

**Report of the
Comptroller and Auditor General of India
on
Revenue Sector**

for the year ended 31 March 2014

Government of Madhya Pradesh
Report No. 05 of the year 2014

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PREFACE

This Report is prepared for submission to the Governor of the State of Madhya Pradesh under Article 151 of the Constitution of India.

The audit of revenue receipts of the State Government is conducted under Section 16 of the Comptroller and Auditor General's (Duties, Power and Conditions of Service) Act, 1971. This report presents the results of audit of receipts comprising commercial tax, state excise, taxes on vehicles, land revenue, stamps and registration fees and mining receipts of the Government of Madhya Pradesh.

The cases mentioned in the Report are among those which came to notice in the course of test audit of accounts during the year 2013-14 as well as those which had come to notice in earlier years but could not be reported in previous Audit Reports; matter relating to the period subsequent to 2013-14 have also been included, wherever necessary.

Audit has been conducted in conformity with the Auditing Standards issued by the Comptroller and Auditor General of India.

OVERVIEW

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2010/10/10

2010/10/10

OVERVIEW

This Report contains 37 paragraphs including three Performance Audit involving ₹ 368.07 crore. The Departments / Government have accepted audit observations involving ₹ 54.64 crore out of which ₹ 5.94 lakh was recovered. Some of the major findings are mentioned below:

I General

The total receipts of the State Government for the year amounted to ₹ 74,539.01 crore against ₹ 70,427.28 crore for the previous year. Fifty four *per cent* of this was raised by the State through tax revenue (₹ 32,342.12 crore) and non-tax revenue (₹ 7,704.93 crore). The balance 46 *per cent* was received from the Government of India as State's share of divisible union taxes (₹ 22,715.14 crore) and grants-in-aid (₹ 11,776.82 crore).

(Paragraph 1.1.1)

Test check of records of 376 units of Commercial Tax, State Excise, Taxes on Vehicles, Land Revenue, Stamps and Registration Fees and Mining receipts conducted during the year 2013-14 revealed under-assessment/short levy/loss of revenue amounting to ₹ 1,267.93 crore in 5,64,313 cases. During the course of the year, the concerned Departments accepted underassessment and other deficiencies of ₹ 526.24 crore involved in 1,39,791 cases which were pointed out in audit during 2013-14. The Department collected ₹ 10.03 crore in 1042 cases during 2013-14, pertaining to the audit findings of current year.

(Paragraph 1.10)

II Commercial Tax

Performance Audit on "Rebate of Input Tax under Section 14 of Madhya Pradesh Value Added Tax (VAT) Act, 2002" revealed that:

Irregular allowance of Input Tax Rebate (ITR) of ₹ 16.97 crore in 115 cases due to absence of provisions in MP VAT Act and Rules, violation of provisions of the Act and deficiencies in the system of grant of ITR.

(Paragraph 2.4.8.1 to 2.4.8.4)

Assessing Authorities failed to abide by the instructions and accepted/allowed the claimed ITR of ₹ 3.69 crore in six cases of six dealers without verifying it with reference to details of purchases.

(Paragraph 2.4.8.5)

Inadmissible ITR of ₹ 2.28 crore in 28 cases of 26 dealers without filing the returns by these dealers as required under Section 14 (i) of MP VAT Act.

(Paragraph 2.4.8.6)

Acceptance/allowance of ITR of ₹ 29.18 crore in 78 cases of 77 dealers in absence of purchase bills/purchase details/purchase lists.

(Paragraph 2.4.9)

Carry forward ITR of ₹ 1.81 crore of previous year in 19 cases of 19 dealers was irregularly adjusted in the tax levied in current year though no carry forward ITR was claimed by the dealers in their first return.

(Paragraph 2.4.10.1)

Irregular acceptance/allowance of ITR of ₹ 2.40 crore in 13 cases of 13 dealers on the purchase of goods not eligible for ITR under Section 14 (6) of MP VAT Act.

(Paragraph 2.4.11.1 to 2.4.11.3)

Inadmissible ITR of ₹ 38.65 lakh including penalty of ₹ 26.65 lakh in 13 cases of 13 dealers on sale of tax free goods obtained as co-product in manufacturing process.

(Paragraph 2.4.11.4)

Irregular acceptance of ITR of ₹ 1.34 crore including penalty of ₹ one crore in nine cases of nine dealers in the event of the goods/stock transferred out of State otherwise than by way of sale.

(Paragraph 2.4.11.5)

III State Excise

Undue benefit given to retail licensees by the Department resulted in short realisation of basic license fee of ₹ 39.83 crore by 709 foreign liquor shops in 34 districts.

(Paragraph 3.5)

Issuance of export/transport permits without recovering the prescribed duty/ without obtaining the sufficient bank guarantee and solvent securities resulted in non-realisation of duty of ₹ 14.41 crore.

(Paragraph 3.6)

The Department though imposed penalty of ₹ 3.75 crore on six manufacturers but did not take action to recover the dues as arrears of land revenue.

(Paragraph 3.7)

Non-realisation of excise duty of ₹ 71.96 lakh was due to inaction of the Department in disposal of spirit and foreign liquor stock.

(Paragraph 3.8)

IV Taxes on Vehicles

Performance Audit on "Assessment and collection of tax on public service vehicles plying on regular stage/contract carriage permit" revealed that:

The Department had not barred 75 vehicles, which had completed 15 years of life from the year of manufacturing, from plying on stage carriage permit.

(Paragraph 4.4.7.1)

The Department did not take any action against the defaulting vehicle owners, which resulted in non levy of tax amounting to ₹ 7.28 crore including penalty of ₹ 3.73 crore in respect of 270 vehicles.

(Paragraph 4.4.7.3)

Taxation Authorities failed to detect the application of incorrect rate of tax which resulted in short levy of tax of ₹ 1.22 crore besides penalty of ₹ 1.28 crore in respect of 215 vehicles.

(Paragraph 4.4.7.4)

The Department did not initiate action for cancelling the registration certificates of these vehicles whose fitness certificates had expired.

(Paragraph 4.4.7.7)

No action for issuance of revenue recovery certificates was taken up by the Department in follow up of demand notices of ₹ 1.52 crore in respect of 115 vehicles.

(Paragraph 4.4.7.8)

Inaction by the taxation authority in respect of 1,553 vehicles out of 16,562 vehicles, to recover tax from defaulting vehicle owners led to non realisation of Motor Vehicle Tax of ₹6.87 crore including penalty of ₹2.69 crore.

(Paragraph 4.6.1)

Non/short realisation of trade fee to the tune of ₹ 2.19 crore due to non-ascertaining of actual number of vehicles sold against which trade certificates were issued and trade fee was collected.

(Paragraph 4.8)

V Land Revenue

Application of incorrect rate led to underassessment of premium and ground rent of ₹ 91.75 crore on land measuring 24.658 hectare in village Dongarpur (Gwalior).

(Paragraph 5.5)

Land revenue and *upkar* of ₹ 2.26 crore collected by Tehsil offices was deposited in *Panchayat Nidhi* rather than in the treasury under Major Head '0029' Land Revenue.

(Paragraph 5.6)

VI Stamps and Registration Fees

Performance Audit on "Assessment and levy of Stamp Duty and Registration Fees" revealed that:

There was short levy of Stamp duty and Registration fees of ₹ 40.13 crore on instruments of lease deeds of mines due to incorrect determination of average annual royalty.

(Paragraph 6.2.10)

Inaction on the part of the Department to ensure registration of lease deeds of mobile towers led to short levy of Stamp duty and non levy of Registration fees of ₹ 13.92 lakh in 44 cases.

(Paragraph 6.2.11)

Incorrect application of rates on instruments of agreements related to development of land by the Department led to short levy of Stamp duty of ₹ 33.63 lakh

(Paragraph 6.2.12)

Incorrect determination of market value and non-finalisation of referred cases led to short levy of Stamp duty and Registration fees of ₹ 13.69 crore.

(Paragraph 6.2.13)

There was short levy of Stamp duty and Registration fees of ₹ 1.22 crore on instruments of power of attorney and due to misclassification of documents.

(Paragraph 6.2.14 and 6.2.15)

There was short realisation of Stamp duty and Registration fees of ₹ 21.49 lakh by selling land belonging to Scheduled Tribe persons for consideration of ₹ 3.60 crore instead of ₹ 11.24 crore to non Scheduled Tribe Persons. This also resulted in failure in safeguarding the interests of Scheduled Tribe Persons by depriving them land with market value of ₹ 7.64 crore.

(Paragraph 6.2.17)

There was non/short realisation of revenue of ₹ 9.69 crore due to non-registration of instruments of development agreement and short/non levy of Stamp duty and Registration fees in 24 cases.

(Paragraph 6.2.18)

There was short/non levy of Stamp duty and Registration fees of ₹ 10.23 crore due to undervaluation of development expenditure on mortgage deeds of developing land in 99 cases.

(Paragraph 6.2.19)

VII Mining Receipts

Non/Short realisation of dead rent of ₹ 3.05 crore in 107 quarry lessees out of 625 quarry lessees.

(Paragraph 7.5)

Non/Short realisation of contract money of ₹ 3.01 crore against 43 contractors in 107 cases.

(Paragraph 7.7)

Short realisation of royalty amounting to ₹ 1.30 crore due to non scrutiny of returns by the DMOs.

(Paragraph 7.8)

Short levy and collection of Stamp duty and Registration fees of ₹ 17.36 crore due to incorrect determination of average annual royalty and execution of the contracts on nominal valued stamps.

(Paragraph 7.12)

CHAPTER - I

GENERAL

1. The first part of the paper is devoted to a general discussion of the problem of the existence of a solution of the system of equations (1) for arbitrary values of the parameters α and β .

2. In the second part we consider the case of a linear system of equations (1) with constant coefficients. In this case the problem of the existence of a solution is reduced to the problem of the non-vanishing of the determinant of the system.

3. In the third part we consider the case of a nonlinear system of equations (1) with constant coefficients. In this case the problem of the existence of a solution is reduced to the problem of the non-vanishing of the determinant of the system.

4. In the fourth part we consider the case of a nonlinear system of equations (1) with variable coefficients. In this case the problem of the existence of a solution is reduced to the problem of the non-vanishing of the determinant of the system.

5. In the fifth part we consider the case of a nonlinear system of equations (1) with variable coefficients. In this case the problem of the existence of a solution is reduced to the problem of the non-vanishing of the determinant of the system.

6. In the sixth part we consider the case of a nonlinear system of equations (1) with variable coefficients. In this case the problem of the existence of a solution is reduced to the problem of the non-vanishing of the determinant of the system.

7. In the seventh part we consider the case of a nonlinear system of equations (1) with variable coefficients. In this case the problem of the existence of a solution is reduced to the problem of the non-vanishing of the determinant of the system.

8. In the eighth part we consider the case of a nonlinear system of equations (1) with variable coefficients. In this case the problem of the existence of a solution is reduced to the problem of the non-vanishing of the determinant of the system.

Chapter-I General

1.1 Trend of revenue receipts

1.1.1 The tax and non-tax revenue raised by the Government of Madhya Pradesh during the year 2013-14, the State's share of net proceeds of divisible Union taxes and duties assigned to the State and Grant-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are mentioned in **Table-1.1.1**.

Table - 1.1.1

Trend of revenue receipts

(₹ in crore)						
Sl. No.	Particulars	2009-10	2010-11	2011-12	2012-13	2013-14
1	2	3	4	5	6	7
1.	Revenue raised by the State Government					
	• Tax revenue	17,272.77	21,419.33	26,973.44	30,581.70	32,342.12
	• Non-tax revenue	6,382.04	5,719.77	7,482.73	7,000.22	7,704.93
	Total	23,654.81	27,139.10	34,456.17	37,581.92	40,047.05
2.	Receipts from the Government of India					
	• Share of net proceeds of divisible Union taxes and duties	11,076.99	15,638.52	18,219.14	20,805.16	22,715.14 ¹
	• Grants-in-aid	6,662.87	9,076.56	9,928.77	12,040.20	11,776.82
	Total	17,739.86	24,715.08	28,147.91	32,845.36	34,491.96
3.	Total revenue receipts of the State Government (1 and 2)	41,394.67	51,854.18	62,604.08	70,427.28	74,539.01
4.	Percentage of 1 to 3	57	52	55	53	54

(Source: Finance Accounts of the Government of Madhya Pradesh)

The above table indicates that during the year 2013-14, the revenue raised by the State Government (₹40,047.05 crore) was 54 per cent of the total revenue receipts. The balance 46 per cent of the receipts during 2013-14 was from the Government of India.

1.1.2 The details of the tax revenue raised during the period 2009-10 to 2013-14 are given in **Table -1.1.2**.

¹ For details, please see Statement No.11-"Detailed accounts of revenue by minor heads" in the Finance Accounts of the Government of Madhya Pradesh for the year 2013-14. Figures under the head "Share of net proceeds assigned to States" booked in the Finance Accounts under A-Tax revenue have been excluded from the revenue raised by the State and included in the State's share of divisible Union taxes in this statement.

Table - 1.1.2
Details of Tax Revenue raised

(₹ in crore)								
Sl. No.	Head of revenue		2009-10	2010-11	2011-12	2012-13	2013-14	Percentage of increase (+) or decrease (-) in 2013-14 over 2012-13
1.	Taxes on sales, trade etc.	BE	8012.11	9320.00	11830.00	14000.00	16500.00	(+) 17.85
		Actual	7723.82	10256.76	12516.73	14856.30	15549.89	(+) 4.67
2.	State excise	BE	2760.00	3400.00	4050.00	4800.00	5750.00	(+) 19.79
		Actual	2951.94	3603.42	4316.49	5078.06	5807.39	(+) 14.36
3.	Stamps duty	BE	1560.00	1900.00	2000.00	3200.00	4000.00	(+) 25.00
		Actual	1783.15	2514.27	3284.46	3944.24	3389.99	(-) 14.05
4.	Taxes on goods and passengers	BE	1460.00	1500.00	1815.00	2150.00	2640.00	(+) 22.79
		Actual	1332.88	1746.20	2047.46	2395.03	2578.74	(+) 7.67
5.	Taxes and duties on electricity	BE	1000.00	1090.00	1370.00	1370.00	1600.00	(+) 16.79
		Actual	2146.49	1476.32	1773.32	1477.71	1972.20	(+) 33.46
6.	Motor Vehicles Tax	BE	900.00	1050.00	1285.00	1400.00	1650.00	(+) 17.86
		Actual	919.01	1198.38	1357.12	1531.25	1598.93	(+) 4.42
7.	Land revenue	BE	161.81	182.46	500.31	550.00	572.00	(+) 4.0
		Actual	180.03	360.81	279.06	443.59	366.23	(-) 17.44
8.	Others	BE	221.08	227.54	267.69	842.00	670.00	(-) 20.42
		Actual	235.45	263.17	1398.85	855.52	1078.75	(+) 26.09
Total		BE	16075.00	18670.00	23118.00	28312.00	33382.00	(+)17.91
		Actual	17272.77	21419.33	26973.44	30581.70	32342.12	(+) 5.76

(Source: Finance Accounts and Budget Estimates of the Government of MP)

The respective Departments reported the following reasons for variation:

State Excise: The increase in the receipt was mainly due to the disposal of pending cases.

Stamp and Registration Fees: The decrease in revenue receipts was mainly due to the shortfall in the Registration of documents as a result of the orders regarding non registration of illegal colonies issued by the Hon'ble High court against Public Interest Litigation (PIL) and worldwide recession.

Taxes and duties on electricity: Increase of 33.46 per cent in receipt of revenue was due to the recovery of old dues.

Others: Increase of 26.09 per cent in revenue under the head "Others" was due to recovery under Rural Infrastructure and Road Development tax.

The other Departments despite being requested did not furnish the reasons for variations in receipts from that of the previous year.

1.1.3 The details of the non-tax revenue raised during the period 2009-10 to 2013-14 are indicated in **Table -1.1.3**.

Table - 1.1.3
Details of Non-tax revenue raised

(₹ in crore)								
Sl. No.	Head of revenue		2009-10	2010-11	2011-12	2012-13	2013-14	Percentage of increase (+) or decrease (-) in 2013-14 over 2012-13
1	2		3	4	5	6	7	8
1.	Non-ferrous mining and metallurgical industries	BE	1566.00	1650.00	2540.00	2300.00	2220.00	(-) 3.40
		Actual	1590.47	2121.49	2038.31	2443.39	2305.17	(-) 5.66
2.	Interest receipts	BE	176.98	167.09	166.90	202.00	204.15	(+) 1.06
		Actual	1284.03	298.56	1571.41	301.47	317.86	(+) 5.44
3.	Forestry and wild life	BE	850.00	1000.00	1027.32	969.04	1100.00	(+) 13.51
		Actual	802.00	836.61	878.81	910.38	1035.72	(+) 13.77
4.	Public works	BE	19.36	42.31	55.54	63.55	38.49	(-) 39.43
		Actual	27.37	36.77	47.92	33.22	46.82	(+) 40.94
5.	Miscellaneous general services	BE	4.10	20.09	22.07	19.88	16.95	(-) 14.74
		Actual	399.12	143.00	145.44	30.40	33.68	(+) 10.49
6.	Other administrative services	BE	106.38	113.42	117.50	93.49	184.40	(+) 97.24
		Actual	80.94	85.14	106.05	239.15	380.21	(+) 58.98
7.	Police	BE	64.03	65.00	85.00	100.00	107.04	(+) 7.04
		Actual	41.98	62.55	63.19	83.59	71.82	(-) 14.08
8.	Medical and Public Health	BE	43.04	49.54	40.11	21.00	46.65	(+) 122.14
		Actual	21.84	22.77	30.16	44.83	57.76	(+) 28.84
9.	Co-operation	BE	9.96	8.60	9.01	9.59	10.06	(+) 4.90
		Actual	9.08	17.05	11.65	13.02	12.24	(-) 5.99
10.	Major and medium irrigation	BE	73.23	82.31	90.44	96.18	116.86	(+) 21.50
		Actual	56.75	194.89	263.15	137.74	138.48	(+) 0.01
11	Other Non-tax receipts	BE	1023.09	1123.64	1845.11	3452.27	3538.40	(+) 2.49
		Actual	2068.46	1900.94	2326.64	2763.03	3305.17	(+) 19.62
Total		BE	3937.00	4322.00	5999.00	7327.00	7583.00	(+) 3.49
		Actual	6382.04	5719.77	7482.73	7000.22	7704.93	(+) 10.06

(Source: Finance Accounts and Budget Estimates of the Government of MP)

The respective Departments reported the following reasons for variation:

Forestry and Wild Life: Increase of revenue receipts under this head was due to the price escalation.

Public works: Increase in the actual receipts was due to the increase in the receipts under sub-head "PWD-Building".

Other Administrative Services: Increase in the receipts under this head was due to increase in the receipts under the sub-head "Fine and forfeitures".

Medical and Public Health: The main reason of increase in the actual receipts under this head was due to the increase in receipts from Employee State insurance schemes.

The other Departments despite being requested did not intimate the reasons for variation in receipts from that of the previous year.

1.2 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2014 of some principal heads of revenue amounted to ₹957.18 crore of which ₹ 479.96 crore was outstanding for more than five years, as detailed in the **Table-1.2**.

Table - 1.2
Arrears of revenue

(₹ in crore)				
Sl. No.	Head of revenue	Total Amount outstanding as on 31 March 2014	Amount outstanding for more than 5 years as on 31 March 2014	Replies of Department
1	2	3	4	5
1.	Taxes on sales, trade etc.	576.47	320.92	--
2.	State Excise	74.61	69.13	An amount of ₹ 5.67 crore was not recovered due to stay by the Hon'ble Court and ₹ 47.32 crore was not recoverable for which action has been initiated to write off the amount as irrecoverable. No reply has been received in remaining arrears of ₹ 21.62 crore.
3.	Stamp and Registration	114.91	62.73	--
4.	Non-ferrous mining and metallurgical industries	14.21	12.07	--
5.	Taxes and duties on Electricity	176.98	15.11	Amounts pending due to non-recovery of dues through RRC ₹ 114.96 crore, pending due to court cases ₹ 40.14 crore and pending with the departmental authorities ₹ 0.23 crore. No reply has been received in remaining arrears of ₹ 21.65 crore.
Total		957.18	479.96	

It would be seen from the table that recovery of ₹479.96 crore was pending for more than five years and sincere efforts were not being made to recover them. Arrears of ₹ 432.64 crore² were pending with the departmental authorities. The cases referred for write off (₹47.32 crore) were being pursued by the concerned Department.

