax payer units (details vide Annexure II) that were due for audit during the period of review. We also included relevant audit findings raised by the field parties during local audit of the remaining offices as well as those commented in the Local Audit reports of these offices during earlier years.

Based on a Performance Audit of transition from APGST to APVAT regime which was included in Comptroller and Auditor General's Audit Report for the year 2008-09, the following system deficiencies were pointed out:

1. Absence of provision for conducting surveys;
2. Shortfall in audit of the dealers;
3. Failure to register on attaining threshold limits;
4. Ineffective functioning of database of dubious/risky dealers;
5. Non-scrutiny of monthly VAT returns;
6. Absence of cross verification of records with the Departments.

During the course of this review, we examined whether the Department had addressed these issues and have included suitable comments accordingly where the deficiencies continued.

2.11.5 Acknowledgement

We acknowledge the cooperation of the Commercial Taxes Department in providing necessary information and records to audit. We had held the entry conference on the 9 September 2010 with the CCT and other departmental officers in which the Department was apprised about the scope and methodology of audit. We held an Exit Conference with the Government/Department on 10 August 2011 during which the audit findings were discussed with the Principal Secretary to Government (Revenue) and CCT.

2.11.6 Trend of revenue

The analysis of the total Sales Tax Revenue and Tax Revenue from Works Contractors during the period from 2005-06 to 2009-10¹ was as under:

(₹ in crore)

Year	Sales Tax	No. of registered works contractors	Tax on works contracts	Percentage of tax on works contracts to total sales tax
2005-06	11,524.24	9,323	310.42	2.69
2006-07	14,222.67	10,548	508.78	3.57
2007-08	17,593.41	12,391	589.17	3.34
2008-09	20,596.47	14,673	643.91	3.12
2009-10	22,278.14	17,452	1,038.28	4.66

¹ Source of figures – Commissioner of Commercial taxes.

Audit findings

The system and compliance deficiencies seen during the Performance Audit are discussed in the succeeding paragraphs.

System Deficiencies

2.11.7 Registration

2.11.7.1 Absence of a system for detection of unregistered works contractors

As per Section 17(2) of the APVAT Act, dealers whose estimated taxable turnover in a period of twelve consecutive months is more than ₹ 40 lakh are required to be registered under the Act. Besides under Section 17(5)(g), contractors executing works of the State Government or local authority exceeding ₹ 5 lakh and contractors opting to pay tax by way of composition are required to be registered as VAT dealers regardless of the turnover. Further, under Section 49 (2) of the Act, penalty shall be leviable for failure to register at 25 per cent of the amount of tax due.

The provisions relating to Registration of Works Contractors under the APVAT Act are given alongside. Besides as per para 5.12.6 of the APVAT Manual, where routine references or intelligence indicate that a dealer may be liable for VAT registration, the CTO should designate a DCTO/ACTO to carry out an inspection/visit to verify the dealers' taxable turnover and establish if there is a liability for VAT Registration. The

registration requirements must be enforced rigorously and the Act provides for penalties for failure to apply for registration.

In response to a comment made under para 2.2.8.1 of the Audit Report for the year ended 31 March 2009, regarding non conducting of surveys at regular intervals to enforce additional registrations and generate more revenue, the Department replied that surveys were being conducted at random without disturbing the field officers. However we noted that the same position persists.

We noted that the Department did not put in place any system for detection of unregistered works contractors. Though the executing authorities/Departments deduct tax at source at various rates i.e., 4 per cent, 2.8 per cent, 1.4 per cent and 1 per cent the final tax liability needs to be assessed by the Commercial Taxes Department. As the liability of tax is based on various factors such as filing of option for composition, purchases from outside the State that are used in the works contract and deductions allowable under the Act. When the dealers have not been registered by the Department, there is no control mechanism for plugging any loss of revenue.

We noticed in the test check of the records relating to TDS of four circles² that 74 contractors engaged in construction and sale of apartments, TDS under provisions of the Act (Sec 22(3)) was deducted at the offices of Sub Registrars at the time of registration of the apartment. A review of the ‘register of cheques’ received from the Sub Registrar Offices by the Department and our cross verification of the same with the computerised database- Dealer Master from VATIS³ package revealed that though the Department received cheques/ demand drafts relating to TDS, they did not take efforts to ensure registration of such Contractors. We compiled the annual turnover based on the TDS details and found that these dealers had crossed the threshold limits for registration under the APVAT Act and thus were liable to be registered under the Act.

As these dealers were not registered under the Act and had not opted for payment of tax under composition in terms of Section 4(7)(d) of the Act, the tax was payable at the rate of 12.5 *per cent* under Section 4(7) (a) of the Act on the 70 *per cent* of total consideration received. We have estimated the tax liability after adjusting for the TDS, at ₹ 3.42 crore and penalty of ₹ 0.86 crore was also leviable.

The Government replied (July 2011) that the programme of conducting street survey was being taken up and one third of circles would be covered every year. It was further stated that the objective of such an exercise was to bring every unregistered dealer into the tax net. However, no response was given for action not taken till date on the information of TDS details which was available with the Department itself.

It is recommended that the Department may utilise the TDS payments data available with them to register the contractors under the Act, forthwith.

2.11.7.2 Absence of a system for cross verification of data with other Taxation Departments

The White paper issued by the Empowered Committee of State Finance Ministers (ECSFM) came out with an unanimously approved “White paper on VAT” with an objective of self assessment by dealers, rationalising the tax burden, increase in transparency, allowance of set off for input tax, fall in prices and higher revenue growth. The White paper also emphasised cross verification of data between various taxation Departments viz., Income Tax, Central Excise and Commercial Taxes so as to reduce tax evasion and ensure growth of tax revenue. Thus cross verification is a distinctive feature of the VAT regime. It is imperative that the State Government put in place a system and procedures for enabling cross verification. However, the APVAT Act does not have any provision for cross verification of the Department’s information with the other taxation Departments to ensure the correctness of the taxes paid by the dealers. Neither has the cross verification been ensured by Departmental Instructions.

² Bhimavaram, Eluru, Kothagudem and Mancherial.

³ Value Added Tax Information System.

Under the APVAT Act, if any dealer wilfully declares lesser output turnover than the actual turnover, he is liable to pay penalty equal to the tax under declared.

A comment was also made under para 2.2.10 of the Comptroller and Auditor General's Audit Report for the year ended 31 March 2009, regarding failure to cross verify the departmental records with other Departments. However we noted that the same position/deficiency persists.

We noticed (December 2010) in the test check of the records with the data collected from the Income tax Department in respect of 20 cases that though the turnover of receipts from works contracts during the period from April 2005 to March 2008 was reported as ₹ 1,295.82 crore by the works contractors as per their audited balance sheet, our cross verification revealed that they were not registered under the APVAT Act, though their turnovers had crossed the threshold limits. The total tax and penalty leviable as estimated by us, in these cases worked out to ₹ 141.73 crore (tax of ₹ 113.38 crore at the rate of 12.5 per cent on 70 per cent of turnover) and penalty thereon at the rate of 25 per cent amounting to ₹ 28.35 crore was also leviable.

Further, we also noticed in the test check of the records (between October 2010 and March 2011) of six circles⁴ that during the period from April 2005 to March 2008, in nine cases, the VAT dealers declared their turnovers in the monthly VAT returns lesser than that reported in their annual accounts filed with the Income Tax Department. The estimated tax liability on this turnover works out to ₹ 36.15 crore.

Though it may not be necessary that all the receipts disclosed by them under the Income Tax return was from contracts executed by the dealers in the State of Andhra Pradesh, the Department needs to assess/scrutinise these receipts to determine the receipts taxable under the Act.

The Government replied (July 2011) that this work would be entrusted to two Joint Commissioners to obtain information from the Government Departments (both Central and State) and that the information collected would be supplied to the field officers for cross verification. However, the reply is silent as to why no mechanism of cross verification has been established in the Department till date after introduction of the APVAT Act in 2005, as envisaged in the White Paper for reducing the tax evasion and ensuring growth in revenue.

⁴ Chinawaltair and Hyderabad (Hyderguda, Jubilee Hills, Malakpet, Narayanguda and Somajiguda).

2.11.7.3 Non-co-ordination with Other Government Departments

We observed that the Department has also not established an efficient system for cross verification of records relating to TDS received from the local bodies/public sector undertakings with their Dealer Master Database in order to detect un-registered works contractors executing works in these organisations.

We obtained the data relating to TDS deposited by the Greater Hyderabad Municipal Corporation (GHMC) and Andhra Pradesh Eastern Power Distribution Corporation Limited (APEPDCL) in respect of works contractors with the Department and verified the same with the database of dealers of the Department. We found that out of 1,092 cases cross verified by us, 79 dealers were liable to be registered but were not registered. In 35 cases the Tax Identification Number mentioned in the TDS details were found incorrect and in the balance cases TIN was not mentioned and our search by name in the data base of the registered dealers with the Department revealed that these were not registered. These are detailed below:

(₹ in crore)			
Sl. No.	Department	No. of works contractors	Turnover
1	GHMC	74	15.52
2	APEPDCL	05	50.12
Total		79	65.64

Our further study of the document downloaded from the Hyderabad Municipal Corporation website revealed that VAT registration is one of the compulsory requirements of the eligibility criteria for participation in the tenders. Thus it is highly unlikely that the Municipal Corporation had awarded works contracts to unregistered dealers. Though the TIN/names quoted in the TDS details did not match with the data base of registered dealers of the Department, the Department did not take action to verify the details of TDS received. The Department needs to verify them and also to correct its data base to arrive at correct tax liability of these dealers and to detect evasion of tax.

The Government replied (July 2011) that this work would be entrusted to two Joint Commissioners to obtain information from the Government Departments (both Central and State) and that the information collected would be supplied to the field officers for cross verification. The reply is evasive to the fact as to why no mechanism has been instituted in the Department to utilise the TDS data to increase the tax base and to detect the evasion of tax.

It is recommended that the Department may institute a system of cross verification of TDS remitted from the Other Government Departments and also to obtain information from these Departments on regular basis and use the same to detect the evasion of tax.

2.11.8 Tax deduction

2.11.8.1 Non-maintenance of unique form ID of contractors with TDS certificates

According to Rule 17 (1) (f) of the APVAT Rules, where tax is deducted at source, the contractor VAT dealer shall obtain Form 501A with unique form ID from the Asst. Commissioner/ Commercial Tax Officer concerned and supply the same to the Contractee. The Contractee shall complete Form 501A with required information and supply the same to the contractor within 15 days after the end of the month in which the deduction is made. The contractor/ VAT dealer shall submit the form 501A along with the tax return.

We noticed from the test check of the records of all the circles covered under the review that the system of issuing Form 501A with unique form ID by the Commercial Taxes Department to the contractors is not being followed. The contractors were supplying these Forms without unique ID on which credit for TDS was being claimed by the Contractors and allowed by the Department. In the absence of the forms with unique ID, it would not be

possible to establish the genuineness of the forms.

The Government replied (July 2011) that the Department had taken a decision to computerise the issue of the Forms 501A and 501B through online system wherein every contractee would enter the details of payment and generate Forms 501A and 501B.

The fact remains that though the APVAT Act has been implemented with effect from 1 April 2005, the Department has not implemented the provisions as per procedures laid down in the Act. The reply is at best an assurance for the future after five to six years of introduction of the Act and that too without a clear time frame.

It is recommended that unique ID Forms may be made available to the contractees to keep track of correct TDS and its remittances to the Government Account.

2.11.8.2 Absence of system for monitoring TDS and returns of unregistered dealers

Under Section 4(7)(d), works contractors engaged in construction and selling of residential apartments, houses, buildings and commercial complexes shall pay tax, under composition, at the rate of four *per cent* of 25 *per cent* of the total consideration received or receivable or market value fixed, whichever is higher. This payment shall be made by way of demand draft in favour of the CTO concerned and presented to the Sub Registrar at the time of registration. The Sub Registrar shall then send the same to the CTO/AC concerned. According to the prescribed procedure, a register for this purpose shall be maintained by the Department, to record the receipt of such DDs properly and watch their remittances into the Government account promptly.

In all the cases, where the TDS amount is received in respect of the unregistered dealers, the assessing authority shall ensure that such dealer complies with all the provisions relating to registration, filing of returns, payment of taxes etc.

We noticed in the test check of the records that no such register was being maintained in the circle offices. In the absence of such record, whether the dealers were complying with the provisions of the Act for filing of returns and payment of taxes and the Departments account of demand drafts received could not be verified.

The Government replied (July 2011) that they had issued instructions on 16 July 2011 to all field staff to maintain the register and take action for registering unregistered dealers.

2.11.8.3 Absence of a system for monitoring the prescribed system for payment of tax under composition

A VAT dealer executing works contract may opt to pay tax under composition. Under Section 4 (7) (b) and (c) of the APVAT Act, he shall, before commencing the execution of the work, notify the prescribed authority in form VAT 250 of the details including the value of the contract on which the option has been exercised.

Unlike in the repealed APGST Act where a register was prescribed to record the filing and acceptance of option of the dealer/contractor for payment of tax under composition, no such record is prescribed by the Department under the APVAT Act. These details are also not susceptible for verification in the VATIS package. In the absence of such records, it is

possible that ineligible dealers could claim the benefit of composition scheme.

We noticed in the test check of the monthly returns (between May and October 2010) in seven circles⁵ during the period from April 2008 to March 2010 that in 17 cases, where works were executed for other than State Government, the 11 contractors opted for composition by filing of option in Form 250 after commencement of the work but paid tax under composition rates for the period even before exercising the option for composition which was irregular and the six contractors did not opt for payment of tax under composition by filing of option in Form 250 but paid tax at composition rates. In the absence of the option for payment of tax under composition, tax was payable under Rule 17(1)(g) of the APVAT Rules. Had the Department scrutinised the cases, the irregularity would have been detected. Incorrect declaration of tax of ₹ 0.81 crore under composition (at the rate of four *per cent* on total turnover) instead of ₹ 2.34 crore (i.e. at the rate of 12.5 *per cent* on 70 *per cent* of the turnover) resulted in under declaration of tax of ₹ 1.53 crore.

The Government replied (July 2011) that this aspect would be examined on receipt of report from the field.

2.11.9 VAT Audit by the Department

2.11.9.1 Defective planning and shortfall in VAT Audit by the Department

The White Paper envisaged tax audit of sample of dealers based on a scientific risk analysis, by an audit wing that will be independent of the tax collection wing. The audit will be initiated and completed within prescribed time limits. Further, as per Para 3.1 and 4.8.2 of APVAT Manual, all the VAT dealers in a circle should be audited in a period of two years and such audits shall not exceed 12.5 *per cent* in a quarter.

In response to a comment made under para 2.2.12 of the C&AG's Audit Report for the year ended 31 March 2009, regarding shortfall in audit of dealers, the Department replied that the shortfall in conducting Departmental audit was due to lack of sufficient manpower and engagement of the existing staff in revenue collection.

We noted that though the number of audits conducted improved during the period, there remains a huge shortfall, though the VAT audits were authorised by the Deputy Commissioners under random selection system, since programmes for conducting audit in a time bound manner were not drawn up by the CTOs. The status of audits⁶ conducted for the period from April 2005 to March 2010, in respect of works contractors, as furnished by the

⁵ Hyderabad (Basheerbagh, Hydernagar, Madhapur), Khammam-1, Nandigama, Nandyal-1 and Rajam.

⁶ As furnished by the Department of Commercial Taxes.

Department is mentioned in the following table:

Year	Total registered works contractors	To be audited	Actually audited	Shortfall in audits	Percentage of shortfall
2005-06	9,323	4,661	237	4,424	94.92
2006-07	10,548	5,265	291	4,974	94.47
2007-08	12,391	6,195	517	5,678	91.66
2008-09	14,673	7,336	712	6,624	90.30
2009-10	17,452	8,726	755	7,971	91.35

As seen from the above, the status of audits, in respect of the works contractors, conducted by the Department during the years 2005-06 to 2009-10 indicates that there was a significant shortfall ranging between 90.30 per cent and 94.92 per cent in conducting VAT Audit.

This shortfall in audit is a departure from the main features of the VAT regime which is built on the premises of voluntary compliance by dealers but with a sample selection for audit of cases which as to act as a deterrent to the dealers from making false declaration of turnover etc.

The Government replied (July 2011) that during the year 2010-11, they had set monthly targets to every officer for audit at four audits per month and added that audit of 11.50 per cent of total VAT dealers was completed. The fact remains that ever since inception of VAT, the Department needs to step up the audit of the dealers and cover the backlog already accumulated.

2.11.10 Maintenance of records

We noticed in the test check of the records relating to departmental audit that

- the VAT Audit files did not contain supporting documents such as Profit and Loss Accounts, Agreements, work bills, TDS certificates, purchase details etc., to facilitate the cross verification;
- In the system of jumbling audit, where audit of dealers of a circle were authorised to be audited by the other jurisdictional officers, the files after completion of audit were not transmitted to the jurisdictional officer. This resulted in non-availability of the files in the Jurisdictional Circle.

The Government replied (July 2011) that they had issued instructions for transferring the files to the respective jurisdictional officers.

2.11.11 Internal Audit Wing

The Department did not have a structured Internal Audit Wing that would plan audits in accordance with a scheduled audit plan, conduct audits and follow up thereof. Internal audit is organised at Division level under the supervision of Assistant Commissioner (CT). There are 25 Large Tax Payers Units (LTUs) and 193 circles in the State. The internal audit of returns is conducted during the first quarter of the financial year and gets extended up to September. Each

LTU/Circle is audited by audit team consisting of five members headed by either CTOs or Deputy CTOs. The internal audit report is submitted within 15 days from the date of audit to the DC (CT) concerned, who would supervise the rectification work giving effect to the findings in such report on internal audit.

Compliance Deficiencies

2.11.12 Tax deduction at source

2.11.12.1 Non-verification of TDS/Remittance particulars

Tax deducted at source from the contractor, is paid by the contractees (other than Government Departments) through Cheques or Demand Drafts in favour of the jurisdictional Officer where contractee is registered. As per Rule 18(2) of the APVAT Rules, credit shall be given to the said contractor on production of the certificate furnished by the contractee (TDS certificate in Form 501/501A/501B). According to the VAT Audit Manual (para 5.11.6) proper accountal of TDS is to be checked by the Department while auditing a VAT dealer.

We noticed in the test check of the VAT Audit records (December 2010) in Assistant Commissioner Kadapa, that TDS of ₹ 8.90 crore was stated to have been remitted during the period from April 2007 to December 2009 to various jurisdictional officers at different places. However, we could not verify proper accountal/remittance of the same into Government account.

The Government replied (July 2011) that this aspect would be examined after a factual report is obtained from the field.

2.11.12.2 Claim of TDS without prescribed certificates

According to Rule 18 (2) of APVAT Rules, tax deducted at source by the contractee, under the provisions of the APVAT Act and Rules made there under, and paid to the State Government, shall be treated as payment of tax on behalf of the dealer and credit shall be given to the said dealer on production of the certificates furnished by the contractee.

We noticed in the test check of the monthly returns (between June 2010 to March 2011) in five circles⁷ and AC LTU Kadapa that in nine cases between April 2008 and March 2010, the contactors claimed TDS but did not file the certificates in Form VAT 501 and 501-A issued by the contractees as prescribed under the Act.

The claim of tax credit of ₹ 4.91 crore claimed by the dealers was irregular in absence of the requisite TDS certificates. Had the Department scrutinised the

⁷ Bodhan, Hyderabad (Hydernagar, Madhapur, Malkajgiri) and Mancherial.

returns, the deficiency could have been detected and non scrutiny of returns resulted in allowing the TDS claims without requisite certificates.

The Government replied (July 2011) that this aspect would be examined after obtaining a factual report from the field.

2.11.12.3 Excess claim of Tax deducted at Source

We noticed in the test check of the monthly returns (December 2010) in Assistant Commissioner, Kadapa that in one case, the contractor claimed TDS of ₹ 1,02,20,211 and after adjusting the tax payable of ₹ 96,77,747, the dealer carried forward the excess TDS of ₹ 5,42,464. Our examination of the TDS statement filed by the dealer with the return and cross verification with the TDS certificate, issued by the contractee in Form 501, revealed that in respect of a work contract, the dealer had claimed ₹ 5,39,953 as against the actual deduction of TDS of ₹ 53,995 as per certificate issued by the contractee. This resulted in excess claim of tax deducted at source of ₹ 0.05 crore. Had the Department scrutinised the returns, the irregularity might have been detected.

The Government replied (July 2011) that this aspect would be examined after obtaining a factual report from the field.

2.11.12.4 Incorrect exemption of taxable turnover

According to Rule 18 (1) (e) of the APVAT Rules, where any tax is deducted in respect of any dealer executing works contracts and work in whole or any part of such work is awarded to a sub contractor by him, the tax proportionate to the amounts paid as consideration to the sub contractor out of the tax deducted by the contractee shall be transferred to the sub contractor by issuing form 501B to the sub contractor.

We noticed in the test check of the monthly returns (December 2010) in Jubilee Hills circle that in one case between April 2009 and March 2010, the main contractor received a consideration of ₹ 39.26 crore for the works executed for the Government.

The contractor in his returns claimed the entire turnover as exempt on account of payments made to sub contractor. However, from the returns and cross verification with the TDS passed on to sub contractor in Form 501-B, we noticed that only a consideration of ₹ 36.28 crore along with the entire tax of ₹ 1.17 crore deducted at source was passed on to sub-contractor. Thus the balance of the turnover of ₹ 2.98 crore retained by the main contractor was taxable. Incorrect declaration of entire turnover as exempt by the main contractor resulted in under declaration tax of ₹ 0.12 crore (at the rate of four *per cent*) on the turnover retained by the main contractor.

The Government replied (July 2011) that this aspect would be examined after obtaining a factual report from the field.

2.11.13 Under declaration of tax

Under Section 4(7) (a) of the APVAT Act, tax is payable on the value of goods at the time of incorporation of such goods in the works at the rates applicable to such goods. To determine such value of goods incorporated in the works contract, deductions as prescribed under Rule 17(1) (e) were allowed from the consideration received. Further, under Rule 17(1) (g) of the APVAT Rules, in the absence of detailed accounts to determine the taxable turnover, tax is payable at the rate of 12.5 per cent after allowing the standard deductions as prescribed.

Further, under Section 4(7) (b) and (c), tax on works contract under composition is payable at four per cent of the total consideration received or receivable. Under Section 20 of the APVAT Act, every return in form VAT 200 shall be subjected to scrutiny to verify the correctness of arithmetical calculation, application of correct rate of tax and input tax credit claim as well as full payment of tax by a dealer.

In response to a comment made under para 2.2.9.4 of the Audit Report for the year ended 31 March 2009, regarding non-scrutiny of monthly returns by the Department and inadequate documentation leading to inadequate checks, the Department stated that it would be useful for it if supporting documents along with the monthly returns were furnished to make them self sufficient for any future scrutiny in the interest of the revenue.

We observed several cases of under declaration of tax as outlined in the following paragraphs, thus pointing to inadequate scrutiny by the Department.

2.11.13.1 Under declaration of tax due to incorrect determination of taxable turnover

(i) We noticed in the test check of the monthly returns and VAT audit records (between May and September 2010) in two circles⁸ that during the period from April 2007 to March 2010, in two cases, tax was determined at ₹ 0.96 crore under Rule 17 (1) (e) but details of deductions allowed were not kept on record. However, from the available records, tax payable worked out to ₹ 1.40 crore. This resulted in under declaration of tax of ₹ 0.44 crore.

The Government replied (July 2011) that notice was issued in one case and the other case would be examined after obtaining a factual report from the field.

(ii) We noticed in the test check of the monthly returns (September 2010) in Seetharampura circle that during the period from April 2006 to March 2010, in one case, the dealer was a works contractor in printing and paying tax under Section 4 (7) (a) i.e. other than composition. Thus, he is liable to pay tax on the goods incorporated in the works at the tax rate applicable to those goods.

⁸ Dwarakanagar and Hyderguda.

However, he reported the entire output as taxable at four *per cent* i.e., ₹ 0.13 crore instead of reporting the same under four *per cent* and 12.5 *per cent* i.e., ₹ 0.18 crore. This resulted in under declaration of tax of ₹ 0.05 crore.

The Government replied (July 2011) that this aspect would be examined after obtaining a factual report from the field.

2.11.13.2 Underdeclaration of tax due to incorrect allowance of exemption

We noticed in the test check of the monthly returns in 20 cases and VAT assessment in one case (between November 2008 and November 2010) of 19 circles⁹ that during the period from April 2007 to March 2010, tax was declared under section 4(7)(a) of the Act without supporting documents/information such as payments made to labour, details of materials purchased/consumed and other expenditure related to labour. These dealers had not maintained the accounts to ascertain the correct value of goods at the time of incorporation and incorrectly declared VAT of ₹ 2.90 crore instead of ₹ 8.77 crore and claimed inadmissible ITC of ₹ 0.39 crore. This resulted in under declaration of tax of ₹ 6.26 crore.

The Government replied (July 2011) that this aspect would be examined after obtaining a factual report from the field.

⁹ Anakapalle, Dabagardens, Gajuwaka, Gudiwada, Hyderabad (Basheerbagh, Hyderguda, Hydernagar, Madhapur, Nacharam, Punjagutta, R.P. Road, Tarnaka, Vanasthalipuram) Kadapa-2, Khammam-2, Kothagudem, Kurnool-1, Kurnool-3 and Seetharampuram.

2.11.13.3 Under declaration of tax due to suppression of turnover

Under Section 4(7) (b) and (c) tax on works contract under composition is payable at the rate of four *per cent* of the total consideration received or receivable. In such case, the dealers are not eligible for any input tax credit.

Under Section 20 of the APVAT Act, if a return is found to be in order it shall be accepted as self assessment. Every return shall be subject to scrutiny and if any mistake is detected as a result of such scrutiny the authority prescribed shall issue a notice of demand for any short payment of tax or for recovery of any excess ITC claimed.

We noticed in the test check of the monthly returns (between May 2008 and March 2011) of 53 circles¹⁰ and LTU Warangal that during the period from September 2005 to March 2010, in 83 cases, the dealers opted for payment of tax under composition at the rate of four *per cent*.

Our cross verification with the TDS (Form 501 & Form 501-A) indicated that these dealers had declared less turnovers than the payment received by them from their

contractees thereby suppressing turnovers and consequential tax of ₹ 5.84 crore. The monthly returns and the TDS details had not been scrutinised by the Department, resulting in the suppression of the tax liability remaining undetected.

The Government replied (July 2011) that the demand was raised in two cases; notices were issued in seven cases; VAT Audit is proposed in two cases; under revision in one case and the remaining cases would be examined after obtaining a factual report from the field.

¹⁰ Alcot gardens (Rajahmundry), Anakapalle, Bhimavaram, Bodhan, Brodipet, Chinawaltair, Dabagardens, Hindupur, Hyderabad (Ashoknagar, Barkatpura, Begumpet, Bowenpally, Ferozguda, Gandhinagar, Hyderguda, IDA Gandhinagar, Jubileehills, Keesara, Mahankalstreet, Malakpet, Malkajgiri, Musheerabad, Nampally, Rajendranagar, R.P. Road, Saroornagar, Srinagarcolony, Tarnaka, Vanasthalipuram, Vengalraonagar, Vidyanagar), Kadapa-1, Khammam-2, Khammam-3, Kothagudem, Krishnalanka, Kurnool-3, Madanapalle, Nandyal-1, Nandyal-2, Nellore-1, Nellore-2, Nellore-3, Nizamabad-2, Ongole-2, Palakol, Rajampet, Rajahmundry, Ramannapet, Suryabagh, Tadipatri, Tirupathi-1 and Vizianagaram.

2.11.13.4 Under declaration of tax due to incorrect claim of exemption

According to Rule 17 (3) (i) of the APVAT Rules, where any tax is deducted at source in respect of works contract and work in whole or any part of such work is awarded to a registered sub-contractor, the tax proportionate to the amounts paid as consideration to the sub contractor out of the tax deducted by the contractee shall be transferred to the sub-contractor by issuing Form 501B.

We noticed in the test check of the monthly returns in two circles¹¹ that in two cases between April 2009 and March 2010, though the TDS relating to sub contractors was passed on proportionately, the entire turnover was claimed to be exempted. This resulted in under declared tax of ₹ 0.66 crore.

The Government replied (July 2011) that in one case VAT Audit is under process and the aspect would be examined in another case.

2.11.13.5 Non-declaration of tax on non-creditable purchases used in works contracts

According to Section 4(7)(e) of the APVAT Act, every dealer who opted for payment of tax on works contract under composition under clauses (b), (c) and (d) of Section 4(7) of the Act, purchases or receives any goods, from outside the State or India or from any other dealer other than a VAT dealer in the State, and uses such goods in the execution of the works contracts shall pay tax on such goods at the rates applicable to such goods under the Act. Value of such goods shall be excluded from the total turnover for the purpose of computation of turnover on which tax by way of composition is payable.

i. We noticed in the test check of the monthly returns (four cases) and VAT audit records (one case) (between May 2009 and January 2011) of four circles¹² and AC (LTU) Kadapa that during the period from April 2005 to March 2010, in five cases the assessee purchased goods like diesel, cement and general goods for ₹ 52.69 crore from outside the State and used the same in the execution of the works contract. As such, tax of ₹ 7.11 crore was to be declared/paid on these

purchases.

However the dealers declared tax at the rate of four *per cent* under composition on the total turnovers without excluding value of non creditable purchases. This resulted in non-declaration/payment of tax of ₹ 6 crore after excluding tax of ₹ 1.11 crore declared under composition.

¹¹ Hyderabad (Jubilee hills and Madhapur).

¹² Governorpet, Hyderabad (Ferozguda, Rajendranagar) and Nandyal-2.

The Government replied (July 2011) that demand was raised in one case; notices were issued in three cases and the remaining cases would be examined.

According to Section 4 (7) (a) of APVAT Act, every dealer executing works contract shall pay tax on the value of goods at the time of incorporation of such goods in the works contract executed at the rates applicable to the goods under the Act.

ii. We noticed in the test check of the monthly returns (January 2011) of Market Street circle in one case, during the period from April 2009 to March 2010, that the assessee received goods of ₹ 1.92 crore from outside the State and used the same in

works contract executed within the State. However, the turnover relating to works contract was incorrectly exempted. This resulted in under declared tax of ₹ 0.24 crore.

The Government replied (July 2011) that notice was issued.

2.11.14 Input Tax Credit (ITC)

2.11.14.1 Excess carry forward of ITC

We noticed in the test check of the monthly returns (between October and November 2010) in two circles¹³ that during the period from April 2009 to March 2010, in two cases, though the ITC available to the end of previous month was ₹ 0.83 crore, ITC of ₹ 1.63 crore was carried forward to the subsequent month. This resulted in excess carry forward of ITC to a tune of ₹ 0.80 crore.

The Government replied (July 2011) that they had taken a decision that the return VAT 200 should be filed without any enclosures except the documents relating to adjustment of tax. Thus the excess carried forward was not detected by the Department.

2.11.14.2 Incorrect claim of ITC

Under Section 4(7) (b) and (c) of the APVAT Act, tax on works contract under composition is payable at the rate of four *per cent* of the total consideration received or receivable. In such case, dealers are not eligible for any input tax credit under Section 13 (5) (a) of the APVAT Act.

During test check of the monthly returns of six circles¹⁴ in respect of six works contractors for the period from April 2008 to March 2010, we noticed that two dealers disclosed turnover taxable at the rate of four *per cent* and they adjusted ITC of ₹ 12.10 lakh against the

disclosed turnover and two works contractors have carried forward ITC of ₹ 3.38 lakh disclosed on the purchases but disclosed turnover taxable at the

¹³ Ashoknagar and Hydernagar.

¹⁴ Dabagardens, Hyderabad (Malkajgiri, Hyderguda, Hydernagar, R.P.Road, Somajiguda).

rate of four *per cent* only. In the other two cases only purchases and ITC of ₹ 10.83 lakh was disclosed and no taxable turnover was disclosed.

Claiming of ITC of ₹ 12.10 lakh against the disclosed turnover taxable at the rate of four *per cent* was incorrect as no ITC is admissible against such sales on contracts except for Government contracts. These dealers, however, did not disclose it as sales to Government Departments. In the absence of details in the balance four cases we could not verify whether the ITC was finally adjusted against the composition contracts. The Department may take necessary steps to avoid the allowance of ITC against receipts from composition contracts.

The Government replied (July 2011) that audit is under process in two cases; notices were issued in three cases; and the remaining case would be examined after obtaining a factual report from the field.

2.11.14.3 Excess claim of ITC under non-composition

According to Section 13 (7) of the APVAT Act, where any VAT dealer pays tax under Section 4 (7) (a) of the Act, (i.e., other than composition) the input tax credit shall be limited to 90 *per cent* of the related input tax.

We noticed in the test check of the monthly returns in five circles¹⁵ that during the period from April 2008 to March 2010, in five cases, the dealers were works contractors and paying tax under non-composition. They claimed 100 *per cent* input tax credit of

₹ 0.71 crore instead of 90 *per cent* i.e., ₹ 0.57 crore. Further, in one case while claiming deductions under Rule 17 (1) (e), ineligible items were also allowed as deductions with an impact of short levy of tax of ₹ 0.02 crore. This resulted in excess claim of input tax credit and under declaration of tax of ₹ 0.16 crore.

The Government replied (July 2011) that this aspect would be examined after obtaining a factual report from the field.

2.11.15 Non-forfeiture of excess collection of tax

Under Rule 18 (3) (b) of APVAT Rules, with effect from 1 May 2009, where tax collected at source is in excess of the liability of the contractor, who has not opted for payment of tax by way of composition, such amount of tax, collected in excess of the liability shall be deemed to have been payable by the contractor and shall be liable to be forfeited.

We noticed in the test check of the monthly returns of two circles¹⁶ that during the period from April 2009 to March 2010, in three cases, the dealers had not opted for composition and had collected tax in excess of liability. However,

excess collection of tax of ₹ 4.69 crore was not forfeited.

¹⁵ Chinawaltair, Hyderabad (Maredpally), Kadapa-1, Kavali and Nirmal.

¹⁶ Hyderabad (JubileeHills and Srinagar Colony).

The Government replied (July 2011) that since the TCS amounts are remitted to the exchequer there is no need for issuing separate orders for forfeiture. The reply is not acceptable as the dealers are claiming credit for tax deducted at source (remitted by the Contractee) and excess credit was being carried forward which was not disallowed. This treatment does not ensure forfeiture of the tax, as envisaged under the Rules and would result in incorrect set off of this tax against tax liability in subsequent assessment years.

2.11.16 Misclassification of sale as works contracts

The Supreme Court of India had held in the case of State of AP Vs M/s Kone Elevators (India) Ltd., (2005) 140 STC 22, that contract for supply and installation of lifts and elevators constitute sale but not works contract. It was held that the major component into the end product was the material consumed on providing the lift to be delivered and the labour to be employed for converting the main component into end product was only incidentally used. Similarly all other transactions of such type where major component was the material consumed in delivering the end product and labour was incidentally used also were classifiable as 'sale' but not 'works contract'. The commodity lift/elevator, Air conditioner and writing boards falls under Schedule-V to the APVAT Act and were liable to tax at 12.5 per cent up to 14 January 2010 and 14.5 per cent thereafter.

2.11.16.1 We noticed in the test check of the monthly returns (between May and October 2010) of eight circles¹⁷ that during the period from April 2007 to March 2010, in nine cases, the turnover relating to sale of lifts, air conditioners, fire fighting equipment, digital sign boards and writing boards was treated as works contracts, resulting in under declaration of tax of ₹ 4.77 crore based on tax payable on these items under the Act.

The Government replied (July 2011) that demand was raised in four cases;

notices were issued in two cases; matter is under examination in one case and the remaining cases would be examined after obtaining a factual report from the field.

2.11.16.2 The Supreme Court of India held in the case of M/s. Mekenzie's Ltd. Vs. State of Maharashtra (16 STC 518) and various other cases that construction of bus body building on the chassis supplied by the Government is a contract sale. The CCT vide Ref. No. LV(1)/892/2008 dated 30 December 2008 clarified that bus body building constitute sale with retrospective effect from 9 June 2005. Subsequently the Government clarified that collection of VAT at the rate of 12.5 per cent would be applicable prospectively from the date of issue of subsequent clarification i.e. 31 December 2008.

¹⁷ Hyderabad (Aghapura, Ashoknagar, Begumpet, Mehdipatnam, Musheerabad, Sanathnagar, Somajiguda) and Lalapet (Guntur).

We noticed in the test check of the records (December 2009) of IDA Gandhinagar circle that despite Government's clarification, the turnover relating to bus body building was treated as works contract and tax was declared accordingly for the period from January to March 2009. This resulted in under declaration of tax of ₹ 0.05 crore.

The Government replied (July 2011) that show cause notice was issued.

2.11.17 Deficiencies in VAT Audit done by the Department

The white paper envisaged tax audit of sample of dealers, based on a scientific risk analysis, by an audit wing that will be independent of the tax collection wing. We noted the following deficiencies in the VAT audits conducted by the Department in respect of the selected circles and large tax payers units.

2.11.17.1 Short levy of tax due to non filing of option

Under Section 4(7) (b), (c) and (d) of the APVAT Act, payment of tax on works contract at a concessional rate under composition is allowable provided the dealer opts so in the prescribed form before commencement of each work.

VAT Audit in respect of 13 dealers of Hydernagar Circle was completed under jumbling audit system by other jurisdictional officers and received by the circle during 2009-10. We noticed in the test check of above records in October 2010 that, in one case, for the period from April 2007 to

March 2008, the dealer filed option for payment of tax under composition on 31 August 2007. Thus the benefit of rate of tax under composition was to be given from the date of filing the option of composition.

However, the consideration of ₹ 6.86 crore received for execution of works contract for the period prior to filing of option between (April 2007 to 30 August 2007) was also taxed at the rate under composition. This turnover was taxable under Section 4(7) (a) of the AP VAT Act read with Rule 17(1) (g) and no input tax credit was to be allowed as the dealer had not produced the books of accounts. The incorrect assessment of turnover received prior to date of composition resulted in short levy of ₹ 0.51 crore.

The Government replied (July 2011) that notice was issued to produce the books of accounts.

2.11.17.2 Incorrect determination of taxable turnover

Tax on works contract, under Section 4(7) (a) of the Act, is payable on the value of goods incorporated at the rates applicable to such goods. To determine the value of goods incorporated, deductions as prescribed under Rule 17(1) (e) were to be allowed from the total consideration received or receivable.