1.3 Arrears in assessments

The details of cases pending at the beginning of the year, cases becoming due for assessment, cases disposed of during the year and number of cases pending for finalisation at the end of the year as furnished by the Sales Tax Department in respect of sales tax, motor spirit tax, luxury tax and tax on works contracts was as below in **Table-1.3**.

² Total amount outstanding for more than five years as on 31.3.2014 (₹ 479.96 crore) minus amount irrecoverable initiated for write off (₹ 47.32 crore)

Table - 1.3
Arrears in assessments

Head of revenue	Year	Opening balance	New cases due for assessment during 2013-14	Total assessments due	Cases disposed of during 2013-14	Balance at the end of the year	Percentage of column 6 to 5
1	2.	3	4	5	6	7	8
Sales tax/ VAT	2011-12	1,24,088	2,94,265	4,18,353	3,30,229	88,124	78.94
	2012-13	88,124	2,32,539	3,20,663	2,00,552	1,20,111	62.54
	2013-14	1,20,111	2,78,856	3,98,967	2,30,404	1,68,563	57.75
Profession tax	2011-12	67,248	1,19,154	1,86,402	1,22,991	63,411	65.98
	2012-13	63,411	89,708	1,53,119	1,05,945	47,174	69.19
	2013-14	47,174	96,790	1,43,964	89,473	54,491	62.15
Entry tax	2011-12	89,361	2,27,878	3,17,239	2,55,173	62,066	80.44
	2012-13	62,066	1,93,494	2,55,560	1,64,443	91,117	64.35
	2013-14	91,117	2,28,794	3,19,911	1,87,253	1,32,658	58.53
Luxury tax	2011-12	1,023	308	1,331	911	420	68.44
	2012-13	420	1,337	1,757	871	886	49.57
	2013-14	886	1,517	2,403	1,256	1,147	52.27
Tax on works contracts	2011-12	2,742	5,328	8,070	5,450	2,620	67.53
	2012-13	2,620	7,371	9,991	6,305	3,686	63.11
	2013-14	3,686	7,793	11,479	5,192	6,287	45.23

Thus, there has been an increase in disposal of assessment cases relating to Sales tax/VAT, Entry tax and luxury tax during 2013-14 as compared to the previous year but was lower than the achievement in 2011-12.

1.4 Evasion of tax detected by the Department

The details of cases of evasion of tax detected by the Department, cases finalised and the demands for additional tax raised as reported by the Department are given in **Table-1.4**.

Table - 1.4
Evasion of Tax

Sl. No.	Head of revenue	Cases pending as on 31 March 2013	Cases detected during 2013-14	Total	Number of cases in which assessment/ investigation completed and additional demand with penalty etc. raised		Number of cases pending for finalisation as on 31 March 2014
					Number of cases	Amount of demand (₹ in crore)	
1.	Taxes on sales, trade etc.	253	263	516	239	44.19	277
2.	State Excise	00	00	00	00	00	00
3.	Stamp and Registration fees	16394	9876	26270	12694	49.43	13576
	Total	16647	10139	26786	12933	93.62	13853

It would be seen from the above table that the number of cases pending is high at the end of the year in respect of Stamp duty and Registration fees.

The Government may consider to strengthen the internal control mechanism/ internal audit wing to ensure regular internal audit for eliminating the weaknesses and defective practices in the system and resultant leakage/ evasion of leviable Stamp duty and Registration fees.

1.5 Pendency of Refund Cases

The number of refund cases pending at the beginning of the year 2013-14, claims received during the year, refunds allowed during the year and the cases pending at the close of the year 2013-14 as reported by the Department are given in **Table-1.5**.

Table - 1.5
Details of pendency of refund cases

Sl. No.	Particulars	₹ in crore)							
		Sales tax / VAT		Taxes and duties on electricity		Stamp & Registration Fees		State Excise	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
1.	Claims outstanding at the beginning of the year	660	94.68	200	2.81	1749	4.49	14	0.11
2.	Claims received during the year	4422	286.72	46	4.14	654	3.73	20	1.06
3.	Refunds made during the year	4570	316.24	49	2.10	914	3.42	23	0.90
4.	Balance outstanding at the end of year	512	65.16	169	4.16	1482	4.80	11	0.27
5.	Percentage of refund	89.92	82.91	31.30	40.14	38.32	41.60	67.64	76.92

MP VAT Act provides for payment of interest, at the rate of one *per cent* per month, if the excess amount is not refunded to the dealer within 90 days from the date of the order and thereafter at the rate of 1.5 *per cent* per month till the refund is made.

The progress in the disposal of old outstanding refund cases of all the above heads was very slow.

1.6 Response of the Government / Departments towards audit

The Accountant General (Economic & Revenue Sector Audit), MP, 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 the 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 copies to the next higher authorities for taking prompt corrective action. The heads of the 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 the Department and the Government.

Inspection reports issued upto December 2013 disclosed that 16,280 paragraphs involving ₹7,520.60 crore relating to 3,757 IRs remained outstanding at the end of June 2014 as mentioned below along with the corresponding figures for the preceding two years in **Table-1.6**.

Table - 1.6

Details of pending Inspection Reports

	June 2012	June 2013	June 2014
Number of IRs pending for settlement	3,465	3,695	3,757
Number of outstanding audit observations	13,506	14,752	16,280
Amount of revenue involved (₹ in crore)	6,834.02	6,783.96	7,520.60

1.6.1 The Department-wise details of the IRs and audit observations outstanding as on 30 June 2014 and the amounts involved are mentioned in the **Table-1.6.1**.

Table - 1.6.1

Department-wise details of IRs

Sl. No	Name of the Department	Nature of receipts	Numbers of outstanding IRs	Numbers of outstanding audit observations	(₹ in crore) Money value involved
1.	2.	3.	4.	5.	6.
1.	Finance	Taxes on Sales, Trade etc.	1,185	6,304	1,177.29
2.	Energy	Taxes and duties on electricity	54	180	458.83
3.	Excise	State Excise	250	987	785.78
4.	Revenue	Land Revenue	1,109	3,516	2,680.89
5.	Transport	Taxes on motor vehicles	456	2,592	391.74
6.	Stamp and Registration	Stamp and Registration fees	441	1,377	260.40
7.	Mines and Geology	Non-ferrous mining and metallurgical industries	262	1,324	1,765.67
Total			3,757	16,280	7,520.60

Audit did not receive even the first replies from the heads of offices within one month from the date of issue of the IRs, for 259 IRs issued during 2013-14. This large pendency of the IRs due to non-receipt of the replies is indicative of the fact that the heads of offices and the Departments did not initiate action to rectify the defects, omissions and irregularities pointed out by the AG in the IRs.

The Government may consider having an effective system for prompt and appropriate response to audit observations.

1.6.2 Departmental audit committee meetings

The Government sets up audit committees to monitor and expedite progress of the settlement of the IRs and paragraphs in the IRs. The details of the audit committee meetings (ACMs) held during the year 2013-14 and the paragraphs settled are mentioned in **Table-1.6.2**.

Table - 1.6.2

Details of departmental audit committee meetings

(₹in crore)				
Sl. No.	Head of Revenue	Number of meetings held	Number of paras settled	Amount
1.	Land Revenue Department	2	195	66.42
2.	Stamp Duty & Registration Fees Department	1	87	10.07
3.	Mining Department	1	145	589.43
4.	Commercial Tax	1	56	1.19
Total		5	483	667.11

It is recommended that the Government may ensure convening of more ACMs by all the Departments for effective and expeditious settlement of outstanding paragraphs.

1.6.3 Non-production of records to audit for scrutiny

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

During the year 2013-14 as many as 401 assessment files, returns, refunds, registers and other relevant records were not made available to audit. The tax effect could not be computed in all the cases. Break up of these cases are given in **Table-1.6.3**.

Table - 1.6.3

Details of non-production of records

Name of the Office/Department	Year in which it was to be audited	Number of cases not audited	Tax Amount
Taxes/VAT on Sales, trade etc.	2013-14	-	-
Excise	2013-14	27	-
Stamp Duty	2013-14	25	-
Motor Vehicles Tax	2013-14	15	-
Others	2013-14	334	-
Total		401	

1.6.4 Response of the Department to the draft audit paragraphs

The draft audit paragraphs proposed for inclusion in the Report of the Comptroller and Auditor General of India are forwarded by the AG to the Principal Secretaries / Secretaries of the concerned Department, drawing their attention to audit findings and requesting them to send their response within six weeks. The fact of non-receipt of the replies from the Department / Government

is invariably indicated at the end of such paragraphs included in the Audit Report.

Forty draft paragraphs (clubbed into 37 paragraphs) including three Performance Audits (PAs) were sent to the Principal Secretaries / Secretaries of the respective Departments by name between April and May 2014. The Principal Secretaries/Secretaries of the Departments did not send replies to any draft paragraphs including PAs despite issue of reminders and the same have been included in this Report without the response of the Department/Government. However, responses received for PAs during exit conferences held with the Government, have been appropriately included at relevant places in the Report.

1.6.5 Follow up on the Audit Reports summarised position

The internal working system of the Public Accounts Committee, notified in December 2002, laid down that after the presentation of the Report of the Comptroller and Auditor General of India in the Legislative Assembly, the Departments shall initiate action on the audit paragraphs and the action taken explanatory notes thereon should be submitted by the Government within three months of tabling the Report, for consideration of the Committee. In spite of these provisions, the explanatory notes on audit paragraphs of the Reports were being delayed inordinately. Two hundred ninety one paragraphs (including one PA) included in the Reports of the Comptroller and Auditor General of India on the Revenue Sector of the Government of Madhya Pradesh for the years ended 31 March 2009, 2010, 2011, 2012 and 2013 were placed before the State Legislature Assembly between July 2010 and July 2014. Action taken explanatory notes in respect of 120 paragraphs from State Revenue Departments (Commercial Tax, State Excise, Taxes on Vehicles, Land Revenue, Stamp Duty and Registration Fee and Mining) had not been received for the Audit Report year ended 31 March 2013 so far (March 2014).

The PAC discussed 26 selected paragraphs pertaining to the Audit Reports for the years from 2008-09 to 2012-13 and has not made any recommendations.

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

To analyse the system of addressing the issues highlighted in the Inspection Reports / Audit Reports by the Department / Government, the action taken on the Draft Paragraphs and PAs included in the Audit Reports of the last 10 years for Mining Department is evaluated and included in this Audit Report.

The succeeding paragraphs 1.7.1 to 1.7.2 discuss the performance of the Mining Department under revenue head 0853 and cases detected in the course of local audit during the last ten years and also the cases included in the Audit Reports for the years 2004-05 to 2013-14.

1.7.1 Position of Inspection Reports

The summarised position of the inspection reports issued during the last nine years, paragraphs included in these reports and their status as on 31 March 2014 are tabulated in below **Table-1.7.1**.

Table - 1.7.1

Position of Inspection Reports

Sl. No.	Year	Opening Balance			Addition during the year			Clearance during the quarter			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
1.	2005-06	284	806	575.33	26	136	226.81	55	199	40.30	255	743	761.84
2.	2006-07	255	743	761.84	19	74	33.33	4	47	11.90	270	770	783.27
3.	2007-08	270	770	783.27	21	85	90.06	6	58	70.16	285	797	803.17
4.	2008-09	285	797	803.17	32	179	368.14	5	39	161.19	312	937	1010.12
5.	2009-10	312	937	1010.12	41	268	1824.35	61	211	181.12	292	994	2653.35
6.	2010-11	292	994	2653.35	37	208	282.36	130	313	193.73	199	889	2741.98
7.	2011-12	199	889	2741.98	33	234	174.66	30	148	1302.50	202	975	1614.139
8.	2012-13	202	975	1614.139	35	254	147.18	04	09	0.063	233	1220	1761.256
9.	2013-14	233	1220	1761.256	37	280	638.55	06	155	589.95	264	1345	1809.856

The Government arranges ad-hoc Committee meetings between the Department and AG's office to settle the old paragraphs. As would be evident from the above table, against 284 outstanding IRs with 806 paragraphs as on start of 2005-06, the number of outstanding IRs declined to 264 with 1345 paragraphs at the end of 2013-14. The marginal settlement of outstanding IRs and paragraphs is indicative of the fact that adequate steps were not taken by the Department to reduce the number of outstanding IRs and paragraphs.

1.7.2 Recovery of accepted cases

The position of paragraphs included in the Audit Reports of the last 10 years, those accepted by the Department and the amount recovered are mentioned in Table-1.7.2.

Table - 1.7.2

Year of Audit Report	Number of paragraphs included	Money value of the paragraphs	Number of paragraphs accepted including money value	Money value of accepted paragraphs	Amount recovered during the year	(₹ in crore)
						Cumulative position of recovery of accepted cases as of 31.03.2014
2003-04	07	19.76	3	2.46	--	4.11
2004-05	04	2.95	2	2.23	0.13	1.00
2005-06	06	2.16	1	0.13	--	0.20
2006-07	08	5.20	8	5.26	0.29	3.33
2007-08	1 (PA)	395.76	1	0.11	--	63.24
2008-09	08	102.93	1	1.53	1.01	2.28
2009-10	11	447.89	3	138.24	0.32	2.31
2010-11	11	115.46	8	83.67	0.07	0.81
2011-12	12	80.34	3	23.92	--	--
2012-13	1 (PA)	46.43	1	9.44	--	--

It is evident from the above table that the progress of recovery even in accepted cases was very slow during the last ten years. The recovery of accepted cases

was to be pursued as arrears recoverable from the concerned parties. No mechanism for pursuance of the accepted cases had been put in place by the Department/Government.

The Department may take immediate action to pursue and monitor prompt recovery of the dues involved in accepted cases.

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

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

The following PAs on the Department of Land Revenue, Power, Forest receipts, Transport, Mining, Stamp & Registration and State Excise Department featured in the last five years' Reports. The number of recommendations is given in **Table-1.8**

Table - 1.8

Year of Report	Name of the PA	No. of recommendations
2008-09	1. Transition from sales tax to Value Added Tax	08
	2. Forest Receipts in Madhya Pradesh	08
	3. Assessment & Collection of water rates	06
2009-10	1. Land Revenue Receipts in Madhya Pradesh	07
	2. Levy & collection of electricity duty, fees and cess	04
2010-11	1. Working of commercial tax check posts in MP	07
	2. Utilisation of declaration forms in inter-state trade and commerce	03
	3. Computerisation in the Motor Vehicles Department	03
2011-12	1. Recovery of Revenue arrears in Commercial Tax Department	04
	2. Collection of Excise receipts on liquor	04
2012-13	1. Mining Receipts in Madhya Pradesh	07

No information on implementation of accepted recommendations have been received so far (December 2014).

1.9 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 the audit observations and other parameters. The annual audit plan is prepared on the basis of risk analysis which inter-alia include 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, factors of the tax administration,

audit coverage and its impact during past five years etc.

During the year 2013-14, there were 993 auditable units, of which 380 units were planned and 376 units had been audited, which is 99 *per cent* of the total auditable units. Due to assembly elections, four³ planned units could not be audited.

Besides, the compliance audit mentioned above, three PAs were also taken up to examine the efficacy of the tax administration of these receipts.

1.10 Results of audit

Position of local audit conducted during the year

Test check of the records of 376 units of State Excise, Land Revenue, Commercial Tax, Transport, Mining Receipt, Stamp Duty & Registration Fees and other Departmental offices (PSUs) conducted during the year 2013-14 showed under assessment / short levy / loss of revenue aggregating ₹1,267.93 crore in 5,64,313 cases. During the course of the year, the concerned Departments accepted underassessment and other deficiencies of ₹526.24 crore involved in 1,39,791 cases which were pointed out in audit during 2013-14. The Department collected ₹10.03 crore in 1,042 cases during 2013-14, pertaining to the audit findings of current year.

1.11 Coverage of this Report

This Report contains 37 Paragraphs (selected from the audit detections made during the local audit referred to above and during earlier years, which could not be included in earlier reports) including three Performance audits, involving financial effect of ₹ 368.07 crore.

The Departments / Government have accepted audit observations involving ₹54.64 crore out of which ₹5.94 lakh was recovered. The replies in the remaining cases have not been received. These are discussed in succeeding Chapters II to VII.

³

Three units of Land Revenue and one unit of State Excise

CHAPTER - II

COMMERCIAL TAX

Chapter-II Commercial Tax

2.1 Tax administration

Sales Tax/Value Added Tax Laws and Rules framed thereunder are administered at the Government level by the Principal Secretary (Excise and Taxation). The Commercial Tax Department (CTD) functions under overall control of the Commissioner of Commercial Tax (CCT) assisted by a Director. The Department is divided in four zones, each headed by a Zonal Additional Commissioner. Each zone comprises divisional offices headed by 15 divisional Deputy Commissioners (DCs). Under these divisions, there are 80 Circle offices and 33 Regional assistant commissioner offices headed by the Commercial Tax Officers/Assistant Commissioners (CTOs/ACs).

2.2 Internal Audit

Internal audit is a vital component of the internal control mechanism and is intended to provide reasonable assurance of proper enforcement of laws, Rules and departmental instructions. This also helps in creation of reliable financial and management information system for prompt and efficient services and for adequate safeguards against evasion of tax, prevention of excess refund and other irregularities. Audit scrutiny however revealed that, mechanism of internal audit of CTD, including the aspect of safeguards against evasion of tax, prevention of excess refund and Input Tax Rebate (ITR) was absent indicating a wide gap in the internal control framework.

2.3 Results of audit

Test check of the records of 121 units involving total revenue ₹ 11,493.59 crore out of 133 units relating to Commercial Tax during the year 2013-14 revealed underassessment of tax and other irregularities involving ₹ 161.73 crore in 863 cases, which fall under the following categories in the **Table-2.1**.

Table - 2.1

Sl. No.	Categories	(₹ in crore)	
		No. of cases	Amount
1.	Performance Audit on "Rebate of input Tax under Section 14 of MP VAT Act, 2002"	1	58.84
2.	Non/Short levy of tax	236	24.88
3.	Application of incorrect rate of tax	181	8.09
4.	Incorrect determination of taxable turnover	97	12.42
5.	Incorrect grant of exemption/deduction	129	25.08
6.	Other irregularities	219	32.42
Total		863	161.73

During the course of the year, the Department accepted underassessment of tax and other irregularities of ₹ 6.48 crore in 262 cases, which were pointed out in audit during the year 2013-14 and reported realisation of ₹ 12.00 lakh in 17 cases.

A Performance Audit on "Rebate of Input Tax under Section 14 of MP VAT Act, 2002" having money value of ₹ 58.84 crore and few illustrative cases involving ₹ 15.22 crore are discussed in the following paragraphs:

2.4 Performance Audit on “Rebate of Input Tax under Section 14 of MP VAT Act, 2002”

Highlights

Irregular allowance of Input Tax Rebate (ITR) of ₹ 16.97 crore in 115 cases due to absence of provisions in MP VAT Act and Rules, violation of provisions of the Act and deficiencies in the system of grant of ITR.

(Paragraph 2.4.8.1 to 2.4.8.4)

Assessing Authorities failed to abide by the instructions and accepted/allowed the claimed ITR of ₹ 3.69 crore in six cases of six dealers without verifying it with reference to details of purchases.

(Paragraph 2.4.8.5)

Inadmissible ITR of ₹ 2.28 crore in 28 cases of 26 dealers without filing the returns by these dealers as required under Section 14 (i) of MP VAT Act.

(Paragraph 2.4.8.6)

Acceptance/allowance of ITR of ₹ 29.18 crore in 78 cases of 77 dealers in absence of purchase bills/purchase details/purchase lists.

(Paragraph 2.4.9)

Carry forward ITR of ₹ 1.81 crore of previous year in 19 cases of 19 dealers was irregularly adjusted in the tax levied in current year though no carry forward ITR was claimed by the dealers in their first return.

(Paragraph 2.4.10.1)

Irregular acceptance/allowance of ITR of ₹ 2.40 crore in 13 cases of 13 dealers on the purchase of goods not eligible for ITR under Section 14 (6) of MP VAT Act.

(Paragraph 2.4.11.1 to 2.4.11.3)

Inadmissible ITR of ₹ 38.65 lakh in 13 cases of 13 dealers on sale of tax free goods obtained as co-product in manufacturing process.

(Paragraph 2.4.11.4)

Irregular acceptance of ITR of ₹ 1.34 crore in nine cases of nine dealers in the event of the goods/stock transferred out of State otherwise than by way of sale.

(Paragraph 2.4.11.5)

2.4.1 Introduction

With a view to bring more efficiency in the tax administration, equal opportunity of competition amongst the dealers & fairness in the taxation system, a multiple points of taxation, Value Added Tax (VAT) was introduced (2006) in Madhya Pradesh. Input Tax Rebate (ITR) is one of the vital components of Value Added Tax (VAT) environment of tax administration.

Input Tax Rebate mechanism

The governing provisions of ITR are contained in the Section 14 of the Madhya Pradesh VAT Act, 2002 (Act) and the Rules made thereunder. The Act governs the levy and collection of VAT in Madhya Pradesh at every point of sale. Goods pass through various stages in the manufacturing and distribution chain till they

reach the consumer. At each stage, some value is added. VAT is a multipoint tax with the provision for granting setoff or rebate for the tax paid on the purchases against the tax payable on sales. A registered dealer collects VAT from the purchasing dealer during sale of taxable goods within the State of Madhya Pradesh. Such registered purchasing dealer becomes eligible for rebate for the Tax already paid, called Input Tax Rebate. The Input Tax Rebate is given for both the manufacturers as well as traders for purchase of inputs/supplies from within the State irrespective of when ITR will be utilized. The tax paid on input procured from outside the State is not eligible for ITR.

The ITR is a set-off against the total tax liability on sales for the relevant period. The unadjusted ITR can be carried forward for two years and thereafter, will be refunded to the dealer.

2.4.2 Organisational Setup

The Principal Secretary, Commercial Tax Department (CTD) is the administrative head of the Department at the apex level. The Commissioner of Commercial Tax is the head of the Department. The Commercial Tax Department functions under overall control of the Commissioner of Commercial Tax, assisted by a Director, Additional Commissioners, Deputy Commissioners (DC), Assistant Commissioners (AC), Commercial Tax Officers (CTO), Assistant Commercial Tax Officers (ACTO) and Inspectors of Commercial Tax in performance of such functions as may be assigned to them under the Act.

2.4.3 Scope of audit and methodology

The Performance Audit (PA) covering a period of five years from 2009-10 to 2013-14, was carried out (January 2014 to July 2014) for the assessments done by the Assessing Authorities¹ (AAs) between 1 April 2012 and 31 March 2014, **43 units²** out of total 121 units were selected on the basis of Random Sampling Method. A total of 4,320 cases (i.e. 100 *per cent*) were scrutinised in the course of audit. An Entry Conference was held (February 2014) with the Commissioner, Commercial Tax in which the executive was informed about the selection of units as well as scope and methodology of the Performance Audit. The draft Performance Audit was forwarded to the Government and Department in August 2014 and discussed with the Commissioner, Commercial Tax Department in the exit conference held in October 2014. The views of the Department have been suitably incorporated in the Performance Audit.

2.4.4 Audit Objectives

Performance of the Department was assessed with a view to ascertain:

- Whether the system of claim of ITR with reference to the provisions of Section 14 of MP VAT Act, 2002, and its allowance was effective and efficient to enable proper verification of the VAT paid and ITR claimed;
- Whether the Rules, procedures prescribed in the Act, and directives of the higher authorities for submission of returns and cross verification of the

¹ The DC, AC, CTO and ACTO have been vested with the power of assessments

² **Circle offices (24):** Bhopal (2), Burhanpur, Dewas, Dhar, Gwalior(02), Indore(05), Jabalpur(02), Katni, Khandwa, Mandideep, Morena, Narsinghpur, Neemuch, Pithampur, Sagar, Sendhwa, Waidhan.

Regional offices (8): Bhopal (02), Dewas, Khandwa, Sagar (02), Satna, Ujjain.

Divisional offices (11): Bhopal(03), Chhindwara, Gwalior(1), Indore(03), Satna, Sagar and Ujjain.

purchase details with selling dealers for verifying the claims of ITR and its allowance, were scrupulously followed; and

- Whether adequate internal control and monitoring mechanism exist for cross verification of sales and purchase for verifying the claims of ITR and its allowance to prevent loss or leakage of revenue in the form of ITR.

2.4.5 Audit Criteria

The audit findings are based on the following criteria;

- MP VAT Act, 2002,
- Rules and instructions, Circulars/exemption notification issued by the State Government.

2.4.6 Acknowledgment

The Indian Audit and Accounts Department acknowledges the co-operation of the Commercial Tax Department in appointing a nodal officer for providing necessary information and records for the purpose of Performance Audit. This report has been prepared after discussions with the Department.

2.4.7 Trend of revenue

Actual receipt under Central Sales Tax (CST) and VAT along-with the tax receipts during the year 2009-10 to 2013-14, is exhibited in following **Table-2.2**.

Table - 2.2

(₹in crore)					
Year	Receipts under CST	VAT	Total	ITR Claimed during the year	ITR allowed during the year
2009-10	569.99	7,153.83	7,723.82	The Department despite being requested did not furnish the information of ITR claimed and allowed.	
2010-11	682.72	9,574.04	10,256.76		
2011-12	871.98	11,644.75	12,516.73		
2012-13	857.22	13,999.07	14,856.29		
2013-14	943.48	15,549.89	16,493.37		
Total	3,925.39	57,921.58	61,846.97		

(Source:-Information provided by CTD)

Consolidated information on ITR claimed and allowed was not available with the Department. Therefore, comparative analysis of the revenue with respect to ITR claimed, allowed and carried forward to the next year for further adjustment could not be carried out. Further, the Department could not figure out the total liability of the Government in shape of carried forward ITR.

It was stated (October 2014) that instructions have been issued to the AAs concerned for compilation/providing the requisite information.

The Government/Department should ensure year wise compilation of consolidated database, having details of claimed, allowed and carried forward ITR.

Audit Observation

The Performance Audit revealed a number of deficiencies in the system and compliance and also in the provisions of the Act and Rules. Some of the important points are discussed in succeeding paragraphs:

2.4.8 Deficiencies in MP VAT Act and the Rules regarding ITR

During Performance Audit we observed absence of certain provisions in MP VAT Act and Rules, violation of provisions of the Act and deficiencies in the system of grant of ITR in 115 cases out of total 2,303 cases assessed between April 2012 and March 2014 for the period 2008-09 to 2011-12. ITR of ₹ 16.97 crore was allowed by the Department due to such deficiencies in MP VAT Act and the Rules/violation of the provision as discussed in subsequent paragraphs and detailed in **Annexure I**.

2.4.8.1 Inconsistencies in Form 10

Rule 21, 22 & 23 of MP VAT Rules (chapter VI) provide that every registered dealer shall furnish to the appropriate CTO for each quarter, a quarterly return in Form 10.

Format of quarterly return in Form-10 does not have column to accommodate name of commodity to enable proper verification of the VAT paid and ITR claimed. We observed that ITR in all the cases was accepted without this basic detail.

During the exit conference (October 2014), the Department stated that the mentioning of name of the commodity in the return is optional as per Rules.

Reply of the Department confirms that in audit period format of quarterly return in Form-10 did not have such column. Further as per the VAT Act, the ITR is allowed on the commodity therefore, return should mention the name of commodity to enable proper verification of the VAT paid and ITR claimed. However mentioning the name of the commodity in the return in Form-10 was made optional by the Department in April 2014.

The Department should consider amending the format of the quarterly return to accommodate the name of the commodity also to enable proper verification of the VAT paid and ITR claimed.

2.4.8.2 Inadequate provision to verify the accuracy for purchases below ₹ 25,000/40,000

As per the provisions of Section 14 of the Madhya Pradesh VAT Act, Rules made thereunder and CCT's instructions for claim of ITR of dealer has to be verified with reference to the details of purchase and the purchaser is required to give dealer-wise details of purchases, if the total value of purchases from a dealer exceeded ₹ 25,000.

From 01 April 2013, provision regarding sales and purchases has been further amended to necessitate declaration of dealer wise details only in respect of transactions of ₹ 40,000 and above in the returns in order to claim ITR.

The purchasing dealer would be allowed ITR on purchases, which would be adjustable/refundable against the taxes payable on the output. As the details of taxes collected from all the suppliers in the value addition chain would be available only in respect of sale/purchases of the value of ₹ 25,000/40,000 and

above, it would not be possible for the Department to verify the accuracy of all the input tax rebates claimed by the dealers. Thus, under the existing arrangement, the Department is bound to allow ITR, without actually being able to verify collection of the input tax in respect of all the transactions.

In order to ensure that the ITR is granted only against tax collected, it may be necessary that the purchasing dealers are allowed ITR only when such transaction is verified with the sales declared by the selling dealer. It was also observed that there was no centralised data of all transaction, considering the number of dealers that could form part of the supply chain. A centralised data of all the transactions of sale and purchase involving levy and collection of tax would have enabled the verification of tax collected before ITR is allowed.

During Performance Audit, we observed that in instant cases ITR of ₹ 16.61 lakh was allowed by the Department without verification of purchases which were less than ₹ 25,000/40,000 due to inadequate provision of the Act.

During the exit conference (October 2014), the Department agreed to the fact and stated that modification has been made (April 2014) in the Value Added Tax Information System (VATIS), the IT system to capture the transactions of all sale and purchases before allowing ITR.

The Department should ensure proper implementation of changes in module enabling proper verification of grant of ITR, irrespective of monetary limit, only against taxes collected.

2.4.8.3 Absence of mechanism for ensuring every purchase of ₹ 40,000 and above were made through crossed cheque

According to Section 14(6)(VII) of Madhya Pradesh VAT Act, ITR shall not be allowed in respect of goods, where the amount of bill, invoice or cash memorandum exceeds ₹ 40,000, and any payment of which has not been made by the crossed cheque.

We observed that though it is provided in the Act, yet there is no system in the Department for ensuring that payment of every purchase of ₹ 40,000 and above is made through crossed cheque. This resulted in allowance of ITR in instant cases, where every single purchase was ₹ 40,000 and above, however Department did not ensure that payment was made through crossed cheque.

During the exit conference (October 2014), the Department agreed to the fact and stated that the weakness would be overcome through computer based module.

2.4.8.4 Absence of mechanism for cross verification of sales and purchases

As per the provisions contained in the Act (Section 14 of the Act read with Rule 9 of MP VAT Rules, 2006) and also in compliance of the circulars issued by the CTD from time to time, the cross verification of sales and purchases, and verification of ITR is required to be done.

We reviewed the system of cross verification of sales and verification of ITR and observed that the Department introduced but could not pursue implementation of the system of cross verification of sales and verification of ITR.

During Performance Audit we observed that ITR of ₹ 16.97 crore in 115 cases as detailed in **Annexure I**, was allowed by the Department, ignoring the

provisions of the Act, in which cross verification of sales and verification of ITR was not carried out.

During exit conference (October 2014), the CCT agreed with the concern and stated that the tax compliance is being fully computerised and such deficiencies related to ITR verification are being rectified through computerised modules.

Department should introduce a mechanism for cross-linking/verification of every purchase details with respect to selling details.

2.4.8.5 Non verification and allowance of ITR defying instructions to verify it before allowance

As per the instructions of the higher authorities issued to the Assessing Authorities the claim of ITR was required to be verified before accepting/allowing in certain cases.

We observed, in one Division office, one Regional office and three Circle offices in six cases of six dealers out of total six cases, assessed between January 2013 and July 2014 for the period 2010-11 to 2011-12, that the higher authorities clearly instructed the AAs to verify the claim of ITR before accepting/allowing it. In the instant cases, the AAs failed to abide by the instructions and accepted/allowed the claimed ITR without verifying it with reference to details of purchases. This resulted in irregular allowance of ITR of ₹ 3.69 crore as detailed in **Table-2.3**.

Table - 2.3

Sl No	Detail of Unit	Dealer, TIN, Case No.	Period /Month of assessment	(₹ in lakh)	
				Amount of ITR claimed and accepted	Amount of ITR objected
1	2	3	4	5	6
1	CTO circle Sagar	M/s Badkul hardware Store Sagar 23657401775 CS000052142 (7 /2013) (Section 21)	2010-11 22.07.13	10.64	10.64
2	CTO circle 3 Bhopal	M/s Bhagvati & Company Bhopal 23103803038 409/12 VAT	2011-12 04.01.14	1.37	1.37
3	RAC Dn I Bhopal	M/s Rajaya Sahkari Upbhokata Sangh Bhopal 23099004011 179/11 VAT	2010-11 17.07.13	124.54	124.54
4	CTO circle-II Katni	M/s Battolal Mohanlal Nitrate Pvt. Ltd. 23656204407, Self assessed	2010-11	0.98	0.98
5	DC Satna	M/s Kamal Steel & Power Ltd Satna 23697002889 VAT 10/2010	2010-11 30.06.2013	11.81	10.04
6	DC Satna	M/s Northan Coal field Nigahi Project Singrauli 23507300638 33/11VAT	2010-11 16.01.2013	797.02	221.52
Total				946.36	369.09

During the exit conference (October 2014), the Department accepted the facts and assured that appropriate action will be taken up.

2.4.8.6 ITR allowed though no returns were filed by the dealers

Any claim in respect of ITR that may be made by a registered dealer under Sub-Section (1) of Section 14, shall be qualified by a bill, invoice or cash memorandum issued by the selling registered dealer indicating therein separately the amount of tax under Section 9 collected by him. Any such claim in respect of the input tax rebate shall be made by such registered dealer in his return in **Form 10**.

We observed, in one Division office³ and eight Circle Offices⁴, in 28 cases of 26 dealers out of total 1159 cases, assessed between April 2010 and September 2013 for the period 2008-09 to 2010-11, that the AAs incorrectly allowed ITR amounting to ₹ 2.28 crore in these cases, in which no return was filed by the dealer. This resulted in irregular allowance of ITR as detailed in **Annexure II**.

During the exit conference (October 2014), the Department took the matter seriously and stated that appropriate action will be taken up.

The Department should consider putting in place stringent penal measures for non-submission of returns within the prescribed time frame.

2.4.9 Acceptance of ITR in absence of purchase details

Any claim in respect of input tax rebate that may be made by a registered dealer under Sub-Section (1) of Section 14, shall be qualified by a bill, invoice or cash memorandum issued by the selling registered dealer indicating therein separately the amount of tax under Section 9 collected by him. Any such claim in respect of the input tax rebate shall be made by such registered dealer in his return in Form 10. No such claim shall be made or be allowed if the said bill, invoice or cash memorandum does not indicate separately the amount of tax under Section 9 collected by the selling registered dealer and as per Section 21(2) of the Act, dealer is liable to pay penalty not less than three times of tax re-assessed. Further ITR should be allowed to the dealers after due verification of returns submitted by them and purchases shown in certified audited accounts.

2.4.9.1 Acceptance of ITR even if the VAT was not charged separately in the bill

We observed in one Division office⁵, two Regional offices⁶ and eight Circle offices⁷ in 15 cases of 14 dealers out of total 1,320 cases, that tax amounting to ₹ 4.10 crore was not charged separately in the purchase bills, and still the dealer was allowed to avail the ITR. This resulted in irregular claim/acceptance and allowance of ITR of ₹ 6.20 crore including penalty of ₹ 2.10 crore as detailed in **Annexure III**.

During the exit conference (October 2014), the Department accepted the facts and stated that the appropriate action will be taken up.

³ Sagar

⁴ Bhopal-III, Indore-(2), Khandwa, , Morena, , Pithampur, Sagar and Sendhawa

⁵ Tax Audit wing Bhopal

⁶ Dewas and Satna

⁷ Bhopal-V, Burhanpur , Dhar, Indore-X, Jabalpur-II Mandideep, Narsinghpur and Sagar.

2.4.9.2 Irregular grant of ITR in the absence of purchase list/bills

We observed in, one Regional Office⁸ and three Circle offices⁹, in 32 cases of 32 dealers out of total 466 cases, assessed between February 2012 and March 2014 for the period 2009-10 to 2012-13, that in clear disregard to the aforesaid provision, ITR of ₹ 20.71 crore was accepted/allowed to the dealers in the absence of purchase list/bills. Details have been shown in **Annexure IV**.

During exit conference (October 2014), the Department accepted the facts and stated that the appropriate action will be taken up.

2.4.9.3 ITR allowed on the purchase not shown in the return

We observed in Jabalpur Circle-II office in two cases of two dealers out of total 36 cases that the AAs allowed ITR of ₹ 4.03 lakh for the purchases which were not substantiated by the relevant returns as the relevant returns were nil, consequently resulted in irregular acceptance and allowance of ITR of ₹ 6.54 lakh including penalty of ₹ 2.51 lakh thereon as detailed in **Table-2.4**

Table - 2.4

Sl no	Detail of Unit	Dealer, TIN, Case No.	Period /Month of assessment	₹(in lakh)		
				Total Amount of ITR claimed (accepted)	Amount of ITR objected/	Amount of penalty as per Section 21 of the Act
1	CTO, Circle-II Jabalpur	M/s Keshav Traders Jabalpur, 23415905100 727/09 VAT	2008-09 21.4.11	1.25	0.84	2.51
2	CTO Circle-II, Jabalpur	M/s Khilwani Brothers, Jabalpur, 23055902388 156/10 VAT	2009-10 22.11.11	7.24	3.19	0
Total				8.49	4.03	2.51

During exit conference (October 2014), the Department accepted the facts and stated that the appropriate action will be taken up.

2.4.9.4 Irregular grant of ITR on previous years purchases

We observed in two Regional offices and one circle office, in three cases of three dealers out of total 365 cases, assessed between March 2013 to August 2013, for the period 2010-11, that the dealers were allowed inadmissible ITR of ₹ 0.69 lakh on previous years purchases. This resulted in irregular claim and acceptance of ITR of ₹ 2.78 lakh including penalty of ₹ 2.08 lakh thereon as detailed in the following **Table-2.5**.

⁸

Bhopal-I,

⁹

Dhar, Indore XIII, Jabalpur II

Table - 2.5

S. No	Detail of Unit	Name of Dealer, TIN, Case No.	Period /Month of assessment	Amount of total ITR claimed	Amount of Irregular ITR accepted	₹(in lakh)	
						Amount of penalty as per Section 21 of the Act	Amount of additional demand
1	RAC Khandwa	M/s Fatehguru Govind singh & company 23271908001 323/11 VAT	2010-11 14.08.2013	0	0.25	0.74	0.99
2	RAC Sagar	M/s GandhiRefractorie s, 23627802353,19 3/11 (VAT)	2010-11 23.03.2013	1.52	0.23	0.68	0.91
3	CTO Circle 2, Gwalior	M/s Naman, Gwalior, 231935404197, CS00063609 (VAT)	2010-11/ 09.7.2013	136.64	0.22	0.66	0.88
Total				138.16	0.70	2.08	2.78

During exit conference (October 2014), the Department accepted the facts and stated that the appropriate action will be taken up.

2.4.9.5 Excess amount of ITR allowed with respect to claimed ITR

We observed in one Divisional Office¹⁰ and eight circle offices¹¹ in 13 cases of 13 dealers out of 1334 cases, assessed between September 2011 and September 2013 for the period 2009-10 to 2011-12, that even though the total of ITR claimed by all the dealers was ₹ 7.35 crore yet the dealers were allowed ITR of ₹ 7.70 crore resulting in excess allowance of ITR of ₹ 35.20 lakh as detailed in **Annexure V**. The additional demand in these cases was ₹ 1.21 crore including penalty thereon ₹ 85.80 lakh.

During the exit conference (October 2014), the Department accepted the facts and stated that the appropriate action will be taken up.

2.4.9.6 Grant of excess ITR on the purchases beyond certified purchases

We observed in two Regional Offices¹² and five Circle Offices¹³ in 10 cases of 10 dealers out of total 836 cases, assessed between June 2011 and September 2013 for the period 2008-09 to 2010-11, that as per the purchases certified in audited accounts, the dealers were eligible for ITR of ₹ 2.34 crore. However the dealers incorrectly claimed and AAs allowed ITR of ₹ 2.56 crore thus resulting in excess grant of ITR with reference to certified purchases of audited account of ₹ 22.00 lakh and consequently penalty of ₹ 61.67 lakh thereon as detailed in **Annexure VI**.

During exit conference (October 2014), the Department accepted the facts and stated that the appropriate action will be taken up.

¹⁰ Indore-I

¹¹ Bhopal-III & V, Dhar, Gwalior-II, Jabalpur-II, Indore-X & XI and Waidhan

¹² Bhopal-II and Khandwa,

¹³ Indore-10, Jabapur-II, Narsinghpur, Pithampur and Sagar,

2.4.9.7 Irregular grant of ITR on discount on purchases/purchase return

We observed in three cases of three dealers out of total 346 cases, assessed between April 2013 and August 2013, for the period 2009-10 to 2010-11, that AA incorrectly allowed ITR on gross purchase without deducting discount on purchase and purchase return. This resulted in irregular grant and acceptance of ITR of ₹ six lakh and penalty of ₹ 7.56 lakh thereon as detailed in the following Table 2.6.