We noticed in the test check of the records between October 2010 and March 2011 of five circles¹⁸ that in 10 cases, where VAT Audit was completed, tax under section 4(7) (a) of the Act was incorrectly determined due to allowance of inadmissible deductions such

as establishment charges not relatable to labour such as business promotion, insurance, salaries, tax deducted at source and percentage of profit added on purchase value of goods. This resulted in under declaration of tax of ₹ 0.96 crore.

The Government replied (July 2011) that this aspect would be examined after obtaining a factual report from the field.

2.11.17.3 Short levy of tax under composition due to allowance of inadmissible deductions

Tax on works contract under composition is payable on the total consideration received/receivable. No other deductions are allowable except payments made to sub contractors.

We noticed in the test check of VAT Audit records (August 2010) of Madhapur Circle that during the period from October 2006 to December 2009, in one case, tax was levied on the net amounts received after allowing inadmissible deductions such as income tax, security deposit, seigniorage charges etc which are not admissible. This resulted in short levy of tax of ₹ 0.02 crore.

The Government replied (July 2011) that this aspect would be examined.

2.11.17.4 Incorrect authorisation of refund

Under Section 38 of the APVAT Act, every VAT dealer shall be eligible for refund of tax, if the input tax credit exceeds the amount of tax payable, subject to the conditions as prescribed.

We noticed in the test check of the VAT Audit records (between August and October 2010) of Daba Gardens circle and LTU Nellore that during the period from April 2005 to March 2009, in two cases, while determining the taxable turnover deductions towards profit and other expenses relatable to labour etc.

were allowed in excess by the assessing authority resulting in short levy of tax and consequent excess authorisation of refund of ₹ 1.78 crore.

¹⁸ Anakapalle, Dabagardens, Kothagudem, Hyderabad (Malkajgiri) and Nellore-2.

The Government replied (July 2011) that this aspect would be examined.

2.11.17.5 Non-levy of penalty

According to Section 53(3) of the APVAT Act, any VAT dealer who has under declared tax, and where it is established that fraud or willful neglect has been committed, shall be liable to pay penalty equal to the tax under declared, besides being liable for prosecution. Further, as per Section 49 (2) of the Act, any dealer who fails to register as a VAT dealer is liable to pay penalty at 25 *per cent* of the tax due prior to the date of registration.

We noticed in the test check of the records (February 2011) of Anakapalle circle that during the period from February 2006 to August 2009, the Department conducted VAT audit of unregistered works contractors who executed works contracts and under declared tax of ₹ 0.12 crore, penalty of ₹ 0.03 crore i.e. equal to

the 25 *per cent* of the tax due (us 49/2), leviable was not levied by the AA.

In another case in Aryapuram Circle, we noticed (April 2010) that the dealer under declared tax of ₹ 0.03 crore on which penalty of ₹ 0.03 crore i.e. equal to the tax under section 53(3) was leviable but was not levied.

The Government replied (July 2011) that this aspect would be examined.

2.11.18 Conclusion

The number of registered work contractors increased from 9,323 in the year 2005-06 to 17,452 in the year 2009-10 and the percentage of tax on works contracts to total sales tax/VAT revenue has also increased from 2.69 in the year 2005-06 to 4.66 in the year 2009-10. Effectiveness of tax administration depends on the effectiveness of the systems in place for overseeing the entire spectrum of issues that deal with registration, levy, assessment, collection, accounting and monitoring. Our performance audit revealed that the Department has not made enough efforts to register works contract dealers, check/scrutinize their returns by using information of TDS remittances received, cross verification with other tax Departments. There is a huge scope to increase the tax base and maximise the revenue by effective cross-verification of transactions. As there was no system to monitor the filing of option for composition Scheme for the dealers, concessional rate of tax was being allowed to ineligible dealers. Though the Departmental Audit Manual prescribed the percentage of audits to be conducted, audit of most of the contractors was in arrears. There was no independent internal audit wing for timely prevention, detection and correction of deficiencies.

2.11.19 Summary of recommendations

The Government may consider directing the Department to:-

- *institute a system of cross verification of TDS remitted from the Other Government Departments and also to obtain information from these Departments on regular basis and use the same to detect the evasion of tax and registration of unregistered works contractors;*
- *ensure implementation of issuing TDS certificates in Form 501A with unique ID to facilitate the verification of proper accountal of tax deducted/collected at source;*
- *put in place a system to monitor the filing of option for composition and update the VATIS package to enable verification of correctness of payment of tax;*
- *ensure the completion of VAT Audits as prescribed in the manual in order to detect any leakage of revenue before the cases become time barred; and*
- *establish an independent internal audit wing for timely detection of errors and initiating suitable remedial measures.*

2.12 Performance Audit of “Cross Verification of Declaration Forms used in Inter-State Trade”

Highlights

- The Department did not maintain a comprehensive database of concessions and exemptions given in inter-state trade.
(Paragraph 2.12.8)
- The Department did not have a system for blacklisting dealers utilising fake/invalid declarations.
(Paragraph 2.12.9.2)
- Evasion of tax by fraudulent utilisation of fake ‘F’ forms in support of branch/consignment transfers resulted in non-levy of tax and penalty of ₹ 73.07 crore.
(Paragraph 2.12.12.1)
- Evasion of tax by fraudulent utilisation of fake ‘C’ forms in support of inter-state sales resulted in short levy of tax of ₹ 8.65 lakh and non-levy of penalty of ₹ 17.31 lakh.
(Paragraph 2.12.12.2)
- Grant of incorrect exemption from payment of tax of ₹ 2.27 crore due to acceptance of invalid forms (F-forms).
(Paragraph 2.12.12.3)
- Grant of incorrect concession of tax of ₹ 43.19 lakh due to acceptance of invalid forms (C Forms).
(Paragraph 2.12.12.4)
- Non-levy of penalty of ₹ 35.45 lakh on mis-utilisation of the 'C' Forms on inter-State purchases.
(Paragraph 2.12.12.5)
- Incorrect claim of exemption from payment of tax of ₹ 8.40 lakh on forms issued by dealers whose registrations were cancelled.
(Paragraph 2.12.12.6)
- Incorrect allowance of concessional rate of tax of ₹ 83.48 lakh in the absence of declaration forms (C Forms).
(Paragraph 2.12.13)

2.12.1 Introduction

Under CST Act, registered dealers are eligible to avail certain concessions and exemptions of tax on inter-state transactions on submission of prescribed declarations in Forms 'C' and 'F'.

Under the provisions of CST Act, every dealer, who in the course of inter-state trade or commerce, sells to a registered dealer, goods of the classes, specified in the certificate of registration of the purchasing dealer, shall be liable to pay tax at the concessional rates under the Act as applicable from time to time on his turnover, provided such sales are supported by declarations in form 'C'.

Under Section 6A of CST (Amendment) Act 1972, transfer of goods not by reason of sales by a registered dealer to any other place of his business outside the State or to his agent or principal in other States is exempt from tax on production of declaration in form 'F', duly filled in and signed by the principal officer of the other place of business or his agent or principal as the case may be, along with evidence of despatch of such goods. However, the Act provides for enquiries to be made by the AA necessary to satisfy himself on bonafides of the transfer such as sale and despatch particulars, way bills etc. If the dealer fails to furnish such declarations then, the movement of such goods shall be deemed to be local sales chargeable under the State VAT/ST Act.

2.12.2 Audit Objectives

The audit was taken up to assess whether

- there exists a system for printing, custody and issue of the declaration forms;
- concessions and exemptions were allowed by the AAs against valid/original, duly filled in and relevant declaration forms under the CST Act;
- there is a system of uploading the particulars in the TINXSYS¹⁹ website and the data available therein is utilised for verifying the correctness of forms;
- appropriate steps are taken on detection of fake, invalid and defective (without proper or insufficient details) declaration forms;
- there exists an effective and adequate internal control mechanism; and
- there was an adequate monitoring and control mechanism, for preventing and detecting revenue leakage.

¹⁹ Tax Information Exchange System (TINXSYS) is a centralized exchange of all interstate dealers spread across the various States and Union territories of India.

2.12.3 Audit Criteria

The audit objectives were benchmarked against the following audit criteria.

- The Central Sales Tax Act, 1956;
- The Central Sales Tax Rules, 1957;
- The Central Sales Tax (Andhra Pradesh Rules) 1956;
- The Central Sales Tax (Registration and Turnover) Rules 1957;
- The Andhra Pradesh General Sales Tax Act 1957; and
- Notifications and Orders issued by the Government of Andhra Pradesh from time to time.

2.12.4 Scope and Methodology of Audit

This Performance Audit covers cross verification of 'C' and 'F' forms in respect of assessments finalised by the Commercial Taxes Department during the years 2007-08 to 2009-10 where exemptions/concessions were granted under the CST Act. We audited 55 circles (25 per cent of total circles) and selected 'C' and 'F' forms, which were forwarded to our Accountant General offices in various states for cross verification to check the genuineness of the exemptions/ concessions claimed by the local dealer. Further, cases of short/non-levy of tax on inter-state transactions noticed during local audit are also included in the review.

2.12.5 Acknowledgement

The Indian Audit and Accounts Department acknowledges the co-operation of the Commercial Taxes Department in providing necessary information and records for audit. An entry conference was held in February 2011, during which the Department was appraised about the scope and methodology of audit. The report was forwarded to the Government in September 2011 and their reply is awaited.

2.12.6 Trend of Revenue under CST

The year wise budget estimates and actual realisation under CST Act for the period 2006-07 to 2010-11 is exhibited in the table below:

(₹ in crore)				
Year	Budget estimates	Actual Receipts	Variation excess/short fall	Percentage of variation.
2006-07	1,390.50	1,244.41	(-) 146.09	(-) 10.51
2007-08	1,791.06	1,433.08	(-) 357.98	(-) 19.99
2008-09	2,167.18	1,255.19	(-) 911.99	(-) 42.08
2009-10	2,218.05	1,362.07	(-) 855.98	(-) 38.59
2010-11	2,218.30	1,701.61	(-) 516.69	(-) 23.29

As seen from the above, there is a variation between budget estimates and actuals ranging between (-) 10.51 per cent in 2006-07 to (-) 42.08 per cent in 2008-09 indicating that budget estimates were not realistic. Reasons for the variations have been called for from the Department. Reply is awaited (October 2011).

Audit findings

System deficiencies

2.12.7 Printing and custody of declaration forms

The Department, in pursuance of Government orders²⁰ gave the task of printing of statutory forms to private printers. Consequent on receipt of statutory forms from the printer, the same would be kept under the safe custody in the premises of CCT. We observed from the records relating to statutory forms that before entering into agreement with printer of the forms, the Department sends the specimen copy of the form to the technical officer Government Printing Press, Chanchalguda, Hyderabad to ensure that all the security features as evolved and indicated in the tender notification are duly incorporated in the statutory forms.

In this connection, we noticed that the Department did not have a system of sending the printed forms at periodic intervals to the said technical officer for ensuring that the suppliers had adhered to the norms as stipulated in the tender notification. In view of the above, there is a risk of the supplier deviating from the prescribed norms.

The Department in their reply (May 2011) did not furnish any specific explanation to the above observation.

2.12.8 Non-maintenance of database of concessions/exemptions

Under CST Act, 1956, registered dealers are eligible to certain concessions and exemptions of tax on inter State transactions on submission of prescribed declarations in Forms 'C' and 'F' and revenue is forgone in the process. A database of revenue forgone in concessions and exemptions is essential so that the Department could be vigilant on the commodities where the dealers prefer claims of concessions and exemptions in large number.

We noticed during audit that the Department did not maintain any database or any record to show year wise position of sales against C/F forms. In the absence of this crucial data, the Department could not quantify the amount of revenue forgone due to concessions and

exemptions, nor was it possible for the Department or audit to carry out a systematic study of the trend analysis on revenue forgone. The Department's reply is awaited (October 2011)

²⁰ vide Memo no.33759/913 /BG/A1/9 dated.13.10.1998 (Finance & Planning).

2.12.9 Enforcement measures

2.12.9.1 Inter State (IST) Wing

The Inter-State Trade (IST) wing is headed by one Joint Commissioner who is assisted by one ACTO, one Superintendent, one Senior Assistant and one Junior Assistant. The duties of the wing are liaisoning with visiting teams from other States and sending teams from Andhra Pradesh to other states for cross verification of statutory forms. The selection of declaration forms for cross verification was done by the IST wing on the basis of evasion prone commodities.

We ascertained from the records of the IST wing that the Department, as a result of cross verification of declaration forms worth of ₹ 1437.26 crore, relating to consignment sales and inter-state sales, detected bogus forms worth of ₹ 319.94 crore involving tax effect of ₹ 31.99 crore.

We observed that the teams that are sent for cross verification of the forms comprise officials from the same circle to which the statutory forms relate to or from other circles. This practice of forming teams comprising officials from the same circles that received forms is fraught with the risk of conflict of interest.

In reply, the Department stated (January 2011) that its practice of sending teams from the same circle was followed due to the officer's familiarity with the dealers/transactions etc., and added that the suggestion of audit would be kept in view while deputing teams in future.

2.12.9.2 Absence of a system for blacklisting dealers utilising fake/invalid declarations

We observed that the Department did not have a system for blacklisting the dealers who were found to be utilising the fake declaration forms in the past and consequently keeping such dealers under close watch and supervision.

We noticed that some dealers falling under the jurisdiction of Special Commodities Circle, Saroornagar Division and Hyderabad were submitting fake declaration forms from the year 2000-01 onwards. In this regard the Government issued orders²¹ in respect of 12 vegetable oil dealers who submitted bogus 'F' forms for the transactions relating to the year 2000-01, to assess their bogus 'F' form turnover under APGST Act treating the transaction as local sales. Audit had pointed out during the verification of the records for the assessment years 2004-05, 2005-06 and 2006-07 that certain dealers were repeatedly filing bogus 'F' forms. A para (2.14) was also featured in the Audit Report (Revenue Receipts) for the year 2009-10 regarding fake 'F' forms. Out of the four dealers that featured in the para, the particulars of two²² dealers who had submitted fake 'F' forms have been pointed out in Para 2.12.12.1 of this report. From this it is evident that there was no practice of blacklisting such dealers despite the inputs given by the audit.

²¹ G.O.MS.No.456 dated 5 July 2004.

²² M/s Shalimar Agro tech Private Limited and M/s Sheetal Refineries Private Limited.

The Department in their reply (January 2011) stated that there was a system of blacklisting the dealers utilising the fake declaration forms and such dealers are kept under close watch and supervision. The reply of the Department is not tenable as is evident from the above observations.

2.12.9.3 Non-existence of system of alerting other States in respect of dealers utilising fake forms

As per the provisions of 10(1) to (7) of CST (AP) Rules, if any declaration in forms 'C' and 'F' is found lost, destroyed, stolen, by a dealer, it shall be reported to concerned authority for taking necessary action to declare such forms as invalid by giving wide publicity through issue of circulars to all divisions and other State Governments, including defective forms noticed by the Department.

We noticed that there was no system of alerting other States about dealers utilising fake forms.

The Department replied (July 2011) that the visiting team's verification

exercise alerts the CT Departments of other States. It is suggested that a system may be adopted for fake forms as is prescribed for lost or destroyed or stolen forms and similar action for intimation to other Governments for publication in their gazettes may be taken by the Department in case of dealers who were found to be utilising fake forms.

2.12.10 Internal Control System

2.12.10.1 Absence of Internal audit

Internal audit is an important part of internal control mechanism for ensuring proper and effective functioning of a system for detection and prevention of control weaknesses. It also provides a reasonable assurance on enforcement of law, rules and Departmental instructions.

We observed that there was no system of internal audit for conducting periodical physical verification of statutory forms held by it so as to ensure that old, obsolete, defective or unused forms are either destroyed after obtaining the approval of the competent authority or otherwise secured by taking the same into their custody so as to obviate the possibility of their misuse. In reply, the Department stated (July 2011) that they did not have an Internal Audit wing. Reply in respect of non-conducting of periodical physical verification of stock of forms is awaited (October 2011).

2.12.10.2 Absence of information regarding security features of statutory forms of other States

The information regarding dealer details and details of statutory forms issued to the dealer were uploaded to the TINXSYS Server (intermediate Server) every day. Further it is ascertained that the Department was verifying declaration forms through TINXSYS in case of doubts while finalising the assessments under CST Act.

We also observed that the Department had no data/information regarding security features or the specimen copies of statutory forms of all the States either in the physical form or in the website of TINXSYS to have the knowledge of fake forms so as to initiate action on prima facie evidence regarding the doubtful forms.

When this was pointed out the Department replied (January 2011) that the CCT had addressed the CT Departments of other States in January 2011 to furnish the information/data regarding the security features of statutory forms (like C, F and H²³ forms) so as to communicate the same to the field officers and enable them to detect fake declaration forms.

2.12.11 Computerisation

2.12.11.1 Absence of Access controls

It is observed through discussions with the Departmental officers that the Department had neither formulated any password policy nor issued any instructions to the users to follow the guidelines released by the Government of Andhra Pradesh in May 2006 with respect to information security. Despite the fact that the software was being developed by the Commercial Taxes Department to provide online issue of forms through internet by the dealers, basic password control procedures like minimum length, unique user name and password, periodical compulsory change, limiting the consecutive unsuccessful attempts to login by the dealers etc., were not followed.

The Department replied (February 2011) that they were in the process of following all the security policies issued by the Government.

We noticed in CDSC²⁴ in CCT office and in eDSC²⁵ while conducting the audit of circle offices that while issuing the 'C' forms to the dealers the said package/software was not integrated to obtain information from different sources and to capture the commodities mentioned in the registration certificate to ensure that the dealer is purchasing the commodity for which he is registered. Due to this the very purpose of issuing forms online was defeated. Further, while issuing the forms the said package/software was unable to check the genuineness of the other end dealer from whom the dealer of AP had stated to have purchased the goods.

The Department replied (February 2011) that as the selling dealer belongs to other States, the validation could not be ensured.

Since the Department had not integrated the locally developed software/package with other State Departments or with TINXSYS, the genuineness of the existence of the dealers of other States and verification of the commodities as per registration certificate could not be ensured.

²³ Form 'H' is used in the course of export sales.

²⁴ Central Dealer Service Centre.

²⁵ Electronic Dealers Service Centre.

2.12.11.2 Security Policy not implemented

In order to improve quality of service to the dealers the CTD has introduced the system of online issue of statutory forms post transactions on quarterly basis through CDSC located at office of the CCT (the dealers can obtain the forms online from CCT) and eDSC (divisional level) with effect from 17 January 2007.

Audit observed that the information security policy formulated by the Government of Andhra Pradesh and issued (May 2006) to all Government Departments and agencies was not followed. Though the CTD had embarked upon large-scale automation of their operations, they had not formulated any security policy in respect of online issue of statutory forms even after completion of four years. Absence of security features exposes the data to the threat of accidental or intentional errors which would lead to loss of data and its misuse.

Compliance deficiencies

The number of assessment records verified, declaration forms selected and sent for cross verification to other States and number of forms confirmed as fake are exhibited in the table below:

(₹ in crore)

Year	No. of circles covered	No. of assessment records verified	No. of forms sent for cross verification to other States	No. of forms found fake	Total Turnover involved in the forms	Total Tax effect
2007-08	55	1,426	235	51	12.39	1.24
2008-09	55	1,521	460	107	162.32	16.22
2009-10	55	1,578	661	18	66.20	6.57
Total	55	4,525	1,356	176	240.91	24.03

The lacuna in the control mechanism and weakness in monitoring system resulted in several irregularities leading to non/short levy of tax as illustrated in the succeeding paragraphs.

2.12.12 Utilisation of declaration forms**2.12.12.1 Evasion of tax by fraudulent utilisation of fake forms in support of branch/consignment transfers**

As per the amended provisions made in the notification issued under section 8(5) of the CST Act, inter-state sales of goods supported by prescribed declaration forms i.e., 'Form C' are liable to tax at concessional rate of three *per cent* from 1 April 2007 and two *per cent* with effect from 1 June 2008 and sale of commodities falling under schedule IV to APVAT Act, which are not covered by 'C' forms are liable to tax at the rate of four *per cent*. Goods other than those specified in Schedules I, III, IV and VI and which fall under Schedule V to APVAT Act were to be taxed at standard rate as applicable from time to time and the same rate is applicable in case the transactions are not supported by 'C' forms. Tax on goods not covered by such declarations in case of declared goods shall be calculated at twice the rate applicable in the State.

As per Section 9(2A) of the CST Act read with Section 7A(2) of the APGST Act, if any dealer produces false/fake declarations and claims exemption/concessional rate of tax in support of these documents, he is liable to pay a penalty of three to five times of the tax due for such transaction.

Under Section 16 of the APVAT Act, where a dealer issues or produces a false bill, voucher, declaration, certificate or other document with a view to support or make any claim that a transaction of sale or purchase effected by him or any other dealer, is not liable to tax or liable to be taxed at a reduced rate is guilty of an offence under section 55 of APVAT Act.

(i) We noticed from the check of records of assessments finalised during the period 2007-08 to 2009-10 that in two circles mentioned below, four dealers claimed exemption on their branch transfers/Consignment sales on the turnover of ₹ 12.44 crore for the year 2004-05 and a turnover of ₹ 227.01 crore for the years 2005-06 and 2006-07. In support of the claims, the dealers filed 'F' forms obtained from their respective branches/Agents located in other States. The concerned AAs finalised the assessments allowing the exemptions based on the declarations filed during the years 2007-08, 2008-09 and 2009-10.

Our cross verification of these forms with the records of the sales tax authorities of other States revealed that these forms were not issued to the purchasing dealers of the concerned States as confirmed by the Sales Tax authorities of that State. Thus *prima facie*, the concessional rate of CST allowed was irregular resulting in non-levy of tax of ₹ 23.94 crore.

(ii) We noticed that though the dealers as indicated in the table below had submitted fake forms and deliberately tried to evade tax, penalty leviable at three times the tax so assessed for the year 2004-05 and two times of the tax so assessed for the years 2005-06 and 2006-07 was not levied. This resulted in non-levy of penalty of ₹ 49.13 crore.

Details of tax not levied and penalty leviable thereof are given below:

(₹ in crore)

Sl. No.	Name of the circle	Name of the assessee/Asst. No. and Date	Commodity/ Schedule in APGST/ APVAT Act/Rate of tax %	Name of the State to which 'F' forms relate	Turnover involved / Rate of tax leviable	Non-levy of tax	Non-levy of penalty ²⁶	Total
1	Special Commodities Circle, Hyderabad	M/s Maheswari Oil Industries/ SAR /10/1/1066/2004-05 (CST), dt. 31 March 2008	Vegetable Oil /Entry 24A of Ist schedule of APGST Act/4	Maharashtra	1.29 10%	0.13	0.39	0.52
		M/s Shalimar Agro Tech.Pvt Ltd./1719/2004-05 (CST) dt. 31 March 2008	Vegetable Oil /Entry 24A of Ist schedule of APGST Act 4	Maharashtra, Jharkhand	5.41 10%	0.54	1.62	2.16
		M/s Sheetal refineries/ SAR/10/1/1023/2004-05 (CST) dt.27 March 2008	Vegetable Oil /Entry 24A of Ist schedule of APGST Act/4	Gujarat West Bengal, Tamilnadu, Jharkhand, Chattisgarh,	5.74 10%	0.57	1.72	2.29
2	Special Commodities Circle, Hyderabad	M/s Shalimar Agro Tech. Pvt. Ltd./2876016817 3/05-06(CST), dt.5.12.08 /TIN No. 28760168173 /06-07(CST), dt.28 February 2009	Vegetable Oil /Item 67 of Schedule-IV of APVAT Act/4	Tamilnadu	13.05 10%	1.31	2.61	3.92
3	Special Commodities Circle, Hyderabad	M/s Sheetal refineries SAR/10/1/1023/2005-06(CST), dt. 16.8.2008 /TIN No 28680173252/06-07/CST, dt.13 March 2009	Vegetable Oil /Item 67 of Schedule-IV of APVAT Act/4	West Bengal, Tamilnadu, Jharkhand, Chhattisgarh, Maharashtra, Gujarat	6.81 10%	0.68	1.36	2.04
4	Vanasthalipuram, Hyderabad	M/s Sanghi Polysters Ltd., Asst.No.1092/2005-06 & 2006-07 (CST) dt. 23 March 2009 and dt.31 March 2010	Polyster yarn chips /Item 6 of Schedule-IV of APVAT Act/4	Gujarat	207.15 10%	20.71	41.43	62.14
Total					239.45	23.94	49.13	73.07

²⁶ Non-levy of Penalty worked out three times under APGST Act for the year 2004-05 and two times under APVAT Act for the year from 2005-06.

2.12.12.2 Evasion of tax by fraudulent utilisation of fake forms in support of Inter State Sales

We noticed in five circles²⁷ that 14 dealers claimed concessional rate of tax on their inter-state sales amounting to ₹ 146.70 lakh for the years 2005-06 to 2007-08 producing 30 'C' forms issued by dealers/firms from various States. However, on cross verification of the same, it was informed by the CT Departments of other States that dealers on whose 'C' forms concessions were claimed by AP dealers were found to be either non-existent or these forms were not issued by them. Thus the Department needs to take action in these cases to levy tax and penalty of ₹ 8.65 lakh and ₹ 17.31 lakh respectively.

2.12.12.3 Grant of incorrect exemption due to acceptance of invalid forms (F-forms)

Branch/consignment transfers not supported by 'F' forms are liable to tax at rates applicable to inter State sales not covered by 'C' form. To claim exemption on branch transfers, dealers are required to furnish forms obtained from purchasing dealers with full details of goods transferred including quantity and value of goods at the time of transfer from the State concerned etc.

Further, as per provisions of CST Act, CST(R&T) Rules and CST (AP) Rules, a single declaration in form 'F' is sufficient to cover transfer of goods effected during the period of one calendar month to any other place of business or to an agent or principal as the case may be.

We noticed in 19 circles²⁸ and five LTUs²⁹ that in 27 cases where assessment was completed (between February 2008 and March 2010), exemptions on branch/ consignment transfers were allowed on 'F' forms covering transactions of more than one calendar month. The transactions of more than one month in these 'F' forms were liable to be rejected and attracted tax of

₹ 2.27 crore on these transactions valued at ₹ 25.07 crore.

After we pointed out the cases, the Department accepted (August 2011) the audit observations in two cases and intimated that assessment was revised in one case and action was initiated for revision in other case. In 14 cases the AAs replied (between January 2010 and February 2011) that notices would be issued/action would be taken to revise the assessments. In remaining cases it was replied (between January and August 2010) by the AAs that the matter would be examined.

²⁷ Adoni-I, Parchur, Rajampet, Special Commodities and Warangal (Beet bazaar).

²⁸ Beet Bazar. Gudivada, Guntur (Eluru bazaar and Kothapet), Hyderabad (Jeedimetla, Keesara, Khairatabad, Maharajgunj, Mehdipatnam, Musheerabad, Narayanaguda, Somajiguda), Jadcherla, Khammam-II, Proddatur-I and II, Sangareddy, Secunderabad (Malkajgiri) and Srikakulam.

²⁹ Ananthapur, Guntur, Hyderabad (Saroornagar) Secunderabad and Vizianagaram.

2.12.12.4 Grant of incorrect concessional rate of tax due to acceptance of invalid forms (C-forms)

According to Rule 12(1) of the CST Rules, every dealer should file a single declaration form covering all transactions of sale, which take place in a quarter of financial year with effect from 1 October 2005.

As per Section 8(2)(a) of CST Act the rate of tax on sales in the course of interstate sales not covered by 'C' forms, in the case of declared goods shall be calculated at twice the rate applicable to the sale or purchase of such goods inside the appropriate state. Further according to Section 8(2)(b) of CST Act, the rates of tax in the case of goods other than declared goods not covered by 'C' form shall be calculated at the rate of 10 *per cent* or at the rate applicable to the sale or purchase of such goods inside the appropriate State, whichever is higher (upto 2006-07). From 2007-08 onwards according to Section 8(2) of CST Act, the rates of tax shall be calculated at the rate applicable to the sale or purchase of such goods inside the appropriate State under the sales tax law of that State.

We noticed in 20 circles³⁰ and two AC (LTUs)³¹ that in respect of 35 cases, while finalising assessments between March 2008 and March 2010, concessional rate of tax was allowed on 'C' Forms covering transactions more than a quarter in a financial year. This resulted in short levy of tax of ₹ 43.19 lakh.

After we pointed out the cases, the Department stated (August 2011) that in 11 cases revision was under process. In seven other cases the AAs while accepting (between June 2009 and August 2010) the audit observations stated that the assessments would be revised. In remaining cases, the AAs stated (between August 2009 and March 2011) that the matter would be examined and action taken intimated to audit.

³⁰ Guntur (Lalapet, Main Bazaar), Hyderabad (Balanagar, Barkatpura, Begumpet, Bowenpally, IDA-Gandhinagar, Keesara, Maharajgunj, Mehdipatnam, M.G.Road, Nampally, Somajiguda), Khammam-II, Nandyal-II, Peddapuram, Piduguralla, Secunderabad (Ranigunj), Visakhapatnam (China waltair) and Vizianagaram.

³¹ Secunderabad and Vizianagaram.

2.12.12.5 Penalty leviable on mis-utilisation of ‘C’ forms on inter State purchases

A dealer registered under Section 7 of the CST Act who carried on business in inter-state under section 3 is eligible for purchase of any goods from the dealers outside the state. The selling dealer would get benefit of concessional rate of tax on sale of goods by providing C-form under section 8 (4) read with Rule 12 (1) of CST Act and (R&T) Rules given by the purchasing dealer.

As per section 8 (3) (b) of the CST Act, the goods purchased from outside the state shall be specified in the Registration certificate (Form B) of the purchaser and those goods shall be intended to be used in the events of (i) resale; (ii) for use in the manufacture or processing of goods for sale; (iii) to use in mining; (iv) for use in the generation or distribution of electricity or any other form of power; (v) for use in the packing of goods for sale/resale.

According to statutory provisions cited supra, the dealers who purchase goods from outside the State for any one of the purposes referred to above are eligible to issue C-form provided those goods shall be notified in their Registration Certificates.

Under Section 10A of the CST Act, 1956, penalty not exceeding one and half times is required to be levied if the dealer violates the provisions mentioned under section 8(3)(b) of CST Act. As per statute, if the goods which are purchased from the dealers of outside the state by issuing C-forms are not specified in the registration certificate, it is authorised to impose penalty under Section 10A for the said offence falling under section 10 (b) of the CST Act.

(i) We noticed (between September and December 2009) during the test check of the assessment files of two circles³² that three dealers were eligible to purchase explosives, mining machinery, cement, copper wire, aluminum wire and insulation material in the course of inter-state trade as mentioned in the certificates of CST registration. We noticed that these dealers had purchased diesel oil, pressboards, brass rods, M S rounds, M S angles etc., which were not mentioned in their CST Registration Certificate and issued Form ‘C’. Thus, the issue of Form ‘C’ for the purchase of commodity, which was not included in the certificate of registration, had resulted in mis-utilisation of ‘C’ Form. The Department should have cross linked and verified the commodities purchased in inter-state sales that were mentioned in the “Forms utilisation statement” submitted by the dealer with goods mentioned in the CST Registration Certificate. The penalty leviable in these cases works out to ₹ 31.82 lakh.

³² Ananthapur-II and Fathenagar.

After we pointed out the cases, in two cases, the AA stated (September 2010) that the files would be submitted to the higher authority for taking up revision. In the remaining case it was stated that the matter would be examined.

(ii) We noticed (January 2011) during the audit of Suryabagh circle, that one dealer during the year 2008-09 purchased commodities 'Granites and Transformers' from outside the State on concessional rate by issuing 'C' forms. A scrutiny of CST registration certificate of the above dealer revealed that the dealer had registered for issuing forms for 'readymade garments and Jewellery'. It is evident from the above that the Department had issued 'C' forms to the dealer without duly verifying the commodities in his Registration Certificate. Thus, issuance of 'C' forms for the commodities which were not specified in the Registration Certificate of the dealer is irregular and attracts levy of penalty under section 10A. Penalty leviable in this case worked out to ₹ 3.63 lakh, which was not levied by the Department.

On this being pointed out, the Department accepted (January 2011) the audit observation and assured to issue notice to the dealer under intimation to audit.

2.12.12.6 Incorrect claim of exemption from tax on forms issued by dealers whose registrations were cancelled

As per the provisions of the CST Act and CST (AP) Rules, every registered dealer has to maintain registers with full details of his inter-state transactions furnishing all the details of inter-state sales, purchases and transfers of goods which should be made available to the AA as and when required to do so.

The AA is required to cross verify doubtful inter-state transactions. However, we did not find evidences of any such enquiries made for cross verification. One such case is illustrated below.

We noticed in Alcot gardens circle, that the dealer in connection with transit sale claimed exemption on 'C' forms issued by two dealers of Chennai valued at ₹ 83.99 lakh, for the transactions taken place during the period from January 2007 to March 2007. However, our cross verification of the 'C' forms with TINXSYS website revealed that registration of the purchasing dealers i.e. in Chennai had been cancelled on 1 January 2007 i.e., prior to the date of transactions and issue of 'C' forms. This resulted in allowing ineligible exemption on transit sales, with consequent non-levy of tax of ₹ 8.40 lakh.

On this being pointed out, it was replied (February 2011) that objection would be examined and action taken report intimated in due course. Reply is awaited (October 2011).

2.12.13 Incorrect allowance of concessional rate of tax in the absence of declaration forms (C Forms)

As per Section 8(2) of the CST Act read with Rule 12 of the CST (R&T) Rules, every dealer, who in the course of inter-state trade or commerce sells goods to a registered dealer located in other State shall be liable to pay tax under this Act at the rate of four *per cent* (three *per cent* with effect from 1 April 2007 and two *per cent* with effect from 1 June 2008), provided the sale is supported by declaration in form 'C'. Otherwise tax shall be calculated at double the rate in case of declared goods and at the rate of 10 *per cent* or at the rate applicable to sale of such goods within the State, whichever is higher in case of goods other than declared goods. With effect from 1 April 2007 respective State rate is applicable to all goods.

We noticed (between September 2009 and August 2010) during the test check of the assessment files of 17 circles³³ that in 26 cases inter-state sales valued at ₹ 37.96 crore were not supported by declaration in the prescribed 'C' Forms. The AAs while finalising the assessments between September 2007 and March 2010 for the years 2004-05 to 2008-09, levied tax at a concessional rate. This resulted in short levy of tax of ₹ 83.48 lakh.

After we pointed out the cases, the Department stated (August 2011) that assessments were revised in three cases and file was submitted for revision in one case. The AAs while accepting (between January 2009 and June 2010) the audit observations in five cases stated that assessments would be revised. In the remaining cases, the AAs replied that the matter would be examined.

2.12.14 Conclusion

The review revealed several deficiencies in the printing and custody of declaration forms and several compliance deficiencies in the acceptance of declaration forms governing inter-state sales. These included absence of a system for ascertaining the genuineness and correctness of declaration forms submitted by the dealers for claiming concessions and exemptions of tax on account of inter-state sales/stock transfers through cross verification of transactions from the States concerned, absence of a system for blacklisting dealers and absence of a reliable database of concessions and exemptions and the revenue foregone. The computerisation efforts in this area of Tax Administration revealed lack of security/access controls along with absence of security features thereby exposing the system to risk and misuse.

³³ Adoni-II, Chilakaluripeta, Hyderabad (Begum Bazaar, Jeedimetla, Jubilee Hills Khairatabad, Malakpet, Nampally, Vanasthalipuram, Vengalrao Nagar), Jadcherla, Kodad, Mahaboobnagar, Mahabubabad, Narsampet, Puttur and Tirupati-II.

2.12.15 Recommendations

It is recommended that the Government may

- *prescribe norms for conducting periodical cross verification of inter-state transactions related to sales/purchases/branch transfers/consignment transfers with original records maintained in other States and implement the same;*
- *create a reliable database of the concessions and exemptions allowed to dealers by establishing a management information system to facilitate a systematic review and effective monitoring of the concessions and exemptions;*
- *set up a system for blacklisting dealers found utilising fake/invalid declaration forms;*
- *implement all aspects of the access controls and information security policy so as to enable effective functioning of online issue of statutory forms;*
- *provide commodity validation in the software i.e., the form should be given for the commodity for which the dealer is registered in the registration certificate (Software should be integrated with CST Registration Certificate). Ensure the dealer validation of other states (through TINXSYS) from whom the local dealer purchases the goods;*
- *keep a specimen copy in the TINXSYS website duly mentioning/displaying the security features of the forms of all the States for taking action on prima facie evidence; and*
- *continue with the system of physical cross verification of declaration forms parallel to the web based checking until the electronic system of other States becomes fully operational.*

2.13 Audit observations on Returns/Assessments

During scrutiny of the records in the offices of the Commercial Taxes Department relating to revenue received from VAT, APGST and CST we observed several cases of non-observance of the provisions of the Acts/Rules resulting in non/short levy of tax/penalty and other cases as mentioned in the succeeding paragraphs in this Chapter. These cases are illustrative and are based on a test check carried out by us. We pointed out such omissions in audit each year, but not only do the irregularities persist; these remain undetected till an audit is conducted. There is a need for the Government to consider directing the Department to improve the internal control system including strengthening internal audit so that such omissions can be avoided, detected and corrected.

2.14 Application of incorrect rate

VAT is leviable at the rates prescribed in schedules I to IV & VI to the APVAT Act. Commodities not specified in any of the schedules fall under schedule V and are liable to VAT at 12.5 per cent from 1 April 2005.

According to Section 20(3) every monthly return submitted by a dealer shall be subjected to scrutiny to verify the correctness of calculation, application of correct rate of tax, ITC claimed therein and full payment of tax payable for such tax period.

We noticed (between July 2009 and November 2010) during the test check of monthly returns in 14 circles³⁴ that during the period from April 2005 to March 2010, 21 dealers declared VAT of ₹ 29.12 lakh instead of ₹ 102.04 lakh on the turnovers relating to cement poles, electrical goods, motor

transformers, insulators, paints, stone ballast, etc., due to application of incorrect rate. This resulted in under declaration of VAT of ₹ 72.92 lakh as detailed below:

(₹ in lakh)					
Name of the circle/year of assessment	Commodity / item No./ Schedule	Rate applicable/ applied (%)	Tax leviable/ levied	Short levy of tax	Observation
Guntakal 2009-10	Electrical stamping Lamination Schedule V	12.5/ 4	6.13/ 1.96	4.17	Under the APVAT Act electrical stamping and lamination are taxable at the rate of 12.5 per cent. The AA incorrectly levied tax at the rate of four per cent. This resulted in short levy of tax of ₹ 4.17 lakh. AA stated (September 2010) that matter would be examined.