Table - 2.6

Sl. No	Detail of Unit	Name of Dealer, TIN, Case No.	Period /Date of assessment	Amount of ITR claimed/ accepted	Amount of ITR objected	₹(in lakh)	
						Amount of Penalty as per the provisions of Section 21	Amount of Proposed Additional demand ITR
1	CTO Circle Narsinghpur	M/s New Taz Agencies, Narsinghpur, 23406404089 77/2010	2009-10 29.6.2013	10.83	0.57	0	0.57
2	CTO circle 2, Gwalior	M/s Pramod Agency, 23355205375, CS000053645	2010-11 26.4.2013	36.13	2.91	0	2.91
3	CTO Circle 5, Bhopal	M/s Balaji Distributor, 23034005564, 727/11	2010-11 6.8.2013	125.18	2.52	7.56	10.08
Total				172.14	6.00	7.56	13.56

During exit conference (October 2014), the Department accepted the facts and stated that the appropriate action will be taken up.

The Government/Department should ensure that purchase details are properly authenticated/ substantiated by the documents and should comply with the audited accounts before accepting claims related to ITR.

2.4.10 Irregular acceptance and adjustment of ITR

As per Section 14 (3) of MP VAT Act 2002, the input tax rebate by a registered dealer under Sub-Section (1) shall be adjusted in such manner as may be prescribed towards the tax payable by him under this act or under the Central Sales Tax Act, 1956 and the difference, if any, shall be carried over for adjustment towards tax payable in the subsequent year. Further Rule 9 of MP VAT Rules, 2006, provides that any claim in respect of ITR shall be made by the dealers in his return in Form-10. Further as per Section 21(2) of the Act, dealer is liable to pay penalty not less than three times of tax re-assessed.

2.4.10.1 Irregular acceptance and adjustment of carried forward ITR from previous year

We observed in two Division offices¹⁴, one Regional office¹⁵ and seven Circle Offices¹⁶, in 19 cases of 19 dealers out of total 1109 cases, carried forward ITR

¹⁴ Indore-I and Khandwa

¹⁵ Dewas

¹⁶ Bhopal-I, Gwalior-II, Indore-XIII, Indore-XIV, Jabalpur-I, Morena and Waidhan.

of previous year was adjusted in the tax levied in current year, though the ITR was not claimed by the dealers in their first return. This resulted in irregular adjustment of carried forward ITR of ₹ 61.56 lakh. An additional demand of ₹ 1.81 crore was worked out including penalty of ₹ 1.19 crore as detailed in **Annexure VII**.

During exit conference (October 2014), the Department accepted the facts and stated that the appropriate action will be taken up.

2.4.10.2 Irregular carry forward of ITR to next year with respect to return

We observed in one Division office¹⁷, one Regional office¹⁸ and five Circle Offices¹⁹ in 11 cases of 11 dealers of selected units out of total 820 cases, assessed for the period 2009-10 to 2011-12, that the assessed carried forward ITR for next year was ₹ 42.58 lakh by the AA. However carried forward amount of ITR by the dealers in their IVth quarterly return were ₹ 7.31 lakh only. This resulted in irregular carry forward of ITR by the AA of ₹ 36.24 lakh. An additional demand of ₹ 54.83 lakh was worked out including penalty of ₹ 18.59 lakh as detailed in **Annexure VIII**.

During exit conference (October 2014), the Department accepted the facts and stated that the appropriate action will be taken up.

2.4.10.3 Double benefit of ITR

We observed in two circle offices in two cases of two dealers out of total 117 cases for the years 2009-10 to 2010-11 assessed between May 2012 and September 2013, that during assessment of VAT cases the AA has carried forward the unadjusted ITR for next year and no ITR was available for adjustment in CST cases.

It was further observed that there was demand in CST case which was irregularly adjusted from such carried forward ITR of VAT cases, resulting in double benefits of ITR amounting to ₹ six lakh to the dealers by the AAs as detailed in the following **Table 2.7**.

Table - 2.7

Sl. No	Detail of Unit	Name of Dealer, TIN, Case No.	Period /Date of assessment	Amount of ITR allowed	₹(in lakh)		
					Amount of ITR transferred to Central Cases from State cases	Amount of ITR adjusted in central cases	Irregular adjustment of ITR
1	CTO Circle-I Jabalpur	M/s Sunpet Pack, Pvt. Ltd. Jabalpur 23426003980 102/2011 CS0000000067222 (CST) CS0000000067221(State)	2010-11 25.9.2013	11.40	0	5.52	5.52
2	CTO Circle Neemuch	M/s Surajmal Chandmal Neemuch 23183203146 491/2010 VAT	2009-10 25.5.2012	0.80	0	0.48	0.48
Total				12.20	0	6.00	6.00

¹⁷ Indore-I,

¹⁸ Dewas

¹⁹ Bhopal V, Gwalior-II & III, Indore-XI and Mandideep.

During exit conference (October 2014), the Department accepted the facts and stated that the appropriate action will be taken up.

Government/Department should consider strict adherence to the provision of the Act viz. claims of ITR of the dealers should be preferred through returns.

2.4.11 Irregular acceptance of ITR on the purchase of goods not eligible for ITR

2.4.11.1 Irregular acceptance of ITR on *Tendupatta*

According to Section 14 of the MP VAT Act, 2002, where a registered dealer purchased any goods specified in Schedule II of the Act other than those specified in Part III of the said Schedule, from another registered dealer after payment of Input Tax, he shall be allowed ITR of the amount of such input tax.

Tendupatta being enumerated at entry no.5 of Part III of schedule II of the Act, is not eligible for ITR.

We observed in four cases of four dealers out of total 208 cases assessed between February 2012 to December 2013 for the period 2009-10 to 2011-12, that ITR amounting to ₹ 1.38 crore was irregularly accepted by the AAs for purchase of *Tendupatta* which is not eligible for ITR. This resulted in irregular acceptance of ITR of ₹ 1.38 crore as detailed in **Annexure IX**.

During exit conference (October 2014), the Department accepted the facts and stated that appropriate action will be taken up.

2.4.11.2 Irregular acceptance of ITR on Soyabean and Cotton

Section 26-A (4) of the MP VAT Act, 2002, provide that no ITR shall be claimed or be allowed in respect of goods notified at Tax Deducted at Source (TDS) under Sub-Section (1) of the said Section. Mustard, Soyabean have been notified for TDS under the provision of aforesaid Sub-Section by the notification dated 4 January 2008 and Cotton by the notification dated 3 August 2008.

We observed in four cases of four dealers out of total 708 cases that ITR of ₹ 21.50 lakh was claimed and accepted by the Department on purchase of Soyabean and Cotton, resulting in irregular acceptance/allowance of ITR of ₹ 85.01 lakh including penalty of ₹ 63.76 lakh as detailed in **Annexure IX**.

During the exit conference (October 2014) Department accepted the fact and stated that the appropriate action will be taken up.

2.4.11.3 Irregular acceptance of ITR on Sand, Metal, Plant & Machinery

As per the provisions contained in Section 14 (6) (ix) of the Act no ITR shall be claimed or be allowed in respect of goods notified under Section 9-A. Sand & Metal (*Gitti*) have been notified for the purpose of Section 9-A of the Act vide notification no. (35) dated 27.01.2010. Further, as per provisions of Notification no.A-3-95-05-1-V (28) dated 17 August 2007 issued under Section 14(6) (vi) of the Madhya Pradesh VAT Act, notified goods viz. building material, office furniture, equipments and parts thereof are not eligible for ITR.

In five cases of five dealers out of total 400 cases, ITR of ₹ 4.24 lakh was accepted and allowed by the Department for purchase of sand & metal and also

on purchases of notified goods viz. plant and machinery, resulting in irregular acceptance/allowance of ITR of ₹ 16.83 lakh including penalty of ₹ 12.74 lakh as detailed in **Annexure IX**.

During exit conference (October 2014), the Department accepted the facts and stated that appropriate action will be taken up.

2.4.11.4 Non reversal of ITR on sale of tax free goods obtained as co-product in manufacturing process

As per Section 14(1)(a)(5a) of the MP VAT Act 2002, where a registered dealer purchases any goods specified in Schedule-II of the Act, other than those specified in part-III of the said schedule, for consumption or use for/ in the manufacture or processing or packaging in connection with sale of goods declared tax free under Section 16 of the Act, he shall be allowed ITR of the amount of such input tax which is in excess of four *per cent* of the purchase price of such goods.

We observed in one regional office²⁰ and eight circle offices²¹ in 13 cases of 13 dealers out of total 768 cases, assessed between April 2010 to October 2013, for the period 2007-08 to 2010-11, that the dealers were allowed inadmissible ITR of ₹ 12 lakh on proportionate sale of tax free goods obtained as co-product in manufacturing process. This resulted in irregular claim and acceptance of ITR of ₹ 38.65 lakh including penalty of ₹ 26.65 lakh thereon as detailed in **Annexure X**.

During exit conference (October 2014), the Department stated that there are various judgments of the Hon'ble court in these matters and action would be taken after considering the factual position.

2.4.11.5 Non reversal / less reversal of ITR in the event of the goods stock transferred out of State

As per Section 14(1)(a)(6)(i) of the MP VAT Act 2002, where a registered dealer purchases any goods specified in Schedule II of the Act, other than those specified in part III of the said schedule, for use or consumption in the manufacture of other goods and the dealer has claimed and adjusted ITR towards the tax payable by him, in the event of disposal of the goods otherwise than by way of sale within the State of Madhya Pradesh or in the course of inter-State trade of commerce or in the course of export out of the territory of India, he shall be liable to pay the amount of ITR at the rate of four *per cent* of the purchase price or net of input tax of such goods, whichever is lower.

We observed in two divisional offices²², two regional offices²³, and three circle offices²⁴, in nine cases of nine dealers out of total 835 cases, assessed between June 2011 to April 2013, for the period 2009-10 to 2011-12, that the dealers were allowed inadmissible ITR of ₹ 34.47 lakh for the goods sold otherwise than by way of sale within the State, in the course of inter-State trade of commerce or in the course of export out of the territory of India. This resulted in

²⁰ Khandwa

²¹ Burhanpur, Dhar, Dewas & Jabalpur-I & II, Khandwa, Narsinghpur and Neemuch

²² Indore-I and Khandwa

²³ Satna and Sagar

²⁴ Indore-XIII, Jabalpur and Mandideep

irregular claim and acceptance of ITR of ₹ 1.34 crore including penalty of ₹ one crore thereon as detailed in **Annexure XI**.

During exit conference (October 2014), the Department accepted the facts and stated that the appropriate action will be taken up.

2.4.12 Internal Control Mechanism

2.4.12.1 Internal Audit

Internal audit is a vital component of the internal control mechanism and is intended to provide reasonable assurance of proper enforcement of laws, rules and Departmental instructions. This also helps in creation of reliable financial and management information system for prompt and efficient services and for adequate safeguard against evasion of tax, prevention of excess refund and other irregularities. Apart from this, audit by Finance Department of the State, of the Department involving financial implications to the exchequer, is a vital tool of Internal Control Mechanism.

Audit scrutiny however revealed that, mechanism of internal audit of CTD, including the aspect of ITR was absent indicating a wide gap in the internal control framework.

During exit conference (October 2014), the Department accepted the facts regarding absence of separate Internal Audit Wing.

2.4.12.2 Deficiencies in ITR verification mechanism

As per the provision contained in Section 14 of the Act, a rebate of input tax shall be claimed by or be allowed to a registered dealer subject to such restriction and conditions as may be prescribed.

The Act has entrusted the Department with a vital assignment of verifying and accepting the ITR claimed by the dealers. The Department has to formulate and maintain an ITR verification mechanism to accomplish the entrusted assignment. However, the Department could not ensure proper implementation of ITR verification mechanism.

After we pointed out the Department stated that there was a separate ITR verification unit in the Department for sanction and verification of ITR in the cases of cash refund. On further audit query, the Department could not furnish any reply for verification of ITR in other cases in which ITR was carried forward for adjustment in subsequent years.

However, deficiencies in the compliance issues as discussed in the previous paragraphs establish the fact that the prevailing system in the Department is not credible enough to look properly into all the cases of ITR verification. Therefore reasonable assurance to the prescribed system and its functioning with respect to verification of ITR before its acceptance could not be ascertained in audit.

The Department stated (Feb 2014) that due to lack of staff, ITR verification as required could not be taken up.

However during exit conference (October 2014), the CCT agreed with the concern and stated that the tax compliance is being fully computerized and ITR verification is being carried out through computerized modules.

The Department should consider strengthening/establishing an Internal Audit Wing/ITR verification mechanism in the Department.

Conclusion

The Performance Audit revealed a number of compliance and system deficiencies leading to significant leakage in revenue due to irregular grant of ITR, as discussed in preceding paragraphs and requires top attention at the Government/Department level.

We conclude that:

- in the absence of consolidated information on ITR claimed and allowed, the Department could not figure out the total liability of the Government in the shape of carried forward ITR;
- format of quarterly return in Form-10 does not have column to accommodate name of commodity to enable proper verification of the VAT paid and ITR claimed;
- though the VAT Act provided for strict adherence to the provisions of the Act, mandatory submission of returns and cross verification of the purchase details with the selling dealers, the CTD had not put in place a foolproof mechanism to monitor the task; and
- Department slacked in implementation of credible and operational ITR verification mechanism, therefore Department could not adequately monitor ITR related issues.

2.5 Other Audit observations

We scrutinised the assessment records of Value added tax, Central sales tax, Entry tax etc. in the Commercial tax Department and found several cases of non-observance of the provisions of the Acts/Rules, non/short levy of tax/penalty/interest, incorrect application of rate of tax, incorrect deduction from taxable turnover, incorrect exemption and other cases as mentioned in the succeeding paragraphs of this chapter. These cases are illustrative and are based on a test check carried out by us. Such omissions on the part of the assessing authorities have been pointed out in earlier Audit Reports, but not only do these irregularities continue to persist; these remain undetected till audit is conducted. There is need for the Government to improve the internal control system so that such omissions can be avoided.

2.6 Application of incorrect rate of tax

The MP Value Added Tax (VAT) Act, read with the Central Sales Tax (CST) Act, and notifications issued thereunder specify the rates of VAT leviable on different commodities. Under the MP VAT Act, a dealer is liable to pay interest at the rate of 1.5 *per cent* per month under Section 18(4) (a), if he fails to pay tax payable by him according to the periodic returns and liable to pay penalty under Section 21(2) of the Act *ibid* at minimum three times but not exceeding 3.5 times of assessed tax where omission leading to assessment is attributable to dealer.

We test checked records such as assessment orders, audited accounts, returns, purchase list etc. between February 2011 and November 2013 in six divisional offices²⁵, five regional offices²⁶ and 15 circle offices²⁷ and found that in 40 cases of 33 dealers, assessed between March 2010 and June 2013 for the period 2007-08 to 2012-13, the Assessing Authorities (AAs) levied tax at incorrect rates on sale turnover of ₹57.01 crore. This resulted in short levy of tax of ₹5.05 crore including interest of ₹40,000 and penalty of ₹ 28.17 lakh. A few instances are mentioned in the **Table-2.8**.

Table - 2.8

Sl. No.	Name of auditee unit	Assessment period Month of assessment	Name of commodity	Turn-over	(₹ in lakh)		
					Rate of tax applicable (per cent)	Rate of tax applied (per cent)	Amount of short levy of tax
1.	CTO-VI Indore	2009-10 June 2012	CRGO Lamination	124.50	12.5	4/5	9.70
2.	RAC-I Jabalpur	2008-09 June 2013	Mouth freshener	112.31	12.5	4	9.55
3.	CTO-XIII Indore	2010-11 June 2012	LPG/CNG Auto Cylinder/ kit	61.07	13	5	4.89

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²⁷

Gwalior, Indore-Tax Audit A&B, Jabalpur Tax Audit, Satna and Satna Anti Evasion Gwalior (2), Guna, Jabalpur and Satna.

Bhopal (2), Chhindwara, Gwalior (3), Hoshangabad, Indore (3), Itarasi, Katni, Mandideep, Seoni and Shivpuri.

After we pointed out the cases (between February 2011 and November 2013), the AAs in six cases²⁸ raised demand of ₹ 11.54 lakh (between January and May 2013). In 23 cases of 17 dealers, AAs agreed to take action after verification/examination.

In remaining 11 cases of 10 dealers, departmental replies and our comments thereon are in the **Table-2.9**.

Table - 2.9

(₹ in lakh)						
Sl. No.	Name of auditee unit/No. of dealers	Amount involved	Rate of tax applicable /applied	Commodity	Reply of the Department	Our comments
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	DCCT Satna 1	402.66	12.5 4	Explosive	The AA stated that explosive was used/ consumed by the dealer himself.	We do not agree with the reply in view of the assessment order and calculation sheet which clearly shows that explosive was supplied to contractor and VAT was collected thereon.
2	CTO Hoshangabad 1	15.79	13 5	Steel Structure	The AA stated that though the dealer was registered for civil work, fabrication and trading but in practice the dealer traded in iron angles and sections. Thus levied tax was correct as per Section 14(V) of CST	We do not agree with the reply as the dealer had sold Steel Structural which is liable to tax at the rate of 12.5 per cent as per decision ²⁹ given by the CCT MP.
3	RAC Guna 1	4.88	12.5 4	Cement	The AA stated that audit objection was raised on the basis of variation in sale figure between returns and assessment order. However, assessment was finalised on the basis of audited a/c, returns and considering the fact furnished at the time of assessment about the discrepancy in returns.	We do not agree with the reply as reasons of variation in figures and information of facts were not recorded in documents.
4	CTO-II, Bhopal 1	3.41	12.5 4	Electronic goods(Security and alarm system)	The AA stated that tax was levied at the rate of 12.5 per cent.	We do not agree with the reply as the dealer had sold goods valued ₹ 65.69 lakh and tax was levied at the rate of 12.5 per cent only on sale value ₹ 26.69 lakh.

²⁸ DC Anti Evasion Bureau Satna, Tax Audit Jabalpur, RAC Jabalpur(2) CTO Bhopal-II and Chhindwara.

²⁹ M/s Tung Bhadra Steel Products Pvt. Ltd. V/s CST MP (2005) 6 STJ 650 (M.P. Board)

(₹ in lakh)						
Sl. No.	Name of auditee unit/No. of dealers	Amount involved	Rate of tax applicable /applied	Commodity	Reply of the Department	Our comments
5	CTO Itarsi 1(2 cases) DCCT Tax Audit Jabalpur 1 CTO Mandideep 1	5.84	13 5	Tractors accessories	The AA, Itarsi and Jabalpur stated that tax was levied at the rate of five <i>per cent</i> under entry no.90 of part II of Schedule -II of the VAT Act, where as the AA Mandideep stated that sold goods was tractor parts and attachments.	We do not agree with the reply as tractor accessories is not covered under stated entry. Reply of the AA Mandideep is contrary to the facts available in documents such as trading account, form-49 and purchase list etc., which clearly established the sale of tractor accessories.
6	CTO-V, Bhopal 1	2.59	12.5 4	Cooked food	The AA, stated that the dealer had applied for composition and accordingly tax was levied.	We do not agree with the reply as the AA neither furnished any evidence in support of his statement nor any document relating to composition are available in the assessment file.
7	DCCT Anti Evasion Bureau Indore 1	1.36	13 5	Coir mattresses	The AA stated that goods was foam which is taxable at the rate of five <i>per cent</i> under entry no.76 A of part II of the Schedule II of the Act	We do not agree with the reply in view of the available documents such as audited accounts, purchase list, Form 49 etc, showed that the goods were coir mattresses.
8	DCCT Anti Evasion Bureau Indore-B 1	1.25	13 5	Commercial veneer	The AA stated that commercial veneer was covered under entry no 5 C of part II of the Schedule II of the Act .	We do not agree with the reply as commercial veneer is not covered under stated entry.

We reported the matter to the Government and the Department in May, 2014; their replies have not been received (December 2014).

2.7 Incorrect determination of turnover

According to Section 2 of the Madhya Pradesh *Vanijyik Kar Adhiniyam*, (Adhiniyam) 1994 and the Madhya Pradesh VAT Act, 2002 turnover in relation to any period means the aggregate of sale prices received or receivable by a dealer in respect of any sale or supply of goods made during that period, excluding the amount of sales return within the prescribed period. For the purpose of determining taxable turnover (TTO), the *Adhiniyam* and the Madhya Pradesh VAT Act provides for deduction from turnover the sale price of tax paid goods and the amount of tax, if included in the aggregate of sale prices. As per provisions contained under Section 2(v) (iii), discount at the time of sale as evident from the invoice shall be excluded from the sale price but any *ex post facto* grant of discount or incentives or rebate or rewards and the like shall not be excluded.

2.7.1 We test checked records such as assessment orders, audited accounts returns and purchase lists etc. between February 2012 and February 2014 in three divisional Offices³⁰, five regional³¹ and 18 circle offices³² and found that

³⁰ Tax Audit Wing Gwalior, Tax Audit Wing Indore and Jabalpur.

³¹ Gwalior, Indore, Sagar, Satna and Ujjain.

³² Balaghat, Betul, Chhatarpur, Chhindwara, Dewas, Gwalior Guna, Indore (2), Itarsi, Mandsore, Mandideep, Mandla, Narsighpur, Pithampur, Sagar, Satna and Ujjain.

in 34 cases of 33 dealers, assessed between April 2010 and March 2013 for the period 2007-08 to 2011-12, the AAs, while finalising the assessment, under determined the taxable turnover by ₹ 24.55 crore against the aggregate turnover of the dealers recorded in their audited books of accounts/sale list/ relevant records. Thus, turnover aggregating ₹ 24.55 crore was not assessed to tax and resulted in non-levy of tax of ₹ 3.14 crore including penalty of ₹ 81.76 lakh. A few instances are mentioned below in the **Table-2.10**.

Table - 2.10

Sl. No.	Name of auditee unit	Assessment period / month of audit	Our observation	Reply of the Department
1.	DCCT-II, Jabalpur	2009-10 June 2012	The AA did not include sale value of plant & machinery and profit thereon in taxable turnover aggregating ₹ 3.36 crore. This resulted in under determination of taxable turnover and non levy of tax of ₹ 41.95 lakh.	The AA stated (May 2013) that action would be taken after verification.
2.	RAC Sagar	2010-11 November 2012	The AA incorrectly determined the taxable turnover of <i>bidis</i> as ₹ 21.46 crore as against actual ₹ 24.79 crore mentioned in trading accounts. Thus, there was under determination of taxable turnover by ₹ 3.33 crore resulting non levy of tax of ₹ 15.87 lakh.	The AA stated (August 2013) that action would be taken after verification.
3.	DCCT Tax Audit Indore	2010-11 June 2012	The AA while determining the taxable turnover of a dealer, did not consider other income of ₹ 92.88 lakh received on account of sale of <i>Rui bale</i> . Thus, under determination of taxable turnover to that extent resulted in non levy of tax ₹ 3.71 lakh.	The AA stated (October 2013) that action would be taken after verification.

After we pointed out the cases (between February 2012 and February 2014), the AA accepted three cases and raised additional demand of ₹ 23.27 lakh in two cases. In other 28 cases of 27 dealers, AAs stated (between March 2012 and February 2013) that action would be taken after verification/examination, while in the remaining three cases of three dealers, the reply of the AAs and our comments are as follows in the **Table 2.11**.

Table - 2.11

Sl. No.	Name of auditee unit	Period Month of assessment	Our observation in brief	Reply of the Department/ Our comments
(1)	(2)	(3)	(4)	(5)
1.	RAC – Satna	2009-10 April 2012	The AA under determined taxable turnover by ₹ 8.73 crore which resulted in non levy of tax of ₹ 1.09 crore.	The AA stated that the dealer had submitted consolidated balance sheet/accounts in which sales of <i>Chhattisgarh</i> and <i>Jharkhand</i> were also included. Tax was levied only on sale turnover relating to MP. We do not agree with the reply as in audited accounts only purchases of MP State was included which proves that the sale turnover pertained to M.P only.

2.	CTO-I, Gwalior	2010-11 December 2012	The AA considered taxable turnover ₹ 1.28 crore instead of actual turnover ₹1.64 crore. Thus, under determination of taxable turnover by ₹ 36 lakh which resulted in non levy of tax of ₹ 3.24 lakh.	The AA stated that the tax was levied on sale mentioned in audited trading, profit and loss accounts. We do not agree as reply is contrary to the facts available in documents such as consolidated audited account. In audited accounts, ₹ 1.64 crore was recorded as turnover.
3.	CTO-II, Chhindwara	2010-11 February 2013	The AA incorrectly allowed deduction ₹ 14.54 lakh of credit note. This resulted in under determination of taxable turnover and non levy of tax ₹ 1.89 lakh.	The AA stated that dealer issued credit notes for price drops in invoice bills. We do not agree as it is contrary to the provisions, which strictly disallows exclusion of any <i>post facto</i> allowance of discounts, from the sale price.

2.7.2 Under Section 11-A of VAT Act and rules made thereunder, any registered dealer who carries on wholly or partly the business of supplying goods in the course of execution of works contract entered into by him, may be permitted to pay, in lieu of tax payable by him under the Act, a lump sum at such rate as may be prescribed. Under the rules, the amount to be paid in lump sum by way of composition shall be determined on the total monetary consideration received or receivable by the registered dealer in respect of works/supply executed under the above said contract.

We test checked records such as assessment order, receipts and payment accounts etc. in divisional office, Sagar in February 2014 and found that a composition dealer, assessed in June 2012 for the period 2009-10, had received total monetary consideration of ₹48.77 crore. However, the AA, while finalising the case, considered turnover as ₹ 41.50 crore by excluding the amount of CENVAT (Central Value Added Tax), Service Tax and VAT ₹ 7.38 crore. This under determination of turnover resulted in non levy of tax of ₹ 29.52 lakh at the prescribed rate of four *per cent*.

After we pointed out the case (February 2014), the AA stated that action would be taken after examination.

We reported the matter to the Government and the Department May 2014, their replies have not been received (December 2014).

2.8 Non/Short levy of Entry Tax

Under the *Madhya Pradesh Sthaniya Kshetra Me Mal Ke Pravesh Par Kar Adhiniyam*, 1976 and rules and notifications issued thereunder, Entry Tax (ET) is leviable at the specified rates on the goods entering into local area for consumption, use or sale therein. Under the *Adhiniyam* and the MP VAT Act, 2002, a dealer is liable to pay penalty where omission leading to assessment is attributable to dealers.

We test checked records such as assessment orders, audited accounts, purchase list, returns etc. between May 2010 and March 2014 in seven divisional offices³³, nine regional offices³⁴ and 20 circle offices³⁵ and found that in 49 cases of 48 dealers assessed/re-assessed between June 2009 and March 2013 for the period 2006-07 to 2011-12, ET on goods like iron & steel, electronic goods, milk powder, LPG domestic/commercial, furnace oil, hexane, HDPE/PP woven

³³ Bhopal, Gwalior, Indore, Jabalpur (2), Satna and Ujjain.

³⁴ Gwalior, Indore (2), Jabalpur, Khandwa., Sagar and Satna (3).

³⁵ Bhind, Bhopal (3), Chattarpur, Dewas, Gwalior (2), Indore (5), Itarasi, Pithampur, Satna (2), Sendhwa, Ujjain and Vidisha.

bags etc., valued at ₹ 76.31 crore entering into local area was either not levied or was levied at incorrect rate. This resulted in non/short realisation of ET of ₹2.58 crore including penalty of ₹ 1.12 crore.

After we pointed out the cases (between May 2010 and March 2014), the AAs in three cases raised additional demand of ₹ 66.22 lakh (between December 2012 and September 2013). In other 37 cases of 36 dealer, the AAs stated (between May 2010 and January 2014) that action would be taken after verification/examination. In remaining nine cases, the Department's reply and our comments are in the **Table-2.12**.

Table - 2.12

(₹ in lakh)						
Sl. No.	Name of auditee unit/No. of dealers	Assessment period/ month of assessment	Name of Commodity /Cost of goods	Rate of tax applicable/ applied	Reply of the Department	Our comments
1.	2.	3.	4.	5.	6.	7.
1	DCCT-I Jabalpur 2 DCCT-II Gwalior 1	2009-10 May/June 2012 2009-10 June 2012	Furnace oil 1416.14	1 Nil	The AAs stated that furnace oil was light diesel oil as per decision given in case of Indian Oil Ltd Bhopal STJ 68 and Prism Cement STJ 422 Vs Commissioner Commercial Tax MP (2006). Further, the AA, Gwalior added that in case of Indian Oil, tax on furnace oil was levied by treating it Schedule -II goods.	We do not agree with the reply as cited decision was delivered in VAT/CST cases. Entry tax has separate schedule, according to which Furnace oil is a schedule -III commodity.
2.	DCCT-II Jabalpur 1	2009-10 June 2012	Iron & Steel, Timber & Lubricant 300.13	2 1	The AA stated that dealer opted for composition and was exempted from Entry tax under notification No. 16 (2007) except for petrol, diesel, capital goods & vehicles.	We do not agree with the reply as in assessment order the AA himself levied tax treating it as capital goods.
3	RAC-I Indore 2	2010-11 March 2013	Skimmed milk/ milk powder 246.77	2 1	The AA stated that there is no specific entry of skimmed milk/milk powder in ET Schedule. Hence, it is taxable at the rate of one per cent under entry no.1 of part III of Schedule II of ET Act.	We do not agree with the reply as skimmed milk/milk powder is covered under entry no.31 of part II of Schedule II of ET Act and attract tax at the rate of two per cent.
4	DCCT-II, Indore 1	2009-10 June 2012	Hexane 72.37	10 1	The AA, stated that it was actually hexanes (a basic drug) not hexane (a raw material) as assumed by audit.	We do not agree with the reply of the AA as hexanes and hexane are same commodity having same chemical composition (Hydrocarbon) which is obtained by refining of crude oil and is found in liquid form and used in industry as well as in laboratory.
5	CTO Vidisha 1	2009-10 June 2012	Burnt oil & packing material 68.81	1 Nil	The AA stated that the burnt oil is purchased from registered dealers of M.P. and after reprocessing, it was sold.	Reply is not acceptable as burnt oil being a schedule - III commodity is liable to tax.

(₹ in lakh)						
Sl. No	Name of auditee unit/No. of dealers	Assessment period/month of assessment	Name of Commodity /Cost of goods	Rate of tax applicable/applied	Reply of the Department	Our comments
6	DCCT-I Bhopa 1	2009-10 June 2012	Furnace oil 12.69	10 Nil	The AA stated that furnace oil comes under Schedule III or Schedule –II was not clear and this matter was pending before appellate board/High court. In this situation, tax cannot be levied on furnace oil treating it schedule –III commodity.	We do not agree with the reply as the AA himself levied tax at the rate of 10 per cent on import purchase ₹ 84.76 lakh out of total Import purchase of furnace oil ₹ 97.45 lakh. In addition, audit objection is regarding amount and not the rate or Schedule.

We reported the matter to the Government and the Department in May 2014; their replies have not been received (December 2014).

2.9 Allowance of inadmissible Input Tax Rebate

2.9.1 According to Section 14 of the MP VAT Act, 2002, where a registered dealer purchases any goods specified in Schedule II of the Act, other than those specified in Part III of the said Schedule within the state of Madhya Pradesh, from another registered dealer after payment of input tax, he shall be allowed input tax rebate (ITR) of the amount of such input tax for the same year. Under the MP VAT Act, Rule 9, no input tax rebate shall be claimed or be allowed if the bill, invoice or cash memorandum does not indicate separately the amount of tax, collected by the selling registered dealer. Further under Section 21(1) (d) and (2) of said Act, if rebate of input tax has incorrectly been allowed, while making the assessment, and it is attributable to the dealer, penalty not exceeding 3.5 times but not less than three times of the amount of assessed tax shall be imposed.

We test checked the records such as assessment orders, audited accounts, purchase list etc. between April 2011 and December 2013 in divisional office Tax Audit Jabalpur, seven regional offices³⁶ and eight circle offices³⁷, and found that in 19 cases of 18 dealers assessed between December 2009 and January 2013 for the period 2007-08 to 2010-11, the AAs allowed inadmissible ITR of ₹ 1.01 crore including interest of ₹ 0.90 lakh and penalty of ₹ 49.24 lakh.

After we pointed out the cases (between April 2011 and December 2013), the AAs, in three cases raised additional demand of ₹ 33.64 lakh as detailed in the Table-2.13.

Table - 2.13

Sl. No	Name of auditee unit No. of dealers	Period of assessment Month of assessment	Our observations
(1)	(2)	(3)	(4)
1	RAC-II, Ujjain 1	2008-09 February 2011	The AA incorrectly adjusted ITR of ₹ 3.36 lakh instead of carried forward ITR of ₹ 24,198 of the period 2007-08. This resulted in excess grant of ITR of ₹ 3.12 lakh and penalty of ₹ 9.35 lakh.

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³⁷

Gwalior, Jabalpur (2), Khandwa, Morena and Ujjain (2)
Chhindwara, Gwalior, Hosangabad, Indore, Jabalpur, Mandasaur, Sagar and Ujjain.

After this was pointed out, the AA raised demand of ₹ 9.73 lakh (December 2012) in respect of penalty and excluded the amount of tax.			
2	<u>RAC-I Jabalpur</u> 1	18/12/2008 to 31/03/2009 April 2011	The dealer was incorrectly allowed ITR of ₹ 9.57 lakh for the goods purchased before his registration as intending manufacturer u/s 17 (c) & (d). This resulted in incorrect grant of ITR of ₹ 9.57 lakh.
After this was pointed out, the AA raised demand of ₹ 9.57 lakh (February 2013) as proposed by audit.			
3	<u>RAC-I, Ujjain</u> 1	2007-08 April 2010	The dealer purchased tractor parts, lubricants oil valued ₹ 56.93 lakh from his own branch. However, the AA incorrectly allowed ITR of ₹ 2.28 lakh on the same. This resulted in incorrect grant ITR to that extent.
After this was pointed out, the AA raised demand of ₹ 14.33 lakh (June 2013) including penalty.			

In other 14 cases of 13 dealers, the AAs stated (April 2011 and December 2013) that action would be taken after verification/examination. In remaining two cases of two dealers, the department's reply and our comments are in the **Table-2.14**.

Table - 2.14

Sl. No.	Name of auditee unit	Period Month of assessment	Our observation in brief	Reply of the Department/ our comments
(1)	(2)	(3)	(4)	(5)
1.	CTO-II, Chhindwara	2009-10 June 2012	The dealer paid input tax ₹ 41.85 lakh on the purchase of oil, lubricant and cement. However, the AA incorrectly allowed ITR of ₹ 46.24 lakh. This resulted in excess grant of ITR of ₹ 4.39 lakh.	The AA stated that ITR was allowed as claimed by dealer. Reply is not acceptable as the AA levied tax on sale shown in trading a/c. Hence, ITR should have also been allowed as per the amount shown in the trading a/c.
2.	RAC - Morena	2008-09 April 2011	The dealer paid input tax ₹ 30.13 lakh on the purchase of tractor. However, the AA incorrectly allowed ITR of ₹ 31.43 lakh. This resulted in excess grant of ITR of ₹ 1.30 lakh.	The AA stated granted ITR was correct. Reply is not acceptable as ITR should have been allowed as per the amount shown in the trading a/c.

2.9.2 In terms of Section 14 of the MP VAT Act 2002, where a registered dealer purchases any goods specified in Schedule II of the Act, other than those specified in part III of the said schedule, for use or consumption in the manufacture of other goods and the dealer has claimed and adjusted ITR towards the tax payable by him, in the event of disposal of the goods otherwise than by way of sale within the State, he shall be liable to pay the amount of ITR at the rate of four *per cent* of the purchase price or net of input tax of such goods, whichever is lower. The Act further provides that where a registered dealer purchases any goods after payment of input tax for consumption or use in the manufacture or processing or packaging in connection with sale of goods declared tax free under Section 16 of the Act, he shall be allowed ITR of the amount such input tax which is in excess of four *per cent* of the purchase price of such goods.

We test checked the records such as assessment orders, audited accounts, purchase list etc. between August 2010 and November 2013 in two regional offices of Ujjain and three circle offices³⁸ and found that in six cases of six

dealers assessed between June 2009 and June 2012 for the period 2006-07 to 2009-10, the AAs allowed ITR of ₹17.70 lakh though the rebate admissible to the dealers being excess of four *per cent* on goods disposed of otherwise than by way of sale or sale of tax free goods, worked out only to ₹5.93 lakh. This resulted in inadmissible grant of ITR of ₹11.77 lakh.

After we pointed out the cases (between August 2010 and November 2013), the AAs, raised additional demand of ₹ 4.14 lakh (May 2013) including penalty in one case. In remaining five cases of five dealers, the AAs stated (between August 2010 and November 2013) that action would be taken after verification/examination.

2.9.3 Section 26-A (4) of the MPVAT Act, 2002, provides that no input tax rebate shall be claimed or be allowed in respect of the goods notified for Tax Deducted at Source (TDS) under Sub-Section (1) of the said Section. Mustard and Soyabean have been notified for TDS under the provision of aforesaid Sub-Section by the notification dated 4th January 2008.

We test checked records such as assessment orders, audited accounts, purchase list etc. in regional offices Neemuch and Shajapur, circle offices Chhindwara and Indore, between July 2010 and June 2012, and found that in five cases of five dealers assessed between July 2009 and June 2011 for the period 2007-08 and 2008-09, the AAs incorrectly allowed ITR of ₹ 6.19 lakh on purchase value of Soyabean and Mustard. As these commodities were notified for TDS, ITR was not admissible in these cases. This resulted in inadmissible grant of ITR of ₹6.19 lakh .

After we pointed out the case (between July 2010 and June 2012), the AA, Circle-I Chhindwara raised demand of ₹ 1.37 lakh (May 2013) in two cases and in another case, the AA, Circle-I, Indore accepted (May 2012) the audit observation. In remaining two cases, the AA stated that action would be taken after verification (July 2010 and February 2011).

2.9.4. As per Section 14 of the MP VAT Act, 2002, where a registered dealer purchased any goods specified in Schedule II of the Act, other than those specified in Part III of the said Schedule within the state of Madhya Pradesh, from another registered dealer after payment of input tax, he shall be allowed input tax rebate (ITR) of the amount of such input tax .Further Sub-Section (6) (vi) and (ix) of said Section provide that no input tax rebate shall be claimed or be allowed to the dealer who opts for composition and goods notified under Section 9-A respectively. Building Material, Crane and Car have been notified under the provision of Section 14(6) (vi) by the notification dated 17th August 2007 and *Gitti* has been notified for the purpose of Section 9-A by the notification dated 27th January 2010.

We test checked records such as assessment orders, audited accounts, purchase list etc. in three circle offices³⁹ between May 2012 and September 2013 and found that in four cases of four dealers assessed between June 2010 and June 2012 for the period 2007-08 and 2009-10, the AAs incorrectly allowed ITR of ₹ 3.91 lakh on purchase of Building Material, Crane, Car and *Gitti*. As these commodities were notified, ITR was not admissible in these cases. This resulted in inadmissible grant of ITR of ₹3.91 lakh.

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Indore (II), Jaora and Satna

After we pointed out the cases (between May 2012 and September 2013), the AA, Circle-I Indore accepted (May 2012) the audit observation in one case and in remaining three cases, the AAs stated that action would be taken after verification.

2.9.5 As per Section 73 read with Section 82(7) of the Madhya Pradesh VAT Act, 2002, where a registered dealer holds the stock of any goods specified in the Schedule II, at the commencement of this Act, for sale in the state of Madhya Pradesh or in the course of interstate trade on or after the said date, such dealer shall claim or be allowed the input tax rebate in respect of such tax paid goods within a period of nine months from the date of commencement of the Act. Further, under Section 21(1) (d) and (2) of said Act, if rebate of input tax has incorrectly been allowed while making the assessment and it is attributable to the dealer, penalty not exceeding 3.5 times but not less than three times of the amount of assessed tax shall be imposed.

We test checked records such as assessment orders, audited accounts, etc. of circle office-I Jabalpur in August 2011 and found that in case of a dealer, assessed in May 2010 for the period 2007-08, the AA incorrectly adjusted the ITR of ₹ 72,149 in respect of inventory of 2005-06, held by the dealer, against the tax worked out for the period 2007-08 as claimed by the dealer. This resulted in inadmissible grant of ITR of ₹2.89 lakh including penalty of ₹ 2.17 lakh.

After we pointed out the case (August 2011), the AA raised additional demand of ₹ 2.89 lakh (May 2013) including penalty.

We reported the matter to the Government and the Department (between October 2010 and January 2014; their replies have not been received (December 2014).