³⁴ Bheemunivaripalem, Guntakal, Hindupur, Hyderabad (Keesara, Malakpet, Vanasthalipuram), Kurnool-I, Mangalagiri, Nandyal-I, Peddapuram, Rajam, Seetharamapuram, Tirupati and Vizianagaram (East).

(₹ in lakh)

Name of the circle/year of assessment	Commodity / item No./ Schedule	Rate applicable/ applied (%)	Tax leviable/ levied	Short levy of tax	Observation
Hindupur 2009-10	Laminated photos Schedule V	12.5/4	0.79/0.24	0.55	Under the APVAT Act laminated photos are taxable at the rate of 12.5 per cent. The AA incorrectly levied tax at the rate of four per cent. This resulted in short levy of tax of ₹ 0.55 lakh. AA stated (May 2010) that matter would be examined
Keesara (Hyderabad) 2009-10	Weigh bridges Schedule V	12.5/4	1.20/0.38	0.82	Under the APVAT Act Weigh bridges are taxable at the rate of 12.5 per cent. The AA incorrectly levied tax at the rate of four per cent. This resulted in short levy of tax of ₹ 0.82 lakh. AA stated (June 2010) that assessment file is under process of VAT audit and result would be intimated.
Malakpet (Hyderabad) 2006-07	Poultry cages Schedule V	12.5/4	47.59/15.23	32.36	Under the APVAT Act Poultry cages are taxable at the rate of 12.5 per cent. The AA incorrectly levied tax at the rate of four per cent. This resulted in short levy of tax of ₹ 32.36 lakh. The AA stated (July 2010) that matter would be examined.
Vanasthali-puram (Hyderabad) 2008-09	Electrical goods Entry 39 of Schedule IV	4/2	1.69/0.85	0.84	Under entry 39 of Schedule IV, electrical goods are taxable at the rate of four per cent. The AA incorrectly levied tax at the rate of two per cent. This resulted in short levy of tax of ₹ 0.84 lakh. The AA stated (January 2010) that matter would be examined
Mangalagiri 2009-10 Vanasthali - puram 2008-09	Empty bottles entry 90 of Schedule IV	4/nil	4.94/nil	4.94	Under entry 90 of Schedule IV, empty bottles are taxable at the rate of four per cent. In two cases, the AAs incorrectly exempted the sale turnover of empty bottles. This resulted in non-levy of tax of ₹ 4.94 lakh. The AAs stated (between January and May 2010) that matter would be examined.
Kurnool-I 2005-06	Oxygen gas Schedule V upto 30.4.2006 (12.5%) thereafter under entry 100 of Schedule IV (4%).	12.5 /4	1.67/0.53	1.14	Under the APVAT Act oxygen gas was taxable at the rate of 12.5 per cent upto 30 April 2006. The AA incorrectly levied tax at the rate of four per cent, This resulted in short levy of tax of ₹ 1.14 lakh. The AA stated (August 2009) that the assessment file would be submitted to DC (CT) Kurnool along with audit objection for revision.

(₹ in lakh)

Name of the circle/year of assessment	Commodity / item No./ Schedule	Rate applicable/ applied (%)	Tax leviable/ levied	Short levy of tax	Observation
Nandyal 2008-09 & 2009-10	Recharge cards Schedule V	12.5/ nil	4.74/ nil	4.74	Under the APVAT Act recharge cards are taxable at the rate of 12.5 <i>per cent</i> . In two cases, the AA incorrectly exempted the sale turnover of recharge cards. This resulted in non-levy of tax of ₹ 4.74 lakh. In one case, the AA stated (November 2010) that notice was issued and in another case, it was stated (July 2009) that matter would be examined.
Peddapuram 2008-09	Tri cycles entry 13 of Schedule IV	4/nil	1.16/ nil	1.16	Tricycles are taxable at the rate of four <i>per cent</i> under entry 13 of schedule IV of the APVAT Act. The AA incorrectly exempted the sale turnover of tricycles. This resulted in non-levy of tax of ₹ 1.16 lakh. The AA stated (July 2009) that the matter would be examined.
Seetharama puram 2009-10	Paints (Red oxide)	12.5/4	1.11/ 0.35	0.76	Under the APVAT Act, Paints (Red oxide) are taxable at the rate of 12.5 <i>per cent</i> . The AA incorrectly levied tax at the rate of four <i>per cent</i> . This resulted in short levy of tax of ₹ 0.76 lakh. The AA stated (June 2010) that as per G.O.Ms.No.381, Revenue dt. 9-4-86, Red oxide was eligible for concessional rate of tax @ 4% as confirmed by the APSTAT in the case M/s Dogra Colour Industries Vs. State of AP (1998 27APSTJ36), which was not repealed in the APVAT Act. The reply is not acceptable as there was no separate entry under Schedule IV of the APVAT Act for red oxide and hence application of 12.5 <i>per cent</i> tax was in order.
Tirupati-II 2009-10	Motor transformers Schedule V of APVAT Act	12.5/4	4.59/ 1.47	3.12	Under the APVAT Act Motor transformers are taxable at the rate of 12.5 <i>per cent</i> . The AA incorrectly levied tax at the rate of four <i>per cent</i> . This resulted in short levy of tax of ₹ 3.12 lakh. The AA replied (August 2010) that matter would be examined and detailed reply would be sent to audit in due course.

(₹ in lakh)

Name of the circle/year of assessment	Commodity / item No./ Schedule	Rate applicable/ applied (%)	Tax leviable/ levied	Short levy of tax	Observation
AO(DCTO)ICP Bheemunivari palem 2008-09	Boiler components Schedule V	12.5/4	6.24/ 2.00	4.24	Under the APVAT Act colour TVs, Insulators, washing machines, Machinery etc., are taxable at the rate of 12.5 per cent and four per cent. The AA incorrectly levied tax at the rate of four per cent and lesser than four per cent. This resulted in short levy of tax of ₹ 8.13 lakh. The AA replied (February 2010) that the assessments would be revised and intimated to audit.
	Colour TVs Schedule V	12.5/4	1.34/ 0.43	0.91	
	Insulators Schedule V	12.5/4	1.03/ 0.33	0.70	
	Tyres and Tubes Schedule V	12.5/4	1.13/ 0.36	0.77	
	Washing Machines Schedule V	12.5/1.6	1.34/ 0.17	1.17	
	Machinery Schedule IV	4/0.35	0.37/ 0.03	0.34	
Rajam 2008-09 2009-10	Cement poles Schedule V of APVAT Act @ 12.5%	12.5/4	12.27/ 3.92	8.35	Under the APVAT Act cement poles are taxable at the rate of 12.5 per cent. The AA incorrectly levied tax at the rate of four per cent. This resulted in short levy of tax of ₹ 8.35 lakh. The AA stated (November 2010) that matter would be examined.
Vizianagaram (East) 2005-06	Stone Ballast Schedule V of APVAT Act @ 12.5%	12.5/4	2.71/ 0.87	1.84	Under the APVAT Act stone ballast are taxable at the rate of 12.5 per cent. The AA incorrectly levied tax at the rate of four per cent. This resulted in short levy of tax of ₹ 1.84 lakh. The AA stated (August 2010) that matter would be examined.
Total			102.04/ 29.12	72.92	

We referred the matter to the Department between July 2010 and January 2011 and to the Government between May and June 2011; their reply has not been received (October 2011).

2.15 Excess claim of input tax credit

In terms of Section 13(5) of the APVAT Act, no Input Tax Credit (ITC) shall be allowed on sale of exempted goods (except in the course of export), exempt sales and transfer of exempted goods outside the State otherwise than by way of sale. As per Section 13(6), ITC for transfer of taxable goods outside the State otherwise than by way of sale shall be allowed for the amount of tax in excess of four *per cent*.

As per sub-rules (7), (8), (9) of Rule 20 of APVAT Rules, a VAT dealer making taxable sales, exempted sales and exempt transactions of taxable goods shall restrict his ITC as per the formula prescribed i.e., $A \times B/C$, where A is the input tax for common inputs for each tax rate, B is the taxable turnover and C is the total turnover.

Under Section 20(3) of the Act, every return shall be subject to scrutiny to verify the correctness of calculation, application of correct rate of tax and input tax claimed therein and full payment of tax payable for such tax period. If any mistake is detected as a result of such scrutiny made, the authority prescribed shall issue a notice of demand in the prescribed form for any short payment of tax or for recovery of any excess input tax claimed.

2.15.1 We noticed (between December 2009 and December 2010) during the test check of monthly returns in three LTUs³⁵ and 14 circles³⁶ that for the period from April 2005 to March 2010, in 19 cases, the sale transactions of the dealers involved taxable sales, exempt sales and exempt transactions. These exempt sales and exempt transactions were on account of sale of exempted goods (Schedule-I) and consignment sales/branch transfers respectively. We saw that the returns had not been scrutinised as mandated under the Act and resultantly the input tax was not restricted as per the formula prescribed. This resulted in excess claim of ITC of ₹ 5.91 crore.

After we pointed out the cases, the Department stated (August 2011) that assessment was revised in one case and orders would be passed in another case. The AAs replied (between March and November 2010) that show cause notices were issued/would be issued in four cases. In another case, the AA stated (May 2010) that ITC was restricted in Departmental audit upto July 2009. The reply is not acceptable as the objection relates to the period from August 2009 to March 2010. In another case, the AA contended (July 2010) that ITC would be restricted at the time of audit of accounts of the assessee. The reply is not acceptable as returns are to be scrutinised as per Section 20(3)

³⁵ Chittoor, Hyderabad (Begumpet) and Nellore.

³⁶ Adoni-II, Hyderabad (Ferozguda, IDA Gandhinagar, Keesara, Vidyanagar), Sangareddy, Secunderabad (Marredpally, SD Road), Special Commodities Circle, Tenali (Gandhi Chowk), Vijayawada (M.T Street), Visakhapatnam (Dwarakanagar, Gajuwaka, Kurupam Market).

of the Act. In the remaining cases, final replies have not been received (October 2011).

We referred the matter to the Government in June 2011; their reply has not been received (October 2011).

2.15.2 Incorrect claim of input tax credit on ineligible items

According to Section 13(1) of the APVAT Act, ITC shall be allowed to the VAT dealer for the tax charged in respect of all purchases of taxable goods made by that dealer during the tax period, if such goods are for use in the business of the VAT dealer. As per Section 13(4) of the APVAT Act, read with Rule 20(2)(q) with effect from 1 May 2009, an assessee is not entitled to claim ITC on furnace oil. Further, as per Rule 20(2)(i), any input used in construction or maintenance of any buildings including factory or office buildings, is not eligible for ITC unless the dealer is in the business of executing works contracts and has not opted for composition.

We noticed (between August 2009 and August 2010) during test check of monthly returns/audit assessments in eight circles³⁷ that during the period from 2007-08 to 2009-10 in nine cases, the dealers who were not works contractors had claimed ITC of ₹ 31.11 lakh on purchase of cement, steel, electrical material, paints, furnace oil etc. These dealers used the above goods in construction of office and factory buildings or in the furnaces or boilers of their factories, processing

units etc., and thus they are not eligible for ITC. This resulted in excess claim of ITC of ₹ 31.11 lakh.

After we pointed out the cases, in one case, the AA stated (September 2009) that the excess input tax would be restricted. In another case, the Commissioner contended (September 2011) that the dealer produced documentary evidence for ITC for the period from May 2009 to March 2010 and the dealers had purchased butter. The reply is not acceptable as the assessee is eligible to claim ITC at four *per cent* only if he had purchased butter, whereas the dealer had claimed ITC of 12.5 *per cent* on furnace oil in addition to four *per cent* ITC on butter. In another case, the AA contended (March 2010) that the audit was conducted as per the provisions of the Act duly allowing the ITC claim. The reply of the Department is not acceptable as the material used for construction and maintenance of any building including factory or office building is not eligible as per the APVAT Rules. In the remaining cases, the AAs stated that the matter would be examined.

We referred the matter to the Government in June 2011; their reply has not been received (October 2011).

³⁷ Gudur, Hyderabad (Nampally, Special Commodities Circle, Srinagar Colony), Nandyal-II, Rajahmundry (Aryapuram, Alcot Gardens) and Visakhapatnam (Gajuwaka).

2.16 Short levy of interest on belated payments of Sales Tax deferment

According to 'Target 2000 sales tax incentive scheme' promulgated by the Government in 1996, sales tax incentive of deferment of tax is available for the products manufactured by the industrial units to the extent of incentive limit as mentioned in the Final Eligibility Certificate (FEC).

After the introduction of the APVAT Act, 2005 with effect from 1 April 2005, sales tax holiday/ exemption incentives sanctioned to industrial units were converted into sales tax deferment with the remaining period of availment being doubled without change in monetary limit of the incentive sanctioned. Further as per G.O.Ms.No.503 dated 8 May 2009, repayment of deferred sales tax shall commence after the end of the period of availment. In case of non-remittance of deferred tax on the due dates, interest at the rate of 21.5 *per cent* per annum is liable for payment.

We noticed (February 2011) during the test check of the monthly returns of AC (LTU) Secunderabad that in case of one industrial unit, deferment period had been completed and the instalment of tax deferred had become due for payment in February/ March 2010 against which the payment was made in October and November 2010 respectively. For the delay of eight months in payment of instalments of deferred tax of ₹ 68.92 lakh, the AA levied interest of ₹ 0.85 lakh instead of ₹ 9.88 lakh resulting

in short levy of interest of ₹ 9.03 lakh.

After we pointed out the case, the AA stated that show cause notice would be issued to the dealer.

We referred the matter to the Department in April 2011 and to the Government in June 2011; their reply has not been received (October 2011).

2.17 Under declaration of VAT due to incorrect exemption

Bio-fertilisers and surgical implants are taxable at four *per cent* under respective entries 19/111 of schedule IV to the APVAT Act. Recharge coupons, SIM cards, ice cream, kova are not specified in I to IV and VI schedules to the APVAT Act and hence these goods fall under schedule V and are liable to VAT at the rate 12.5 *per cent* with effect from 1 April 2005 and at the rate of 14.5 *per cent* with effect from 15 January 2011.

We noticed (between July 2009 and November 2010) during the test check of monthly returns in 10 circles³⁸ from the VAT

returns for the period from July 2006 to March 2010 that 11 dealers had

³⁸ Ananthapur, Bhongir, Hyderabad (Agapura, Nacharam), Jagitial, Machilipatnam, Narasaraopet, Puttur, Suryaraopet and Vijayawada (Marwadi Temple Street).

incorrectly declared the sale turnover of ₹ 4.46 crore relating to 'bio-fertilisers, recharge coupons, surgical implants, SIM cards, ice cream, kova' etc., as exempted turnover. The reasons for exempting the turnover were not forthcoming from the returns/other records made available to audit. The incorrect exemption of taxable turnover resulted in under declaration of tax of ₹ 27.40 lakh. This was not detected by the Department, as they did not scrutinise the returns.

After we pointed out the cases, the AAs stated (between July 2009 and November 2010) that the issue has to be verified by audit in one case; the matter is pending before the Hon'ble High Court of AP for adjudication in one case and the assessment file was submitted to DC (CT) concerned for verification in one case. In the remaining cases, the AAs stated that the matter would be examined.

We referred the matter to the Department (May 2010 and January 2011) and to the Government in June 2011; their reply has not been received (October 2011).

2.18 Non-declaration of tax on industrial inputs

According to Section 4(4) of the AP VAT Act, every VAT dealer, who in the course of his business, purchases any taxable goods from a person or dealer not registered as a VAT dealer or from a VAT dealer in circumstances in which no tax is payable by the selling dealer, shall be liable to pay tax at the rate of four *per cent* on the purchase price of such goods, if after such purchase, the goods are used as inputs for goods which are exempt from tax under the Act.

Sale of electricity is exempted from levy of tax under the APVAT Act.

We noticed (between September and October 2009) during the test check of the returns of CTO-Mangalagiri that the dealer purchased taxable goods i.e., biomass waste and chemicals from an unregistered dealer and utilised them in the process of generation of electricity. However, the tax on purchase of

biomass waste and chemicals was not declared and paid as prescribed in Section 4(4). This resulted in non-declaration of purchase tax of ₹ 16.70 lakh on a turnover of ₹ 4.18 crore at the rate of four *per cent*.

After we pointed out the case, the AA stated that the assessee purchased chemicals from local dealers and out of state dealers and had shown the turnovers as exempted purchases. The reply is not acceptable, as it is evident from the return/statement of purchases furnished by the dealer that he purchased biomass waste and chemicals from unregistered dealers without payment of tax. Hence he is liable to pay tax on the purchase turnover under section 4(4).

We referred the matter to the Department in July 2010 and to the Government in June 2011; their reply has not been received (October 2011).

2.19 Non-payment of VAT by Rice Millers

As per Section 2(7) of the APVAT Act, a casual trader means a person who whether as principal, agent or in any other capacity, carries on occasional transactions of a business nature involving the buying, selling or distribution of goods in the State, whether for cash or for deferred payment, or for commission, remuneration or other valuable consideration. The definition of 'Dealer' as defined under section 2(8) of the Act also includes a casual trader and is liable for payment of tax on every sale of goods in the State at the scheduled rates applicable to goods. The commodity 'Rice' is taxable at four *per cent* under entry 85 of Schedule-IV to the Act.

According to the orders of Government of Andhra Pradesh issued in 1983, the Yanam rice millers of Union Territory of Puducherry were permitted to purchase paddy in AP and sell the levy rice to Food Corporation of India (FCI), Andhra Pradesh (AP) region and

to effect free market sale at a percentage as determined in the levy policy, on par with the rice millers of AP. The Government of AP thereby treated the Yanam rice millers on par with the rice millers in AP for all practical purposes. Thus the millers of Yanam have been purchasing paddy in AP and selling the resultant milled rice in AP by supplying to FCI and also effecting sale in open market. In accordance with the levy policy, the FCI has been making payment for levy rice procured by them from rice millers of Yanam for levy rice purchases made within the State of AP inclusive of the element of VAT. Therefore, the traders of Yanam are liable to pay tax as 'casual trader' on their sale of rice to FCI in AP State.

We noticed from the cross verification (May 2011) of the information received from the FCI, AP region (February 2011) with the records of DC (CT) Kakinada that during the period from 2005-06 to 2009-10, 11 millers of Yanam sold rice valued at ₹ 253.26 crore to FCI, A.P. region. Though the cost of rice procured by the FCI was inclusive of VAT, the millers did not remit the tax to the Government of AP though collected by them. Irregular retention of the VAT on the turnover of ₹ 253.26 crore worked out to ₹ 10.13 crore. Besides, penalty was also leviable.

After we pointed out the cases (May 2011), the Department issued (June 2011) notices of assessment to the millers for payment of VAT.

We referred the matter to the Department and Government (October 2011); their reply is awaited.

2.20 Under declaration of tax on “loose liquor” under the APVAT Act

Under Section 4(9) of the APVAT Act, with effect from 24 November 2005, notwithstanding anything contained in the Act, every dealer running any restaurant, eating house, catering establishment, hotel, coffee shop, sweet shop or any establishment by whatever name called and any club, who supplies by way of or as part of any services or in any other manner whatsoever of goods being food or any other article for human consumption or drink shall pay tax at the rate of 12.5 per cent on 60 per cent of the taxable turnover, if the taxable turnover in a period of preceding twelve months exceeds ₹ 5 lakh or in the preceding three months exceeds ₹ 1.25 lakh. Thus with effect from 24 November 2005, loose liquor served in bars and restaurants is taxable under Section 4(9).

From 1 May 2009, every dealer being a star hotel having a status of three star and above and other dealers whose annual total turnover is ₹ 1.50 crore or above shall pay tax at the rate of 12.5 per cent on taxable turnover. Further, every dealer being a hotel whose star rating is less than three star and other dealers whose annual total turnover is less than ₹ 1.50 crore shall pay tax at the rate of four per cent on the taxable turnover and they are not eligible for Input Tax Credit (ITC).

The High Court of Andhra Pradesh held {M/s Manasa enterprises Vs CTO Nacharam (49STJ 2009)} that ‘loose liquor’ served in bars and restaurants fall under Section 4(9) of the APVAT Act, and it is different from ‘liquor bottled and packed’ falling under item 1 of Schedule VI which is not liable to tax at second and subsequent points. The Commissioner of Commercial Taxes issued a circular No. 1-111(4) 537/2010 dated 25 January 2010 to levy tax on sale of loose liquor in Bar and Restaurants with effect from 24 November 2005 and the same was kept in abeyance by another circular dated 22 February 2010.

2.20.1 We noticed (between April and December 2010) during the test check of the returns of 43 circles³⁹ that in 96 cases, the sale of loose liquor was shown as exempt sale by the dealers in the VAT returns filed by them for the period from December 2005 to March 2010. The AAs did not enforce the

³⁹ AC(LTU) Visakhapatnam, Bodhan, East Godavari (Kakinada, Ramachandrapuram) Eluru, Guntur (Lalapet), Hyderabad (Ashok nagar, Basheerbagh, Barkatpura, Begumpet, Ferozguda, Gowliguda, IDA Gandhinagar, Jubilee hills, Keesara, Madhapur, Malakpet, Mehdipatnam, Musheerabad, Narayanaguda, Punjagutta, Saroornagar, Somajiguda, Vengalraonagar, Vidyanagar), Jagitial, Karimnagar, Kamareddy, Mangalagiri, Nalgonda, Nizamabad-II, Nellore-II, Ongole, Puttur, Secunderabad (General Bazaar, Marredpally, SD Road), Tirupati-I, Vijayawada (Benz circle, Krishna Lanka), Visakhapatnam (Dwarakanagar), Vizianagaram (East) and Warangal (Ramannapet).

amended provisions of the Act with effect from 24 November 2005 and they did not raise the demand by levying tax as per Section 4(9). The Department should have ensured the implementation of the amended provisions of the Act from the effective date. Further, the orders of the CCT of February 2010 keeping the amended provisions of the Act in abeyance appears to be without the requisite authority to do so. This resulted in under declaration of VAT of ₹ 19.67 crore on a taxable turnover of ₹ 207.04 crore.

After we pointed out the cases, the Department accepted (November 2010) the audit view and stated that an amendment to the Act is under consideration keeping the commodity “loose liquor” outside the purview of the VAT.

We referred the matter to the Government in June 2011; their reply has not been received (October 2011).

2.20.2 We noticed (between March and October 2010) during the test check of the monthly returns of four circles⁴⁰ that in six cases, the dealers i.e. hoteliers/caterers etc., had computed their taxable turnover during May 2009 to March 2010 as ₹ 10.91 crore instead of ₹ 15.80 crore by claiming 40 *per cent* exemption which was not applicable from May 2009 onwards. In another case, pertaining to CTO, Kurupam Market, the dealer declared tax at four *per cent* on his taxable turnover of ₹ 44.48 lakh instead of declaring tax at 12.5 *per cent* on 60 *per cent* of the taxable turnover during the period April 2008 to March 2009. This resulted in overall under declaration of tax of ₹ 62.71 lakh.

After we pointed out the cases, the AAs stated (between March and November 2010) that in four cases show cause notices were issued. In the remaining three cases, the AAs stated that the matter would be examined.

We referred the matter to the Department between May 2010 and April 2011 and to the Government in June 2011; their reply has not been received (October 2011).

2.21 Non-levy of interest

According to Section 22(2) of the APVAT Act, if any dealer fails to pay the tax due on the basis of monthly return submitted by him under the Act, within the time prescribed he shall pay, in addition to the amount of such tax, interest calculated at the rate of one *per cent* per month for the period of delay from such prescribed date for its payment.

the delay in payment of tax.

We noticed (July 2010) during the test check of the assessment files of Somajiguda circle that in one case, the accounts of the dealer for the years 2006-07 to 2009-10 were examined by the AA in February 2010 and it was found that there was an under declared tax of ₹ 26.57 lakh. The same was collected in March 2010. The AA did not levy interest of ₹ 5.01 lakh for

⁴⁰ Hyderabad (Begumpet, Mehdipatnam, Nampally and Somajiguda).

After we pointed out the case, the AA stated that the matter would be examined.

We referred the matter to the Department in November 2010 and to the Government in June 2011; their reply has not been received (October 2011).

2.22 Short payment of tax due to non-conversion of TOT dealers as VAT dealers

Under the provisions of the APVAT Act, every dealer whose taxable turnover in the preceding three months exceeds ₹ 10 lakh or in the preceding 12 months exceeds ₹ 40 lakh up to 30 April 2009 shall be liable to be registered as VAT dealer. From 1 May 2009, every dealer whose taxable turnover in the 12 preceding months exceeds ₹ 40 lakh shall be registered as a VAT dealer. Any dealer who fails to apply for registration shall be liable to pay penalty of 25 per cent of the amount of tax due prior to the date of registration. Further, there shall be no eligibility for input tax credit for sales made prior to the date from which the VAT registration is effective.

We noticed (between May 2009 and May 2010) during the test check of monthly returns in the 18 circles⁴¹ that though the turnovers of 44 TOT dealers exceeded ₹ 10 lakh in preceding three month period between July 2005 and 30 March 2009, the AAs did not convert these dealers into VAT dealers. The turnovers that exceeded the threshold limits in these cases worked out to ₹ 15.03 crore on which VAT was leviable by registering these dealers as VAT dealers. Thus the

dealers were liable to pay VAT of ₹ 1.06 crore on this turnover. The dealers had not applied for registration nor were they registered by the AAs. This resulted in short realisation of revenue of ₹ 1.06 crore towards VAT. Besides penalty of ₹ 26.54 lakh was also leviable. We noticed that in absence of a monitoring mechanism in the Department to watch the registration of the TOT dealers who may have crossed the threshold limit for registration as dealers under the APVAT Act, the dealer continued business without being registered with the Department.

After we pointed out the cases, the Department/AAs stated (between May 2009 and August 2011) that show cause notices were issued/would be issued to the dealers in 12 cases. In respect of five other cases, the AAs stated (November 2009 and March 2010) that action would be initiated to collect the tax due. In another case, the Department stated (August 2011) that the case was pending with the Joint Commissioner (Legal) for review and that final outcome of the case was awaited. In another case, the AA contended that the turnover for quarter ended June 2008 exceeded ₹ 10 lakh and not ₹ 40 lakh

⁴¹ Anantapur-II, Bhongir, Hyderabad (Basheerbagh, Fathenagar, Hyderguda, Malakpet, Nizamshahi Road), Khammam-II, Kadapa (Rajam), Narasaraopet, Paravathipuram, Peddapuram, Secunderabad (General Bazaar), Srikakulam, Warangal (Narasampet), West Godavari (Palakol), Visakhapatnam (Dwarakanagar and Kurupam Market).

and hence the dealer is registered as VAT dealer with effect from 1 April 2009. The reply is not acceptable as the dealer was liable to be registered as VAT dealer from 1 August 2008 since his turnover had exceeded ₹ 10 lakh in the preceding three months period. In another case, the AA contended that the turnover of the dealer has not exceeded ₹ 40 lakh during the period 2007-08. The reply is not acceptable in view of the fact that though the turnover in the 12 preceding months had not exceeded ₹ 40 lakh, it exceeded ₹ 10 lakh in January 2008 for the preceding three months period of October 2007 to December 2007. Hence, the dealer was liable for VAT registration. In the remaining cases, the AAs stated that the matter would be examined.

The Government may consider putting in place a mechanism for prompt identification of the TOT dealers who have crossed the threshold limit and their registration as VAT dealers.

We referred the matter to the Government in June 2011; their reply has not been received (October 2011).

2.23 Non-levy of penalty

Under Section 53(1) of the APVAT Act, where any dealer has under declared tax, and where it has not been established that fraud or wilful neglect has been committed and where the under declared tax is (i) less than 10 per cent of the tax, a penalty shall be imposed at 10 per cent of such under declared tax (ii) more than 10 per cent of the tax, a penalty shall be imposed at 25 per cent of such under declared tax. Further, under Section 53(3) of the APVAT Act, any dealer who has under declared tax and where it is established that fraud or wilful neglect has been committed, he shall be liable to pay penalty equal to the tax under declared. Further, under Section 51 of the APVAT Act, where a dealer who fails to pay tax due on the basis of the return submitted by him by the last day of the month in which it is due, he shall be liable to pay tax and a penalty of 10 per cent of the amount of tax due.

According to Section 57(4), if any person collects tax in excess of the amount of tax due, any sum so collected shall be forfeited to the Government and in addition he shall be liable to pay a penalty of an amount equal to the amount of tax so collected. Further, under Section 55(2) of the APVAT Act, any VAT dealer who issues a false tax invoice or receives and uses a tax invoice, knowing it to be false, shall be liable to pay a penalty of 200 per cent of tax shown on the false invoice.

We noticed (between May 2009 and August 2010) during the test check of 14⁴² circles that the accounts of 16 VAT dealers for the period from April 2005 to March 2010 were examined by the departmental officers and under declared tax of ₹ 1.30 crore was assessed on account of excess claim of input tax, suppression of turnover, false tax invoice, excess collection of taxes from the purchasers etc. The AAs however did not levy the penalty of ₹ 46.90 lakh on the under declared tax. Further, in two cases, the dealers failed to pay monthly tax within the time prescribed for its payment. But the AAs did not levy

⁴² Guntur (Patnam Bazaar), Hyderabad (Afzalgunj, Nampally, Ramgopalpet, Somajiguda, Srinagar colony), Karimnagar-II, Nellore-I, Rajahmundry (Aryapuram), Rajahmundry, Siddipet, Secunderabad (Mahankali Street) and Visakhapatnam (Dwarakanagar, Kurupam Market).

penalty of ₹ 8.89 lakh for belated payment as shown in the following table:

(₹ in lakh)					
Sl. No.	Name of the Circle	Audit observation	Under declared Tax/	Penalty leviable /levied	Non/short levy of penalty
1	Six Circles ⁴³	The Departmental officers examined the accounts of eight dealers and detected under declared tax on account of incorrect computation of turnover, excess claim of ITC etc., where the offence is not wilful under Section 53(1) of the APVAT Act. The penalty leviable at 25%/10% of the under declared tax was either not levied or levied short by the AAs.	106.73	26.68/ 4.59	22.09
<p>In one case the AA (Srinagar Colony circle) contended that it had not been established that under declaration of tax was due to fraud or wilful neglect. The reply is not acceptable as the dealer claimed excess input tax credit, which resulted in under declaration of tax that was detected by the AA. Levy of penalty is mandatory under the provisions of Section 53(1) of the APVAT Act in case of under declaration of tax, whether the under declaration is wilful or not. Hence penalty at 25 per cent is leviable in this case under Section 53(1). In the remaining six cases the AAs stated that the matter would be examined and report furnished to audit.</p>					
2	Six Circles ⁴⁴	The Departmental officers examined the accounts of six dealers and detected under declared tax on account of suppression of turnover, non-accountal of sales etc. Where the offence is wilful by the dealers under Section 53(3) of the Act, the penalty leviable is 100% of the under declared tax. This penalty was either not levied or short levied by the AAs.	23.19	23.19/ 5.37	17.82
<p>The AA (Patnam Bazaar) accepted the observation involving ₹ 0.72 lakh in one case and stated that penalty of ₹ 0.72 lakh was levied. In the remaining five cases, the AAs stated that the matter would be examined.</p>					

⁴³ Karimnagar-I, Nampally, Nellore-I, R.G.Pet, Somajiguda, and Srinagar Colony.

⁴⁴ Afzalgunj, Aryapuram, Dwarakanagar, Patnam Bazar, Rajahmundry and Somajiguda.

(₹ in lakh)

Sl. No.	Name of the Circle	Audit observation	Under decal-red Tax/	Penalty leviable /levied	Non/short levy of penalty
3	Two Circles ⁴⁵	We saw that two dealers failed to pay tax of ₹ 88.93 lakh due on the monthly returns submitted by them on the dates prescribed for payment, and they paid the same with a delay of 11 days to 68 days. The AAs did not levy penalty of 10 per cent of the amount of tax due under Section 51(1) of the Act, for belated payment of tax due.	88.93 (Tax due)	8.89/ NIL	8.89
In one case, the AA stated (March 2010) that the penalty would be collected after verification and in another case, it was stated that the matter would be examined.					
4	Srinagar Colony	The dealer collected excess tax of ₹ 8.15 lakh from the purchasers in contravention of the provisions of the Act. We saw that the AAs levied penalty of ₹ 2.06 lakh equal to 25 per cent of the tax under Section 53(1) instead of penalty leviable under Section 57(4) of the Act.	8.15 (Excess collection of tax)	8.15/ 2.06	6.09
The AA stated that penalty was levied at the rate of 25 per cent, as there was no wilful mistake to evade tax. The reply is not acceptable, as the dealer had collected tax at the rate of 12.5 per cent not contemplated in the Act and had remitted only four per cent tax to the Government, which amounts to wilful act of evasion and excess collection of tax for which penalty contemplated is under section 57(4) of the Act.					
5	Mahankali Street	The AA detected the false purchase invoices from the dealer, who wilfully claimed ITC on their basis. The AA levied penalty equal to 25 per cent of tax shown on the false invoice instead of 200 per cent applicable in terms of Section 55(2) of the Act.	0.52	1.03/ 0.13	0.90
Department replied (August 2011) that demand was raised and collection was under process.					

We referred the matter to the Department between July 2010 and February 2011 and to the Government in June 2011; their reply has not been received (October 2011).

⁴⁵ Visakhapatnam (Kurupam Market) and Siddipet.

2.24 Incorrect exemption on invalid declarations

As per Rule 10(b), read with proviso under Rule 12(1) of CST (R and T) Rules, 1957, each declaration in form 'H' shall cover transactions of export sales, which take place in a quarter of a financial year between the same two dealers. Therefore, a single declaration issued to cover transactions of export sales for more than one quarter is to be treated as invalid and the turnover has to be brought to tax treating it as inter-state sales not covered by proper declarations.

Rule 12(10)(b) of CST (R and T) Rules, that lays down provisions relating to the issue and use of forms, stipulated that, the conditions specified for Form 'C' shall *mutatis mutandis* apply to certificate in Form 'H'.

We noticed in the test check of the assessment files (between July 2009 and July 2010) of AC (LTU) Anantapur and seven circles⁴⁶ that the AAs while finalising the assessments in 32 cases between August 2007 and March 2010 for the years 2005-06, 2006-07 and 2007-08 incorrectly exempted the export sales of dry chillies, granite, iron ore etc., valued at ₹ 155.27 crore supported by 'H' forms covering transactions of

more than one quarter. Further, in one case, the AA exempted the export sales of potash feldspar valued at ₹ 7.60 lakh effected on 10 June 2006, whereas the documentary evidence revealed that the goods were actually exported on 8 June 2006 i.e., prior to the invoice date. Hence, the transaction is invalid and the turnover should have been taxed. The tax involved in these cases was of ₹ 15.87 crore on a total turnover of ₹ 155.39 crore as inter-state sales not covered by forms.

After we pointed out the cases, the Department replied (August 2011) that show cause notice issued (March 2011) in one case and revision was under process in 21 cases. The AAs replied in two cases (January 2010) that revised forms would be obtained. In three cases, it was contended (June 2010) by the AAs that issuance of a statutory form for a quarter is applicable to form 'C' only, but not to any other forms as per Rule 12(1) of CST (R&T) Rules and further Rule 12(10)(b) delegated power to State Governments for specific purposes, but not for issue of a quarterly 'H' form. The reply is not acceptable as Rule 12(10)(b) of CST (R&T) Rules, that lays down provisions relating to the issue and use of forms, stipulated that, the conditions specified for Form 'C' shall *mutatis mutandis* apply to certificate in Form 'H'. In the remaining cases, the AAs replied that matter would be examined.

We referred the matter to the Government between May and June 2011; their reply has not been received (October 2011).

⁴⁶ Chittoor-II, Guntur (Lalapet), Hyderabad (Nacharam, Saroornagar), Khammam-II, Piduguralla and Siddipet.

2.25 Non-levy of tax on Inter-State sales due to incorrect exemption

According to Section 8(2) of the CST Act, with effect from 1 April 2007, the rate of tax on sales in the course of Inter-State trade or commerce not covered by 'C' form shall be at the rate applicable to the sale or purchase of such goods inside the appropriate State under the sales tax law of that State.

Under entry 41 of Schedule I to the APVAT Act 'wheat bran' is exempt from tax. Hence the commodity is exempt under CST also.

"Wheat flakes" are taxable at the rate of 12.5 per cent under Schedule V to the APVAT Act, while sunflower bran and D bran fall under entry 87 of Schedule IV to the APVAT Act and are liable to tax at the rate of four per cent.

We noticed (between December 2009 and January 2010) during the test check of the assessment files of CTO-Afzalgunj that the AA while finalising the assessment in February 2009 for the year 2007-08, incorrectly exempted the inter-state sales turnover of ₹ 2.08 crore not covered by 'C' form, as sales of wheat bran which is exempt from tax. Our scrutiny of sales register of the dealer revealed that this turnover relate to Inter-State sale of

wheat flakes, D bran and sunflower bran which are taxable goods. This resulted in non-levy of tax of ₹ 12.65 lakh.

After we pointed out the case, the AA stated that the matter would be examined.

We referred the matter to the Department in July 2010 and to the Government in May 2011; their reply has not been received (October 2011).

2.26 Short levy of tax due to arithmetical error

Under the CST Act, tax is leviable on inter-state sale of goods at the rates prescribed in the Act.

We noticed (between October 2008 and September 2009) during the test check of the assessment files of three circles⁴⁷ that in three cases, the AAs while finalising the CST assessments

in March 2008 and January 2009 for the period 2004-05 and 2005-06, worked out the tax as ₹ 4.80 lakh instead of ₹ 12.05 lakh due to arithmetical mistake. This resulted in short levy of tax of ₹ 7.25 lakh.

After we pointed out the cases, in one case, the AA stated (November 2008) that the mistake would be rectified. In the remaining two cases, the AAs stated that the matter would be examined.

We referred the matter to the Department in July 2010 and to the Government in June 2011; their reply has not been received (October 2011).

⁴⁷ Hyderabad (IDA Gandhinagar, N.S. Road and Special Commodities Circle).

2.27 Incorrect computation of turnover

According to Section 2(s) of the APGST Act, 1957, turnover means the total amount set out in the bill of sale excluding the amount collected towards the tax or the tax due under the Act, whichever is less.