2.10 Non-levy of tax on sales incorrectly treated as tax free

The Madhya Pradesh VAT Act, and notifications issued thereunder prescribe rates of tax levied on different commodities except those which are specified under Schedule-I of the Act or exempted through notifications. Under Section 21 (2) of the Act, a dealer is liable to pay penalty minimum three times but not exceeding 3.5 times of assessed tax where omission leading to assessment is attributable to dealer.

We test checked records such as assessment orders, audited accounts and purchase list etc. between April and December 2013 in seven circle offices⁴⁰ and found that seven dealers assessed between April 2011 and November 2012 for the period 2008-09 to 2010-11, had sold taxable commodities like washing soap, notebook, blanket, DTH, cotton seeds etc. valued at ₹ 5.45 crore. However, neither the dealers paid nor the AAs levied any tax treating them incorrectly as tax free goods. This resulted in non-levy of tax of ₹ 1.12 crore including penalty of ₹ 82.41 lakh as under which is mentioned in the **Table-2.15**.

⁴⁰

Balaghat, Betul, Chhindwara, Indore, Jabalpur,, Sagar and Ujjain.

Table - 2.15

Sl. No	Commodity	Turnover (₹ in lakh)	Rate of tax applicable (%)	Amount of tax not levied (₹ in lakh)	Penalty (₹ in lakh)
(1)	(2)	(3)	(4)	(5)	(6)
1.	Washing soap	51.92	13	6.75	20.25
2.	PVC Pipe	26.64	5	1.33	4.00
3	Notebook	371.00	4 and 5	16.97	50.91
4	Blanket	36.23	4	1.45	4.35
5	DTH	7.74	12.5	0.97	2.50
6	Cotton Seed	38.67	4	1.55	0
7	Di-Calcium Phosphate	12.74	5	0.63	0
Total		544.94		29.65	82.41

After we pointed out the cases (between April and December 2013), the AA in all cases, stated that action would be taken after verification/examination.

We reported the matter to the Government and the Department between February and May 2014; their replies have not been received (December 2014).

2.11 Non imposition of penalty

2.11.1 According to Section 21 (2) of the MP VAT Act, 2002, where the omission leading to assessment or re-assessment made under Sub-section (1) is attributable to the dealer, penalty not exceeding 3.5 times and not less than three times of the amount of tax so assessed or re-assessed is leviable. Further, Under Section 26(4)(a) of Madhya Pradesh Commercial Tax Act, 1994 and 18(4)(a) of Madhya Pradesh VAT Act, 2002, if a dealer, required to furnish returns, fails to pay the amount of tax payable according to the return, such dealer shall be liable to pay interest in respect of the tax payable by him. Further, Clause(b) of Section 18(4) provides that if the dealer fails to pay the interest in accordance with the provisions of clause(a), the commissioner may direct him to pay penalty which shall not exceed 1.5 per cent per month of the amount of interest.

- We test checked records such as assessment orders, audited accounts etc. of divisional office-III Indore in September 2013 and found that the dealer, re-assessed in December 2012 on proposals of Anti Evasion Bureau (AEB), concealed purchase turnover for the period 2006-07. The AA while re-assessing the case, assessed evasion of tax of ₹ 24.14 lakh and imposed penalty 3.5 times of assessed tax. On appeal, penalty was waived off by the appellate authority, adding, dealer had no malicious intention. The AA instead of appeal at higher level preferred to accept appellate authority order resulting in non imposition of penalty of ₹ 72.42 lakh minimum at the rate of three times of assessed tax.

After we pointed out the case (September 2013), the AA defended the order of appellate authority and stated that dealer did not conceal any fact, hence penalty was waived by the appellate authority. The reply is not acceptable as the AA himself while re-assessing the case imposed penalty after establishing the fault of dealer. Even, AEB also proposed penalty in their report and quoted that the dealer evaded the tax deliberately. Thus, the omission is attributable to the dealer and attracts penalty.

- We test checked the records such as assessment orders, audited accounts etc. of Circle office Jhabua in April 2013 and found that the AA in case of a dealer, assessed u/s 20(6), in June 2010 for the period 2007-08, determined taxable turnover of ₹ 38.57 lakh and assessed tax of ₹ 1.54 lakh but did not impose penalty as per provisions of the Act. This resulted in non imposition of penalty of ₹ 3.09 lakh which is two times of assessed tax.

After we pointed out the case (April 2013), the AA stated that reply would be given after examination.

We reported the matter to the Government and the Department in May and September 2013; their replies have not been received (December 2014).

2.12 Non levy of interest

Under Section 20(6) of the MP VAT Act, 2002, any dealer being liable to pay tax in respect of any period has failed to apply for registration, the commissioner shall assess such dealer and assess him to tax to the best of his judgment in respect of the whole of such period and shall impose upon him, by way of penalty, a sum two times of the amount of tax so assessed.

We test checked the records such as assessment order, audited accounts etc. between January 2010 and November 2012 in regional offices Satna and Chhindwara and found that in five cases of four dealers, assessed between March 2009 and June 2011 for the period 2003-04 to 2008-09, tax aggregating to ₹ 2.28 crore was either not deposited or deposited with delay ranging between three and 99 days. In addition, the dealer did not pay interest due along with the amount of tax. However, the AA, while finalising the case did not levy interest and penalty as per provisions of the Act. This resulted in non levy of interest of ₹ 35.48 lakh and penalty of ₹ 5,322 as detailed in **Annexure-XII**.

After we pointed out the cases (between January 2010 and November 2012), the AA in all cases raised demand of ₹ 35.53 lakh including penalty (between March 2011 and July 2012).

We reported the matter to the Government and the Department in May 2014; their replies have not been received (December 2014).

2.13 Non levy of tax on intrastate sale incorrectly treated as interstate sale

As per Section 3 of the CST Act, 1956, sale of goods shall be deemed to take place in the course of inter-state trade, if the sale occasions the movement of goods from one state to another or is affected by a transfer of documents of title to the goods during their movement from one state to another. It further stipulates that if the movement of goods commences and terminates in the same state, it shall not be deemed to be a movement from one state to another.

We test checked the records such as assessment orders, audited accounts and interstate sale list etc., in March 2013 in Divisional Office-I, Jabalpur and found that two dealers, assessed in April 2010 and January 2012 for the period 2007-08 and 2009-10 respectively, sold *bidis*, energy meter scrap and copper winding valued at ₹ 7.72 crore to local registered dealers. The AA, while finalising the assessment treated the intrastate sale as interstate sale incorrectly and levied tax at concessional rate. This resulted in short-levy of tax of ₹ 29.80 lakh as given in the **Table-2.16**.

Table - 2.16

Sl. No	Name of Unit /No. of Dealer	Assessment Period	Our Observation	Reply of the Department / our comments
1	DC-I Jabalpur Central India Tobacco Product Pvt. Ltd.	2009-10	The dealer sold <i>bidis</i> valued ₹6.55 crore against declaration in C form to local registered dealers. However, the AA treated the local sale as interstate sale and levied tax at concessional rate of two <i>per cent</i> resulting in short levy of tax ₹19.64 lakh at the differential rate of three <i>per cent</i> .	The AA stated that tax was levied at concessional rates after verifying the C forms. We do not agree with reply as produced C Forms were issued by Commercial tax Department of Madhya Pradesh.
2	DC-I Jabalpur M.P.P.K.V.V. Co. Ltd.	2007-08	The dealer sold <i>copper winding</i> and energy meter valued ₹ 1.17 crore through the open tender on the basis of 'as is where is' (intra-state sale). However the AA treated the intra state sale as interstate sale and levied tax at concessional rate of three <i>per cent</i> . This resulted in short levy of tax ₹ 10.15 lakh.	The AA stated that this case did not come in audit purview as the audit had to be done of the cases relating to 2011-12. We do not agree as the reply did not address the issue raised by Audit.

We reported the matter to the Government and the Department in May 2014; their replies have not been received (December 2014).

2.14 Short levy of tax due to allowing incorrect deduction

According to Section 2(x) (iii) of MP VAT Act, 2002 taxable turnover is determined after deducting amount of tax included in aggregate of sale price. It also provides that no deduction shall be allowed if the amount of tax is not included in the aggregate of sales price. Under Section 21(2) of the Act, a dealer is liable to pay penalty minimum three times but not exceeding 3.5 times of assessed tax where omission leading to assessment is attributable to dealer.

We test checked records such as assessment order, audited accounts and purchase list etc. between August 2011 and December 2013 in regional offices Satna and Shajapur and six circle offices⁴¹ and found that in eight cases of eight dealers assessed between June 2010 and December 2012 for the period 2006-07 to 2009-10, the AAs while determining the turnover allowed deduction of ₹ 11.95 lakh towards amount of tax included in the aggregate sale of price. We, however, noticed that tax was not included in the sale price and therefore no deduction should have been made. This irregular grant of deduction resulted in short levy of tax of ₹ 11.95 lakh along with interest/ penalty of ₹ 9.49 lakh.

After we pointed out the cases (between August 2011 and December 2013), the AA, Shajapur in one case raised demand of ₹ 75,382 in November 2012 and in remaining cases the AAs stated that action would be taken after verification/examination.

We reported the matter to the Government and the Department in May 2014; their replies have not been received. (May 2014).

⁴¹

Gwalior, Indore, Jaora, Jabalpur, Rewa and Sehore.

2.15 Non levy of purchase tax

Under Section 10(A) of Madhya Pradesh VAT Act, 2002, every dealer, who in course of his business purchase notified goods whose value exceed ₹ five crore in that year, shall be liable to pay tax at the rate of four *per cent* on the purchase value exceeding ₹ five crore. The Government has notified wheat for levy of purchase tax vide notification dated 26th November 2009.

We test checked the records such as assessment order, audited accounts and purchase list etc. of regional office Sagar in August 2013 and found that a dealer, assessed in August 2012 for the period 2010-11, purchased wheat valued ₹ 8.90 crore exceeding the limit by ₹ 3.90 crore on which purchase tax was leviable. However the AA while finalising the case did not levy purchase tax treating it as tax free. This resulted in non levy of purchase tax of ₹ 15.59 lakh.

After we pointed out the case (August 2013), the AA stated that action would be taken after examination.

We reported the matter to the Government and the Department in May 2014, their replies have not been received (December 2014).

CHAPTER - III

STATE EXCISE

Chapter-III

State Excise

3.1 Tax administration

The Principal Secretary, Commercial Tax Department is the administrative head of the Department at the Government level. The Excise Commissioner (EC) is the Head of the Department and is assisted by one Additional EC (Addl. EC), three Deputy Excise Commissioner (DEC) at the headquarter at Gwalior, seven DEC divisional flying squad in divisions, 15 Assistant Excise Commissioners (AEC) and 54 District Excise Officers (DEO in districts. In the district, the Collector heads the Excise Administration and is empowered to settle shops for retail vending of liquor and other intoxicants and is also responsible for realisation of excise revenue.

The working of distilleries, bottling plants (foreign liquor) and breweries is monitored by the DEOs with the assistance of the Asst. District Excise Officers (ADEOs) and Sub Inspectors posted in the distilleries/breweries and bottling plants.

State Excise revenue comprises receipts from duty, fee, penalty or confiscation imposed or ordered under the provisions of the Madhya Pradesh Excise Act, 1915 and Rules made thereunder. It also includes revenue from manufacture, possession and issue of liquor for sale, *bhanga* and poppy straw.

3.2 Internal Audit

An Internal Audit Cell (IAC) was established in the EC office in the year 1978 and is headed by a Joint Director, who is assisted by six officers in the conduct of internal audit of the Department.

The details of units planned, audited and number of observations raised, settled and outstanding are given in the following **Table-3.1**.

Table - 3.1

Year	No. of units as per roster	Number of units audited	Shortfall with reference to roster	Percentage of shortfall	No of paras included	No of paras settled	Out standing paras at the end of year
1	2	3	4	5	6	7	8
2009-10	48	26	22	45.83	14	-	64
2010-11	50	41	09	18.00	60	07	117
2011-12	50	16	34	68.00	64	12	169
2012-13	50	16	34	68.00	111	10	270
2013-14	35	08	27	77.14	41	00	311

The Department stated (September 2014) that the shortfall in conducting internal audit of units with reference to the targeted units as per roster in the year 2013-14 was due to the deployment of staff in Legislative Assembly Election.

3.3 Results of audit

Test check of the records of 37 units, out of 61 units, relating to State Excise receipts during the year 2013-14 revealed short/non realisation, non levy of

penalty and loss of revenue etc. amounting to ₹ 361.90 crore in 66,035 cases which can be categorised in the following **Table-3.2**.

Table - 3.2

			(₹ in crore)
Sl. No.	Categories	No. of cases	Amount
1	2	3	4
1.	Undue benefit given to the retail licensees	2,812	39.83
2.	Non realisation of duty in case of non receipt of verification report	3,940	30.10
3.	Non levy of penalty/duty on excess wastage of spirit/liquor	14,059	20.51
4.	Non/ short realisation of license fee from liquor shops	04	0.13
5.	Irregular issue of country/foreign liquor	102	4.69
6.	Non levy of penalty due to breach of license conditions	3,602	6.97
7.	Other observations	41,516	259.67
Total		66,035	361.90

During the course of the year, the Department accepted short/ non realisation, non levy of penalty and loss of revenue etc. of ₹ 180.99 crore in 38,689 cases, which were pointed out in audit during the year 2013-14. An amount of ₹ 1.49 crore was realised in 406 cases during the year 2013-14.

A few illustrative audit observations involving ₹ 60.43 crore in 28,096 cases are mentioned in the following paragraphs:

3.4 Audit observations

We scrutinised the assessment records of excise duty, fee and other charges in EC, DECs, AECs and DEOs and found cases of non-levy of duty, fee and penalty and found several cases of non observance of the provisions of the ACT/Rules and Circular mentioned in the succeeding paragraphs of this chapter. These cases are illustrative and are based on a test check carried out by us. Such similar omissions are pointed out in earlier Audit Reports. The nature of lapses/irregularities are still persisting which shows ineffectiveness of the Internal Control System of the Department to prevent recurring leakage of revenue.

3.5 Undue benefit given to the retail licensees by the Department

The condition for sale of liquor through shops for the year 2012-13 issued by the EC under notification dated 03 February 2012 provides that annual value of a liquor shop shall be the sum of Basic License Fee (BLF) and Annual License Fee (ALF). The BLF shall be fixed between 55 and 60 *per cent* of the annual value of the shop according to its location and the remaining amount shall be recovered as ALF. Both the BLF and ALF shall be recoverable in 24 fortnightly installments. The amount of duty deposited by the licensee to purchase the liquor shall be adjustable against the fortnightly demand of ALF of shop while issue of liquor will not be admissible on the amount paid by the licensee as BLF. Further, if a licensee purchases the liquor in excess of the amount of ALF prescribed for any fortnight, the same shall be adjustable against the ALF of the subsequent fortnightly period. Further, on deposit of complete BLF prescribed for the year, there is no need to deposit additional BLF for issue of liquor to the concerned shop in the remaining period. The liquor may be issued only against the deposit of duty.

We observed (August 2013) from returns submitted by DECs in the EC office that ALF for 2103 country liquor and 709 foreign liquor shops in 34 districts¹ for the year 2012-13 was ₹ 1,230.04 crore. The licensees had purchased the liquor by depositing duty of ₹ 1,262.98 crore, which was in excess of ALF fixed for the shops by ₹ 32.94 crore. In these cases the duty deposited in excess of amount of ALF was accumulated instead of adjusting the same simultaneously in the ALF of subsequent fortnightly period and the licensees were allowed to lift the liquor against total amount deposited by the licensees as duty and finally adjusted against their ALF from the starting monthly installment. As no such adjustment of duty was provided in the conditions for sale of liquor, the portion of BLF of ₹ 40.26 crore treating the BLF at minimum rate of 55 *per cent* was also to be deposited. We observed that ₹ 43.10 lakh only was deposited by the licensees as BLF. The Department did not take any action to recover the remaining amount of BLF. This resulted in undue benefit to the retail licensees as well as short realisation of BLF of ₹ 39.83 crore.

After we pointed out the cases (August 2013), the EC stated (November 2013), that under the policy prescribed by the Government, there is a provision to issue liquor to the licensee after deposit of the amount of annual value of shop in the form of ALF and BLF on payment of duty only without payment of additional

¹ Alirajpur, Barwani, Betul, Bhind, Bhopal, Burhanpur, Chhindwara, Damoh, Datia, Dewas, Dhar, Dindori, Gwalior, Indore, Jabalpur, Jhabua, Katni, Khandwa, Kargon, Mandala, Mandasaur, Morena, Narsinghpur, Rajgarh, Ratlam, Sagar, Satna, Seoni, Shajapur, Sheopur, Shivpuri, Tikamgarh, Ujjain and Vidisha

BLF. We do not agree with the reply because the issuance of liquor is allowed only on deposit of complete BLF prescribed for the year. In these cases, licensees were allowed to purchase the liquor against the excess of prescribed amount of ALF for a fortnight without depositing of proportionate BLF from the first fortnightly installment, which was irregular and led to undue benefit to retail licensees of ₹ 39.83 crore.

We reported the matter to the Government and the Department in May 2014; their replies have not been received (December 2014).

3.6 Non recovery of excise duty on unacknowledged foreign liquor/beer and country liquor

The Excise Act and the Rules made thereunder provide that no intoxicant shall be exported/transported from any distillery, brewery, warehouse or any other place of storage unless the licensee deposits the prescribed duty leviable on the full quantity of the intoxicant to be transported/exported or furnishes a bank guarantee of an equal amount or executes a bond with adequate solvent sureties for the amount mentioned in form FL- 23/CS-10. Besides, the licensee shall obtain an Excise Verification Certificate (EVC) from the Officer-In-Charge (OIC) of the destination unit and furnish to the authority, who issues the transport/export permit, within 40 days of the expiry of validity period of the permit. In case of default, the duty involved shall be recovered from the deposit made, bank guarantee furnished or the security bond executed by the licensee. Further, the Government vide notification dated 29 September 2010, provided that if the EVC is submitted after the stipulated 40 days time period, the recovered duty shall be refunded to the exporter after due verification.

We observed from the export/transport permits registers and EVCs received registers in six bottling units² of foreign liquor (Foreign liquor bottling license FL-9), four breweries³ (Brewery/Winery license B-3), two country liquor bottling units (CS-1B)⁴ and two central godown of outside manufacture⁵ (Outside manufacturer's central godown license FL-10A) of seven districts⁶ between May 2013 and March 2014 that the licensees Exported/ transported 10,83,414.92 PL foreign liquor (spirit), 8,60,755.00 bulk litre (BL) beer and 1,70,144.5 proof litre (PL) of country liquor on 565 permits between December 2011 and January 2014 involving duty of ₹ 14.41 crore. It was noticed that in violation of the provision, the Department issued the Export/transport permits without recovering the prescribed duty or without obtaining sufficient bank guarantee/ executing bond with adequate solvent sureties for the amount of duty involved. It was further noticed that though the EVC from the OICs of the destination units were not submitted by the licensee even after a lapse of three to 877 days beyond the permissible period, the Department did not initiate any

² M/s United Sprit Ltd., Sarver, Bhopal, M/s United Sprit Ltd., Govindpura, Bhopal, M/s Oasis Distillery Ltd., Dhar, M/s Cox India Ltd., Nowgaon, Chhatarpur, M/s Som Distillery Pvt., Ltd., Sehatganj, Raisen and M/s Som Distillery & Breweries Ltd., Rojrachak, Raisen

³ M/s Jaggin Breweries Ltd., Nowgaon, Chhatarpur, M/s MP Beer Products Ltd., Indore, M/s Submiller India Ltd., Banmore, Morena and M/s Som Distillery & Breweries Ltd., Rojrachak, Raisen

⁴ License of country spirit bottling-M/s Cox India Ltd., Nowgaon, Chhatarpur, M/s Som Distillery Pvt., Ltd., Sehatganj, Raisen

⁵ M/s Bhatia Wine Traders Pvt., Ltd., Jabalpur and M/s United Sprit Ltd., Sarver, Bhopal

⁶ Bhopal, Chhatarpur, Dhar, Indore, Jabalpur, Morena and Raisen

action for recovery of duty. This resulted in non-realisation of duty of ₹ 14.41 crore. It was further seen that no action was taken by the Department for imposition of penalty for violation of the Rules.

After we pointed out the cases (between May 2013 and Mar 2014), DEO Distillery, Raisen stated (February 2014) that the records were seized by Damoh Police from Dewas warehouse. The other AECs/ DEO stated that the excise verification certificates would be submitted after their receipt.