We noticed (January 2011) during the test check of records of AC (LTU), Abids Division in one case that an industrial unit was sanctioned (21 October 2002) sales tax deferment for 14 years from 2002 to 2016. It was mentioned in the FEC that the deferment of tax

shall be allowed over the base turnover limit of ₹ 184.65 crore. We further noticed from the assessment files for the period 2002-03 to 2007-08 that the assessee included the sales tax component of ₹ 33.17 crore while arriving at the base turnover limit. As a result, the actual turnover i.e., value of goods produced was reduced to the extent of ₹ 33.17 crore. This resulted in short levy of tax of ₹ 1.59 crore.

After we pointed out the case, the AA stated that the matter would be examined.

We referred the matter to the Department in May 2011 and to the Government in June 2011; their reply has not been received (October 2011).

2.28 Incorrect allowance of set-off of tax

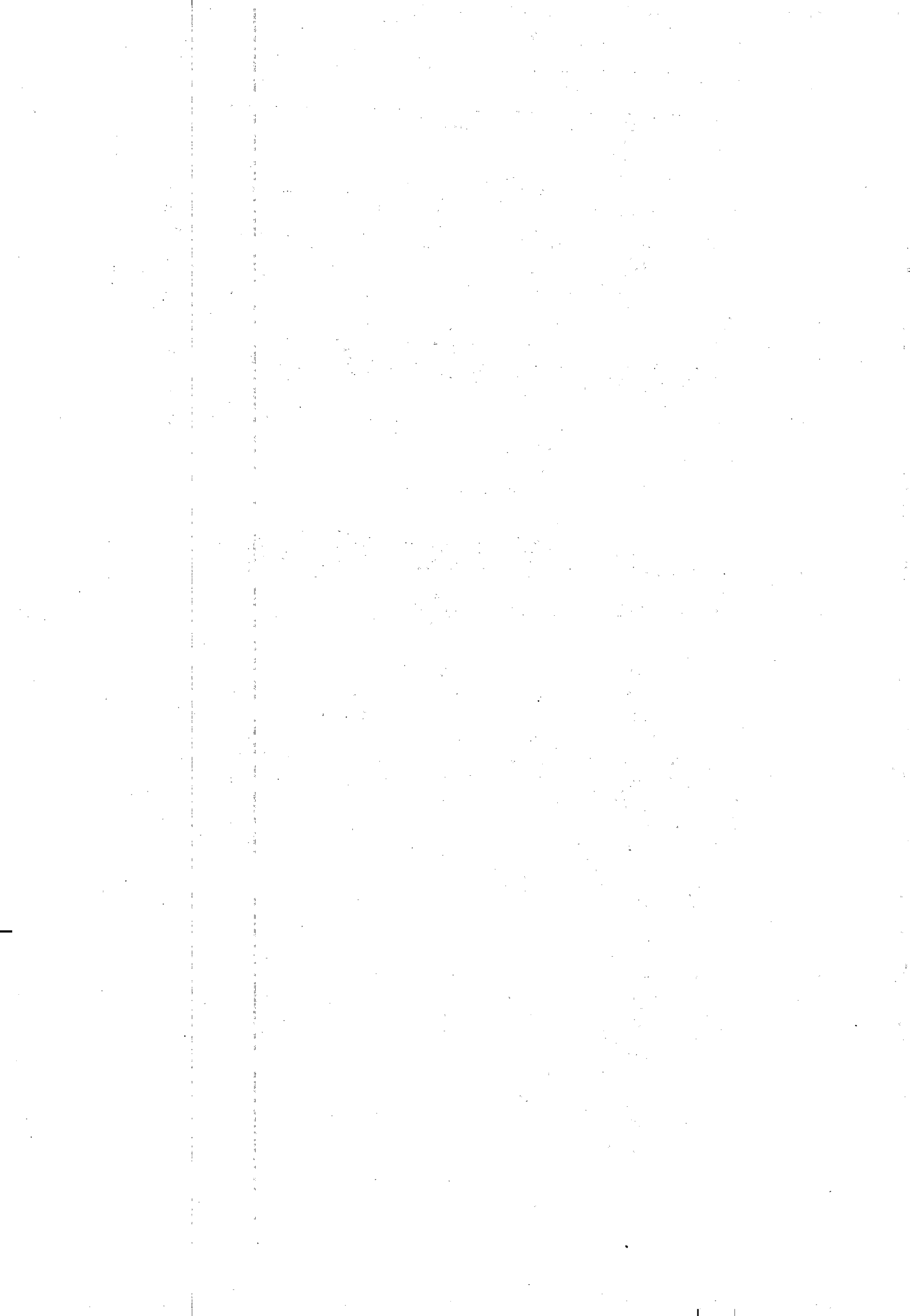
Under the provisions of the APGST Act, and notifications issued there under, set-off can be allowed on sale of finished goods for tax paid on raw material used in manufacture of goods, provided the transactions at both ends take place within the State. In case of industrial units availing sales tax incentive, set off of tax paid on raw materials in a year should be allowed proportionately between (i) turnover upto base turnover limit and (ii) turnover above the base turnover.

We noticed (October and November 2009) during the test check of the assessment files of CTO-Special Commodities circle for the period 2004-05, that in one case where assessment was completed in March 2008 the set-off of tax of ₹ 1.12 crore paid on raw material during the year was adjusted to tax paid upto base production instead of proportionately adjusting to sale turnover upto base

production and turnover over the base production. This resulted in excess exemption of tax of ₹ 62.85 lakh and short levy of tax to that extent.

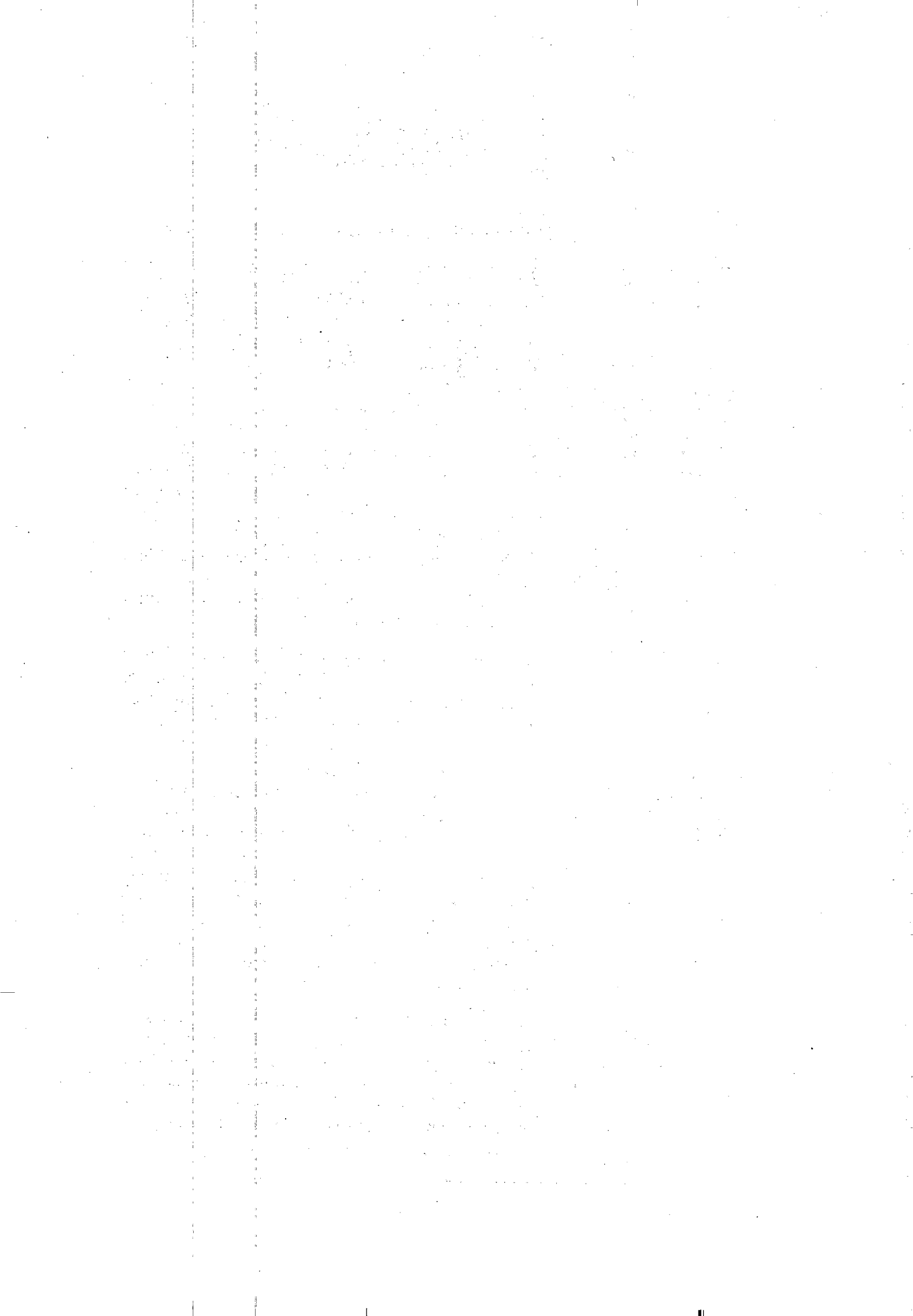
After we pointed out the case, the AA stated that the matter would be examined.

We referred the matter to the Department in July 2010 and to the Government in June 2011; their reply has not been received (October 2011).



CHAPTER III

LAND REVENUE



CHAPTER III LAND REVENUE

EXECUTIVE SUMMARY

Decrease in tax collection	As indicated at para 1.1.2 of Chapter-I, in 2010-11 the collection of land revenue decreased by 22.94 <i>per cent</i> over the previous year, which was attributed by the Department to decrease in land revenue/tax.
Very low recovery by the Department in respect of observations pointed out by us in earlier years	During the period 2005-06 to 2009-10, we had pointed out non/short levy, incorrect grant of remission, loss of revenue with revenue implication of ₹ 893.78 crore in 366 cases. Of these, the Department/ Government had accepted audit observations in 80 cases involving ₹ 77.97 crore but recovered ₹ 0.07 crore in 13 cases. The recovery position as compared to the acceptance of objections was very low at 0.09 <i>per cent</i> during the five year period.
Results of audits conducted by us in 2010-11	<p>In 2010-11 we test checked the records of 272 offices relating to land revenue receipts and found underassessment of tax and other irregularities involving ₹ 314.01 crore in 82 cases.</p> <p>The Department had accepted underassessments and other deficiencies of ₹ 182.83 crore in 42 cases of which, five cases involving ₹ 177.38 crore were pointed out during the year 2010-11 and the rest in the earlier years. An amount of ₹ 44.55 lakh was recovered in 37 cases during the year 2010-11.</p>
What we have highlighted in this Chapter?	<p>In this Chapter, we present illustrative cases of ₹ 16.06 lakh and a performance audit on “Alienation of Government land and conversion of agricultural land for non-agricultural purposes”, involving ₹ 182.31 crore selected from observations noticed during our test check of records relating to assessment and collection of land revenue in the office of Chief Commissioner of Land Administration and Tahsildars, where we found that the provisions of the Acts/Rules were not observed.</p> <p>It is a matter of concern that similar omissions were pointed out by us repeatedly in the Audit Reports for the past several years, but the Department had not taken corrective action. We are also concerned that though these omissions were apparent from the records which were made available to us, the Tahsildars failed to detect them.</p>

With regard to performance audit on 'Alienation of Government land and conversion of agricultural land for non-agricultural purposes', we observed that in the absence of a time frame for finalisation of alienation proposals and non monitoring of these proposals of advance possession of land cases, proposals were pending with the Government/Department for one year to 34 years. Absence of a system for cross verification and coordination between Departments/Local Bodies resulted in approval of housing plans on agricultural land without conversion of the land from agricultural to non agricultural purposes. Ineffective levy and collection system resulted in accumulation of huge arrears on account of conversion fee and fine. There were short/non levy of conversion charges/fines due to administrative lapses/mistakes.

Our conclusion

The Department needs to improve the internal control system so that weaknesses in the system are addressed and omissions of the nature detected by us are avoided in future.

It also needs to initiate immediate action to recover the non/short levy of conversion fee/fine/road cess pointed out by us, more so in those cases where it had accepted our contention.

3.1 Tax administration

At the apex level, Chief Commissioner of Land Administration (CCLA) is responsible for administration of the Revenue Board Standing Orders (BSO), Andhra Pradesh (AP) Water Tax Act, 1988, AP Agricultural land (Conversion for non-agricultural purpose) Act, 2006, AP Irrigation, Utilisation and Command Area Development Act, 1984 and Rules and orders issued thereunder. The State is divided into 23 districts, each of which is headed by a District Collector who is responsible for the administration of the respective district. Each district is divided into revenue divisions and further into mandals¹, which are kept under administrative charge of Revenue Divisional Officers (RDOs) and Tahsildars respectively. Each village in every mandal is administered by Village Revenue Officers (VROs) under the supervision of Tahsildars. The VROs prepare the tax demands under all the Acts mentioned above for each mandal from the village accounts and get it approved by the concerned *Jamabandi* Officers². VROs/Revenue Inspectors are entrusted with the work of collection of revenue/taxes such as water tax, conversion fee for agricultural lands etc. At the Government level, Principal Secretary (Revenue) is incharge of overall administration of the Revenue Department.

3.2 Trend of receipts

Actual receipts from land revenue during the years 2006-07 to 2010-11 alongwith the total tax receipts during the same period is exhibited in the following table and graphs.

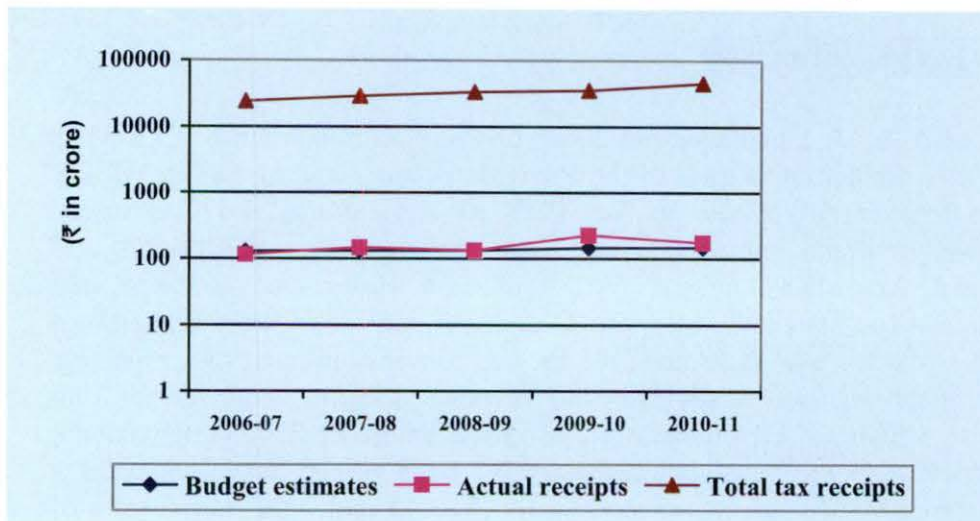
(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-a-vis total tax receipts
2006-07	128.48	113.50	(-) 14.98	(-) 11.66	23,926.20	0.47
2007-08	129.48	144.39	(+) 14.91	(+) 11.52	28,794.05	0.50
2008-09	130.48	130.35	(-) 0.13	(-) 0.10	33,358.29	0.39
2009-10	144.00	221.56	(+) 77.56	(+) 53.86	35,176.68	0.63
2010-11	145.00	170.74	(+) 25.74	(+) 17.75	45,139.55	0.38

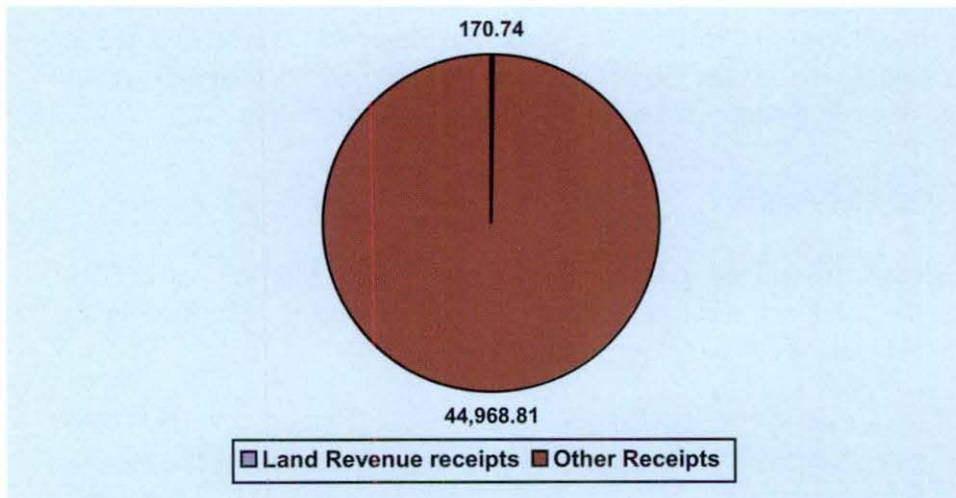
¹ Mandals are the jurisdictional area of each Tahsildar.

² *Jamabandi officer* is District Collector or any other officer nominated by him not below the rank of Revenue Divisional Officer.

Graph 1: Budget estimates, actual receipts and total tax receipts



Graph 2: Actual receipts vis-à-vis Other tax receipts
(₹ in crore)



The percentage of land revenue receipts vis-a-vis total tax receipts of the State had registered a decline from 0.47 per cent to 0.38 per cent during 2006-07 to 2010-11 except during 2007-08 and 2009-10. The percentage of actual receipts vis-à-vis total tax receipts recorded during 2010-11 is the lowest in the last five years.

3.3 Cost of collection

The figures of gross collection in respect of land revenue, expenditure incurred on collection and the percentage of such expenditure to gross collection during the years 2008-09, 2009-10 and 2010-11 are mentioned below:

(₹ in crore)					
Head of revenue	Year	Gross collection	Expenditure on collection of revenue	Percentage of cost of collection to gross collection	All India average percentage for the previous year
Land Revenue	2008-09	130.35	12.90	9.90	NA
	2009-10	221.56	20.61	9.30	NA
	2010-11	170.74	18.96	11.10	NA

The percentage of cost of collection to gross collection in land revenue registered an increase of 1.8 *per cent* during the year 2010-11 as compared to previous year.

3.4 Results of Local Audit

During the last five years, audit had pointed out non/short levy, incorrect grant of remission, loss of revenue with revenue implication of ₹ 893.78 crore in 366 cases. Of these, the Government/Department had accepted audit observations in 80 cases involving ₹ 77.97 crore and had since recovered ₹ 0.07 crore. The details are shown in the following table:

Year	No. of units audited	Amount objected		Amount accepted		Amount recovered	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
2005-06	64	68	27.82	2	0.02	1	0.01
2006-07	187	110	13.29	2	0.06	3	0.01
2007-08	276	92	730.95	40	76.77	6	0.03
2008-09	180	53	110.50	22	0.66	2	0.01
2009-10	214	43	11.22	14	0.46	1	0.01
Total	921	366	893.78	80	77.97	13	0.07

The insignificant recovery of ₹ 0.07 crore (0.09 *per cent*) as against the money value of ₹ 77.97 crore relating to accepted cases during the period 2005-06 to 2009-10 highlights the failure of the Government/Department machinery to act promptly to recover the Government dues even in respect of the cases accepted by them.

3.5 Results of audit

Test check of the records of 272 offices relating to land revenue receipts revealed underassessment of tax and other irregularities involving ₹ 314.01 crore in 82 cases which fall under the following categories:

Sl. No.	Category	No. of cases	Amount
1.	Alienation of Government land and conversion of agricultural land for non-agricultural purposes – (A Performance Audit)	1	182.31
2.	Alienation of Government land	4	2.43
3.	Non/short levy of conversion fee	28	124.08
4.	Non/short levy of road cess	37	1.04
5.	Other irregularities	12	4.15
	Total	82	314.01

During the course of the year 2010-11, the Department accepted underassessments and other deficiencies of ₹ 182.83 crore in 42 cases of which, five cases involving ₹ 177.38 crore were pointed out during the year 2010-11 and the rest in the earlier years. An amount of ₹ 42.95 lakh was recovered in 36 cases.

After the issue of a draft paragraph, the Department reported (September 2011) recovery of ₹ 1.60 lakh in respect of one case.

Few illustrative cases involving ₹ 16.06 lakh and a performance audit on “Alienation of Government land and conversion of agricultural land for non-agricultural purposes” involving ₹ 182.31 crore are mentioned in the succeeding paragraphs.

3.6 Performance Audit of “Alienation of Government land and conversion of agricultural land for non-agricultural purposes”

Highlights

- The Department did not finalise alienation proposals on advance possession of land for years together resulting in non-recovery of revenue of ₹ 160.86 crore.

(Paragraph 3.6.8.2)

- Absence of a system for cross verification and co-ordination between Departments and local bodies resulted in non/short levy of revenue of ₹ 50.56 lakh.

(Paragraph 3.6.9)

- We noticed from information collected from five divisions and 10 Tahsildars that conversion fee and fine amounting to ₹ 1,438.11 crore was pending for recovery for want of effective pursuance by the Department.

(Paragraph 3.6.10)

- Non-levy of fine on lands converted for non-agricultural purpose without obtaining prior permission - ₹ 70.49 lakh.

(Paragraph 3.6.12)

- Short levy of Conversion fee and fine due to incorrect arithmetic calculations - ₹ 11.13 crore.

(Paragraph 3.6.13)

- Non levy of interest on collected arrears - ₹ 6.04 crore.

(Paragraph 3.6.16)

- Unauthorised occupation of Government Land for 39 years due to non-demarcation.

(Paragraph 3.6.18)

3.6.1 Introduction

3.6.1.1 The total geographical area of Andhra Pradesh is 6.80 crore acres³. Due to rapid industrialisation and increase in usage of land for housing and commercial purposes, there has been a considerable growth in the area converted for non-agricultural purposes. Between 2005-06 and 2009-10, 1.98 lakh acres of land was converted for non-agricultural purposes.

Agricultural land could be set apart or put to use for non-agricultural purposes after paying the requisite conversion fee.

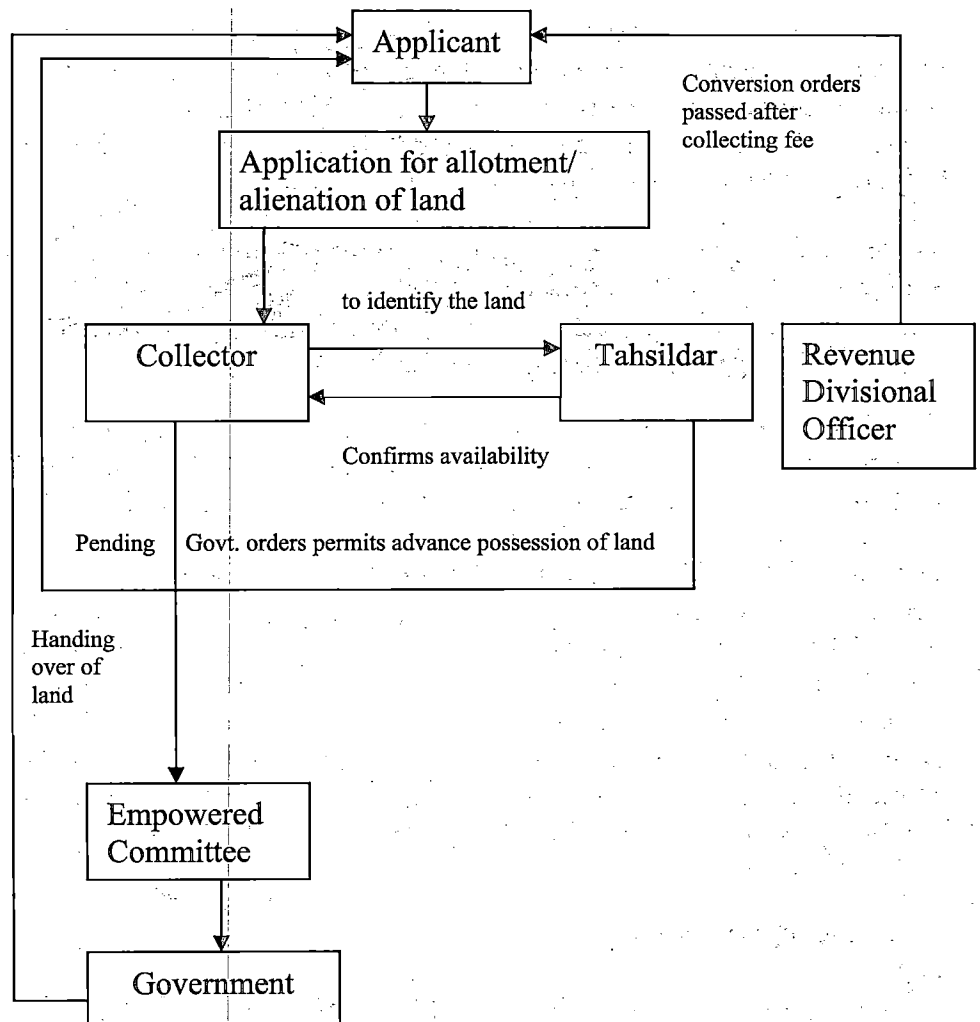
3.6.1.2 Alienation of Government land

No Government land can be alienated without the approval of the Government. Alienation is a process through which Government land is allotted by the Government through issue of an alienation order in favour of the applicant after the same is processed and approved by the local revenue authorities and the Empowered Committee (EC) headed by the Chief Commissioner of Land Administration (CCLA) at the State Headquarters level. The Government in certain cases resumes assigned lands and re-allots the same to the applicants. In these cases, ex-gratia will be paid directly by the beneficiaries to the assignees. The entire process of alienation is governed through the provisions of the BSO No.24⁴ issued in 1955 by the erstwhile Board of Revenue. The BSO permits handing over of the possession of the land in emergency cases pending formal approval of the alienation proposal by the Government.

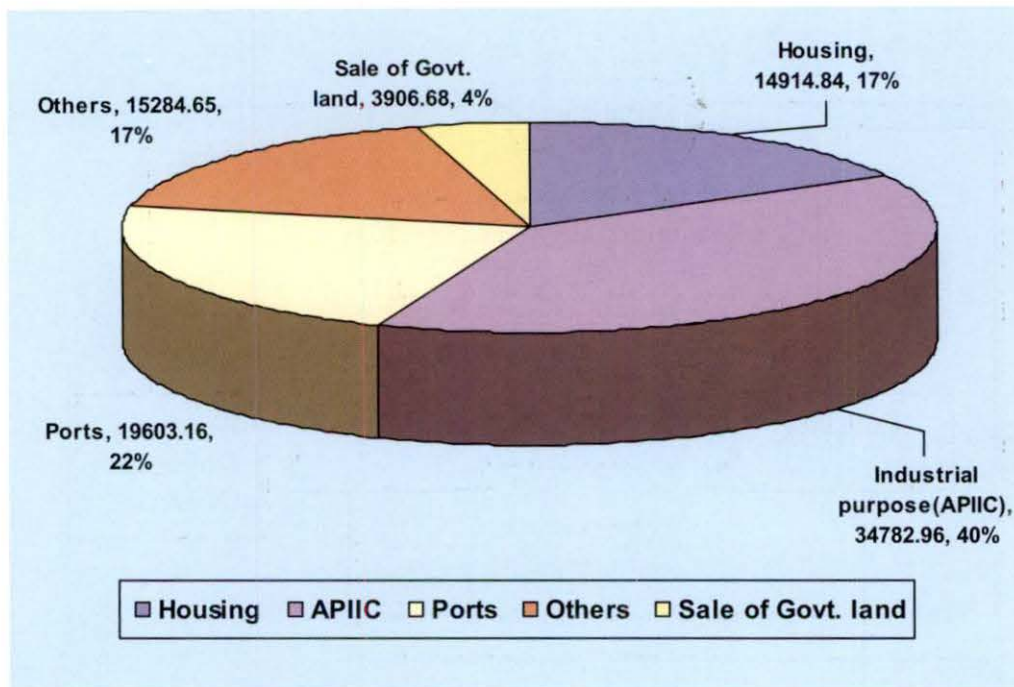
The following flow chart describes the process for alienation of Government land.

³ Source – Bureau of Economics and Statistics of Andhra Pradesh.

⁴ Issued vide G.O.Ms.No.546, Revenue dated 8 May 1955.



During the five year period 2005-06 to 2009-10, the State Empowered Committee had recommended 1,027 alienation proposals involving 88,492.29 acres of land. Various purposes of alienation and the extent of land used under each category are given below.

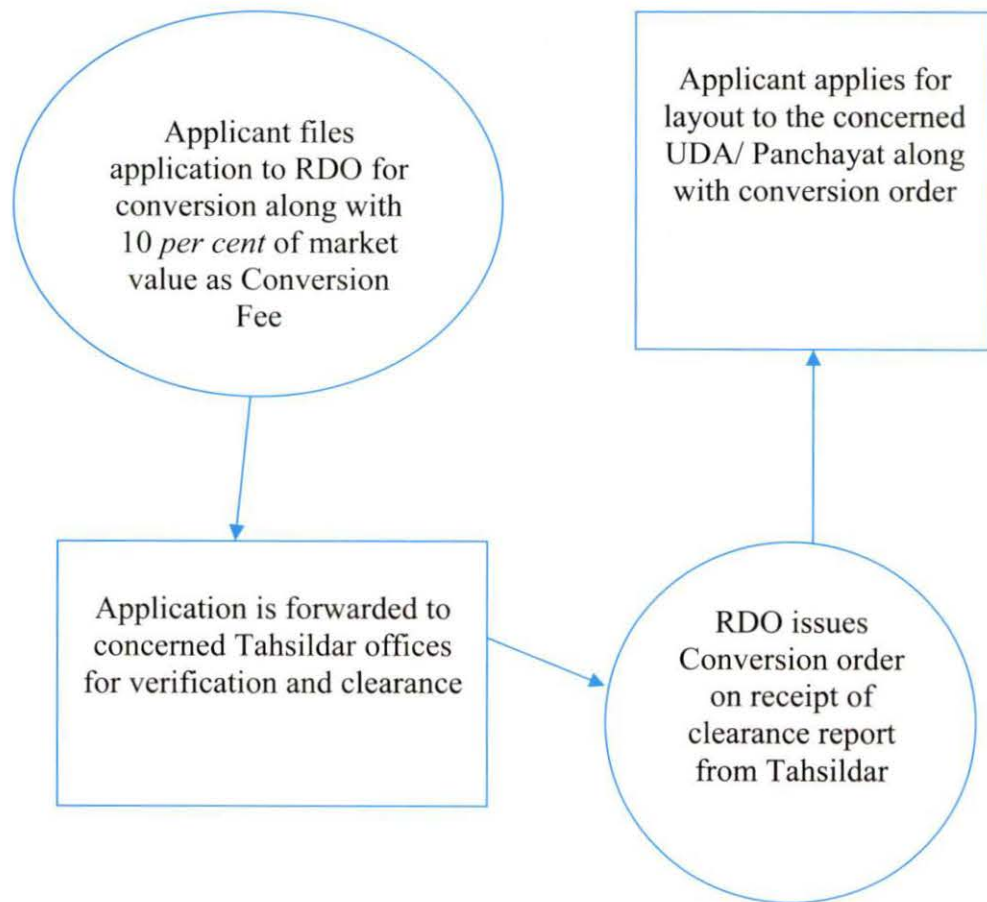


It can be seen from the above that 40 per cent of land was alienated to Andhra Pradesh Industrial Infrastructure Corporation (APIIC) for promoting industrialisation, 22 per cent for Ports, 17 per cent to Andhra Pradesh Housing Board (APHB) etc., for housing, 17 per cent for others and 4 per cent for Sale of Government land i.e., generating revenue to Government mostly through auction of Government land by autonomous bodies such as Hyderabad Metropolitan Development Authority (HMDA), Visakhapatnam Urban Development Authority (VUDA) etc.

3.6.1.3 Conversion of agricultural land for non agricultural purposes

The Andhra Pradesh Agricultural land (Conversion for non-agricultural purposes) Act, 2006, which came into force with effect from 2 January 2006, prescribes a One time Conversion Fee (OTF) to be levied on all agricultural lands converted for non-agricultural purposes on or after the commencement of the Act. The Conversion fee is leviable at 10 per cent of the basic value⁵ of the land. However in terms of Section 7 of the Act, the Act does not apply to certain land i.e., (a) lands owned by the State Government; (b) lands owned by a local authority and used for any communal purposes so long as the land is not used for commercial purposes; (c) lands used for religious or charitable purposes; (d) lands used by owner for household industries involving traditional occupation, not exceeding one acre; and (e) lands used for such other purposes as may be notified by the Government from time to time. The RDO is the assessing authority. The following flow chart describes the process for conversion of agricultural land for non- agricultural purposes.

⁵ Basic value is defined as the value fixed by the competent authority (Market value committee report which is maintained at Sub-Registrar's office).



3.6.2 Organisational set up

At the apex level, the CCLA is responsible for administration of the BSO, AP Agricultural Land (Conversion for non-agricultural purposes) Act, Rules and orders issued thereon. The State is divided into 23 districts, each headed by a District Collector. Each district is divided into revenue divisions headed by the RDO and further into mandals⁶, which are kept under administrative charge of Tahsildars. Each village in a mandal is administered by VROs under the supervision of the Tahsildars. VROs/Mandal Revenue Inspectors are entrusted with the work of maintaining the land records, collection and realisation of amounts due to Government and field inspection duties etc. The RDO is the assessing authority in respect of land conversion and the District Collector is the Appellate authority. At the Government level, Principal Secretary (Revenue) is incharge of overall administration of the Revenue Department.

⁶ Mandals are the jurisdictional area of each Tahsildar.

3.6.3 Audit criteria

The audit objectives were benchmarked against the following audit criteria.

- The AP Agricultural land (Conversion for Non-Agricultural purposes) Act, 2006.
- The AP Non-Agricultural Land Assessment Act (NALA), 1963.
- Board Standing Orders, and
- Notifications and Orders issued by Government of Andhra Pradesh from time to time.

3.6.4 Audit objectives

We conducted the review to examine

- the efficiency and effectiveness of the system of finalisation of alienation proposals;
- whether adequate monitoring mechanism existed for finalisation of alienation proposals and realisation of market value fixed;
- whether adequate internal control mechanism existed for assessment and realisation of OTF under the Act; and
- whether the arrears collectable under the erstwhile Andhra Pradesh Non-Agricultural Land Assessment (NALA) Act, 1963 have been collected.

3.6.5 Scope and methodology of audit

We conducted the review of records for the period 2005-06 to 2009-10 (i.e., *fasli* years 1415 to 1419) of 84 Tahsildars and 31 Revenue Divisional Offices covering 17 (73.9 *per cent*) out of 23 districts between June 2010 and February 2011 selected through stratified random sampling. We reviewed alienations and conversions in 425 cases involving 51,636.54 acres (58.35 *per cent*) out of 1,027 cases involving 88,492.29 acres. In addition we also reviewed cases involving conversion fees amounting to ₹ 51.39 crore to check the correctness of levy of the fees.

3.6.6 Acknowledgement

We acknowledge the co-operation of the Land Revenue Department in providing the necessary information and records to audit. We held an entry conference in September 2010 with the Special Chief Secretary and CCLA, Andhra Pradesh, in which the objectives of the review and audit methodology was explained. We also held an Exit Conference in July 2011, where the report was discussed with the Government. The replies of the Department/

Government received during Exit Conference and other points of time have been appropriately incorporated in the Report.

3.6.7 Trend of revenue

The Andhra Pradesh Budget Manual stipulates that the estimates should take into account only such receipts including arrears expected to be actually realised during the budget year. The conversion fee collections increased from ₹ 3.29 crore to ₹ 62.49 crore from 2005-06 to 2009-10 while the amount realised from alienation of Government land increased from ₹ 3.42 crore to ₹ 79.59 crore during the same period. The budget estimates, actual receipts, variation for the years 2005-06 to 2009-10 in respect of receipts towards conversion fee and alienation of Government land is mentioned in the following tables:

3.6.7.1 Conversion fee

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+) shortfall (-)	Percentage of variation
2005-06	15.00	3.29	(-) 11.71	(-) 78.07
2006-07	15.00	25.52	(+) 10.52	(+) 70.13
2007-08	15.00	90.26	(+) 75.25	(+) 501.67
2008-09	55.00	80.05	(+) 25.05	(+) 45.55
2009-10	88.00	62.49	(-) 25.51	(-) 28.99

3.6.7.2 Alienations

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+) shortfall (-)	Percentage of variation
2005-06	5.00	3.42	(-) 1.58	(-) 31.60
2006-07	5.00	4.01	(-) 0.99	(-) 19.80
2007-08	5.00	35.67	(+) 30.67	(+) 613.40
2008-09	5.03	44.74	(+) 39.71	(+) 789.46
2009-10	20.49	79.59	(+) 59.10	(+) 288.43

It is seen from the above that the variation between the budget estimates and actuals ranged between (-) 78.07 per cent and (+) 501.67 per cent in respect of collection of conversion fee while the variation between the budget estimates and actual collections from alienation of lands ranged between (-) 31.60 per cent and (+) 789.46 per cent. This high degree of difference between budget estimates and the actual receipts during the years indicates lack of realistic budgeting process reflective of absence of underlying process for planning for alienation of land proposals and collection of the fees/charges. The receipts have increased since 2006-07 after the enactment of the Andhra Pradesh Agricultural land (Conversion for non-agricultural purposes) Act, 2006, which came into force with effect from 2 January 2006 except during the years 2008-09 and 2009-10.

The Department accepted that in respect of conversion fee, no analysis was conducted for variation between the budget estimates and actual receipts while reply in respect of alienations is awaited.

Audit Findings

System deficiencies

3.6.8 System of processing alienation proposals

3.6.8.1 Absence of database of Government land

As land is a valuable asset of the Government having rapidly increasing market value, it is important for the Department to have a complete and updated database of the actual Government land available, the extent thereof alienated and pendency of alienation cases at different levels of the revenue administration.

We noticed that no such database was available either at the Government level or at the CCLA level. This indicates that the Department did not maintain the basic information and tools required to efficiently

manage Government land in the matter of alienation.

3.6.8.2 Non-finalisation of alienation proposals on advance possession

According to BSO, alienation of Government land to a company, private individual or institution for any public purpose will normally be on collection of its market value/occupancy price and subject to the terms and conditions prescribed in the BSO. The BSO provisions permit possession of the land by the applicant in the event of any emergent circumstances pending formal approval of the alienation proposal.

We observed that no time limit has been prescribed for finalisation of the alienation proposals and there was no return either for watching the

finalisation of the alienation proposals. Consequently, the Government is not in a position to monitor the finalisation of alienation proposals in a timely manner.

We observed during our test check of the records of the offices of CCLA, two divisions⁷ and 13 offices of Tahsildars⁸ that advance possession of Government land admeasuring 3,361.76 acres valued at ₹ 160.86 crore as per the market value fixed by the Empowered Committee, was handed over to various allottees between January 1977 and March 2009. However, the alienation proposals were not finalised even after one to 34 years after handing over the possession of these lands. Non-finalisation of alienation proposals for advance possession of Government land in a time bound manner proved to be against the interest of the Government revenue and has resulted in favouring the allottees who continued to enjoy the benefit of the land without payment of the Government dues. The table below gives the details of cases which were

⁷ Kavali and Nellore.

⁸ Hayathnagar, Kanagal, Kodad, Kota, Mangalagiri, Narasaraopet, Saroornagar, Serilingampally, Shamshabad, Srikalahasti, Tenali, Uppal and Visakhapatnam Rural.

pending either at Government or Collector level resulting in non-recovery of revenue of ₹ 160.86 crore as detailed below.

(₹ in crore)

Sl. No.	Name of allottee	Purpose	Area of land (Acres)	Date of handing over advance possession/ revenue due since	Revenue due	Reply of the Government
1	AP Rajiv Swagruha Corpn Ltd. (APRSCL) (5 cases)	Housing	237.88	12/07 to 01/10	86.52	Out of five proposals, one proposal each was pending with Government and CCLA and three proposals were pending with the Collectors.
2	AP Tourism Development Corporation (3 cases).	Tourism	30.39	12/01 to 03/08	10.24	Two proposals were pending with the CCLA and one proposal was pending with the Collector.
3	AP State Warehousing Corporation Limited	Warehouse	15.24	01/77 to 06/01	3.29	The proposal was pending with the Collector. A follow up with the Collector revealed that the Collector had on several occasions reminded the RDO and Tahsildar concerned, the latest being on 15.07.2011, to expedite the forwarding of alienation proposals.
4	Market Yard Committee	Agri-cultural marketing	2.90	08/08	0.03	The proposal was pending with the Collector.
5	APIIC (3 cases)	Industry	3,070.35	11/02 to 09/08	58.49	Two proposals were pending with Government and one proposal was pending with the Collector.
6	AP Central Power Distribution Company Limited	Electrical Sub-station	1.00	03/09	0.04	The proposal was pending with the Collector.
7	Visakhapatnam Society for animals	Animal care	2.00	01/2000	2.20	The proposal was pending with the Collector.
8	Nalgonda and Rangareddy Milk Co-operative Producers Union	Milk Co-operative	2.00	02/99	0.05	The proposal was pending with the Collector.
	Total		3,361.76		160.86	

A further scrutiny of the pendency of the alienation proposals at the Rangareddy Collectorate revealed that the proposals were pending due to non-receipt of regular alienation proposals in final shape from the concerned Tahsildars.

As evident the proposals were pending with the Collectors for periods ranging between one and 34 years which is reflective of inaction by the Government to get the proposals forwarded at each level in a timely manner after handing over advance possession of land. This resulted in allottees enjoying the benefit of Government land without payment of the Government dues.

3.6.9 Absence of a system for cross verification and coordination between Departments resulted in non/short levy of revenue

Section 4(1) of the Act, provides that every owner or occupier of agricultural land shall pay a conversion fee at the rate of 10 *per cent* of the basic value of the land converted for non-agricultural purposes. If the conversion fee so paid is found to be less than the fee prescribed, a notice shall be issued by the competent authority to the applicant within 30 days of the receipt of application intimating the deficit amount to him. In case no intimation is received by the applicant from the Department within 30 days about the deficit payment of the conversion fees, it shall be deemed that the amount paid is sufficient for the purpose. As per Section 6 of the Act, in cases where lands have already been converted without obtaining the permission, the land shall be deemed to have been converted into non-agricultural purpose and upon such deemed conversion, fine at 50 *per cent* over and above the conversion fee has to be levied.

Further, the local bodies such as Municipalities in urban areas and Gram Panchayats in rural areas issue permission to develop land for purposes such as layouts for housing plots, setting up of industries, amusement parks etc. The Registration and Stamps Department levies duties on the market value of the document as per the Market value register, the consideration value or 18 times the average annual rental value whichever is higher. In the market value register, the market values are given per acre if it is an agricultural land and per square yard if it is a non-agricultural land. There is a minimum square yard rate for the entire village which should be adopted in respect of lands already converted for non-agricultural purpose.

We noted that there is no system for cross verification of information or co-ordination between various bodies/user Departments i.e., RDO, Local bodies, Sub-Registrars for cross verification of the basic value of the land applied for conversion/unauthorisedly converted. The local bodies did not insist on *land conversion permission* and No Objection Certificate from the

RDOs before approving a layout plan meant for use of land for non-agricultural purposes and RDOs who are responsible for allowing conversion of the land did not communicate list of lands converted for non-agricultural purposes to the Sub-Registrars, resulting in non/short-levy of revenue by way of conversion fee as detailed below.

3.6.9.1 We noticed in the test check of the records of three offices of Tahsildars that five individuals applied for conversion of land for non-agricultural purposes and paid the conversion fee. However, cross verification with local bodies by audit revealed that the applicants had already converted the land into house sites by obtaining approval of layout from the local bodies. Further we also noticed that basic value of the land was adopted at lower rates in two cases for payment of conversion charges. These omissions resulted in non/short levy of conversion charges and fines detailed below.

(₹ in lakh)

Sl. No.	Tahsildar office	No. of cases	Area of land (Acres)	Basic value of the property	Revenue Due		Paid		Balance due	
					Fee	Fine	Fee	Fine	Fee	Fine
1	Chityal	3	78.32	50.83	5.08	2.54	5.08	NIL	NIL	2.54
2	Tottembedu	1	9.77	70.93	7.09	3.55	1.22	NIL	5.87	3.55
3	Nalgonda	1	1.95	41.53	4.15	2.08	0.52	NIL	3.63	2.08
	Total	5	90.04		16.32	8.17	6.82	NIL	9.50	8.17

The possibility of realising the revenue due on account of conversion fee is remote as the Act prescribes that if no notice was issued by the competent authority to the applicant within 30 days of the receipt of application intimating the deficit amount, it shall be deemed that the amount paid was sufficient for the purpose.

3.6.9.2 We noticed in the test check of the records of two offices of Tahsildars that two individuals applied for conversion of land for non-agricultural purposes and paid the conversion fee. However, cross verification with Sub-registrars by audit revealed that the value of the lands adopted by the Department was lesser than the valuation certificate issued by the Sub-Registrars, resulting in short levy of revenue as detailed below.

(₹ in lakh)

Sl. No.	Tahsildar office	No. of cases	Area of land (Acres)	Basic value of the property	Revenue Due	Paid	Balance due
1	Lepakshi	1	103.00	348.96	34.90	2.14	32.76
2	Markapur	1	0.25	1.82	0.18	0.05	0.13
	Total	2	103.25		35.08	2.19	32.89

The Government replied (July 2011) that they had convened a meeting with various functionaries to address the issue and assured to forward the minutes of these meetings. They are awaited (October 2011).

3.6.10 Ineffective system of realisation of Conversion fee and fine

As per Article 8 of Andhra Pradesh Financial Code (APFC), every Departmental controlling officer should watch closely the progress of realisation of revenue under his control. Article 9 of APFC also stipulates that every Departmental controlling officer should obtain regular returns from his subordinates for the amount received by them.

We noticed that though periodical returns were being reviewed by the CCLA, the system of monitoring the revenue due, collected and balance thereof on account of conversion fee and fine was ineffective. We observed that in respect of Conversion fee, there was

no correlation between the demand notices issued and the targets fixed. Consequently, the office of the CCLA was not aware of the total revenue arrears of the State on account of conversion fee and alienation charges as detailed below.

We noted from the information collected from five divisions⁹ and 10 tahsildars¹⁰ that conversion fee and fine amounting to ₹ 1,438.11 crore was due from 2007 onwards from several individuals/institutions and Corporate houses as detailed below.

(₹ in crore)

Sl. No.	Revenue due from	No. of cases	Amount
1	Individuals	4,871	948.90
2	APIIC	4	453.86
3	Industries	8	10.01
4	Hyderabad Metropolitan Development Authority (HMDA)	1	25.34
	Total	4,884	1,438.11

As seen from the above, maximum amount was due from various individuals. Division wise/Tahsildar wise details are detailed below.

(₹ in crore)

Sl. No.	Division/Tahsildar	No. of cases	Extent of land (Acres)	Revenue due	Penalty	Total
1.	RDO, RR East	2,920	20,539.27	256.39	128.19	384.58
2.	RDO, Chevella	105	315.88	196.21	98.11	294.32
3.	RDO, Visakhapatnam	1,569	NA	168.39	84.19	252.58
4.	Tahsildar, Tenali	166	208.38	3.44	1.72	5.16
5.	Tahsildar, Vijayawada Rural	20	128.93	3.33	1.67	5.00
6.	Tahsildar, Hayathnagar	42	245.21	2.12	1.06	3.18
7.	Tahsildar, Mangalagiri	11	168.24	1.39	0.69	2.08

⁹ Chevella, Karimnagar, Nellore, Ranga Reddy East and Visakhapatnam.

¹⁰ Chityal, Gajuwaka, Hayathnagar, Kothur, Maheswaram, Mangalagiri, Satyavedu, Srirangarajapuram, Tenali and Vijayawada Rural.

						(₹ in crore)
Sl. No.	Division/Tahsildar	No. of cases	Extent of land (Acres)	Revenue due	Penalty	Total
8.	Tahsildar, Maheshwaram	8	59.53	1.22	0.61	1.83
9.	Tahsildar, Chityal	10	113.04	0.06	0.03	0.09
10.	RDO, Karimnagar	20	54.90	0.05	0.03	0.08
		4,871	21,833.38	632.60	316.30	948.90

Though such huge amounts were pending from these individuals, no follow up action was taken other than issuing notices between June 2008 and March 2010.

A further analysis of these cases also revealed that there was no follow up action on the part of the Department in pursuing the realisation of dues as is evident from the fact that out of huge number of cases i.e., 4,871 cases, provisions of RR Act were invoked only in respect of 35 cases and writ petitions were filed in respect of 12 cases. No further correspondence was forthcoming from the files other than the copies of notices issued. This lack of follow up action is encouraging the individuals in evading the Government dues.

The Government replied (July 2011) that there existed a system of monthly monitoring based on the targets fixed. However, as analysed above, the follow up action was inadequate resulting in accumulation of huge arrears. Thus, there is a need to accelerate the process of realisation considering that arrears were pending for over four years.

3.6.11 Manpower shortages and impact thereof

The Revenue Department's administration runs at four levels i.e., Mandal, Division, District and the State level and performs a range of manpower intensive functions such as maintenance of land records, levy and collection of water tax, NALA, road cess, attending to relief work during natural calamities, preparation/modification to electoral rolls, civil supplies duties etc. The basic and grass root level posts i.e., Jr.Assistants (JA) and Sr.Assistants (SA) cadres are very important to run the day to day administration. The SA cadre is a feeder cadre and there is no direct recruitment to SA posts. The Department issued orders downgrading 850 posts of SAs to that of JAs in June 2011 to enable direct recruitment in JA cadre.

We noticed in the test check of the records of the office of CCLA that the Department was reeling under shortages in various key cadres as detailed below.

Name of the post	Sanctioned strength	Men in position	Vacancies	Percentage of vacancies
Dy. Tahsildar	2,337	2,319*	18*	0.80*
Sr. Asst.	5,283	3,584	1,699	32.16
S.A. in CCLA	133	109	24	18.00
Jr. Asst.	2,252	2,090*	162*	7.19*
J.A. in CCLA	41	25*	16*	39.00*
Typist	1,387	654	733	52.84
Typist in CCLA	36	7	29	80.55
VROs	16,935	8,788	8,147	48.11

* after including the posts notified in the cadres of Dy. Tahsildar, Sr. Asst., and Jr. Asst in CCLA in Men in position.

The VROs play a key role in the revenue administration performing multifarious functions, such as maintenance of village accounts, collection of water tax, azmoish of crops, inspection of survey stones, issue of nativity, caste certificates, assistance in identification of beneficiaries for pensions, natural calamities, fire accidents etc. The Sr. Assistants/Jr. Assistants in the mandal office are responsible for maintenance of records relating to office procedure and financial activities, preparation of alienation proposals, civil supplies, establishment, natural calamities, issue of certificates of income, caste, nativity etc.

In the light of the above, the huge vacancy position, particularly in the cadres of VROs, Sr. Assistants and Jr. Assistants, could adversely impact the functioning of the Department in the form of shortfall in public service and also the process of finalisation of *Jamabandi*¹¹ which was in arrears since 2003 throughout the State.

The Government replied (July 2011) that efforts were being made to fill the vacancies. It was also stated that the Department's working was also affected by inadequacy of budgetary support. Audit sought these particulars for examination and the same were awaited.

Compliance deficiencies

3.6.12 Non-levy of fine on lands converted for non-agricultural purpose without obtaining prior permission

Under Section 6(2) of the Act, if any agricultural land has been put to non-agricultural purpose without obtaining the permission, the competent authority shall impose a fine of 50 per cent over and above the conversion fee.

We noticed in the test check of the records of the offices of RDO, Chevella and Tahsildar, Hindupur and that in two cases, lands were converted for non-agricultural purposes without permission. The RDOs, on detection of these conversions,

issued notices between January and September 2010 for payment of

¹¹ *Jamabandi* means finalisation of village accounts and demand.

conversion fee. However, fine of ₹ 70.49 lakh was not demanded by the RDOs. This resulted in non-realisation of an amount of ₹ 70.49 lakh as detailed below.

(₹ in lakh)

Sl. No.	Office	Name of the converter	Extent (Acres)	Basic value of the property	Fine leviable
1	RDO, Chevella	Manjeera Majestics Mansion Commercial complex	2.48	1,200.00	60.00
2	Tahsildar, Hindupur	APIIC	1,075.87	209.79	10.49
Total			1,078.35	1,409.79	70.49

3.6.13 Short levy of Conversion fee and fine

We noticed in the test check of the records of the offices of two divisions¹² and three Tahsildars¹³ that the RDOs issued notices between October 2008 and September 2010 to individuals to pay conversion fee and fine for unauthorised conversion of agricultural lands for non-agricultural purposes. However, the RDOs short levied conversion fee and fine amounting to ₹ 11.13 crore due to incorrect arithmetic calculations as detailed below.

(₹ in lakh)

Sl. No.	Office	Basic value of land	Revenue due		Levied	Short levy of fee and fine
			Conversion fee	Fine		
1	RDO, Chevella	6,769.54	676.95	338.48	161.24	854.20
2	Tahsildar, Chityal	2.40	0.24	0.12	0.04	0.32
3	Tahsildar, Domakonda	15.10	1.51	0.76	0.07	2.20
4	RDO, RR East	3,670.93	367.09	183.55	316.59	234.05
5	Tahsildar, Kakinada (Rural)	251.60	25.16	12.58	15.67	22.07
Total			1,070.95	535.49	493.61	1,112.84

The Government replied (July 2011) that audit calculated the fee on market value which was incorrect as Conversion fee has to be calculated on the basic value as per the Act. However, during the Exit Conference (July 2011), on perusing the concerned documents, the CCLA stated that there might have been a mistake in arithmetic calculations and agreed to review the matter.

3.6.14 Non-realisation of revenue despite issue of Alienation order

We noticed in the test check of records of Kavali division that possession of land admeasuring an extent of nine acres was given to the Sports Authority of Andhra Pradesh, Kavali in July 2002 and alienation order was issued by the Government in February 2009 for a value of ₹ 9.00 lakh. However, the revenue authorities did not levy/collect the value of land till date (October 2011).

¹² Chevella and Ranga Reddy East.

¹³ Chityal, Domakonda and Kakinada Rural.

The Government replied during the Exit Conference (July 2011) that the amount needs to be collected by the Collector.

3.6.15 Non-levy of Non-Agricultural Land Assessment (NALA)

Under the Andhra Pradesh NALA Act, all non-agricultural lands in local areas (Local area means the area within the jurisdiction of the Municipal Corporation of Hyderabad, a municipality or any other area which is recognised as a village in the revenue accounts of the Government). Shall be subject to assessment of land at the rates specified in the schedule to the Act. The rates of NALA vary depending upon the population of the local area as per the latest census and the purpose for which the land was put to use i.e., industrial, commercial or any other non-agriculture purposes. The Government issued orders exempting levy and collection of NALA on Industrial units from 2000 to 2005 which was further extended up to 2010.

We noticed in the test check of the records of the offices of three Tahsildars¹⁴ that NALA amounting to ₹ 8.00 lakh was not levied on other than Industrial units for the *fasli* years 1411 to 1415.

The Government replied (July 2011) that case wise reports from the concerned collectors were awaited.

3.6.16 Non-levy of interest on arrears

As per Section 15(2)(b) of Andhra Pradesh Agricultural Land (Conversion for non-agricultural purposes) Act, all the outstanding arrears from individuals/ institutions under the AP NALA Act as on the date of commencement of this Act (2 January 2006) shall be recovered under the provisions of Andhra Pradesh Revenue Recovery (APRR) Act, 1864. As per section 7 of APRR Act, arrears of revenue shall bear interest at six *per cent* per annum.

We noticed in the test check of the records of the office of CCLA that the interest on collected arrears of NALA under AP NALA Act, amounting to ₹ 6.04 crore was not levied for the period 2006-07 to 2010-11.

The Government replied (July 2011) that

the report from the CCLA who was following up with the Collectors was awaited.

¹⁴ Nidadavole, Serilingampally and Shamshabad.

3.6.17 Elimination of arrear demand of NALA

As per Section 15(2)(b) of AP Agricultural Land (Conversion for non-agricultural purposes) Act, all the outstanding arrears from individuals/institutions under the AP NALA Act, 1963 as on the date of commencement of this Act shall be recovered under the provisions of APRR Act. Further, Article 8 of AP Financial Code Vol. I, stipulates that every Departmental controlling officer should watch closely the progress of realisation of the revenues under his control and check the recoveries made against the demand.

The Department maintains a Demand, Collection and Balance register (DCB) to monitor the demand, collection and balance figures. The closing balance in the previous years DCB would be the opening balance of current year's DCB. However, we noticed in the test check of the records of four offices of Tahsildars¹⁵ that

demand/arrear demand of NALA amounting to ₹ 1.43 crore was either short carried forward or shown as NIL/omitted. This was neither detected by the Tahsildars nor by the *jamabandi* officer. This resulted in elimination of demand amounting to ₹ 1.43 crore. The internal audit in the Department also did not detect the elimination of arrears demand of NALA under Andhra Pradesh NALA Act from DCB at Tahsildar level.

The CCLA replied (July 2011) that the matter would be pursued through the Collectors and action taken report would be sent shortly.

3.6.18 Unauthorised occupation of Government land for 39 years

Government may grant/alienate lands to various institutions either on collection of market value or for free of cost. There has been a steady increase in the volume of lands being alienated for various purposes. In these circumstances, prudence should be exercised not only in allotting the lands but also in monitoring through periodical survey in order to ensure that the area of the land occupied is commensurate with the allotment orders issued.

The Government allotted 700 acres of land to Central Research Institute for Dry Land Agriculture (CRIDA) in 1970. However, during the inspection conducted in March 2008 by APRSCL, it was noticed that the CRIDA was in

possession of 730.20 acres against the allotted land of 700 acres. Out of this, 21 acres were allotted to APRSCL. Thus, delay of 39 years in demarcation of land resulted in unauthorised retention of 9.20 acres of land valued at ₹ 1.47 crore by the CRIDA. The Collector, Ranga Reddy District issued instructions to the Deputy Collector and Tahsildar, Hayathnagar to take over possession of land from CRIDA and hand over the same to APRSCL. Even after a lapse of two years the land has not been handed over/taken over.

¹⁵ Adilabad, Pedagantyada, Pendurthy and Vijayawada urban.

The Government replied (July 2011) that the matter would be pursued through the Collector and further action would be taken.

3.6.19 Conclusion

We reviewed the process leading to the alienation of Government land with reference to the applicable law and instructions of the Government and the efficiency and effectiveness with which the Government dues were realised especially after the enactment of the AP Agricultural land (Conversion for non-agricultural purposes) Act. We saw that in absence of a time frame for finalisation of alienation proposals and non-monitoring of these proposals of advance possession of land cases, proposals were pending for periods ranging from one year to 34 years before the Government and the Collectors. The benefit of advance possession of land were enjoyed by the allottees without payment of due revenue to the Government. Absence of a system for cross verification and co-ordination between Departments/ Local Bodies resulted in approval of housing plans etc., on agricultural land without conversion of the land from agriculture to non-agricultural purposes. Ineffective levy and collection system resulted in accumulation of huge arrears on account of conversion fee and fine. There were non/short levy of conversion charges/fines due to administrative mistakes/lapses which needs to be corrected. The huge vacancy position in the Department may adversely impact the timely rendering of public services and finalisation of proposals involving land which is precious asset.

3.6.20 Summary of recommendations

The Government should

- *prescribe a time limit for finalisation of alienation proposals in advance possession cases and introduce a periodical return to monitor the same;*
- *ensure co-ordination between Government Departments and sharing of information between them to avoid approval of layout plans on agricultural lands; and*
- *accelerate the pace of collection of revenue arrears through a review of the existing monitoring system in place.*

3.7 Other audit observations

During scrutiny of the records in the various offices of land revenue relating to revenue received from land revenue such as conversion fee, road cess etc., we observed few cases of non-observance of the provisions of the Acts/Rules resulting in non/short levy of road cess as mentioned in the succeeding paragraph in this Chapter. These cases are illustrative and are based on a test check carried out by us. We pointed out such omissions in audit each year, but not only do the irregularities persist; these remain undetected till an audit is conducted. There is a need for the Government to improve the internal control system so that such omissions can be avoided.

3.8 Non/short levy of road cess

Under the AP Irrigation, Utilisation and Command Area Development Act, 1984, read with the notifications issued thereunder, road cess at the rate of ₹ 12.35 per hectare per annum is leviable for laying of roads and their upkeep in the command areas of Nagarjunasagar, Sriramsagar and Tungabhadra projects. The Commissioner of Land Revenue, clarified in No.Z2/486/88 dated 28 August 1989 that road cess is leviable on all *ayacutdars* irrespective of the formation of roads and supply of water in their command areas relating to the above projects.

We noticed (between March and September 2010) during the test check of the *jamabandi* records of seven offices of the Tahsildars¹⁶ that road cess of ₹ 7.23 lakh was not levied on *ayacutdars*¹⁷ in the command areas of the above projects in four offices, while it was levied short by ₹ 8.83 lakh in three offices during the period

1 July 2000 to 30 June 2009 (*fasli* years 1410 to 1418). This resulted in non/short levy of road cess of ₹ 16.06 lakh.

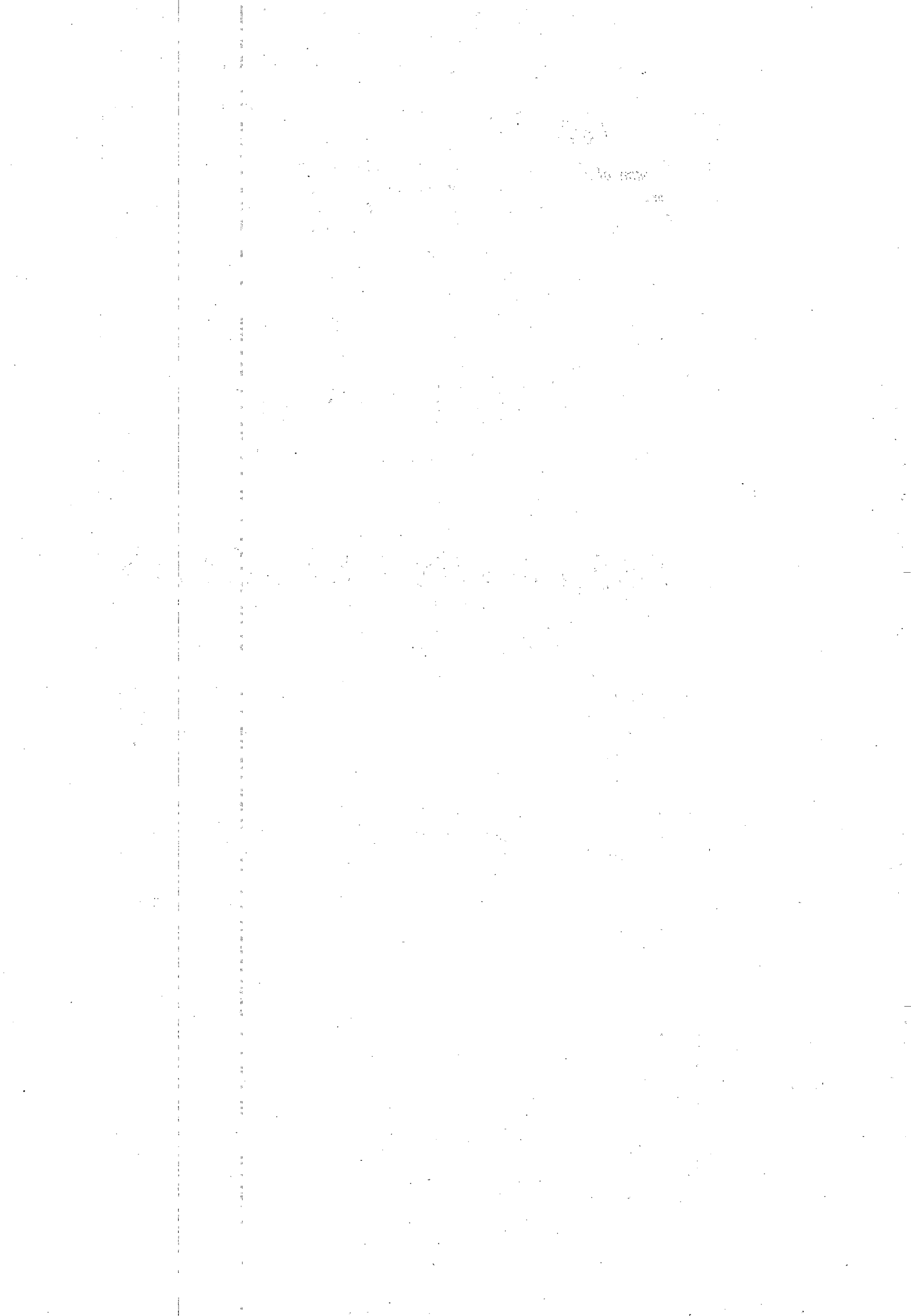
After we pointed out the above cases, Department/Tahsildars accepted (between March 2010 and September 2011) the audit observation in respect of five tahsildars¹⁸ and recovered road cess of ₹ 0.67 lakh in June 2011. The other two Tahsildars stated that the matter would be examined.

We referred the matter to the Government in May 2011; their reply has not been received (October 2011).

¹⁶ Kakumanu, Karempudi, Kowthalam, Krishnagiri, Mundlamuru, Parvathagiri and Yemmiganur.

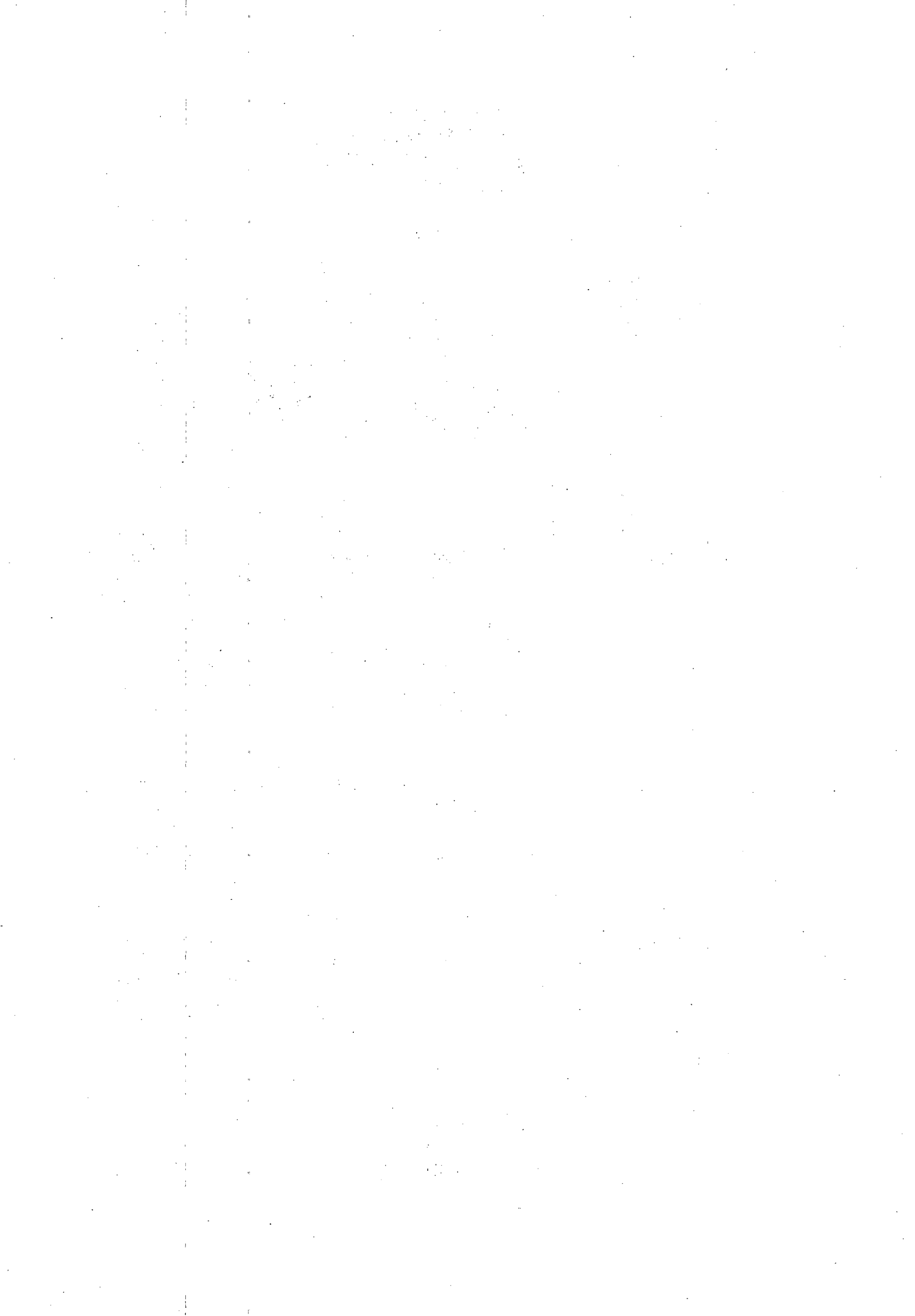
¹⁷ Land owners in command areas of irrigation projects.

¹⁸ Kakumanu, Karempudi, Krishnagiri, Mundlamuru and Parvathagiri.



CHAPTER IV

TAXES ON VEHICLES



CHAPTER IV TAXES ON VEHICLES

EXECUTIVE SUMMARY

Appreciable increase in tax collection

As indicated at para 1.1.2 of Chapter-I, in 2010-11, the collection of taxes on motor vehicles increased by 31.65 *per cent* over the previous year, which was attributed by the Department to growth in the auto sector, bringing the construction equipment vehicles into lifetime tax fold, increase in life tax for four wheelers and the results of a drive for collection of quarterly tax.

Very low recovery by the Department in respect of observations pointed out by us in earlier years

During the period 2005-06 to 2009-10, we had pointed out non/short levy, non/short realisation of tax, fee etc., with revenue implication of ₹ 1,374.35 crore in 956 cases. Of these, the Department/Government had accepted audit observations in 385 cases involving ₹ 168.98 crore but recovered 10.80 crore in 291 cases. The recovery position as compared to acceptance of objections was very low at 6.39 *per cent* during the five year period.

Results of audits conducted by us in 2010-11

In 2010-11 we test checked the records of 44 offices of the Transport Department and found underassessment of tax and other irregularities involving ₹ 115.09 crore in 259 cases.

The Department, accepted underassessments and other deficiencies of ₹ 9.39 crore in 139 cases of which 37 cases involving ₹ 3.69 crore were pointed out during the year 2010-11 and the rest in earlier years. An amount of ₹ 95.36 lakh was realised in 93 cases.

What we have highlighted in this chapter?

In this Chapter we present illustrative cases of ₹ 72.24 crore selected from observations noticed during our test check of records relating to levy and collection of motor vehicles tax in the offices of the Transport Commissioner, Joint Transport Commissioners, Regional Transport Officers, where we found that the provisions of the Acts/ Rules were not observed.

It is a matter of concern that similar omissions were pointed out by us repeatedly in the Audit Reports for the past several years, but the Department had not taken corrective action. We are also concerned that though these omissions were apparent from the

records which were made available to us, the RTOs failed to detect them.

Our conclusion

The Department needs to improve the internal control system so that weaknesses in the system are addressed and omissions of the nature detected by us are avoided in future.

It also needs to initiate immediate action to recover the non-realisation of quarterly tax/penalty etc., pointed out by us, more so where it has accepted our contention.

As regards audit observations on 'non-renewal of fitness certificates', the Government may consider modifying the CFST package system for issuing prompts soon after the expiry of fitness validity and issue notices to such vehicle owners.

With regard to audit observation on 'non-levy of green tax' it is recommended that Government may consider putting in place proper monitoring mechanism to levy and collect green tax.

4.1 Tax administration

The Transport Department of the Government of Andhra Pradesh is governed by the Motor Vehicle (MV) Act, 1988, the Central Motor Vehicle (CMV) Rules, 1989, the Andhra Pradesh Motor Vehicles Taxation (APMVT) Act, 1963 and the Andhra Pradesh Motor Vehicle (APMV) Rules, 1989. The Transport Department is primarily responsible for enforcement of the provisions of the Acts and the Rules framed thereunder which, *inter alia*, includes the collection of taxes and fees, issuance of the driving licenses, certificates of fitness to transport vehicles, registration of the motor vehicles and granting regular and temporary permits to the vehicles. At the Government level, the Principal Secretary (Transport, Roads and Buildings Department) heads the Transport Department. Transport Commissioner (TC) is in charge of the Department at apex level. At the district level, there are the Deputy Transport Commissioners (DTCs) and the Regional Transport Officers (RTOs) who are in turn assisted by the Motor Vehicles Inspectors (MVIs) and other staff.

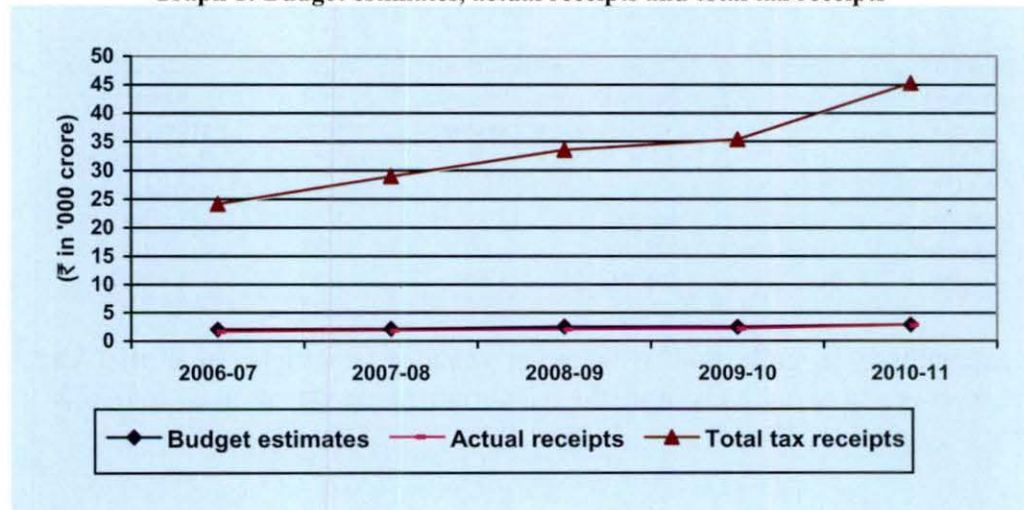
4.2 Trend of receipts

Actual receipts from taxes on vehicles during the years 2006-07 to 2010-11 along with the total tax receipts during the same period is exhibited in the following table and graphs:

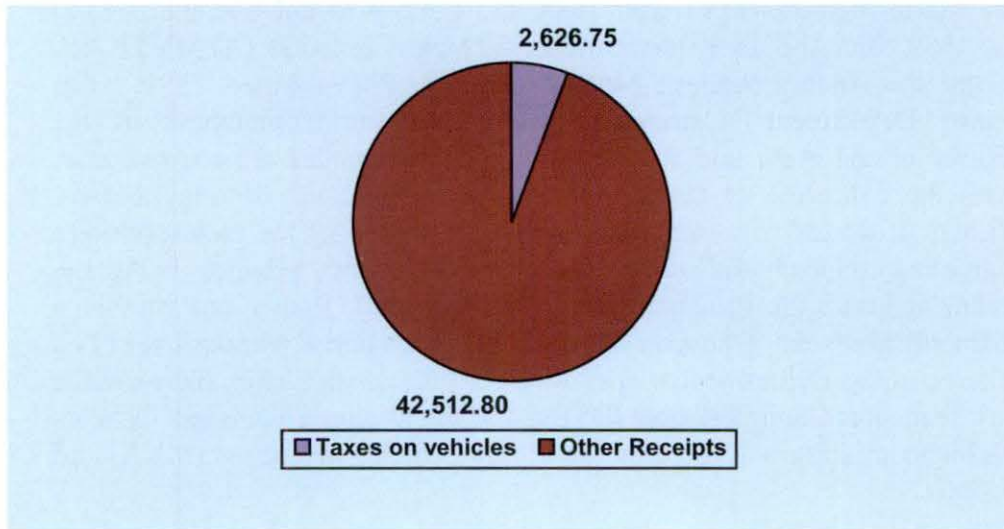
(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2006-07	1,777.00	1,364.74	(-) 412.26	(-) 23.20	23,926.20	5.70
2007-08	1,892.40	1,603.80	(-) 288.60	(-) 15.25	28,794.05	5.57
2008-09	2,289.80	1,800.62	(-) 489.18	(-) 21.36	33,358.29	5.40
2009-10	2,315.00	1,995.30	(-) 319.70	(-) 13.81	35,176.68	5.67
2010-11	2,778.00	2,626.75	(-) 151.25	(-) 5.44	45,139.55	5.82

Graph 1: Budget estimates, actual receipts and total tax receipts



**Graph 2: Actual receipts vis-à-vis Other tax receipts
(₹ in crore)**



The variation in the budget estimates and actual revenue persisted in all the years during 2006-07 to 2010-11 failing to give an assurance that the budget estimates prepared are realistic. The Department attributed (September 2011) the reason for variation to high budget estimates. It was further stated that reason for increase in revenue during 2010-11 was on account of growth in auto sector, bringing of construction equipment vehicles into life time tax fold, increase in life tax for four wheelers and drive for collection of quarterly tax.