We do not agree with the replies as sufficient Bank Guarantee/Bonds with solvent sureties were not obtained before allowing the export/transport of liquor. Besides, the reply do not explain as to why the export/transport was allowed without payment of duty/without executing bond with solvent security/without obtaining bank guarantee and why action to recover the duty was not initiated.

We reported the matter to the Government and the Department in May 2014; their replies have not been received (December 2014).

3.7 Non recovery of penalty

Excise Act, 1915 provides that all amounts due to the Government relating to excise revenue in accordance with any provision of the Act and Rules made thereunder, may be recovered from the person primarily liable to pay, as arrears of land revenue. The power of Additional Tehsildar has been given to all the DEOs under their jurisdiction by the State Government under notification issued in July 1968, so that the DEOs may recover the excise dues as arrears of land revenue in the capacity of Tehsildar.

During test check of the records (statement of excise duty due in district) of the EC office in June 2013, we observed that penalty of ₹3.75 crore was imposed on six manufacturers⁷ by six DECs⁸, divisional flying squad in 70 cases of excess wastages of liquor and in one case by Collector, Dhar during the period between February 2010 and May 2012. Further, we noticed that the amount of ₹ 62000 only was recovered in one case of Khargone district leaving balance amount of ₹ 3.75 crore unrecovered in 70 cases, till the date of audit (June 2013). We also observed that respective AECs/DECs did not take any action to recover the dues as arrear of land revenue. As such, the penalty of ₹3.75 crore has not been imposed.

After we pointed out the cases (June 2013), the EC stated in respect of 56 cases in August 2013, that the respective DECs have been asked to recover the penalty and in remaining 15 cases, it was stated as pending in court of EC. We do not agree with reply of EC in respect of 15 cases because as per letter of EC vide No./Reader/ EC/12/488 Gwalior dated 22.10.2012, all the stay for recovery were vacated and respective DECs were directed to recover the penalty. Action to recover the dues was therefore required to be taken.

We reported the matter to the Government and the Department in May 2014; their replies have not been received (December 2014).

⁷ M/s Associate Alcohol & Breweries Ltd., Khargone, , M/s Som Distillery Pvt., Ltd., Sehatganj, Raisen, M/s Cox India Ltd., Nowgaon, Chhatarpur, M/s Great Galleon Ltd., Sejwaya, Dhar, M/s Gwalior Distillers Ltd., Rairu, Gwalior and M/s Oasis Distillery Ltd., Dhar

⁸ Bhopal, Gwalior, Indore, Jabalpur, Sagar and Ujjain

3.8 Non-realisation of excise duty due to non-disposal of spirit and foreign liquor

The MPFL Rules, 1996 provides that on expiry, non renewal and cancellation of license or labels, the licensee shall place the entire stock of liquor under the control of the DEO. However, he can be permitted to dispose of such stock to any other licensee within 30 days of such expiry, non-renewal and cancellation of license or labels, failing which the EC may ask any other eligible licensee of the State to purchase such stock or may issue orders for the disposal of the stock through destruction etc.

Test check of the stock registers of foreign liquor/spirit of two foreign liquor bottling units⁹ in Jabalpur district and foreign liquor warehouse (FLWH) Indore between December 2013 and January 2014, we observed that stock of 24,221.75 PL of bottled foreign liquor and 50,592.1 PL of Extra Neutral Alcohol (ENA) involving duty of ₹ 71.96 lakh was lying undisposed in the FLWH and the bottling units on expiry of the licenses of manufacturing units/non-renewal of labels of liquor, even after lapse of period up to nine months. The OICs of these units did not initiate any action for disposal of the stock. This resulted in non-realisation of duty of ₹71.96 lakh.

After we pointed out the cases, the OIC, FLWH Indore and AEC Jabalpur, stated between December 2013 and January 2014 that the cases would be sent to the EC for necessary action and progress intimated to audit. Further report in the matter has not been received (May 2014).

We reported the matter to the Government and the Department in May 2014; their replies have not been received (December 2014).

3.9 Non levy of penalty on shortage of spirit and foreign liquor/beer

Excise Act, 1915 and Rules made thereunder do not provide for any allowance on shortage of spirit and bottled foreign liquor/beer stocked with licensed premises of manufacturer and foreign liquor warehouse. On such deficiencies, the licensee shall be liable to pay penalty as may be imposed by the EC or any other officer authorised by him at the rates prescribed by the Government from time to time.

During the test check of beer bottling registers of M/S Submiller India Ltd. Banmore in October 2013, we observed that 1,61,204.36 Bulk Liter (BL) beer was bottled in four batches between December 2012 and January 2013 against which only 29,156.4 BL was found accounted for in the stock register. Thus, there was short account of 1,32,047.96 BL or beer. The reasons for the shortage were also not found on records. Penalty of ₹ 37.35 lakh was leviable in these cases. We however, noticed that the Officer In-charge (OIC) did not inform the higher authorities and also did not initiate any action regarding levy of penalty.

Besides, we also observed from the records of three foreign liquor bottling units¹⁰ and foreign liquor warehouse (FLWH) Indore between December 2013 and February 2014 that 1,340.5 PL of ENA, 1,322.17 PL of bottled foreign

⁹ M/s SG Distillery Pvt. Ltd., Jabalpur and M/s Redsan Distillery Pvt. Ltd., Jabalpur
¹⁰ M/s Mahakal Distillery Pvt. Ltd., Ujjain, M/s SG Distillery, Jabalpur and M/s Som Distillery Pvt. Ltd., Sehateganj, Raipur

liquor and 58.01 BL of beer was short in physical verification of stock conducted between November 2012 and January 2014 by the OICs. In Mahakal distillery, Ujjain, 101.7 PL of foreign liquor was short in stock (November 2013). Penalty of ₹ 2.65 lakh was to be imposed on these shortages. We however, noticed that the OICs did not initiate action regarding levy of penalty. This resulted in non-imposition/realisation of penalty of ₹ 40 lakh.

After being pointed out by audit, AEC Jabalpur and Ujjain had forwarded the cases to DEC for imposition of penalty between December 2013 and February 2014 respectively. DEO Distillery, Raisen district stated in February 2014, that the shortage was due to an accident for which the case has been sent to DEC for disposal in January 2014. OIC FLWH, Indore stated, in January 2014, that action for imposition of penalty and recovery was being taken. DEO Brewery stated in October 2013, that audit would be intimated after verification of records.

We do not agree with the replies of AECs and DEOs as neither First Investigation Report (FIR) was lodged by the Department against the shortage of stores nor it initiated action for imposition of penalty. Further reports have not been received (May 2014).

We reported the matter to the Government and the Department in May 2014; their replies have not been received (December 2014).

3.10 Non levy of penalty on excess wastages/shortage

3.10.1 Non levy of penalty on excess wastages/shortage of spirit/country liquor

Rule 10 and 12 (6) of MPCs Rules, 1995 provides for maximum allowance of 0.1 *per cent* in pet bottle and 0.25 *per cent* in glass bottle on wastages during transport of bottled country liquor. Rules 6(4) and 8(4) of MPD Rules 1995 provides for allowance of 0.1 to 0.2 *per cent* on account of leakage or evaporation of spirit/ENA transported or exported in tankers from a distillery/warehouse to another distillery/warehouse according to their distance. In case of wastages beyond the permissible limit or shortage, the licensee shall be liable to pay penalty at the rate prescribed by the Government from time to time.

We observed from Excise Verification Certificates (EVC) of country liquor bottling units and warehouses of four AECs' offices¹¹ between October 2013 and March 2014 that minimum penalty of ₹ 31.20 lakh was leviable in 578 cases on wastages of 14,258.95 PL of bottled country liquor beyond permissible limit during transport from three bottling units¹² to seven warehouses¹³ and shortage of 5,976.0 PL in one bottling unit¹⁴ in February 2014. We, however, noticed that no action was initiated by the OICs of these units regarding levy of penalty. This resulted in non-levy/realisation of penalty of ₹ 31.20 lakh. Further, we observed from D-19 registers and EVCs in one distillery¹⁵, one country

¹¹ Chhatarpur, Jabalpur, Morena and Raisen

¹² M/s Cox India Ltd., Nowgaon, Chhatarpur, M/s Gwalior Alcobrew Pvt. Ltd., Gwalior and M/s Som Distillery Pvt. Ltd., Seharganj, Raisen

¹³ Ambah, Chhatarpur, Jabalpur, Morena, Nowgaon, Sabalgarh, and Vidisha

¹⁴ M/s Som distillery Pvt. Ltd. Seharganj, Raisen

¹⁵ Som Distillery Pvt. Ltd. Seharganj, Raisen

liquor bottling unit¹⁶ and one foreign liquor bottling unit¹⁷ of two districts¹⁸ between February and March 2014, that the inadmissible wastages/ shortages of 306.87 PL of Rectified Spirit (RS) and 352.74 PL of Extra Neutral Alcohol (ENA) was found in 27 cases during transport between August 2011 and December 2013. Penalty of ₹ 0.66 lakh was leviable in these cases. We however, noticed that no action was initiated in this regard. Thus, total amount of penalty leviable works out to ₹ 31.86 lakh which was not levied and recovered by the Department. This resulted in non-realisation of penalty of ₹31.86 lakh.

After we pointed this out (between October 2013 and March 2014), the AEC Raisen stated that amount would be deposited. The AECs Morena and Chhatarpur stated that the cases have been sent to competent authority for imposition of penalty. The AEC Jabalpur stated that cases are pending in DEC office for necessary action. DEO distillery, Seharganj, stated in February 2014 that the case has been sent to the competent authority for disposal and in respect of wastages of bottled country liquor he stated that the case of 211.5 PL has been sent to competent authority. We do not agree with the reply because 6,187.5 PL of country liquor was sent from unit of which action was taken on wastages of only 211.5 PL and the remaining 5,976 PL had not been accounted for on which penalty was leviable. Further reports have not been received (May 2014).

We reported the matter to the Government and the Department in May 2014; their replies have not been received (December 2014).

3.10.2 Non levy of penalty on excess wastage of foreign liquor/beer during export /transport

Rule 16 and 19 of MPFL Rules, 1996 provides that the maximum wastages allowance for all export of bottled foreign liquor/beer shall be 0.25 *per cent* irrespective of the distance. For all transports, it shall be 0.1 *per cent* if the selling and purchasing licensees belong to the same district and 0.25 *per cent* if they belong to different district. In case of wastage beyond the permissible limit, the licensee shall be liable to pay penalty at the rate prescribed by the Government time to time.

We observed from Excise Verification Certificates (EVC) of one foreign liquor bottling unit¹⁹ (FL-9), three breweries²⁰ (B-3), two foreign liquor warehouses²¹ (FLWH) and one CSD²² (FL-6) licensees of four districts²³ between October 2013 and February 2014 that the wastages of 2,911.77 PL of foreign liquor (Spirit) and 95,728.39 BL of beer was found in excess of the admissible limit during export/transport between October 2013 and February 2014 in 1,860 cases on which penalty of ₹ 27.92 lakh was leviable from licensees but has not

¹⁶ M/s Cox India Ltd. Nowgaon, Chhatarpur

¹⁷ M/s Som Distillery & Breweries Ltd. Rojrachak, Raisen

¹⁸ Chhatarpur and Raisen

¹⁹ M/s Som Distillery & Breweries Ltd. Rojrachak, Raisen

²⁰ M/s Mount Everest Breweries Ltd. Indore, M/s Sub Miller India Ltd. Morena and M/s Som Distillery & Breweries Ltd. Rojrachak, Raisen

²¹ Indore and Jabalpur

²² Canteen Store Department, Jabalpur

²³ Indore, Jabalpur, Morena and Raisen

been imposed and recovered by the Department. This resulted in non realisation of penalty of ₹ 27.92 lakh.

After we pointed out the cases (between December 2013 and April 2014), AEC Raisen stated (February 2014) that penalty on all cases of excess wastages except one case would be recovered and in respect of one case he stated that stock was returned in unit which was accounted for in B-12 (Stock and issue register) register. We do not agree because in the instant case 10,920 BL of beer was exported against which only 4,570.8 BL was accounted. Neither any action was initiated for levy of penalty on shortages/wastages of 6,349.2 BL(10,920-4,570.8) nor any comments offered by the Department regarding short account of beer. OIC, FLWH Indore stated (January 2014) that action of imposition of penalty and recovery is in progress, OIC, FLWH Jabalpur stated (December 2013), that audit would be informed after recovery, AEC, Morena stated (October 2013), that all cases from April 2012 to March 2013 were pending with DEC, Gwalior for imposition of penalty and cases from April 2013 to July 2013 would be sent to competent authority. The AEC, Indore stated (January 2014) that penalty would be recovered after its imposition. Further reports in the matter have not been received (May 2014).

We reported the matter to the Government and the Department in May 2014; their replies have not been received (December 2014).

3.11 Non recovery of transport/import fee

3.11.1 Non recovery of transport fee on transport of country liquor

The notification dated 01 April 2011 issued by the Madhya Pradesh Government, provides for levy of transport/import fee of ₹ 2.50 per BL on transport/import of Rectified Spirit (RS) to be used for industrial purpose. Further, Government vide notification dated 04 February 2014 prescribed transport fee at the rate of ₹ 2.50 per BL on transport of RS outside the distillery premises within the State for manufacture of country liquor.

We observed from records related to No Objection Certificates (NOCs) and transport/import permits in four AECs²⁴ between May 2013 and February 2014 that 8,59,816.2 BL of RS/ENA were transported on 119 NOCs/transport permits and 37,000 BL of RS was imported on 5 import permits for industrial purpose by the L-2 (Laboratory license for manufacturing against drugs) licensees of three districts²⁵ between April 2011 and February 2014. As per above notification transport/import fee of ₹ 22.42 lakh was leviable on these transport/import. We, however, observed that neither it was deposited by the licensees nor did Department take any action to recover the amount. The NOCs and transport/import permits for transport/import were issued without charging any transport/import fee. Besides, during test check of the records of M/s Som Distillery Pvt. Ltd., Sehatganj, Raisen in February 2014, we observed that 1,52,000 BL of RS was transported on 08 permits to two country liquor bottling units (CS-1B)²⁶ for manufacture of country liquor in February 2014. The transport fee of ₹ 3.80 lakh was chargeable on the transport. We however,

²⁴ Dhar, Khargone, Indore and Raisen

²⁵ Burhanpur, Indore, and Raisen

²⁶ Som Distillery Pvt. Ltd. Sehatganj, Chhindwara and M/s Vindhyachal Distillery, Rajgarh

noticed that neither it was deposited by the licensee nor was it demanded by the Department. This resulted in non realisation of revenue of ₹26.22 lakh²⁷.

After we pointed out the cases (between May 2013 and February 2014), The AEC Raisen, stated (February 2014) that an amount of ₹ two lakh has been recovered. The AEC, Dhar, stated (May 2013) in respect of M/s Great Galleon, Ltd. Dhar, that a letter is being issued to AEC Indore for recovery from the related licensees. Further, in respect of M/s Oasis distillery, Dhar, he stated that transport fee was deposited as per Rules. We do not agree as ₹ 50 only were deposited by the licensee out of ₹0.50 lakh and in respect of M/s Agrawal Distillery Pvt. Ltd., Khargone, DEO stated in May 2013, that action for recovery would be taken as per rules. DEO distillery, Sehatganj, Raisen stated in February 2014, that notice would be issued to distillery for recovery. Further report in the matter has not been received (May 2014).

We reported the matter to the Government and the Department in May 2014; their replies have not been received (December 2014).

3.11.2 Non recovery of transport fee on transport of foreign liquor/beer

According to Rule 14 (1) MPFL Rules, the licensee of an F.L.9, FL9A and B-3 (Foreign Liquor/Beer bottling units) and F.L.10A, F.L.10B (Central Godown) may transport of foreign liquor to a 'Foreign Liquor Warehouse (FLWH)' for storage there at. For this purpose, he shall obtain a No Objection Certificate (NOC) from the OIC, FLWH. Transport permit for the transport shall be issued by the OIC of the bottling units/godowns. Further, according to the instruction issued by the EC dated 18 January 2012 for granting renewal/allotment of liquor shops through tender for the year 2012-13, the transport fee at the rate of ₹ 100 for each NOC and/or transport permit issued shall be charged on transport of foreign liquor other than that where the transport fee has already prescribed without considering the quantity of foreign liquor to be transported.

During test check of the records of four AECs²⁸ and DEO Shajapur between May 2013 and February 2014, we observed that foreign liquor on 24702 permits was transported by the 26 licensees of five districts²⁹ between April 2012 and January 2014. The transport fee of ₹ 24.70 lakh was, however, not deposited by the licensees. The Department did not take any action to recover the amount and issued the permits for transportation without charging any transport fee. This resulted in non-realisation of transport fee of ₹ 24.70 lakh.

After we pointed out (between May 2013 and February 2014) the cases, the AEC Bhopal and Dhar stated (May 2013 and June 2013 respectively) that transport fee was recovered by the warehouse officer at the time of issue of NOC. DEO, M/s Som Distillery Pvt. Ltd. Sehatganj, stated (February 2014), that as per license the amount of ₹ 100 per NOC was deposited. We do not agree as the transport fee was to be deposited separately for issue of NOC and also for granting of transport permit. AEC, Indore stated (January 2014), that audit would be intimated after recovery of the amount on receipt of direction from higher office. AEC, Raisen stated (February 2014), in respect of M/s Som Distillery & Breweries Ltd. Rojrachak, that action would be taken for recovery

²⁷ Transport/import fee of ₹ 22.42 lakh (on 896816.2 lt RS/ENA@ ₹ 2.5/lt)+ transport fee of ₹ 3.80 lakh (on 152000 lt country liquor@ ₹ 2.5/lt)= ₹26.22 lakh

²⁸ Bhopal, Dhar, Indore and Raisen

²⁹ Bhopal, Dhar, Indore, Raisen and Shajapur

and DEO, Shajapur stated (December 2013), that the amount of transport fee would be deposited after examination of records.

We reported the matter to the Government and the Department in May 2014; their replies have not been received (December 2014).

3.12 Non-levy of penalty for non-maintenance of minimum stock of spirit at distillery

According to MPD Rules, 1995 a distiller is required to maintain the prescribed minimum stock of spirit at the distillery. In the event of failure, the EC may impose a penalty not exceeding one rupee per bulk litre on the quantity found short of the minimum prescribed stock irrespective of the fact whether any loss has actually been caused to the Government or not. The distillery officer is required to submit the cases of shortage of spirit against the prescribed quantity to EC in each quarter for levy of penalty and effective monitoring of such cases.

Test check of the records of M/S Agrawal Distillery Pvt. Ltd. Barwaha, Khargone in May 2013, indicated that the distiller did not maintain the prescribed minimum stock of spirit on 90 occasions between June 2012 and April 2013. The DEO distillery, however, failed to submit the cases to the EC for levy of penalty on spirit found short of the minimum prescribed stock of 1914199 BL. This resulted in non-imposition of penalty of ₹ 19.14 lakh.

After the case was pointed out, the DEO Distillery, stated (May 2013) that the case of non-maintenance of minimum stock would be sent to the EC for necessary action.

We reported the matter to the Government and the Department in May 2014; their replies have not been received (December 2014).

CHAPTER - IV

TAXES ON VEHICLES

Chapter-IV Taxes on Vehicles

4.1 Tax administration

The Transport Department functions under the overall charge of the Principal Secretary (Transport). Issue of driving license and levy and collection of tax/fee/penalty on vehicles is administered and monitored by the Transport Commissioner (TC). He is assisted by one Additional Transport Commissioner (Enforcement), two Joint Transport Commissioners (Administration/Finance), three Deputy Transport Commissioners and an internal audit wing at headquarters level. There are 10 Divisional Deputy Transport Commissioners, 10 Regional Transport Offices, (RTOs), 10 Additional Regional Transport Offices (ARTOs) and 30 District Transport Offices (DTOs) at the field level. The Additional Transport Commissioner (Enforcement) monitors the computerisation activities in the Department. Taxes on vehicles are collected under the provisions of the following Acts and Rules and notifications issued thereunder:

The Motor Vehicles(MV) Act, 1988;

Central Motor Vehicles(CMV) Rules,1989;

Madhya Pradesh Motoryan Karadhan Adhiniyam(Adhiniyam), 1991 and

Madhya Pradesh Motoryan Karadhan Niyam(Niyam), 1991

4.2 Internal Audit

The Internal Audit Wing (IAW) in the Department was constituted in 1992 under the direct control of TC. The Internal Audit is being conducted under the supervision of JTC (Finance) with the objective of conducting internal audit of all subordinate offices and issuing instructions for taking proper corrective action on irregularities detected during such examination.