4.3 Cost of collection

The figures of gross collection in respect of the Taxes on vehicles, expenditure incurred on collection and the percentage of such expenditure to gross collection during the years 2008-09, 2009-10 and 2010-11 along with the relevant all India average percentage of expenditure on collection to gross collection for 2009-10 are mentioned below:

Head of revenue	Year	(₹ in crore)			
		Gross collection	Expenditure on collection of revenue	Percentage of cost of collection to gross collection	All India average percentage for the previous year
Taxes on vehicles	2008-09	1,800.62	57.89	3.22	2.58
	2009-10	1,995.30	64.99	3.26	2.93
	2010-11	2,626.75	85.17	3.24	3.07

The expenditure on collection of taxes on vehicles was higher than the All India Average consecutively and the Government needs to look into this aspect.

4.4 Revenue impact

During the last five years, audit through its audit reports had pointed out non/short levy, non/short realisation, loss of revenue with revenue implication of ₹ 1,374.35 crore in 956 cases. Of these, the Government/ Department had accepted audit observations in 385 cases involving ₹ 168.98 crore and had since recovered ₹ 10.80 crore. The details are shown in the following table:

(₹ in crore)

Year	No. of units audited	Amount objected		Amount accepted		Amount recovered	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
2005-06	39	164	452.67	111	2.65	102	0.60
2006-07	39	43	697.53	28	135.48	22	2.66
2007-08	39	230	74.16	128	13.92	90	3.43
2008-09	44	242	80.81	68	14.62	27	1.80
2009-10	44	277	69.18	50	2.31	50	2.31
Total	205	956	1,374.35	385	168.98	291	10.80

Recovery of only ₹ 10.80 crore (6.39 per cent) against the money value of ₹ 168.98 crore relating to accepted cases during the period 2005-06 to 2009-10 highlights the failure of the Government/Department machinery to act promptly to recover the Government dues even in respect of the cases accepted by them.

4.5 Working of Internal Audit Wing

Internal audit provides a reasonable assurance of proper enforcement of laws, rules and departmental instructions, and this is a vital component of internal control framework. There was no system of internal audit in the Department to ascertain the compliance with Rules/Government orders by the Department. In the absence of this, proper and effective functioning of the transport offices could not be ensured. Though most of the functioning of the Department has been computerised, internal audit was not conducted to get an assurance on the working of the computerised system. When this was pointed out in Audit Report 2008-09, the Department assured that the internal audits would be conducted in future. Regarding implementation of internal audit, the Department did not furnish (October 2011) any reply despite being requested in April/June 2011.

4.6 Results of audit

Test check of the records of 44 offices of the Transport Department revealed under assessment of tax and other irregularities involving ₹ 115.09 crore in 259 cases which fall under the following categories:

(₹ in crore)			
Sl. No.	Category	No. of cases	Amount
1.	Non-realisation of fee due to non-renewal of fitness certificate	42	51.11
2.	Non-levy of stamp duty on vehicles registered with hypothecation	2	36.48
3.	Non-realisation of quarterly tax and penalty	43	17.25
4.	Short levy of card fee	1	4.07
5.	Non-collection of minimum bid amounts for special numbers	6	0.28
6.	Short levy of life tax	52	0.84
7.	Non-finalisation of action on vehicle check reports under Section 200	22	0.65
8.	Non-levy and collection of green tax	45	2.25
9.	Non-levy/collection of compounding fee	19	0.42
10.	Loss of revenue due to lack of co-ordination with APSRTC	2	0.75
11.	Other irregularities	25	0.99
Total		259	115.09

During the course of the year 2010-11, the Department accepted under assessments and other deficiencies of ₹ 9.39 crore in 139 cases of which, 37 cases involving ₹ 3.69 crore were pointed out during the year 2010-11 and the rest in the earlier years. An amount of ₹ 91.51 lakh was realised in 88 cases.

After issue of four draft paragraphs, the Department reported (August 2011) recovery of ₹ 3.85 lakh in respect of five cases.

Few illustrative cases involving ₹ 72.24 crore are mentioned in the succeeding paragraphs.

4.7 Audit observations

During scrutiny of the records in the offices of the Transport Department relating to revenue received from quarterly tax, green tax, life tax etc., on the vehicles, we observed several cases of non-observance of the provisions of the Acts/Rules resulting in non/short levy of tax/penalty and other cases as mentioned in the succeeding paragraphs in this Chapter. These cases are illustrative and are based on a test check carried out by us. We pointed out such omissions in audit each year, but not only do the irregularities persist; these remain undetected till an audit is conducted. There is a need for the Government to improve the internal control system including strengthening the internal audit so that such omissions are detected and rectified.

4.8 Non-renewal of fitness certificates

As per Section 56 of the Motor Vehicle (MV) Act, 1988, a transport vehicle shall not be deemed to be validly registered, unless it carries a certificate of fitness issued by the prescribed authority. As per Rule 62 of the Central Motor Vehicle (CMV) Rules, 1989, the certificate of fitness in respect of the transport vehicles shall be renewed every year. Rule 81 of CMV Rules, prescribes the fee for conducting test of a vehicle for grant and renewal of the Certificate of fitness. Plying of a vehicle without the Fitness Certificate (FC) is an offence and attracts a minimum compounding fee of ₹ 1,000.

We noticed (between January 2009 and October 2010) during test check of the records of offices of the Joint Transport Commissioner (JTC), Hyderabad, 17 DTCs¹ and 22 RTOs² that fitness certificates in respect of 4,49,567 transport vehicles whose status was 'active' as per the Citizen's Friendly Services in Transport Department (CFST) system database and that had completed two years

of life during 2008-09 and 2009-10 had not been renewed. This jeopardised public safety besides non-realisation of fitness certificate fee of ₹ 14.60 crore and a minimum compounding fee of ₹ 44.96 crore.

After we pointed out the above cases, the Department stated (August 2011) that non renewal of fitness resulting in non-realisation of fee was hypothetical and incorrect. The fee had to be collected for the service rendered only. It was added that assessment made by audit team was based on the total number of vehicles on rolls irrespective of their existence. It was also stated that compounding fee would be collected only when the vehicles ply on the roads without FC by the checking officer and arises on the agreement between the

¹ Adilabad, Anantapur, Chittoor, East Godavari, Eluru, Guntur, Kadapa, Kakinada, Karimnagar, Kurnool, Medak, Nellore, Nizamabad, Ranga Reddy, Srikakulam, Visakhapatnam and Warangal.

² Amalapuram, Bhimavaram, Gudivada, Hindupur, Hyderabad (East, South and West), Ibrahimpatnam, Khammam, Mahabubnagar, Mancherial, Medchal, Nalgonda, Nandyal, Narasaraopet, Ongole, Rajahmundry, Ranga Reddy East, Secunderabad, Siddipet, Tirupati and Vizianagaram.

checking officer and the registered owner of the vehicles. It was further stated that fitness fee could not be collected unless the owner approaches the office for renewal of FC in respect of his vehicle.

The Department's contentions are not tenable since Rule 62 of the CMV Rules prescribes that FC in respect of transport vehicles shall be renewed every year, as it is mandatory to renew fitness of the vehicle every year and failure of the Department to ensure checking of fitness of the vehicle led to non-realisation of fitness fee. Further, audit observed that the status of these vehicles was 'active' on the CFST system and the owners were paying tax regularly. This indicates that vehicles were plying without FCs. Absence of an inbuilt mechanism in CFST package for voluntary compliance led to non-renewal of fitness of the vehicle resulting in loss of fitness fee besides compounding fee.

There is no inbuilt mechanism in the Department to ensure automatic renewal of fitness of transport vehicles. Also there is no prompting mechanism in the system whenever the vehicle owner approaches the Department for any transaction. At present, renewal of fitness could only be detected by Enforcement Wing. Further, there is no provision under CMV Rules to issue show cause notice for non-renewal of FC. Absence of automated internal control mechanism to monitor renewal of fitness of vehicle is prone to risk and violative of safety measure.

Government may consider modifying the CFST package system for issuing prompts soon after the expiry of fitness validity, and the Department should issue notices to such vehicle owners.

We referred the matter to the Government in June 2011; their reply has not been received (October 2011).

4.9 Non-realisation of quarterly tax and penalty

Section 3 of the Andhra Pradesh Motor Vehicles Taxation (APMVT) Act, 1963, stipulates that every owner of a motor vehicle is liable to pay the tax at the rates specified by the Government from time to time. Section 4 of the Act specifies that the tax shall be paid in advance either quarterly, half yearly or annually within one month from the commencement of the quarter.

In terms of Section 53 of the MV Act read with Rule 102 of AP Motor Vehicle (APMV) Rules, 1989, any registering authority or other prescribed authority may suspend the registration of motor vehicle by sending notice if the provisions of the Act were not complied with. Further, as per Section 6 of the APMVT Act, in case of failure to pay the tax within the stipulated time, penalty shall be imposed.

We noticed (between August 2009 and August 2010) during test check of the records of the offices of the JTC, Hyderabad, seven DTCs³ and 10 RTOs⁴ that the quarterly tax of ₹ 2.31 crore for the years 2008-09 and 2009-10 was neither paid by the owners of 2,631 transport vehicles nor demanded by the Department. Besides, penalty of ₹ 4.62 crore leviable at twice the rate of quarterly tax for delay over two months in respect of all the cases was not levied. This

resulted in non-realisation of tax and penalty amounting to ₹ 6.93 crore.

After we pointed out the cases, the Department stated (August 2011) that quarterly tax and penalty of ₹ 56.34 lakh in respect of 576 vehicles was collected and instructions were issued to collect the balance amount.

We referred the matter to the Government in June 2011; their reply has not been received (October 2011).

4.10 Short levy of card fee

As per Rule 32 of CMV Rules, driving licenses are issued in Form-6 (license issued in the book form of the size six cm, eight cm and attracts fee of ₹ 40) and Form-7 (license issued in the form of smart card/laminated card and attracts fee of ₹ 200). According to Rule 16(2) of CMV Rules where the licensing authority has the necessary apparatus, for the issue of a laminated card or smart card type driving licenses, such card type or smart card type driving license shall be in Form-7 with effect from 31 May 2002.

³ Adilabad, Chittoor, Kadapa, Kurnool, Karimnagar, Nizamabad and Ranga Reddy.

⁴ Gudivada, Hyderabad (East, South and West), Khammam, Nalgonda, Nandyal, Secunderabad, Siddipet and Tirupati.

We noticed (November 2009) during test check of the records of the office of the Transport Commissioner that the Department issued driving licenses during 2008-09 in Form-7 in form of laminated cards at some places and smart cards having a computerised chip at some other places where necessary apparatus was available for issue of such smart cards. Though Rules provide for collection of uniform rate of fee at ₹ 200 per card i.e., laminated card or smart card, the Department did not follow a uniform procedure and collected fee at different rates i.e., at ₹ 200 per smart card and ₹ 150 per laminated card, thus failing to maintain uniformity between the collection of fee for laminated cards and smart cards. It was observed that fee towards 8,16,868 driving licenses issued in Form-7 in laminated cards during 2008-09 was levied at pre-revised rate of ₹ 150 instead of ₹ 200. This resulted in short levy of fee by ₹ 4.08 crore.

After we pointed out the cases, the Department contended (August 2011) that the driving licenses issued in majority of the cases during 2008-09 were not in Form-7; they were without computerised readable chip and hence the fee of ₹ 200 prescribed for issue of driving license in Form-7 was not applicable to those offices. However, a fee of ₹ 200 was being collected in those offices where the facility to issue smart cards with readable chip was available during the year 2008-09. The reply is not acceptable as licenses were issued in laminated card i.e., Form-7 during 2008-09, for which license fee applicable was ₹ 200 per card irrespective of the fact whether the card contained computerised chip or not. Further, though the system of issuing smart card type license was introduced in 2002, the Department had not been able to maintain uniformity through equipping the licensing authorities with necessary apparatus. This adhocism led to charging of ₹ 150 per license in many cases though the licenses were issued in Form-7 which were chargeable at ₹ 200.

We referred the matter to the Government in June 2011; their reply has not been received (October 2011).

4.11 Short levy of life tax

The Government of Andhra Pradesh amended Section 3 (2) of APMVT Act vide Ordinance No. 1/2008 dated 2 January 2008 enhancing life tax from nine *per cent* to 12 *per cent* and the same was enhanced to 14 *per cent* as per Ordinance No.2/2010, dated 2 February 2010 at the time of registration of second or more non-transport vehicles owned by individuals and non-transport vehicles owned by institutions, organisations, companies or societies. The enhanced tax was to be collected from the new vehicles sold and registered on or after 2 January 2008. Further, the TC issued a Circular memo No.1/7831/S/2005 dated 4 January 2008 instructing all the registering authorities to collect the enhanced life tax.

4.11.1 We noticed (between August 2009 and August 2010) during test check of the records of offices of 11 DTCs⁵ and 15 RTOs⁶ that life tax in respect of 802 second or more non-transport⁷ vehicles owned by individuals was collected during 2008-09 and 2009-10 at pre-revised rate, instead of enhanced rate resulting in short levy of life tax amounting to ₹ 70.95 lakh.

After we pointed out the cases, the Department stated (August 2011) that

an amount of ₹ 6.06 lakh was collected in respect of 68 vehicles and show cause notices had been issued in respect of the remaining vehicles.

The matter was referred to the Government in June 2011; their reply has not been received (October 2011).

4.11.2 We noticed (between August 2009 and June 2010) during test check of the records of offices of six DTCs⁸ and nine RTOs⁹ that life tax on 251 non-transport vehicles owned by companies, institutions, societies and organisations was collected at pre-revised rate instead of enhanced rate. This resulted in short levy of life tax of ₹ 31.73 lakh.

After we pointed out the cases, the Department stated (August 2011) that an amount of ₹ 1.48 lakh was collected in respect of 17 vehicles and show cause notices had been issued in respect of the remaining vehicles.

We referred the matter to the Government in June 2011; their reply has not been received (October 2011).

⁵ Adilabad, Ananthapur, Chittoor, Kakinada, Kadapa, Karimnagar, Kurnool, Nellore, Nizamabad, Srikakulam and Warangal.

⁶ Amalapuram, Gudivada, Hyderabad (East, South and West), Khammam, Mancherial, Nalgonda, Nandyal, Ongole, Proddattur, Rajahmundry, Ranga Reddy (East), Secunderabad and Tirupati.

⁷ Non-transport vehicles are those used by the owner of the vehicles for their own purposes and not for hire or reward.

⁸ Eluru, Kadapa, Karimnagar, Kurnool, Medak and Nizamabad.

⁹ Hyderabad (East and South), Mancherial, Medchal, Nalgonda, Nandyal, Secunderabad, Siddipet and Vizianagaram.

4.12 Non-realisation of revenue due to non-cancellation and re-notification of special numbers

As per Rule 81(3) of APMV Rules, the registering authority may reserve special numbers on payment of the prescribed fee by the owner of the vehicle. Further, as per Rule 81(6) of the APMV Rules, the reservation shall be cancelled if the vehicle is not produced within 15 days from the date of reserving and the number reserved shall be re-notified immediately.

We noticed (between August 2009 and March 2010) during test check of the records of offices of four DTCs¹⁰ and three RTOs¹¹ that in 645 cases, the reservation of the special numbers was not cancelled and the numbers were not re-notified though the registration of the vehicle was not done within 15 days from the date of reserving the number. This resulted in

non-realisation of revenue of ₹ 36.94 lakh.

After we pointed out the cases, the Department stated (August 2011) that show cause notices had been issued and collection is under process.

We referred the matter to the Government in June 2011; their reply has not been received (October 2011).

4.13 Non-levy of green tax

The Government ordered vide G.O.Ms.No. 238, Transport, Roads and Buildings (TR.I) dated 23 November 2006, levy of a tax called the 'green tax' on the transport vehicles and non-transport vehicles that have completed seven years and 15 years of age respectively from the date of registration. The rate of tax is ₹ 200 per annum for the transport vehicles. In respect of the non-transport vehicles, it is ₹ 250 for every five years in the case of motorcycles and other than motorcycles, it is ₹ 500 for every five years.

We noticed (between September 2009 and August 2010) during test check of the records of offices of JTC, Hyderabad, eight DTCs¹² and 13 RTOs¹³ that green tax aggregating ₹ 27.74 lakh in respect of 7,534 transport vehicles and 4,348 non-transport vehicles that had completed seven years and 15 years of age respectively was not levied and collected for the period from April 2008 to March 2010.

After we pointed out the cases, the Department contended (August 2011) that since the Government levies green tax by way of notification, audit contention that green tax was not

¹⁰ Eluru, Kadapa, Kakinada and Nizamabad.

¹¹ Hyderabad East, Nandigama and Secunderabad.

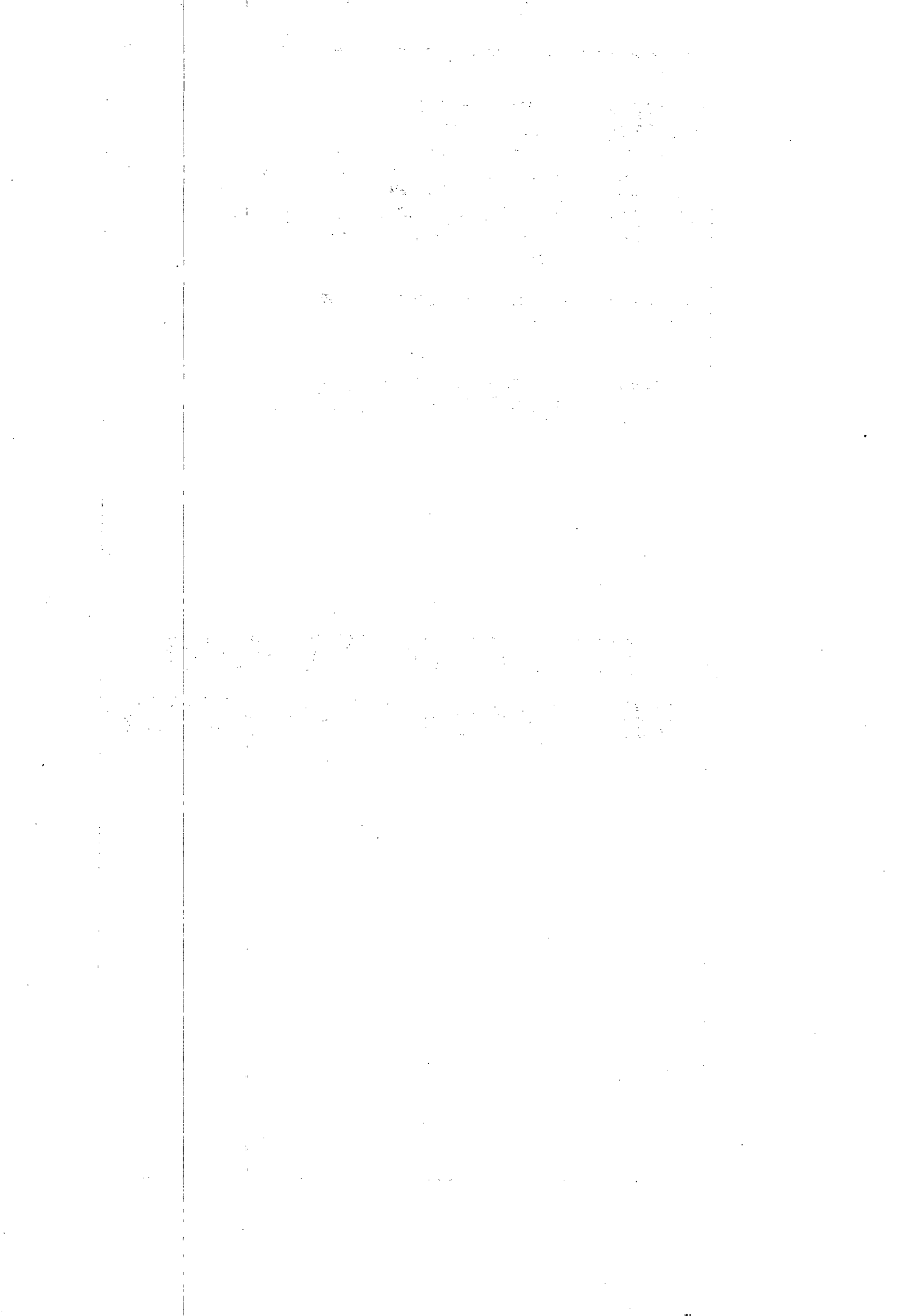
¹² Eluru, Guntur, Karimnagar, Kurnool, Medak, Nellore, Srikakulam and Visakhapatnam.

¹³ Amalapuram, Bhimavaram, Hindupur, Hyderabad (East, South and West), Ibrahimpatnam, Khammam, Medchal, Nandyal, Ongole, Ranga Reddy (East) and Vizianagaram.

levied by the Department was not correct. It was however stated that green tax of ₹ 2.08 lakh in respect of 1,005 vehicles was collected. It was added that in respect of 7,123 vehicles green tax was being collected whenever the vehicle owners approach their office for any transactions. The reply is not acceptable as the green tax was not collected for the period between April 2008 and March 2010 even though the owners had approached the office for transactions. Final reply in respect of remaining vehicles has not been received (October 2011).

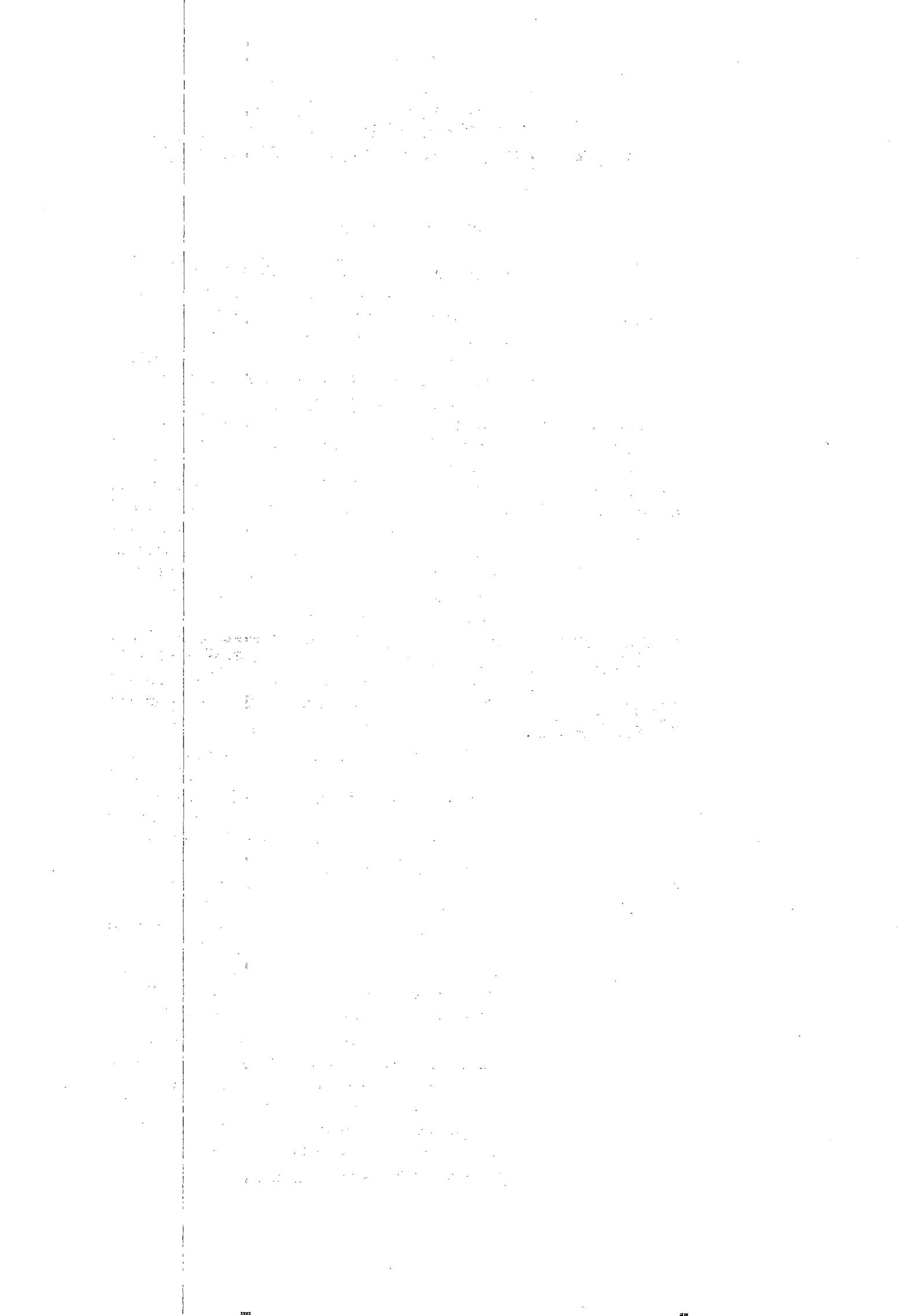
Government may consider putting in place proper monitoring mechanism to levy and collect green tax.

We referred the matter to the Government in May 2011; their reply has not been received (October 2011).



CHAPTER V

*STAMP DUTY AND
REGISTRATION FEES*



CHAPTER V

STAMP DUTY AND REGISTRATION FEES

EXECUTIVE SUMMARY

Appreciable increase in tax collection	As indicated at para 1.1.2 of Chapter-I, in 2010-11 the collection of stamp duty and registration fees increased by 45.29 <i>per cent</i> over the previous year, which was attributed by the Department to revision of market value of properties and withdrawal of exemption of stamp duty on flats with plinth area of less than 1,200 square feet.
Very low recovery by the Department in respect of observations pointed out by us in earlier years	During the period 2005-06 to 2009-10, we had pointed out non/short levy, non/short realisation, loss of revenue, incorrect exemption etc., with revenue implication of ₹ 440.81 crore in 2,295 cases. Of these, the Department/Government had accepted audit observations in 394 cases involving ₹ 16.10 crore and had since recovered ₹ 1.33 crore in 182 cases. The recovery position as compared to acceptance of objections was very low at 8.26 <i>per cent</i> during the five year period.
Results of audits conducted by us in 2010-11	<p>In 2010-11 we test checked the records of 270 offices relating to District Registries and Sub-Registries and found underassessment of duties and other irregularities involving ₹ 150.84 crore in 332 cases.</p> <p>The Department had accepted underassessments and other deficiencies of ₹ 126.57 crore in 375 cases of which, 111 cases involving ₹ 82.04 crore were pointed out during the year and the rest in the earlier years. An amount of ₹ 63 lakh was realised in 105 cases during the year 2010-11.</p>
What we have highlighted in this Chapter?	<p>In this Chapter we present illustrative cases of ₹ 44.90 crore selected from observations noticed during our test check of records relating to assessment and collection of stamp duty and registration fees in the offices of District Registries and Sub-Registries, where we found that the provisions of the Acts/Rules were not observed.</p> <p>It is a matter of concern that similar omissions were pointed out by us repeatedly in the Audit Reports for the past several years, but the Department had not taken corrective action. We are also concerned that though these omissions were apparent from the records which were made available to us, the registering officers failed to detect them.</p>

Our conclusion

The Department needs to improve the internal control system including strengthening of internal audit so that weaknesses in the system are addressed and omissions of the nature detected by us are avoided in future.

It also needs to initiate immediate action to recover the stamp duty and registration fees etc., pointed out by us, more so in those cases where it had accepted our contention.

In cases where audit observations emanated from cross verification of data with other Departments/ authorities such as in the case of vehicles registered with hypothecation agreement (Transport Department) and amalgamation/merger of companies (Registrar of companies), it is recommended that effective mechanism be put in place so that Department/authorities concerned work in co-ordination with each other for realisation of legitimate revenues.

5.1 Tax administration

The Registration and Stamps Department is responsible for administration of the Indian Stamp (IS) Act, 1899 and the Indian Registration Act, 1908 as amended from time to time by the Union and State legislations. The Department is primarily entrusted with registration of documents and is responsible for determining and collecting stamp duty and registration fees on registration of various documents/instruments by the general public. The Inspector General (IG) of Registration exercises overall superintendence over all the registration offices in the State. He is assisted by the region-wise Deputy IGs. The Registrar is in charge of the district and superintends and controls the Sub-Registrars in the district concerned. The IG of Registration and Stamps also acts as the Registrar of marriages and the Registrar of firms and societies.

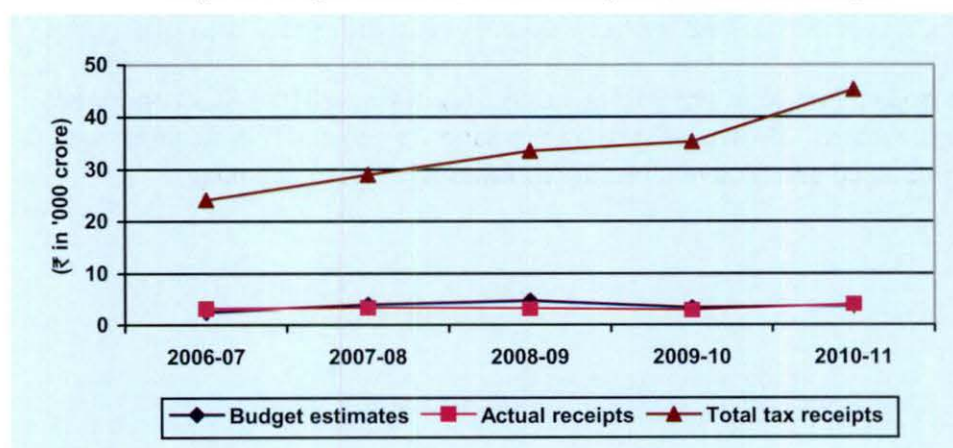
5.2 Trend of receipts

Actual receipts from Stamp Duty and Registration Fees (SDRF) during the years 2006-07 to 2010-11 along with the total tax receipts during the same period is exhibited in the following table and graphs.

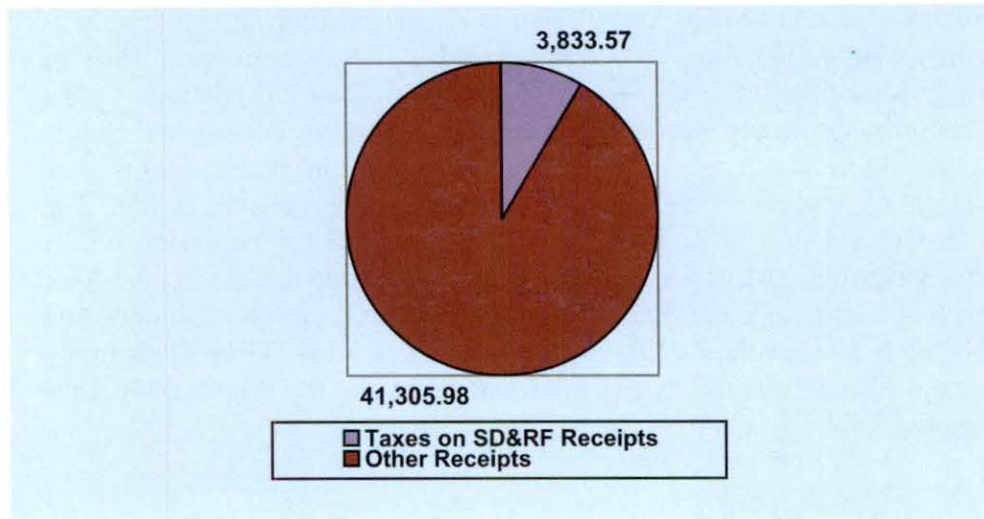
(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-a-vis total tax receipts
2006-07	2,250.00	2,865.38	(+) 615.38	(+) 27.35	23,926.20	11.98
2007-08	3,750.00	3,086.06	(-) 663.94	(-) 17.71	28,794.05	10.72
2008-09	4,537.50	2,930.99	(-) 1,606.51	(-) 35.41	33,358.29	8.79
2009-10	3,224.00	2,638.63	(-) 585.37	(-) 18.16	35,176.68	7.50
2010-11	3,546.00	3,833.57	(+) 287.57	(+) 8.11	45,139.55	8.49

Graph 1: Budget estimates, actual receipts and total tax receipts



**Graph 2: Actual receipts vis-à-vis Other tax receipts
(₹ in crore)**



5.3 Cost of collection

The figures of gross collection in respect of the stamp duty and registration fees, expenditure incurred on collection and the percentage of such expenditure to gross collection during the years 2008-09, 2009-10 and 2010-11 along with the relevant all India average percentage of expenditure on collection to gross collection for the previous year are mentioned below:

(₹ in crore)

Head of revenue	Year	Gross collection	Expenditure on collection of revenue	Percentage of cost of collection to gross collection	All India average percentage for the previous year
Stamp duty and registration fees	2008-09	2,930.99	73.58	2.51	2.09
	2009-10	2,638.63	87.75	3.33	2.77
	2010-11	3,833.57	94.99	2.48	2.47

There has been increase in the cost of collection during 2010-11 as compared to previous years. However the percentage of cost of collection was drastically reduced and almost close to All India Average percentage.

5.4 Revenue impact

During the last five years audit had pointed out non/short levy, non/short realisation, loss of revenue, incorrect exemption etc., with revenue implication of ₹ 440.81 crore in 2,295 cases. Of these, the Government/Department had accepted audit observations in 394 cases involving ₹ 16.10 crore and had since recovered ₹ 1.33 crore. The details are shown in the following table:

(₹ in crore)

Year	No. of units audited	Amount objected		Amount accepted		Amount recovered	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
2005-06	323	419	68.85	76	0.67	40	0.11
2006-07	302	329	28.33	68	1.33	44	0.25
2007-08	303	449	20.45	61	0.76	29	0.13
2008-09	294	508	47.98	126	6.89	39	0.57
2009-10	276	590	275.20	63	6.45	30	0.27
Total	1,498	2,295	440.81	394	16.10	182	1.33

Recovery of only ₹ 1.33 crore (8.26 per cent) against the money value of ₹ 16.10 crore relating to accepted cases during the period 2005-06 to 2009-10 highlights the failure of the Government/Department machinery to act promptly to recover the Government dues even in respect of the cases accepted by them.

5.5 Working of internal audit wing

Internal audits are being conducted as per the programme issued by the District Registrars concerned. Internal audit was established by the Department to arrest the leakage of revenue where the market value was not adopted by the party and also in respect of the documents registered on deficit stamp duty due to incorrect computation or misclassification. Punishments are imposed on the defaulting officials and steps are taken to collect the deficit amounts.

5.6 Results of audit

Test check of the records of 270 offices relating to District Registries and Sub- Registries during the year 2010-11 revealed under assessment of duties and other irregularities involving ₹ 150.84 crore in 332 cases which fall under the following categories:

(₹ in crore)

Sl.No.	Category	No. of cases	Amount
1.	Misclassification of documents	249	125.57
2.	Short levy of stamp duty and registration fees	49	13.48
3.	Undervaluation of properties	9	0.14
4.	Other irregularities	25	11.65
Total		332	150.84

During the course of the year 2010-11, the Department accepted under assessments and other deficiencies of ₹ 126.57 crore in 375 cases of which, 111 cases involving ₹ 82.04 crore were pointed out during the year and the rest in the earlier years. An amount of ₹ 53.24 lakh was realised in 102 cases.

After issue of two draft paragraphs, the Department reported (March and April 2011) recovery of ₹ 9.76 lakh in respect of three cases.

Our examination of documents styled as equitable mortgage by deposit of title deeds registered in the years 2006-07 to 2009-10 revealed that in these documents there was either creation of charge or assurance or security interest by the mortgagor in favour of mortgagees. Thus in our opinion these documents were classifiable as Mortgage and stamp duty at three *per cent* was leviable instead of stamp duty at the rate of 0.5 *per cent* which was levied as Deposit of title deeds (DOTs).

After the cases were pointed out, the Government, while accepting the observation had stated (July 2011) that they had revised the format of DOT to bring out distinction between the format of the Mortgage and DOT and issued instructions to the lower formations for implementation. Concerning the past cases, it was stated that they would like to present the matter before the PAC to take a final view on them. The rate of stamp duty on mortgage has been reduced from three *per cent* to 0.5 *per cent* with effect from 11 May 2010 so that the putative loss due to creation of charges on deposit of title deeds making it indistinguishable from mortgage deed does not arise.

Few illustrative cases involving ₹ 44.90 crore are mentioned in the succeeding paragraphs.

5.7 Audit observations

During scrutiny of the records in the offices of the District Registries (DRs) and Sub-Registries (SRs) relating to revenue received from stamp duty, transfer duty and registration fees, we noticed several cases of non-observance of the provisions of the Acts/Rules resulting in non/short levy of duties and fees as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out by us. We pointed out such omissions in audit each year, but not only do the irregularities persist; these remain undetected till an audit is conducted. There is a need for the Government to consider directing the Department to improve the internal control system including strengthening the internal audit to ensure that such omissions are detected and rectified.

5.8 Misclassification of 'Mortgage deeds' as 'Mortgages by deposit of title deeds'

According to Section 27 of the Indian Stamp (IS) Act, 1899, all other facts and circumstances besides the consideration and market value, affecting the chargeability of any instrument with stamp duty, shall be truly and fully set forth in that instrument.

Under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002 read with Security Interest Enforcement Rules 2002, the term 'Security Interest' means right, title and interest of any kind whatsoever upon a property and includes any mortgage, charge, hypothecation and assignment. The SARFAESI Act also stipulates that any instrument, which creates 'Security Interest' is a 'Security Agreement' and such security agreement includes a document of 'Mortgage by deposit of title deeds'. The Banks treat the loans/advances granted by them to the general public as 'secured debts' and also treat the documents of DOTs executed by the loanees in their favour as 'Security Agreements', which create 'Security Interest' in the properties in favour of Banks.

We noticed (between May 2008 and December 2010) during test check of the records of 21 DRs¹ and 91 SRs² in respect of 13,733 documents registered during the years 2006-07 to 2009-10 that the parties were taking the loans under the provisions of the said Act and also authorising the banks to sell their properties in case of non-payment of the dues to the banks. The above facts and circumstances affect the classification of the documents of DOTs, as the same involve creation of 'charge' on the properties and also granting power/agreeing to sell the properties in case of non-payment of such dues, which are the essential features of a 'simple mortgage'.

Due to non-disclosure of facts and circumstances of above nature by the borrowers, the registering authorities treated the documents as mere DOTs, instead of treating them as 'Security Agreements' classifiable as 'Mortgages'. **Audit observed that the Department did not have any mechanism in place after the promulgation of SARFAESI Act, 2002 to ensure that the documents registered had complete recitals affecting the chargeability of the same.**

After the cases were pointed out, Government while accepting the observation had stated (July 2011) that the Commissioner and Inspector General (Registration and Stamps) had held a meeting with bank officials to revise their formats and opined that the loophole would be plugged in the amendment to the Act, which was being proposed at the Central level.

Non-registration of documents

The provisions of Registration Act, 1908, provides for compulsory/optional registration of documents. This enables levy of stamp duty on all the documents as required under the provisions of Stamp Act. During the course of our audit we noticed that in some cases though the documents were optionally registrable the same were not registered and as a result stamp duty was not levied resulting in loss of revenue to the Government. In other cases though the documents were registered, the stamp duty was incorrectly levied resulting in short levy of stamp duty. Such cases are mentioned in para 5.9 to 5.12.

¹ Bhimavaram, Chittoor, Gudur, Guntur, Hyderabad, Hyderabad (South), Kadapa, Kakinada, Karimnagar, Khammam, Mahabubnagar, Markapur, Medak, Nalgonda, Nandyal, Proddatur, Ranga Reddy, Sanga Reddy, SPSR Nellore, Tenali and Warangal.

² Akividu, Alluru, Ambajipet, Attili, Balanagar, Bantumilli, Bapatla, Bheemunipatnam, Bhimadole, Bhongir, Bhuja Bhuja Nellore, Bodhan, Bowenpally, Champapet, Chikkadapalli, Chilakaluripeta, Chintalapudi, Chirala, Chittoor (Rural), Dubbaka, Duggirala, Devarakonda, Gadwal, Gajuwaka, Ganapavaram, Gannavaram, Gopalapatnam, Hayathnagar, Huzurabad, Ibrahimpatnam, Jangareddygudem, Kadiri, Kaikalur, Kalyandurg, Kanchikacherla, Kandukuru, Kankipadu, Kanumole, Kapra, Karimnagar (Rural), Khammam (Rural), Kodad, Korukonda, Kothapeta, Luxetipet, Madanapalli, Madhira, Madhurawada, Malkajgiri, Mancherial, Mandapet, Medak, Medchal, Metpalli, Nagar Kurnool, Naidupeta, Nandigama, Nandikotkur, Narsapur, Palakol, Pathikonda, Peapully, Peddapuram, Ponnur, Prathipadu, Rajendranagar, Ramayampeta, Rayachoti, Rayadurg, Repalle, Samalkot, Sanjeeva Reddy Nagar, Saroornagar, Sarpavaram, Secunderabad, Shadnagar, Shamirpet, Shankarpally, Singarayakonda, Sircilla, Suryapet, Tadepalligudem, Tandur, Tanuku, Tuni, Uppal, Vallabhnagar, Vemulawada, Vinjamur, Warangal (Rural) and Zaheerabad.

5.9 Non-levy of stamp duty on vehicles registered with hypothecation agreement

As per Article 7(b) of Schedule I-A to the IS Act, the pawn, pledge, or hypothecation of movable property, where such pawn, pledge, or hypothecation has been made by way of security for the repayment of money advanced or to be advanced by way of loan or an existing or future debt is leviable with stamp duty at 0.5 *per cent* of the amount secured subject to a maximum of two lakh rupees, if such loan or debt is repayable on demand or more than three months from the date of the instrument, evidencing the agreement. Further, every instrument has to be properly stamped as per the provisions of the IS Act.

We noticed (December 2010 and January 2011) during the test check of Form 20 relating to the registration of vehicles in the offices of Joint Transport Commissioner, Hyderabad, 17 Deputy Transport Commissioners³ and 25 Regional Transport Officers⁴ that 4,84,944 vehicles were hypothecated to banks and institutions during the year 2009-10. We cross linked Form 20 filed in Transport Department with Hypothecation Agreement made available by the

financiers and found that these documents were executed only on ₹ 100 stamp paper and stamp duty at 0.5 *per cent* was not collected in terms of provisions of the IS Act. We found that other institutions/banks are also not levying requisite stamp duty but we do not have assurance regarding the same. The loss to the State Government on stamp duty was of ₹ 36.48 crore for one year alone, calculated at 80 *per cent* of the vehicle cost.

We recommend that an effective mechanism be put in place in the Registration and Stamps Department for collection of information from the Transport Department/RTOs and for sending notices to the financial institutions and Banks for enforcement of provisions of the stamp duty relating to hypothecation of vehicles.

After the cases were pointed out, the Government stated (July 2011) that the matter would be pursued by the Stamps and Registration Department by exploring different approaches.

³ Adilabad, Ananthapur, Chittoor, East Godavari, Eluru, Guntur, Kadapa, Karimnagar, Kurnool, Medak, Nellore, Nizamabad, Ranga Reddy, Srikakulam, Vijayawada, Visakhapatnam and Warangal.

⁴ Amalapuram, Anakapalli, Bhimavaram, Gudivada, Hindupur, Hyderabad (East, North, South and West), Ibrahimpatnam, Khammam, Mahabubnagar, Mancherial, Medchal, Nalgonda, Nandigama, Nandyal, Narasaraopet, Ongole, Proddatur, Rajahmundry, Ranga Reddy East, Siddipet, Tirupati and Vizianagaram.

5.10 Non-levy of stamp duty on amalgamation/merger of companies

According to Article 20 (d) of Schedule I-A to the IS Act, conveyance, so far as it relates to amalgamation or merger of companies under the order of Hon'ble High Court under section 394 of the Companies Act, 1956, is chargeable to stamp duty at the rate of two *per cent* on the market value of the property with effect from 1 August 2005. For the purpose of the Article, the market value of the property shall be deemed to be the amount of total value of the shares issued or allotted by the transferee company, either in exchange or otherwise, and the amount of consideration, if any, paid for such amalgamation or merger.

We noticed (December 2010 and January 2011) during the cross verification of records of the Office of the Commissioner and Inspector General of Registration and Stamps, Andhra Pradesh with the records of the Registrar of Companies, Andhra Pradesh, Hyderabad that 16 companies were merged/amalgamated under the orders of Hon'ble High Court of

Andhra Pradesh that were issued between March 2007 and February 2009. Though property of ₹ 171.05 crore in shares was conveyed in these mergers/amalgamations, stamp duty of ₹ 3.42 crore leviable at two *per cent* was not levied and collected.

After we pointed out the case, the Department while accepting the audit observation stated (April 2011) that District Registrars were requested to take steps to collect the stamp duty from the companies and keep in touch with Registrar of Companies for effective co-ordination and realisation of legitimate revenues.

We referred the matter to the Government in May 2011; their reply has not been received (October 2011).

5.11 Lease Deeds of IMFL Manufactory

As per Article 31 (C) of Schedule-I A to the IS Act, where a lease is granted for a fine or premium or for money advanced in addition to rent reserved, stamp duty is leviable at five *per cent* on the market value of the property or the amount or value of such fine or premium or advance, set forth in the lease, whichever is higher, in addition to the stamp duty which would have been payable on such lease, if no fine or premium or advance has been paid or delivered. As per the amendment to Section 17 (1) (d) of the Indian Registration Act, all leases are compulsorily registerable, with effect from 1 April 1999.

As per Rule 11 of AP Distillery Rules 1970 and AP Distillery (Manufacture of IMFL other than Beer and Wine) Rules 2006, the Commissioner of Prohibition and Excise, Andhra Pradesh may permit the license holder of a Distillery to sub-lease the Manufactory on payment of a sum equal to 10 *per cent* of the proportionate licence fee and such leases have to be registered within 15 days from the date of such permission.

5.11.1 We noticed (between September and October 2010) during test check of the records of SR, Uppal that a lease deed was executed in March 2010 by the lessor who is the owner of the factory, leasing out his manufactory building alongwith plant, machinery and equipment to the lessee for a period of five years for the purpose of manufacture, bottling, sale, distribution and storage of IMFL for a monthly rent of ₹ 10 lakh. Our cross verification with the records of Excise Department revealed that the sub lessee who is also a licence holder under AP Excise Act, 1968 paid an advance of ₹ 7 lakh being

10 *per cent* of proportionate license fee in February 2010 and the same was not disclosed in the document. The sub lessee also undertook to return the possession of the sub-leased property upon expiry of lease period. As the sub-lease was granted for money advanced in addition to rent reserved, stamp duty is leviable on the market value of the property (being higher than the amount of advance) in addition to stamp duty leviable on average annual rent reserved. However, the registering officer levied stamp duty on the amount of annual rent only. Non-disclosure of the fact of payment of advance and failure to insist upon such details by the registering officer resulted in short levy of stamp duty of ₹ 1.50 crore.

After we pointed out the case, DR, Ranga Reddy (East) stated (March 2011) that a notice was being issued to the concerned parties to ascertain the quantum of proportionate recurring license fee and other taxes, if any, for taking further necessary action.

We referred the matter to the Department in January 2011 and to the Government in June 2011, their reply has not been received (October 2011).

5.11.2 Lease agreements of business premises

Under Article 31 (a) (ii) of Schedule I-A to the IS Act, where the lease purports to be for a term of not less than one year but not more than five years, stamp duty is leviable at two *per cent* on the value of average annual rent reserved. Further, as per Article 31 (a) (iii) where the lease purports to be for a term exceeding five years but not exceeding ten years, stamp duty is leviable at five *per cent* on one and half times of average annual rent reserved. Further, Section 17 (d) of the Registration Act specifies that leases of immovable property are compulsorily registerable with effect from 1 April 1999. Government vide U.O.No.32391/Regn/I (2)/2005 dated 20 July 2005 and Memo No. 24597/Vig I(1)/2007-1 dated 2 June 2007 issued instructions to insist for registered lease/rental deeds while issuing VAT registration certificates to dealers.

We noticed (May and July 2010) during test check of the records of the Commercial Taxes Department in two circles⁵ that six dealers had executed seven lease agreements of their business premises with the lessors during the period between February 2008 and October 2009. However, these lease agreements were not registered at the time of obtaining VAT registration certificates and the same was not insisted upon by the Commercial Taxes Department in view of the Government instructions of 2005/2007. The Registration

and Stamps Department also did not monitor such cases of non-registration by coordinating with other departments, in the interest of revenue. This resulted in short levy of stamp duty of ₹ 20.22 lakh. Further, non-insistence for registration of the lease deeds resulted in loss of registration fees of ₹ 1.58 lakh.

After we pointed out the cases, the Department intimated (June 2011) that the District Registrar concerned was instructed to collect stamp duty from the dealers in consultation with the Commercial Tax Officers concerned.

We referred the matter to the Government in June 2011; their reply has not been received (October 2011).

⁵ Commercial Tax Officers, Begumpet and S.D. Road.

5.11.3 Lease deeds for properties exceeding 30 years

As per Article 31 (a) (vi) (a) of Schedule I-A to the IS Act, a lease where the lease purports to be for a period in excess of thirty years or in perpetuity or does not purport to be for a definite period, stamp duty is chargeable at five *per cent* on the market value of the property or value of ten times of the average annual rent reserved, whichever is higher.

We noticed (February and March 2008) during test check of the records of two SRs⁶ that two lease deeds were executed and registered in December 2006 by the lessors in favour of the lessees, leasing their property for a period of

33 and 35 years respectively. As the lease period exceeded 30 years, stamp duty is leviable at five *per cent* on the market value of property or ten times of average annual rent reserved, whichever is higher. However, the registering officers levied stamp duty at five *per cent* on ten times of average annual rent reserved of ₹ 6 lakh even though market value of the properties was higher at ₹ 2.02 crore. This resulted in short levy of stamp duty of ₹ 9.78 lakh.

After we pointed out the cases, the Department accepted (May 2011) the audit observation in respect of SR Vikarabad and intimated that instructions were issued to collect the deficit amount. Final reply in respect of SR Tadipatri is awaited.

We referred the matter to the Government in May 2011; their reply has not been received (October 2011).

5.11.4 Build Operate and Transfer lease agreements

As per Article 31 (d) where the lessee undertakes to effect improvement in the leased property and agrees to make the same to the lessor at the time of termination of lease, stamp duty is leviable at five *per cent* on the value of the improvement contemplated to be made by the lessee as set forth in the deed in addition to the duty chargeable.

5.11.4.1 We noticed (September 2008) during test check of the records of DR, Ongole that a lease agreement was registered in August 2007 for setting up a project and associated facilities on Build, Operate and Transfer (BOT) basis for a period of 15 years. The lessee agreed to develop the project and hand over the same to the lessor on expiry of

lease with the minimum project cost of ₹ 1.50 crore. The registering officer levied stamp duty of ₹ 0.75 lakh only on the value of ₹ 10.80 lakh, ignoring the value of the improvement. This resulted in short levy of stamp duty of ₹ 7.29 lakh.

After we pointed out the case, the Department accepted (April 2011) the audit observation and stated that instructions were issued to ascertain the cost of improvements and collect the deficit amount.

⁶ Tadipatri and Vikarabad.

We referred the matter to the Government in May 2011; their reply has not been received (October 2011).

5.11.4.2 We noticed (September 2008) during test check of records of SR, Patamata, Vijayawada that a lease deed was registered in August 2007 between Andhra Pradesh Industrial Infrastructure Corporation (APIIC), Vijayawada (lessor) and Vijayawada Auto Cluster Development Company Limited, Vijayawada (lessee) for a term of 25 years. It was recited in the document that the lessee shall construct a building and surrender the land and building to the lessor on expiry of lease. Therefore, stamp duty is leviable at five *per cent* on the value of improvements in addition to stamp duty leviable on lease for 25 years. However, the registering officer levied stamp duty of ₹ 3,600 only ignoring the aspect of improvement. This resulted in short levy of stamp duty of ₹ 6.90 lakh.

After we pointed out the case, the Sub Registrar, Patamata stated (September 2008) that a reply would be furnished after examination.

We referred the matter to the Department in February 2011 and to the Government in May 2011; their reply has not been received (October 2011).

5.12 Short levy of stamp duty due to non-inclusion of 'goodwill'

As per Section 2 (10) of the IS Act, 'goodwill' is also a property and a goodwill is capable of being conveyed independently of the land. Where it is conveyed, the instrument by which it is conveyed will be liable to stamp duty as a conveyance on sale.

Under Article 6(B) of schedule I-A to IS Act read with G.O.Ms.No.568 Revenue (Regn I) Department dated 10 April 2008 and G.O.Ms.No.1481 Revenue (Regn I) Department dated 30 April 2007, Development agreements-cum-GPA are chargeable to stamp duty at one *per cent* on the amount of sale consideration or the market value of the property as per market value guidelines or the estimated market value for land and complete construction made or to be made in accordance with the schedule of rates approved by the Commissioner and Inspector General of Registration and Stamps, whichever is higher.

We noticed (May and June 2010) during test check of the records of DR, Ranga Reddy that two documents styled as 'Development Agreement / development agreement - cum - General Power of Attorney (GPA)' were registered between July and December 2009 by the land owners in favour of the developers for development of the lands into multi-storied residential / commercial complex with the funds of the developers. The land owners and the developers would share the developed property in the specified ratio as mentioned in the documents. Besides, the developers had paid goodwill of ₹ 25 crore and ₹ 5 crore respectively to the land owners. The

documents were registered on levy of stamp duty of one *per cent* on the estimated value of land and complete construction to be made as applicable to

development agreement/Agreement-cum-GPA without including cash paid as goodwill. This resulted in short levy of stamp duty of ₹ 1.50 crore.

After we pointed out the case, the District Registrar, Ranga Reddy stated (June 2010) that the matter would be examined.

We referred the matter to the Department in January 2011 and to the Government in May 2011; their reply has not been received (October 2011).

5.13 Short levy of stamp duty due to non-disclosure/mis-representation of facts

As per Section 27 of the IS Act, the consideration, if any, the market value of the property and all other facts and circumstances affecting the chargeability of any instrument with duty or the amount of the duty with which it is chargeable, shall be fully and truly set forth therein.

Provided that a registering officer appointed under the Registration Act or any other Officer authorised in this behalf, may inspect the property, which is the subject matter of such instrument, make necessary local enquiries, call for and examine all the connected records and satisfy that the provisions of this section are complied with. If the instrument is undervalued, it will be open to the Registrar to initiate prosecution under Section 27 read with Section 64 and recover the differential duty.

Further, stamp duty payable under Article 6 (B) of Schedule I-A of the Act, is one *per cent* on the amount of sale consideration or market value of property or estimated market value for land and complete construction made or to be made in accordance with schedule of rates whichever is higher on documents of development agreement-cum- GPA.

We noticed (September and October 2010) during test check of the records of SR, Ghatkesar, Ranga Reddy district that a document styled as 'Development Agreement -cum-GPA' was executed and registered in July 2008 by the land owner in favour of the developer for development of seven acres of land into a project comprising residential and commercial complex. The proposed area of construction was declared by the parties as 5,000 sft in the document as against 10,00,000 sft indicated in the website as verified by audit. The case therefore requires verification by the Stamp authorities as there could be a potential revenue gain of ₹ 57.01 lakh by way of stamp duty based on the construction estimated for development of the property.

After we pointed out the case, the Department accepted (April 2011) the audit observation and intimated that the District Registrar was directed to collect the deficit amount.

We referred the matter to the Government in May 2011; their reply has not been received (October 2011).

5.14 Undervaluation of property by not including construction cost

As per Article 6(B) of Schedule 1-A to the IS Act, read with G.O.Ms. No 1481 Revenue (Registration-I) Department dated 30 November 2007, stamp duty in respect of documents relating to agreement for development of immovable properties combined with GPA is leviable at one *per cent* on the sale consideration or the market value of the property as per the market value guidelines or the estimated market value for land and complete construction made or to be made in accordance with schedule of rates approved by the C&IG(R&S), whichever is higher.

5.14.1 We noticed (between December 2009 and January 2010) during a test check of the records of SR, Ghatkesar, Ranga Reddy district that a document styled as 'development agreement-cum-GPA' was executed and registered in October 2008 by the landowners in favour of the developer for development of land into residential apartments / commercial complex. As per the terms of the agreement, the owners were entitled to 15 *per cent* share in the

proposed structure or 10,000 sft per acre whichever is higher and remaining 85 *per cent* would be the entitlement of the developer. Accordingly, the total proposed structure worked out to 6,05,420 sft valuing ₹ 34.21 crore as per the development agreement. Stamp duty was to be levied at one *per cent* on the estimated value of land and complete construction to be made. However, the registering officer levied lesser stamp duty of ₹ 3.85 lakh instead of ₹ 34.21 lakh which resulted in short levy of stamp duty ₹ 30.36 lakh.

After we pointed out the case, the Department accepted (April 2011) the audit observation and intimated that District Registrar, Ranga Reddy (East) was directed to collect the deficit amount.

We referred the matter to the Government in May 2011; their reply has not been received (October 2011).

5.14.2 We noticed (between October 2009 and August 2010) during a test check of the records of DR, Medak and SR, Tadepalligudem that 28 documents styled as 'Development agreements-cum-GPA' were registered between July 2008 and October 2009 by the landowners in favour of developers for development of land into commercial complex/flats/apartments. The documents were liable to stamp duty at one *per cent* on the estimated value of land and complete construction to be made. However, the registering officer levied stamp duty on the market value of land ignoring aspect of value of construction cost. This resulted in short levy of stamp duty of ₹ 8.43 lakh considering the value of construction as ₹ 41.07 crore on the basis of recitals of documents.

After we pointed out the cases, the Department accepted (March and June 2011) the audit observation and intimated that ₹ 5.03 lakh had been collected (between September 2010 and June 2011) in respect of DR, Medak. Recovery particulars in respect of SR, Tadepalligudem is awaited (October 2011).

We referred the matter to the Government in May 2011; their reply has not been received (October 2011).

Misclassification of Documents

The Stamp duty and Registration Fee are chargeable on the value set forth in the documents as per the classification of the documents i.e., conveyance deeds, lease deeds etc. The correct classification of the documents is necessary for levy and collection of Government revenue on the deeds presented for registration. Our scrutiny of records revealed that documents were incorrectly classified resulting in short levy of stamp duty.

5.15 Short levy of stamp duty on Agreements of Sale

As per Explanation I under Article 47-A of Schedule I-A to the IS Act, an agreement to sell followed by or evidencing delivery of possession of the property agreed to be sold shall be chargeable as a 'sale' and chargeable with stamp duty of seven *per cent* on the value of the consideration as set forth in the instrument or the market value of the property, whichever is higher.

We noticed (January 2010) during test check of records of SR, Serilingampally, Ranga Reddy district that two documents styled as 'Agreements of sale' were executed and registered in February 2009 by the vendors and a confirming party conveying two acres of land in favour of the vendee for a total consideration of

₹ 4 crore. The documents contained recitals to the effect that vendors and confirming party delivered the physical possession of the scheduled properties and all original title deeds to the vendee. As the above documents of agreements of sale evidenced delivery of possession of properties they were 'Sale' agreements and as such stamp duty was leviable at seven *per cent* on the market value of the property. However, the registering officer levied stamp duty treating it as 'Agreement for Sale' resulting in short levy of stamp duty of ₹ 24 lakh.

After we pointed out the case, DR, Ranga Reddy district stated (April 2011) that when the agreement of sale was given in favour of vendee, it could be construed that possession of schedule property was delivered and ultimately a sale deed had to be executed to complete the transaction. The reply is not acceptable as these were sale agreements and liable to be charged with stamp duty at the rate of seven *per cent*.

We referred the matter to the Department in January 2011 and to the Government in May 2011; their reply has not been received (October 2011).

5.16 Misclassification of deeds

According to Article 41 (C) (a) of Schedule I-A to the IS Act, where the property which belonged to one partner or partners when the partnership commenced is distributed or allotted or given to another partner or partners, stamp duty is leviable at five *per cent* on the market value of the property distributed or allotted or given to the partner or partners under the instrument of dissolution in addition to the duty which would have been chargeable on such dissolution if such property had not been distributed or allotted or given.

5.16.1 We noticed (August 2008) in test check of the records of SR, Medchal, Ranga Reddy district that a document styled as 'Memorandum of Understanding (MOU)' was executed between two parties and registered in December 2007. It was recited in the document that APIIC allotted the scheduled property for manufacturing cement bricks to the first party. Subsequently, the first

party was unable to meet the expenditure and due to adverse financial conditions had admitted the second party as his partner by executing a partnership deed in 1991. The second party had paid all the dues of the partnership firm to the concerned banks and financial institutions and hence the first party through MOU, transferred all rights, title and interest of the unit alongwith land and building to the second party.

As the property was given to the other partner and the partnership ceased to exist, stamp duty is leviable at five *per cent* on the market value of the property. However, the registering officer levied stamp duty of ₹ 200 treating the document as MOU. Misclassification of 'dissolution of partnership' as 'MOU' resulted in short levy of stamp duty and registration fees of ₹ 6.15 lakh.

After we pointed out the case, the Department accepted (June 2011) the audit observation and intimated that the District Registrar concerned was directed to collect the deficit amount.

We referred the matter to the Government in May 2011; their reply has not been received (October 2011).

As per the Andhra Pradesh High Court judgement No. 83 of 70 dated 18 January 1974, a release that does not operate on all other co-parceners or co-owners is a conveyance on sale. Further, a release should necessarily be in favour of someone who has a preexisting right over the property and the effect of release is only to enlarge the rights of the property.

5.16.2 We noticed (between May 2008 and May 2010) during test check of the records of four⁷ SRs that four documents styled as ‘release deed’ were executed by releasers, releasing their share of property in favour of the releasees. It was noticed in three cases from the recitals

of either the same documents or documents that were registered earlier that one/some of the co-parceners to the property were not included in the release deeds, thus making the documents ‘conveyance on sale’. In another case, though the releaser did not have pre-existing right in the property, the property was released in favour of releasee thereby making the document as conveyance on sale. However, the registering officers treated the above documents as ‘release among family members’ instead of ‘conveyance on sale’. Thus misclassification of ‘conveyance on sale’ as ‘release’ resulted in short levy of duties and fees of ₹ 5.88 lakh.

After we pointed out the cases, the Department stated (September 2011) that Sub-Registrars cannot go beyond the recitals of the documents and verify the title of the properties. The reply is not tenable as person(s) having right/title/interest of the property were excluded from the release deed thereby making the documents classifiable as conveyances on sale. The registering officers could have initiated action for issue of notices to collect deficit duties under section 41A of IS Act.

We referred the matter to the Government in May 2011; their reply has not been received (October 2011).

5.17 Short levy of duties and fees

According to Article 47-A of Schedule 1-A to the IS Act, instruments of sale are chargeable to stamp duty at seven *per cent* on the amount set forth in the instrument or the market value of the property, whichever is higher. Further, transfer duty is leviable at two *per cent* as per the provisions of various Acts of Local Bodies.

As per G.O.Ms.No.2046 Revenue (Registration-I) Department dated 28 November 2005, stamp duty payable in respect of sale deeds of land and buildings made through auction by the official liquidator is two *per cent*.

5.17.1 We noticed (December 2010) during test check of the records of SR, Adoni, Kurnool district that a sale deed was registered in June 2009 conveying factory site including godowns. Stamp duty of seven *per cent* was leviable on the market value of

⁷ Charminar, Kothagudem, Peddapally and Sanjeeva Reddy Nagar.

the property of ₹ 1.53 crore. However, the registering officer levied stamp duty of two *per cent* applicable to the sale deeds of land and buildings made through auction by the official liquidator on the value of ₹ 96.77 lakh declared as the market value of the property by the executants, even though the property was sold under normal conditions of sale as evident from the document itself. This resulted in short levy of duties and fees of ₹ 10.21 lakh.

After we pointed out the case, the Department accepted (June 2011) the audit observation and intimated that the District Registrar concerned was directed to collect the deficit amount.

We referred the matter to the Government in May 2011; their reply has not been received (October 2011).

5.17.2 We noticed (between January and February 2009) during test check of the records of two⁸ SRs that two sale deeds were registered between April 2007 and January 2008 by the vendors in favour of vendees. The Registering Officer levied duties and fees on the value of consideration instead of market value of the property in one case even though the market value of the property was higher. In the other case, the sale deed was registered by adopting agricultural/acreage rate instead of house site/square yard rate even though the property was already converted into house sites. These omissions on part of the registering officer in valuation of the properties resulted in short levy of stamp duties and fees of ₹ 5.98 lakh.

After we pointed out the case, the Department accepted (March 2011) the audit observation in respect of SR, Dharmavaram and intimated that instructions were issued to collect the deficit amount. In respect of Sub Registrar Shamshabad, it was stated (April 2011) that the survey number in which the property located was huge and even though some of the properties in survey number with small extent were registered at ₹ 1,700 per sq. yard, the other lands were remaining as mere lands without development. The reply is not acceptable as the vendors had already divided the land owned by them into plots which was evident from the document executed by them earlier i.e. on 11 January 2008; whereas the transaction in question pertains to the document registered at a later date i.e., 25 January 2008. As the property had already lost its 'agricultural status' stamp duty was leviable at house site/square yard rate i.e. at residential rates.

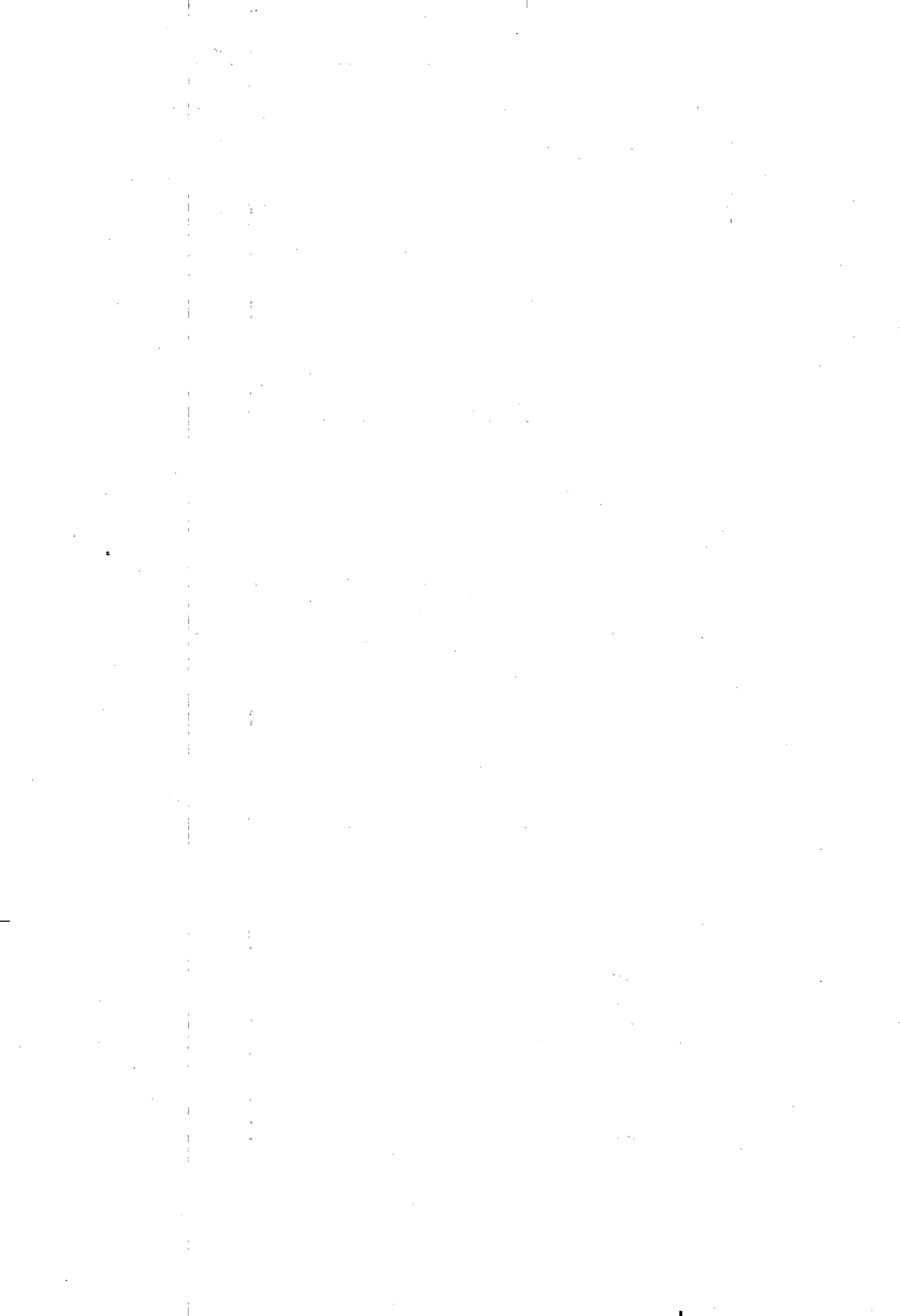
We referred the matter to the Government in May 2011; their reply has not been received (October 2011).

5.17.3 We noticed (February 2009) during test check of the records of SR, Dharmavaram, Ananthapur district that three sale deeds were executed and registered in September 2007 by the vendors in favour of the purchasers. While computing duties and fees, the registering officer adopted the value of land as ₹ 1.30 lakh per acre instead of ₹ 9.68 lakh per acre as per the basic value register. This resulted in short levy of duties and fees of ₹ 5.69 lakh.

⁸ Dharmavaram and Shamshabad.

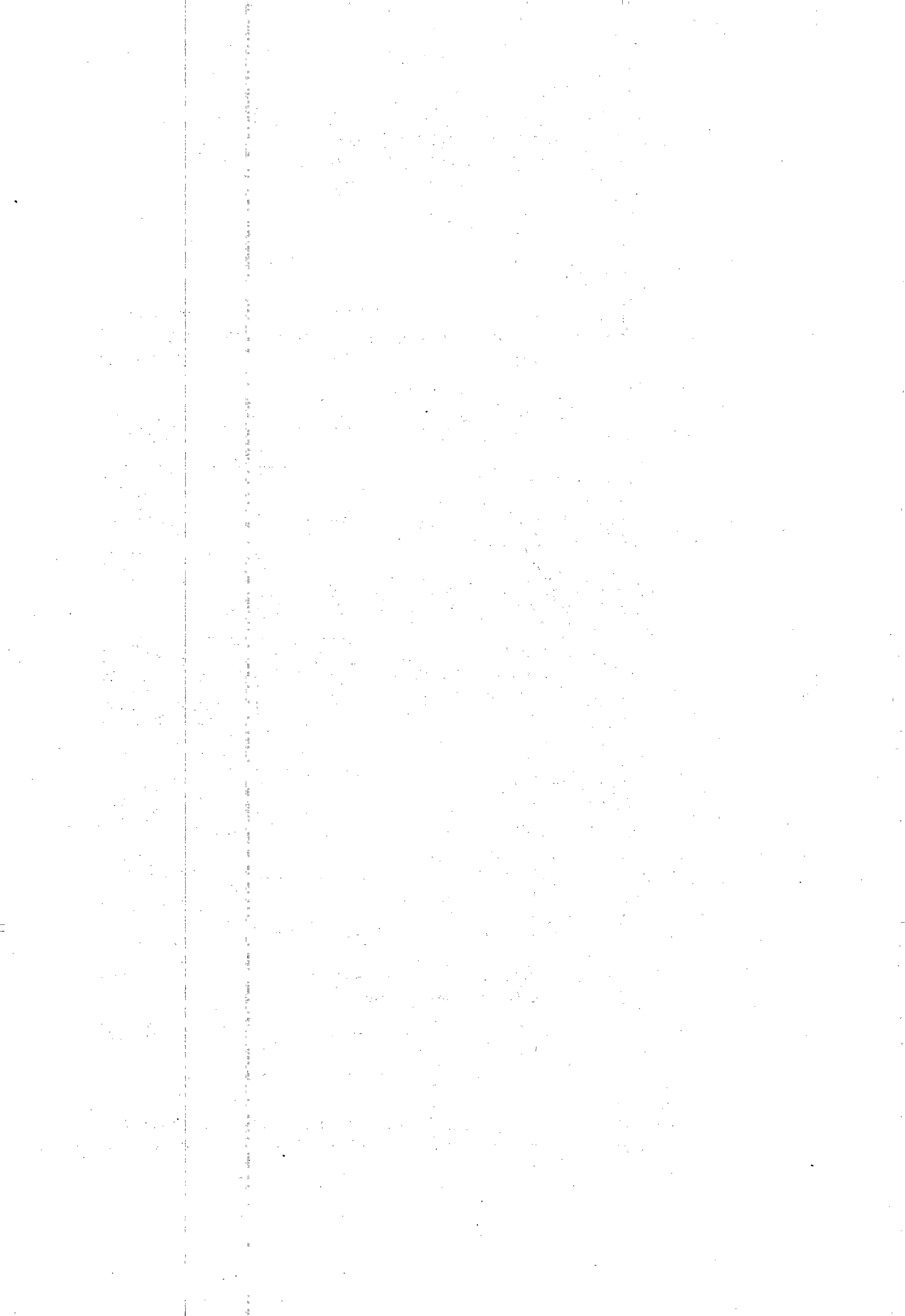
After we pointed out the case, the Department accepted (March 2011) the audit observation and intimated that instructions were issued to collect the deficit amount.

We referred the matter to the Government in May 2011; their reply has not been received (October 2011).



CHAPTER VI

*OTHER TAX
RECEIPTS*



CHAPTER VI OTHER TAX RECEIPTS

6.1 Results of audit

Test check of the records of 83 offices of the following Departments during the year 2010-11 revealed underassessments of tax and other irregularities involving ₹ 733.45 crore in 124 cases which fall under the following categories:

(₹ in crore)			
Sl. No.	Category	No. of cases	Amount
I	ENERGY DEPARTMENT		
1.	Non/short levy of electricity duty	5	650.21
2.	Unauthorised exemption from payment of electricity duty	4	0.59
II	REVENUE DEPARTMENT		
	A. State Excise Duties		
1.	Functioning of the Prohibition and Excise Department – A Performance Review	1	22.01
2.	Non-levy of additional license fee	4	0.99
3.	Short fixation of upset price	4	0.27
4.	Non-levy/collection and incorrect adoption of licence fee	10	2.23
5.	Non-levy/ collection of Professions tax	3	0.52
6.	Non-collection/ short levy of resultant loss	3	0.52
	B. Land Revenue		
1.	Non/short levy of water tax	10	1.27
2.	Incorrect grant of remission of water tax	7	0.59
3.	Non-levy of interest on arrears of land revenue	20	0.53
4.	Elimination of demand	3	1.22
	C. Entertainments tax		
1.	Non/short levy of entertainments tax	5	0.01
	D. Professions tax		
1.	Non-levy and collection of professions tax	44	1.10
III	TRANSPORT, ROADS AND BUILDINGS DEPARTMENT		
1.	Non-levy and collection of professions tax	1	45.76
IV	INDUSTRIES AND COMMERCE DEPARTMENT		
	Director and Commissioner of Sugar and Cane Commissioner		
1.	Non-levy of penalty	9	5.63
Total		124	733.45

During the course of the year 2010-11, the Department accepted underassessments and other deficiencies of ₹ 648.28 crore in 55 cases of which, 24 cases involving ₹ 382.82 crore were pointed out during the year and the rest in the earlier years. An amount of ₹ 15.72 crore was realised in 20 cases.

A performance review on "Functioning of the Prohibition and Excise Department" has been brought out as a standalone report.

Few illustrative cases involving ₹ 299.44 crore are mentioned in the succeeding paragraphs.

6.2 Audit observations

During scrutiny of the records in the offices of Energy, Industries and Commerce, Revenue, Transport, Roads and Buildings Departments relating to revenue received from electricity duty, penalty, professions tax and water tax, we observed several cases of non-observance of the provisions of the Acts/Rules resulting in non/short levy of tax/penalty and other cases as mentioned in the succeeding paragraphs in this Chapter. These cases are illustrative and are based on a test check carried out by us. We pointed out such omissions in audit each year, but not only do the irregularities persist; these remain undetected till an audit is conducted. There is a need for the Government to consider directing the Departments to improve the internal control system including strengthening the internal audit so that such omissions are detected and rectified.

ENERGY DEPARTMENT

6.3 Non-levy of electricity duty

As per Section 3 of Andhra Pradesh Electricity Duty (APED) Act, 1939, every licensee in the state of Andhra Pradesh shall pay every month to the Government in the prescribed manner, a duty calculated at the rate of six paise per unit of energy on and in respect of all sales of energy effected by the licensee during the previous month at a price of more than 12 paise per unit.

Further, as per Section 4 of the Act, every person or generating company or a licensee liable to pay duty under Section 3 or 3B shall maintain the books of accounts in the prescribed form and shall submit the returns showing the units of energy consumed as auxiliary consumption of a generating plant and the energy consumed for their own purposes, energy sold to the consumers and the amounts payable in respect of such energy consumed or sold, as the case may be, to such officer in such form and at such time as may be prescribed.

As per Section 6 of the APED Act, the duty remaining unpaid shall be recoverable as arrears of land revenue.

6.3.1 We noticed (October 2008) during the test check of the records of office of the Chief Electrical Inspector (CEI) to the Government of Andhra Pradesh and the material furnished by them to the Government between August 2009 and March 2011, that 44,097.34 million units of electrical energy were generated and sold by 113 private generating units during the period from July 2003 to March 2010. However, the Department had neither issued demand notice to the concerned generating units for payment of electricity duty nor did they include the same in their Electricity duty register. This resulted in non-levy of electricity duty amounting to

₹ 264.58 crore.

After we pointed out the case, the Government while accepting (December 2009) the audit observation stated that demand notices had been issued

(October and November 2009) for the amounts due upto March 2009. Regarding levy of electricity duty for the period from April 2009 to March 2010, the Government replied (August 2011) that demand notices were issued for this period.

6.3.2 We noticed (July 2010) during the test check of records of office of CEI to the Government of Andhra Pradesh, Hyderabad that two private power generating companies had not paid electricity duty on 18.77 million units of electrical energy generated and sold by them to third parties during the year 2008-09. This resulted in non-levy of electricity duty amounting to ₹ 11.26 lakh.

After we pointed the cases, the Government accepted (August 2011) the audit observation and stated that demand notice had been issued in December 2010 in respect of one power generating company. Final reply in respect of the other power generating company is awaited (October 2011).

TRANSPORT, ROADS AND BUILDINGS AND REVENUE DEPARTMENTS

6.4 Non-levy and collection of professions tax

Under Section 4 of the Andhra Pradesh (AP) Tax on Professions, Trades, Callings and Employments Act 1987, the Government issued orders vide G.O.Ms. No. 610 Revenue (CT-IV) Department dated 30 May 2006 appointing Regional Transport Officers/Deputy Commissioners/Joint Commissioners as collecting agents for collection of professions tax from the lorry/bus owners at ₹ 750 per vehicle per annum. Further, the Sub-Registrars concerned are appointed as collecting agents to collect professions tax from chit fund companies at ₹ 2,500 per year.

6.4.1 We noticed (November 2009) during the test check of the records of the office of the Transport Commissioner (TC), Andhra Pradesh that there were 5,77,541 non-transport vehicles¹ in the State during the year 2008-09. Professions tax of ₹ 43.32 crore was collectable from all the owners of these vehicles. However, the Department had collected only ₹ 15.54 crore relating to 2,07,253 vehicles.

Professions tax of ₹ 27.77 crore on the remaining 3,70,288 vehicles was not levied and collected.

After we pointed out the case, the Department stated (August 2011) that consequent to the writ petition filed by Public taxi owner and Drivers Association, Rajahmundry in 2009, the High Court of Andhra Pradesh issued interim orders in August 2010 to suspend the Government order dated 30 May 2006 until further orders and hence they had stopped collection of professions

¹ Non-transport vehicles are those used by the owner of the vehicles for their own purposes and not for hire or reward.

tax since then. The reply of the Department is not acceptable as the irregularity pointed out by audit pertains to the year 2008-09.

We referred the matter to the Government in June 2011; their reply has not been received (October 2011).

6.4.2 We noticed (between April and December 2010) during test check of the records of nine office of District Registrars of Assurances² that professions tax of ₹ 35.73 lakh was not levied and collected for the years 2006-07 to 2009-10 from the 438 chit fund companies located within the jurisdiction of the respective Registering officers. Thus, despite the orders of the Government, the Registration and Stamps Department had failed to realise professions tax amounting to ₹ 35.73 lakh.

After we pointed out the cases, the Department stated (July 2011) that collection particulars would be submitted after sending the list to chit fund companies that had defaulted in the payment of professions tax. Further, District Registrar, Ranga Reddy (East) stated (June 2011) that an amount of ₹ 0.43 lakh was collected (between March and June 2011) from seven chit fund companies.

We referred the matter to the Government in June 2011; their reply has not been received (October 2011).

² Guntur, Hyderabad, Khammam, Mahabubnagar, Nalgonda, Rangareddy, Rangareddy (East), Vijayawada and Warangal.

INDUSTRIES AND COMMERCE DEPARTMENT

Sugar and Cane

6.5 Non-levy of penalty

Under AP Sugarcane (Regulation of Supply and Purchase Tax) Act and Rules, 1961, occupier of a sugar factory or owner of a *Khandasari* (unit which manufactures cottage sugar in unrefined form) unit has to pay purchase tax on sugarcane purchased by him including purchases made from cane growers of other States. Government ordered vide G.O.Ms.No.247, Industries and Commerce (Sugar) Department, dated 07 December 2009 that purchase tax for the crushing season 2009-10 be paid to cane growers within 14 days from the date of purchase of cane as additional incentive by the sugar factory directly. The sugar factories shall prefer bills to the Commissioner of Sugar for book adjustment of receipts of amounts towards purchase tax by crediting the amount to the Head of Account "Tax Collection-Purchase tax on Sugarcane". Sugar produced in a factory or *Khandasari* unit, shall not be removed or cause to be removed until the purchase tax due to the Government is paid. In case of default, penalty not exceeding 100 per cent of the purchase tax is also leviable.

We noticed (August and September 2010) during the test check of the records of offices of seven Assistant Cane Commissioners (ACC)³ that 17 sugar factories removed 7,63,745 quintals of sugar produced during the crushing season 2009-10 without payment of purchase tax of ₹ 5.08 crore. However, the Department did not levy penalty of ₹ 5.08 crore for removal of sugar without payment of purchase tax.

After we pointed out the above cases, the Department stated (August 2011) that the Government of AP converted purchase tax intended to be paid to the exchequer as

purchase tax incentive to be passed on to canegrowers and hence procedure/provision of levying and collecting purchase tax, penalty ceases to exist. The reply of the Department is not acceptable as the introduction of incentive scheme does not tantamount to repeal of the provisions of the Act, as contended by the Commissioner. Penalty is leviable as per provisions of the Act irrespective of the fact of payment of incentive within 14 days from the date of purchase, if the purchase tax was not paid before removing the sugar as stipulated under Section 21(3) of the Act.

We referred the matter to the Government in June 2011; their reply has not been received (October 2011).

³ Anakapalle, Chittoor, Nellore, Samalkot, Sangareddy, Tanuku and Vuyyuru.

REVENUE DEPARTMENT

Water Tax

6.6 Incorrect grant of remission of water tax

As per the provisions of AP Water Tax Act, 1988, water tax is leviable on all types of land receiving water from the Government sources. Further, as per integrated village accounts, only the Government is competent to remit water tax and the Collectors are required to obtain orders from the Government whenever such cases of remission arise. Remission granted by the Government has to be noted in Account 4-B of the village accounts.

We noticed (between December 2009 and August 2010) during the test check of the *jamabandi*⁴ records (Account 4-B) of six offices of Tahsildars⁵ that the remission of water tax amounting to ₹ 65.63 lakh was granted by the *jamabandi* officers for the years 1 July 1997

to 30 June 2009 (*fasli*⁶ years 1407 to 1418) without sanction of the Government. This was incorrect and resulted in short realisation of Government revenue to that extent.

After we pointed out the cases, Department accepted (September 2011) the audit observation in respect of Tahsildar, Nidamaru and recovered an amount of ₹ 2.31 lakh. Tahsildar, Noothankal stated that rectification orders would be obtained for the remissions granted in the mandal. Tahsildars, Peddapanjani and Somandepalli stated that the matter would be referred to higher authorities. Tahsildar, Pedacherlopalli stated that the remission proposals would be submitted to the Government through the Collector. In respect of Tahsildar, Kakumanu, Department replied (September 2011) that proposals for remission were submitted (July 2010) to Chief Commissioner of Land Administration.

We referred the matter to the Government in May 2011; their reply has not been received (October 2011).

⁴ Finalisation of village accounts and demand.

⁵ Kakumanu, Nidamaru, Noothankal, Peddapanjani, Pedacherlopalli and Somandepalli.

⁶ Period of 12 months from July to June.

6.7 Non-levy of interest

As per Section 8 of AP Water Tax Act, water tax payable by a owner in respect of any land shall be deemed to be public revenue due upon the land and the provisions of the AP Revenue Recovery (APRR) Act, 1864, shall apply. Further, under Section 7 of APRR Act, arrears of revenue shall bear interest at the rate of six per cent per annum.

We noticed (between January and September 2010) during the test check of the records of 11 offices of the Tahsildars⁷ that during the period from 1 July 1998 to 30 June 2009 i.e., *fasli* years 1408 to 1418, arrears of land revenue towards water tax amounting to ₹ 6.26 crore

was collected. However interest of ₹ 37.57 lakh was not levied and collected. This resulted in short realisation of Government revenue.

After we pointed out the cases, Department/Tahsildars accepted (between June 2010 and September 2011) the audit observation in respect of 10 tahsils and reported collection of interest of ₹ 5.22 lakh in five offices⁸. Final reply in respect of Tahsildar, Yemmiganur has not been received.

We referred the matter to the Government in May 2011; their reply has not been received (October 2011).

6.8 Short realisation of revenue due to incorrect depiction of arrears of water tax

Article 8 of Andhra Pradesh Financial Code Vol. I, stipulates that every Departmental controlling officer should watch closely the progress of realisation of the revenues under his control and check the recoveries made against the demand.

We noticed (September 2009) during the test check of the *jamabandi* records and DCB statements of two⁹ office of Tahsildars that while carrying forward the opening balances of water tax for the *fasli* years 1413 and 1417 (1 July 2003 to 30 June 2004 and 1 July 2007 to 30 June

2008) an amount of ₹ 31.15 lakh was taken short. This was neither detected by the Tahsildars nor by the *Jamabandi* officers and the reasons for the same are not forthcoming from the records. This resulted in short realisation of revenue of ₹ 31.15 lakh due to incorrect depiction of demand in the DCB.

After we pointed out the cases, District Collector, East Godavari in respect of Tahsildar, Uppalaguptam replied (April 2011) that there was damage to crops in the mandal during *fasli* 1416, hence an amount of ₹ 21.13 lakh was not taken in the opening balance of *fasli* 1417. It was also stated that this amount was to be considered as remission. The reply is not acceptable as only the

⁷ Biccavolu, Chennur, Kakumanu, Nandyal, Peddakadabur, Phirangipuram, Sarangapur, Thondangi, Ungutur, Veeraghattam and Yemmiganur.

⁸ Kakumanu, Phirangipuram, Sarangapur, Ungutur and Veeraghattam.

⁹ Allavaram and Uppalaguptam.

Government is competent to remit the water tax. Final reply in respect of Tahsildar, Allavaram has not been received.

The matter was referred to the Department in January 2011 and the Government in May 2011; their reply has not been received (October 2011).

6.9 Short levy of water tax

As per the AP Water Tax Act, all lands receiving water for irrigation from a Government notified source of irrigation shall be subjected to water tax. For this purpose, all major and medium irrigation sources shall be regarded as category-I and all other sources, which are capable of supplying water for not less than four months in a year shall be regarded as category-II. Based on this categorisation, water tax is levied according to the source of irrigation in the locality. As per the instructions issued by the Chief Commissioner of Land Administration, AP, Hyderabad read with instructions issued in BSO, *jamabandi* is required to be conducted immediately after the close of the *fasli* year, so as to finalise the settled demand in respect of water tax. However, no return has been prescribed by the Department for watching the progress in completion of *jamabandi* by each mandal.

We noticed (between March and August 2010) during the test check of the records of the offices of two tahsildars¹⁰ that water tax amounting to ₹ 19.12 lakh was levied short by the tahsildars during the period 1 July 2000 to 30 June 2002 (*fasli* years 1410 and 1411) and 1 July 2003 to 30 June 2008 (*fasli* years 1413 to 1417). We also noticed that *jamabandi* of these *fasli* years was conducted in 2009-10 only, despite instructions to complete *jamabandi* and fix demands immediately after the closure of the *fasli* year.

After we pointed out the above cases, the Tahsildar, Krishnagiri stated that action would be taken to include the amount of short levy in the next *jamabandi*. Tahsildar, Tripuranthakam stated that the matter would be examined.

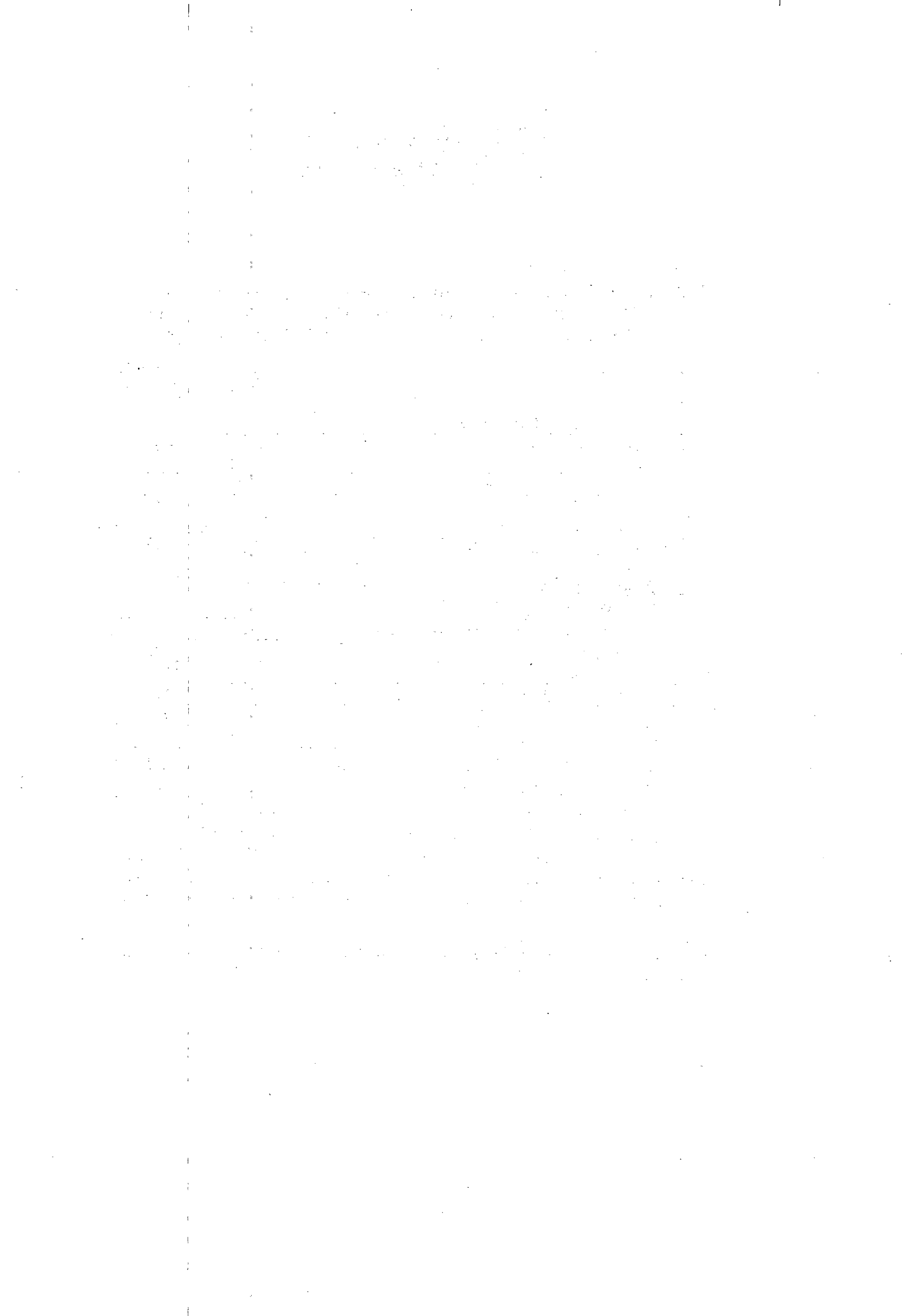
We referred the matter to the Department in January 2011 and the Government in May 2011; their reply has not been received (October 2011).

¹⁰ Krishnagiri and Tripuranthakam.



CHAPTER VII

NON-TAX RECEIPTS



CHAPTER VII NON-TAX RECEIPTS

7.1 Results of audit

Test check of the records of 41 offices of the following Departments during the year 2010-11 revealed underassessments of tax and other irregularities involving ₹ 91.31 crore in 78 cases which fall under the following categories:

(₹ in crore)			
Sl. No.	Category	No. of cases	Amount
I CO-OPERATION DEPARTMENT			
1.	Loss of revenue due to non-realisation of annual return fee	12	0.48
2.	Non-raising of demand of interest	2	2.70
3.	Non-levy of liquidation costs	3	24.66
II CIVIL SUPPLIES DEPARTMENT			
1.	Non-remittance of sale proceeds of confiscated commodities	1	1.82
III INDUSTRIES AND COMMERCE DEPARTMENT Mines and Minerals			
1.	Loss of revenue due to non compliance with provisions	10	25.50
2.	Short levy of royalty	14	18.12
3.	Non-levy of interest	4	13.87
4.	Short levy of dead rent	10	2.64
5.	Short levy of seigniorage fee	11	0.74
6.	Short levy of stamp duty	6	0.43
7.	Non-realisation of sales tax	1	0.21
8.	Non-forfeiture of security deposit	4	0.14
Total		78	91.31

During the course of the year 2010-11, the Department had accepted underassessments and other deficiencies of ₹ 4.49 crore in 28 cases of which, 16 cases involving ₹ 52.01 lakh were pointed out during the year 2010-11 and the rest in the earlier years. An amount of ₹ 24.72 lakh was realised in nine cases.

Few illustrative cases involving ₹ 2.71 crore are mentioned in the succeeding paragraphs.

7.2 Audit observations

During scrutiny of the records in the offices of Mines and minerals relating to revenue received from royalty and cess, seigniorage fee, we observed several cases of non-observance of the provisions of the Acts/Rules resulting in non/short levy of fee/royalty and other cases as mentioned in the succeeding paragraphs in this Chapter. These cases are illustrative and are based on a test check carried out by us. We pointed out such omissions in audit each year, but not only do the irregularities persist; these remain undetected till an audit is conducted. There is a need for the Government to consider directing the Departments to improve the internal control system including strengthening the internal audit so that such omissions are detected and rectified.

INDUSTRIES AND COMMERCE DEPARTMENT

Mines and Minerals

7.3 Short recovery of seigniorage fee

As per Rule 10 of AP Minor Mineral Concession Rules, 1966 seigniorage fee shall be charged on all minor minerals despatched or consumed from the land at the rates specified in the schedules to the Rules. The Government revised the rates of seigniorage fee on minor minerals vide G.O.Ms.No.217, Industries and Commerce Department dated 29 September 2004 and G.O.Ms.No. 198, Industries and Commerce (M.I) Department dated 13 August 2009. According to item 12 of Schedule I to the Rules, seigniorage fee is recoverable on fullers earth (white) at ₹ 100 per Metric Ton (MT).

7.3.1 We noticed (March 2010) during the test check of the records of office of Assistant Director of Mines and Geology (ADMG), Yerraguntla that Dy. Executive Engineer, Gandikota Lift Irrigation, Kondapuram recovered seigniorage fee on 1,52,326 cu.m instead of 5,10,942 cu.m of sand consumed in works executed during the period from April 2006 to January 2009. Though the details of quantity consumed and seigniorage fee recovered was furnished to ADMG by the Dy. Executive Engineer in the month of February 2009, no action was taken by ADMG to recover the deficit seigniorage fee. This resulted in short recovery of seigniorage fee of ₹ 1.29 crore.

After we pointed out the case, Government stated (September 2011) that seigniorage fee would be recovered after final disposal of the issue.

7.3.2 We noticed (November 2009) during the test check of the records of office of ADMG, Tandur that seigniorage fee was recovered at ₹ 40 per MT instead of at ₹ 100 per MT as per schedule rates which was agreed to in respect of fullers earth white. The mineral was despatched from the land during the period 2008-09 inspite of the condition in lease agreements to pay

seigniorage fee at ₹ 100 per MT as prescribed in the Rules. This resulted in short recovery of seigniorage fee of ₹ 36.46 lakh.

After we pointed out the case, the Government stated (September 2011) that the despatch permits were issued after inspection by the technical staff and the seigniorage fee was collected as per the schedule rates issued by the Government. The reply is not acceptable as the seigniorage fee had to be collected as per the rate prescribed in the Rules which was mentioned at condition No. 5(2) of the lease agreements concluded with the lessees stipulating payment of seigniorage fee of ₹ 100 per MT whereas the fee was collected at ₹ 40 per MT.

The Department of Mines and Geology gets revenue by way of recoveries made by other Departments for the consumption on minor minerals.

The seigniorage fee recoverable in respect of 'road metal' was fixed at ₹ 33 per cu.m. through G.O.Ms.No.331 Industries and Commerce (MI) Department dated 21 June 2000. In G.O.Ms.No.466 Industries and Commerce (MI) Department dated 24 August 2000 the mineral 'road metal' was substituted by 'road metal and ballast'. The Government enhanced the rates of these minor minerals to ₹ 45 per cu.m. through G.O.Ms.No.217 Industries and Commerce (MI) Department dated 29 September 2004.

7.3.3 We noticed (between November 2009 and March 2010) during the test check of the statements furnished by South Central Railway, Guntakal in three offices of the ADMG¹ that seigniorage fee on ballast was recovered at pre-revised rate of ₹ 33 per cu.m. instead of revised rate of ₹ 45 per cu.m. on the works executed during the period from June 2005 to March 2009. This resulted in short recovery of seigniorage fee of ₹ 32.60 lakh.

After we pointed out the cases, the ADMG, Kadapa stated that the short levy of seigniorage fee would be brought to the notice of the consuming Department. ADMG, Kurnool stated that the consuming Department had already been intimated to collect the seigniorage fee at revised rates. ADMG, Tadipatri stated that the consuming Department would be addressed for the recovery of the difference amount.

We referred the matter to the Department in May 2010 and the Government in June 2011; their reply has not been received (October 2011).

¹ Kadapa, Kurnool and Tadipatri.

7.3.4 We noticed (between June and November 2010) during a test check of the records of the offices of Deputy Director of Mines and Geology (DDMG), Kurnool and two offices of ADMGs² that seigniorage fee was collected at lesser/pre-revised rates in respect of granite, morrum, ballast etc., consumed in works executed during the period May 2008 to September 2009. This resulted in short recovery of seigniorage fee of ₹ 13.20 lakh.

After we pointed out the cases, the Government replied (September 2011) that assessment was revised in one case in respect of DDMG, Kurnool. In respect of offices of ADMG, Kurnool and Anantapur it was replied that railway authorities had been addressed in March 2011 and genuineness of the bills/recoveries would be verified on receipt of reply from them. In respect of another case in DDMG, Kurnool it was contended that mineral used was cubes and kerbs for laying footpaths, pavilions etc., and not black granite. It was added that the rate would depend upon the size and end use of the mineral and hence the rate adopted by the Department was correct. The reply is not tenable as the lease granted was for black granite only and the applicable revised rate is ₹ 1,750 per metric tonne.

7.4 Non/short levy of dead rent

As per Rule 10 of AP Minor Mineral Concession Rules, 1966, when a quarry lease is granted, the seigniorage fee or dead rent whichever is higher, shall be charged on all minor minerals despatched or consumed from the land at the rate specified in Schedule I and Schedule II as the case may be.

We noticed (between May 2009 and June 2010) during the test check of records of three offices of DDMG³ and two offices of ADMG⁴ that in 103 cases, dead rent amounting to ₹ 60.05 lakh was either not levied or levied short on road metal, colour granite, gravel etc., during the years 2007-08 and 2008-09. This resulted in non/short levy of dead rent amounting to ₹ 60.05 lakh.

After we pointed out the cases, three assessing authorities⁵ stated (April and May 2010) that the mineral revenue assessments would be revised. DDMG, Nizamabad stated (June 2010) that the matter would be brought to the notice of the Assistant Directors concerned. DDMG, Visakhapatnam stated (May 2009) that the matter would be examined.

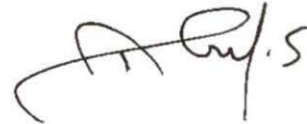
² Anantapur and Kurnool.

³ Kakinada, Nizamabad and Visakhapatnam.

⁴ Srikakulam and Vizianagaram.

⁵ DDMG, Kakinada, ADMG, Srikakulam and Vizianagaram.

We referred the matter to the Department in December 2010 and the Government in June 2011; their reply has not been received (October 2011).



(Sadu Israel)
Accountant General
(Commercial & Receipt Audit)
Andhra Pradesh

Hyderabad
The

7 FEB 2012

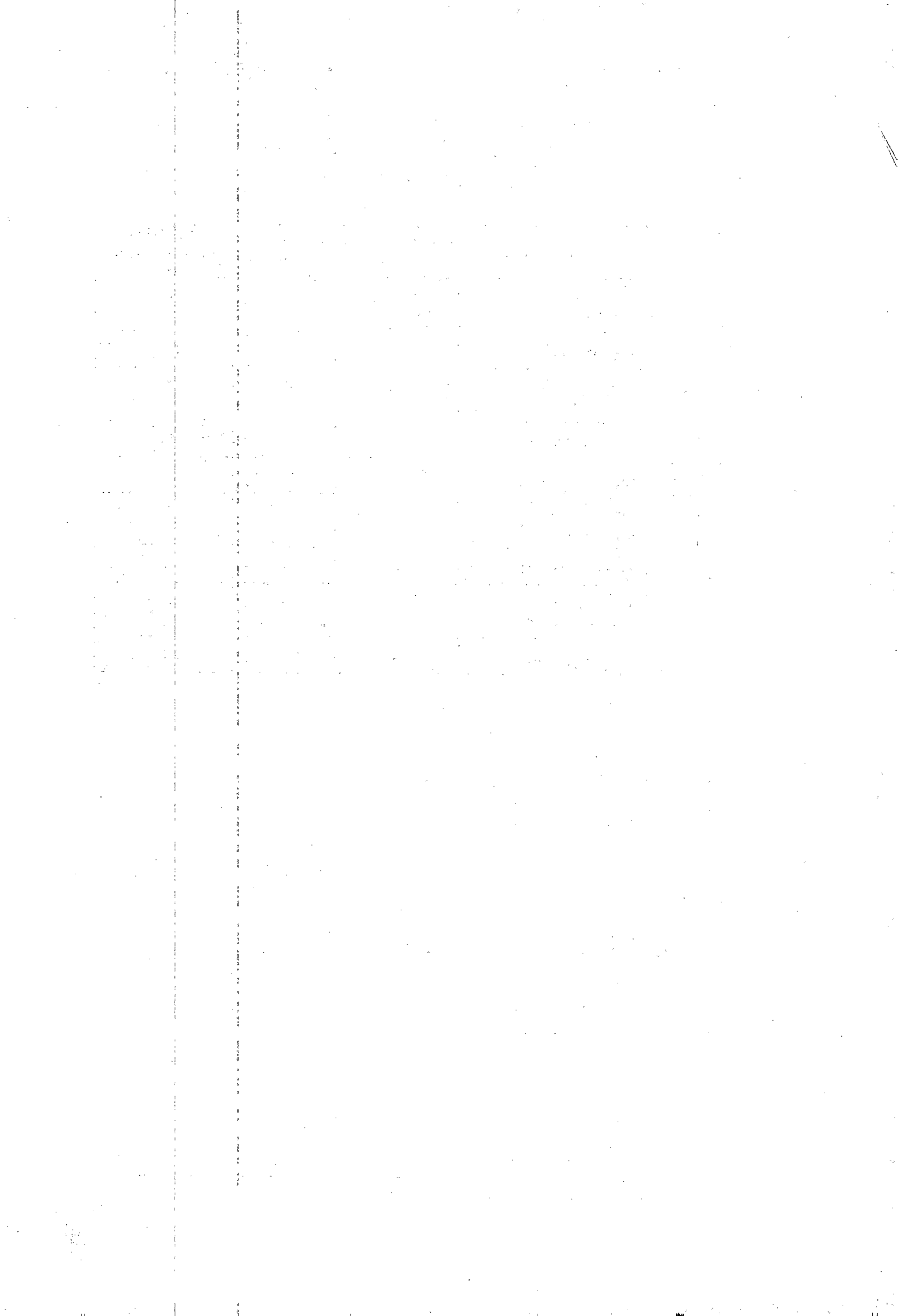
Countersigned



(Vinod Rai)
Comptroller and Auditor General of India

New Delhi
The

9 FEB 2012



Annexure – I (Paragraph 1.5)

Sl. No.	Discipline	No. of auditable units	No. of offices planned	No. of units audited during the year
1	Commercial Tax Department	223	223	223
2	Revenue Department	1153	272	272
3	Stamp Duty and Registration	460	266	270
4	State Excise Department	154	57	55
5	Transport Department	44	44	44
6	Mines & Geology Department	47	47	41
7	Chief electrical inspectorate	29	14	18
8	Asst. Cane Commissionerates	10	10	10
	Total	2120	933	933

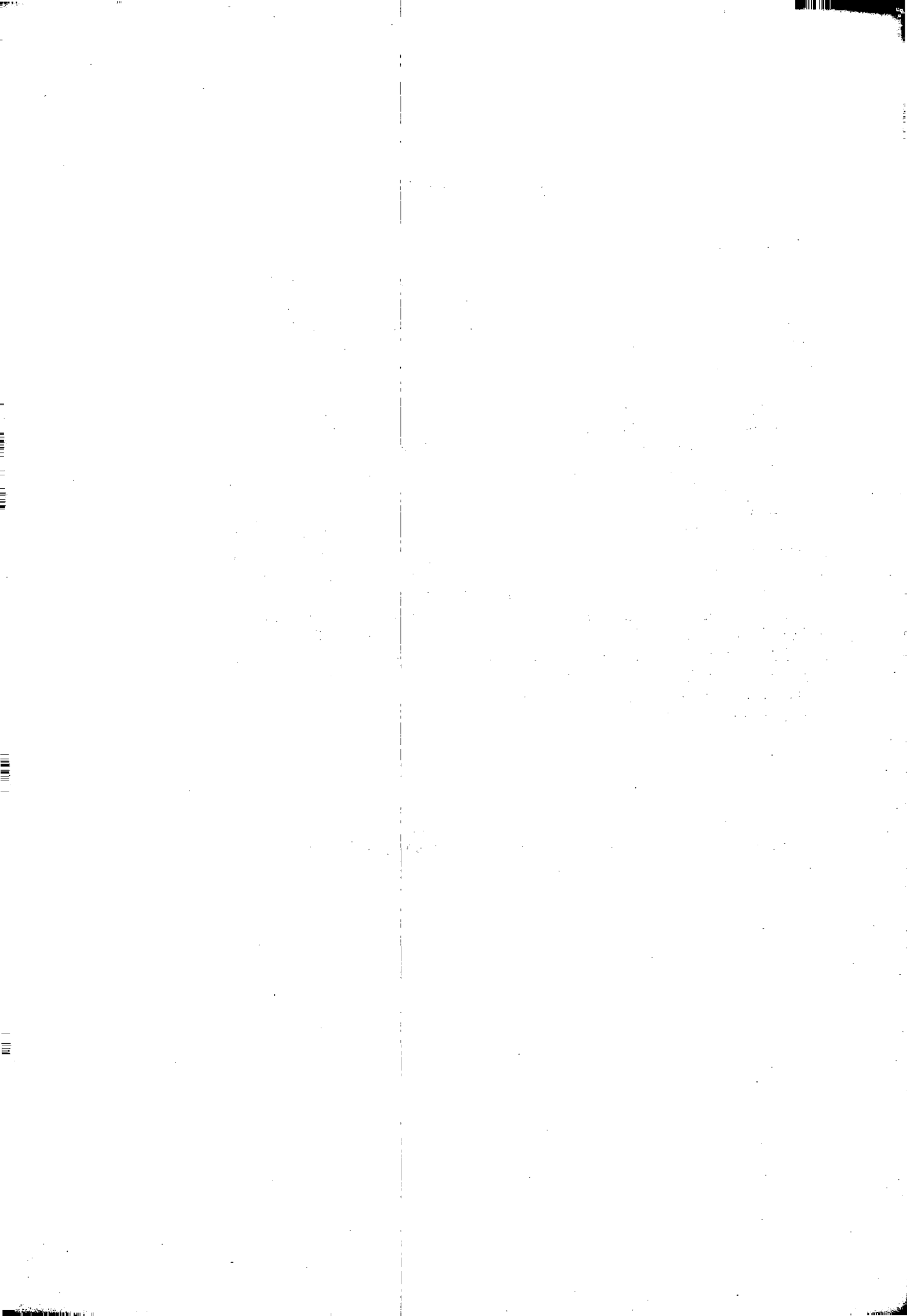
Annexure – II (Paragraph: 2.11.4)

Circle Offices:-

Adilabad, Adoni-1, Adoni-2, Amalapuram, Ambajipet, Anakapalle, Ananthapur-1, Ananthapur-2, Auto Nagar (Vijayawada), Beet bazar, Bhimavaram, Brodipet, Chirala, Chittoor-1, Chittoor-2, Convent Street, Dabagardens, Dharmavaram, Eluru, Eluru bazaar (Guntur), Fortroad (Warangal), Gadwal, Governorpet, Gudur, Guntakal, Hyderabad (Abids, Afjalung, Aghapura, Ashoknagar, Balanagar, Basheerbagh, Begumbazar, Begumpet, Bowenpally, Charminar, Fathenagar, Gandhinagar, General bazaar, Gowliguda, Hissamgunj, Hyderguda, Hydernagar, IDA Gandhinagar, Jeedimetla, Jubileehills, Madhapur, Mahankali street, Maharajgunj, Malakpet, Malkajgiri, Maredpalle, Marketstreet, Mehdipatnam, M.G.Road, M.J.Road, Musheerabad, Narayanguda, N.S.Road, Osmangunj, Rajendranagar, Ramgopalpet, Ranigunj, R.P.Road, Somajiguda, Special Commodities, Srinagar colony, Sultanbazar, Vengalraonagar, Vidyanagar), Jagannaikpur, Jangaon, Karimnagar-2, Kavali, Kasibugga, Khammam-1, Khammam-2, Kothagudem, Kothapet(Guntur), Kothapet (Vijayawada), Kurupam Market, Machilipatnam, Macherla, Main bazaar (Guntur), Mandapet, Mancherial, Markapuram, Marwadi Temple Street (Vijayawada), Morispeta (Tenali), Nandigama, Narasaraopet, Narasapuram, Nizamabad-1, Nizamabad-2, Nellore-2, Nidadavolu, Nirmal, Palakol, Parkroad, Parvathipuram, Patnambazar (Guntur), Peddapuram, Peddapalle, Proddutur-1, Rajam, Rajampet, Sangareddy, Seetharampuram, Srikakulam, Steelplant, Suryapet, Tadipatri, Tanuku-1, Tanuku-2, Tirupati-1, Tuni, Vinukonda, Vizianagaram (East), Vizianagaram (West), Vuyyuru and Warangal.

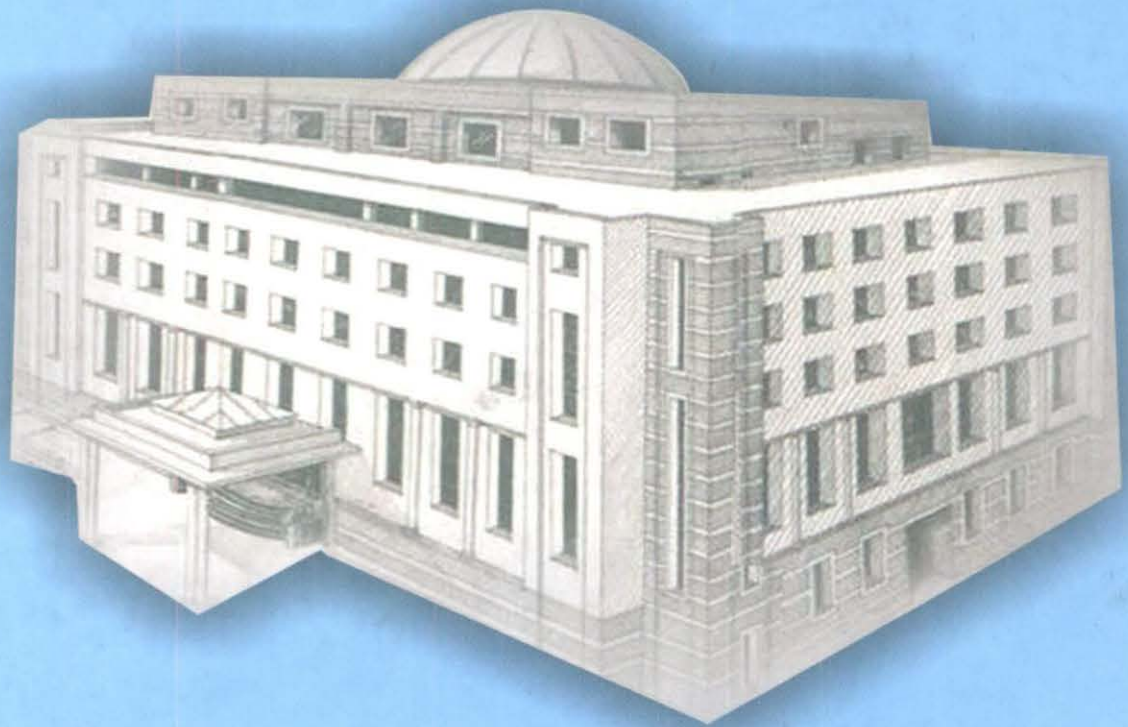
LTUs:-

Adilabad, Ananthapur, Chittoor, Eluru, Guntur-1, Guntur-2, Hyderabad (Abids, Begumpet, Charminar, Hyderabad Rural, Punjagutta, Saroornagar, Secunderabad), Kadapa, Kakinada, Karimnagar, Kurnool, Nalgonda, Nellore, Nizamabad, Vijayawada-1, Vijayawada-2.



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