Internal audit is a vital component of Internal Control. It is generally defined as the control of all controls to enable an organisation to assure itself that the prescribed systems are functioning reasonably well.

During the period 2013-14 IAW had planned audit of 38 units, out of which only three units were audited. The low percentage (eight *per cent* of the planned units) of inspection of units during 2013-14 was due to the Assembly and Lok Sabha Election. Moreover, the prevailing low percentage of inspection during the last five years¹ indicate that the Department does not have proper planning for the inspection of units and working of the IAW needs strengthening.

4.3 Result of audit

Test check of the records of 21 units involving total revenue of ₹ 312.15 crore out of 51 units relating to taxes on vehicles during the year 2013-14 revealed underassessment of tax and other irregularities involving ₹ 36.82 crore in 4,17,423 cases which fall under the following categories in the **Table-4.1**.

¹ During 2009-10 to 2013-14 total 274 units planned for audit of which only 108 units actually audited ie, about 39 *per cent*.

Table - 4.1

(₹ in crore)			
Sl. No.	Categories	Number of cases	Amount
1.	Performance Audit on "Assessment and collection of tax on public service vehicles plying on regular stage/contract carriage permit"	1	16.83
2.	Non/Short levy of vehicles tax and penalty on public service vehicles	963	11.33
3.	Non/Short levy of vehicle tax and penalty on goods vehicles	1,114	3.09
4.	Other	4,15,345	5.57
	Total	4,17,423	36.82

During the course of the year, the Department accepted underassessment and other deficiencies of ₹ 11.74 crore in 22,564 cases, which were pointed out in audit during the year 2013-14 and reported realisation of ₹ 1.16 lakh in seven cases.

A Performance audit on "Assessment and collection of tax on public service vehicles plying on regular stage/contract carriage permit" having money value of ₹ 16.83 crore and few illustrative cases involving ₹ 10.17 crore are discussed in the following paragraphs.

4.4 Performance Audit on “Assessment and collection of tax on public service vehicles plying on regular stage/contract carriage permit”

Highlights

The Department had not barred 75 vehicles, which had completed 15 years of life from the year of manufacturing, from plying on stage carriage permit.

(Paragraph 4.4.7.1)

The Department did not take any action against the defaulting vehicle owners, which resulted in non levy of tax amounting to ₹ 7.28 crore including penalty of ₹ 3.73 crore in respect of 270 vehicles.

(Paragraph 4.4.7.3)

Taxation Authorities failed to detect the application of incorrect rate of tax which resulted in short levy of tax of ₹ 1.22 crore besides penalty of ₹ 1.28 crore in respect of 215 vehicles.

(Paragraph 4.4.7.4)

The Department did not initiate action for cancelling the registration certificates of these vehicles whose fitness certificates had expired.

(Paragraph 4.4.7.7)

No action for issuance of revenue recovery certificates was taken up by the Department in follow up of demand notices of ₹ 1.52 crore in respect of 115 vehicles.

(Paragraph 4.4.7.8)

4.4.1 Introduction

The Transport Department is responsible for registration of vehicles, grant of permits for vehicles and exercises control over vehicles plying in the state. The Department also levies and collects taxes, penalties and issues fitness certificates to the vehicles under the provisions of *Madhya Pradesh Motoryan Karadhan Adhiniyam (Adhiniyam), 1991* and *Madhya Pradesh Motoryan Niyam (Niyam), 1991* and rules made thereunder.

The Transport Department provides the service to the public through public service vehicles (PSVs) which comprise “stage carriage” and “contract carriage”.

“Stage carriage” means a motor vehicle constructed or adapted to carry more than six passengers excluding the driver for hire or reward at separate fares paid by or for individual passengers, either for the whole journey or for stages of the journey; and “Contract carriage” means any motor vehicle contracted or adapted for use solely for the carriage of passengers, or any motor vehicle not so constructed or adapted when used for the carriage of passengers.

As per Section 72, 74 and 88 (9) of the Motor Vehicle Act, 1988 stage carriage and contract carriage permits are granted for a period of five years. In case of contract carriage permits, a periodical authorization is required.

Since persistent irregularities on assessment and levy of taxes on public service vehicles plying on regular stage/contract permits were noticed during the previous

audits, therefore the topic "Assessment and collection of tax on public service vehicles plying on regular stage/contract carriage permit" was selected for the Performance Audit.

4.4.2 Organisational set up

The Transport Department functions under the overall charge of the Principal Secretary (Transport). Issue of driving license and levy and collection of tax/fee/penalty on vehicles is administered and monitored by the Transport Commissioner (TC). He is assisted by one Additional Transport Commissioner (Enforcement), two Joint Transport Commissioners (Administration/Finance), three Deputy Transport Commissioners and an internal audit wing at headquarters level. There are 10 Regional Transport Offices, (RTOs), 10 Additional Regional Transport Offices (ARTOs) and 30 District Transport Offices (DTOs) at the field level. The DTC (Enforcement) monitors the computerisation activities in the Department.

4.4.3 Audit objectives

The audit was conducted with a view to assess, whether;

- assessment, levy, collection of tax and exemptions were in accordance with the Acts and Rules;
- Rules and procedures prescribed in the Act/Rule for issue of permits/NOC/fitness were followed;
- Department has taken follow up initiatives relating to issuance of demand notices, seized vehicles;

4.4.4 Audit criteria

Audit criteria were derived from the following while conducting the audit:

- The Motor Vehicles (MV) Act, 1988;
- Central Motor Vehicle (CMV) Rules, 1989;
- Madhya Pradesh *Motoryan Karadhan Adhiniyam*, (Adhiniyam) 1991;
- Madhya Pradesh *Motoryan Karadhan Niyam*. (Niyam), 1991;
- Madhya Pradesh Motor Vehicles Rules, 1994 (MPMV Rules) and notifications/instructions issued there under; and
- Central Motor Vehicles (Amendment) Rule 2010 notified on 07.05.2010 by Ministry of Road Transport and Highways.

4.4.5 Scope and methodology of Audit

For the study of the subject, we test checked the records (Permit register, NOC issuance register, vehicle/permit surrender register and computer database relating to the registration, tax, fitness, and NOC) between January 2014 and August 2014 for the period between 2009-10 and 2013-14 in respect of 17² units out of 51 units amongst the Regional Transport Officers (RTOs)/District Transport Officers (DTOs), which was approved by Nodal Officer by way of random sampling method.

² RTO-Bhopal, Gwalior, Indore, Jabalpur, Morena, Rewa, Sagar, Shahdol and Ujjain, DTO- Balaghat, Bhind, Burhanpur, Datia, Mandla, Rajgarh, Sheopur and Tikamgarh

The scope of the audit includes the examination of data relating to registration of vehicles, assessment, levy and collection of taxes available online on "VAHAN"³. This data can be accessed through internet on the web site www.mptransport.org.in i.e. e-sewa.

An entry conference was held on 6th March 2014 with the Principal Secretary, Transport Department to discuss the objectives, scope and methodology of audit. The audit findings were reported to the Government in August 2014 and were discussed with the Principal Secretary, Transport Department in the exit conference held on 5th September, 2014. The views of the Government/Department have been incorporated suitably in the relevant paragraphs.

4.4.6 Acknowledgement

The Indian Audit and Accounts Department acknowledges the co-operation of the Transport Department in providing necessary information and records to audit.

Audit observations

The Performance Audit revealed a number of deficiencies in the system and compliance and also in the provisions of the Act and rules. Some of the important points are discussed in succeeding paragraphs:

4.4.7 Levy and collection of tax and penalty on PSVs plying on regular stage carriage permit

4.4.7.1 Non adherence to stipulated conditions for grant of permits

As per Government of Madhya Pradesh, Transport Department notification of 24 November 2010, the permit granting authority while granting stage carriage permit shall abide with the following conditions among other things in order to ensure safe, secure and convenient transport services to passengers.

That no stage carriage permit shall be granted for:

- (i) Ordinary route within the State to a vehicle which has completed 15 years from the year of manufacturing.
- (ii) Long distance route of 150Km or above in a single trip, the ordinary bus having seating capacity not less than 50+2 shall be permitted to ply.

We scrutinised (between January 2014 and August 2014) the records in seventeen offices for the period between April 2009 and March 2014 and found that in 75 vehicles out of 4,279 vehicles, the Department failed in implementing the conditions as envisaged in the guidelines, as a result, those vehicles which had completed 15 years of life from the year of manufacturing were still plying on the roads and paying regular tax. We also noticed that the TA had no hesitation in issuing fitness certificates to these vehicles, which defeated the very purpose of Government to issue the guidelines, besides endangering the lives of the passengers.

After we pointed out, the Principal Secretary, Transport Department in the exit conference (September 2014) accepted the facts and stated that in general, the rules are being followed but in some cases there may be irregularities or negligence which would be taken care of and an early remedial action will be taken.

³ VAHAN -An application developed for registration of vehicles and road tax clearance software which was developed by National Information Centre (NIC) for Transport Department of Madhya Pradesh Government

4.4.7.2 Short levy of tax due to wrong assessment of seating capacity of public service vehicles

According to the Rule 158 (3) of Motor Vehicle Tax Act, 1994 and the instructions issued by the Transport Commissioner on 31.05.2005, the seating capacities of the buses should be decided by the Registration Authority on the basis of the wheel base/model of the respective vehicle as per the provisions of the Motor Vehicle Act.

We scrutinised (between January 2014 and August 2014) the records in seven offices⁴ for the from April 2009 to March 2014 and found that the vehicles of model TATA, LP 1109/42 having wheel base of 4200 mm and model TATA LP 709/38 having wheelbase of 3800 mm were registered in less seating capacity by the registration authority than the prescribed seating capacity according to model. By registering the vehicles in lesser seating capacity ranging from two to 10 seats, the Government suffered a revenue loss of ₹ 9.74 lakh.

After we pointed out, the Principal Secretary, Transport Department stated (September 2014) in the exit conference that, concerned RTO's/DTO's shall be directed to look into this matter.

The seating capacity of the old and new passenger vehicles should be revised as per rules.

4.4.7.3 Non levy of vehicle tax and penalty

According to Section 3 (1) and Section 13 of the *Madhya Pradesh Motoryan Karadhan Adhiniyam*, 1991(*Adhiniyam*), tax shall be levied on every public service vehicle plying on regular stage carriage permit at the rate specified in the first Schedule to the *Adhiniyam*. If the owner of the vehicle defaults in making payment of tax, he/she shall be liable to pay penalty at the rate of four *per cent* per month but not exceeding twice the unpaid amount of tax. The Taxation Authority (TA) is responsible to ensure the levy and collection of taxes according to the permits issued, and for the same it is required to maintain a Demand and Collection register to watch the recovery of tax.

We scrutinised (between January 2014 to August 2014) the records in seventeen offices for the period between April 2009 and March 2014 and found that tax amounting to ₹ 3.55 crore was not paid by the vehicle owners in respect of 270 vehicles out of 4,279 vehicles. Besides, no action was taken by the TAs to detect such vehicles and recover the tax according to the provisions of *Adhiniyam* and the rules made thereunder. A penalty of ₹ 3.73 crore though leviable was not levied. This resulted in non-realisation of Government revenue of ₹ 7.28 crore.

After we pointed out, the Principal Secretary, Transport Department accepted the facts and stated (September 2014) in the exit conference that necessary instructions are being issued to concern RTO's/DTO's to recover the outstanding tax dues.

The enforcement wing should be strengthened to detect the vehicles plying without payment of tax and penalty.

4.4.7.4 Short realisation of vehicle tax and non-levy of penalty

According to Section 3 (1) of the *Adhiniyam*, tax shall be levied on every motor vehicle used or kept for use in the State at the rates specified in the first Schedule. In

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RTO-Bhopal, Gwalior, Jabalpur and Sagar, DTO-Balaghat, Bhind and Mandla

case of public service vehicles, tax will be calculated on the basis of the seating capacity of the vehicle and distance of the route allowed. If the tax due has not been paid within the prescribed period, penalty is also leviable at the rate specified under Section 13 of the *Adhiniyam*.

We scrutinised (between January 2014 to August 2014) the records in seventeen offices for the period between April 2009 to March 2014 and found that vehicle tax in respect of 215 vehicles out of 4,279 vehicles, was paid short by the vehicle owners due to deposit of tax at lower rates. Failure of the TAs to detect the application of incorrect rate of tax resulted in short realisation of vehicle tax of ₹ 1.22 crore. Besides penalty of ₹ 1.28 crore was also leviable.

After we pointed out, the Principal Secretary, Transport Department accepted the facts and stated (September 2014) in the exit conference that necessary instructions are being issued to concern RTO's/DTO's to recover the outstanding tax dues.

4.4.7.5 Non-levy of penalty on belated payment

According to the provisions under Section 13 of the *Adhiniyam*, if the tax in respect of any motor vehicle is not paid on due date as specified in Section 5, the owner shall, in addition to the payment of tax due, be liable to pay penalty at the rate of four *per cent* per month on the unpaid amount of tax.

We scrutinised (between January 2014 and August 2014) the records in seventeen offices for the period between April 2009 and March 2014 and found that vehicle tax in respect of 158 vehicles out of 4,279 vehicles was paid by the owners after delay ranging from one to 46 months. However, penalty was neither paid by the owners alongwith the tax, nor it was demanded by the TAs. This resulted in non- realisation of penalty of ₹ 29.68 lakh.

After we pointed out, the Principal Secretary, Transport Department accepted the facts and stated (September 2014) in the exit conference that necessary instructions are being issued to concern RTO's/DTO's to recover the outstanding tax dues.

4.4.7.6. Grant of irregular exemption from payment of tax

According to Rule 11(5) of the Madhya Pradesh Karadhan Rules, 1991 and Government of Madhya Pradesh, Transport Department notification dated 30 September 2004, no vehicle shall be allowed to be surrendered for a period exceeding 45 days (at a time or in part) in a calendar year. In case of surrender exceeding the said period, the permission had to be sought under special circumstances by the Transport Commissioner (TC) by passing an order in writing with reasons and if any vehicle is found surrendered for more than the said period without such permission, then the permit and the registration certificate shall stand revoked and the owner shall have to obtain permit and get the vehicle registered again.

We scrutinised (between January 2014 and August 2014) the records in seventeen offices for the period between April 2009 and March 2014 and found that due to lack of co-ordination between TC Office and the unit offices, 140 vehicles out of 4,279 vehicles were allowed to be surrendered for the period of two to twelve months beyond the prescribed period without obtaining permission from TC resulting in irregular exemption from payment of tax of ₹ 22.32 lakh to the vehicle owners.

After we pointed out, the Principal Secretary, Transport Department in the exit conference (September 2014) accepted the facts and stated that in general, the rules

are being followed but in some cases there may be irregularities or negligence which would be taken care of and an early remedial action will be taken.

A system should be evolved to co-ordinate amongst all the unit offices and also with TC Office so that leakages of the revenue may be plugged.

4.4.7.7 Verification of fitness certificates of vehicles

- **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. Further Section 190 (1) stipulated that, any person who drives or causes or allows to be driven in any public place a motor vehicle or trailer while the vehicle or trailer has any defect, which such person knows of or could have discovered by the exercise of ordinary care and which is calculated to render the driving of the vehicle a source of danger to persons and vehicles using such place, shall be punishable with fine which may extend to two hundred and fifty rupees or, if as a result of such defect an accident is caused causing bodily injury or damage to property, with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

We scrutinised (between January 2014 and August 2014) the records in seventeen offices for the period between April 2009 and March 2014 and found that in 50 cases out of 4,279 vehicles, the fitness certificates were not renewed and were overdue ranging from three to 57 months, although the tax was regularly paid by the vehicle owners. In respect of 38 Maxicabs registered in seven offices⁵, life time tax upto the year 2026 had been paid, but the vehicle owners had not renewed the fitness certificate of these vehicles even after lapse of period ranging between six and 30 months, which was dangerous to public life and therefore, the registration certificates of these vehicles should not be deemed valid. The Department neither initiated action for cancelling the registration certificates of these vehicles whose fitness certificates had become overdue nor levied any fine from defaulting vehicle owners as per provisions of the Act. Besides endangering the lives of the passengers, this also resulted in loss of revenue. Immediate steps must be taken to timely issue of fitness certificates of all the vehicles which are due, in the interest of public safety.

After we pointed out, the Principal Secretary, Transport Department in the exit conference (September 2014) accepted the facts and stated that in general, the rules are being followed but in some cases there may be irregularities or negligence which would be taken care of and an early remedial action will be taken.

The Department should take immediate steps to verify the fitness for all the vehicles which are due, to avoid loss of revenue and in the interest of public safety.

- **Irregular issue of fitness**

As per Rule 48 of Madhya Pradesh Motor Vehicle Rule, 1994, fitness of the vehicle shall be accompanied with the tax clearance certificate.

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RTO- Gwalior (5), RTO-Indore (5), RTO-Jabalpur (5), RTO-Sagar (6), RTO-Ujjain (7), DTO-Balaghat (5) and DTO-Bhind (5)

We scrutinised (between January 2014 and August 2014) the records in seventeen offices for the period between April 2009 and March 2014 and found that in 84 cases out of 4279 vehicles, the fitness certificates were issued to the vehicles even though the tax of ₹ 1.16 crore was outstanding for the period ranging from one to 57 months against these vehicles, which was not within the ambit of rules.

After we pointed out, the Principal Secretary, Transport Department in the exit conference (September 2014) accepted the facts and stated that in general, the rules are being followed but in some cases there may be irregularities or negligence which would be taken care of and an early remedial action will be taken.

The Government may consider prescribing a mechanism to detect the vehicles plying without payment of tax and without renewal of fitness.

4.4.7.8 Absence of monitoring and follow up mechanism for realisation of arrears

- **Inadequate action for recovery of arrears of revenue**

According to the provisions of Motor Vehicle Act, 1988 and the rules made there under where any owner fails to pay tax or penalty or both, the Taxation Authority shall serve on the owner a demand notice for sum payable to the State Government. In case of failure to pay the sum contained in the notice within seven days of the serving of notice, the TA may proceed to recover the amount as arrears of Land Revenue.

We scrutinised (between January 2014 and August 2014) the demand notices issued to the defaulters and records related to dispatch in seventeen offices for the period between April 2009 and March 2014. In 115 cases, although demand notices were issued during December 2010 to March 2014, for recovery of outstanding tax and penalty amounting to ₹ 1.52 crore yet the same was still not paid by the vehicle owners and no action for issuance of revenue recovery certificates was taken by the Department.

After we pointed out, the Principal Secretary, Transport Department accepted the facts in the exit conference and stated (September 2014) that an early remedial action will be taken.

An effective mechanism for regular monitoring and follow up of recovery action in each pending case should be evolved by the Department.

- **Failure to auction seized vehicles**

According to the provisions of Land Revenue Code, 1959, the revenue authority may proceed to recover the dues as arrears of land revenue by auctioning the moveable property.

We scrutinised (between January 2014 and August 2014) the records related to seized vehicles in RTO Indore and Jabalpur and found that six Public Service Vehicles (PSVs) were seized by the Department during the period between April 2009 and March 2014 against which taxes were outstanding. However, the TAs had not initiated action to recover the dues by auctioning these vehicles. This resulted in non recovery of tax amounting to ₹ 16.24 lakh.

After we pointed out, the Principal Secretary, Transport Department in the exit conference accepted the facts and stated (September 2014) that an early remedial action will be taken.

4.4.8 Levy and collection of tax and penalty on in respect of PSVs plying on All India Permit

4.4.8.1 Non realisation of tax

All India tourist permit is granted by the State Transport Authority (STA) under Section 88 (9) of the Motor Vehicles Act, 1988. Tax is payable at the rates prescribed in the first Schedule to the *Adhiniyam*. If the tax due had not been paid within the prescribed period, penalty was also leviable.

We scrutinised (between January 2014 and August 2014) the records in seventeen offices for the period between April 2009 and March 2014 and found that vehicle tax amounting to ₹ 28.46 lakh was not paid by the vehicle owners in respect of 31 vehicles out of 125 vehicles. Besides, no action was taken by the TAs to detect such vehicles and recover the tax according to provisions of *Adhiniyam* and the Rules made there under. A penalty of ₹ 22.54 lakh though leviable was not levied. This resulted in non-realisation of Government revenue of ₹ 51.01 lakh.

After we pointed out, the Principal Secretary, Transport Department accepted the facts and stated (September 2014) in the exit conference that necessary instructions are being issued to concern RTO's/DTO's to recover the outstanding tax dues.

4.4.8.2 Short realisation of vehicle tax and non-levy of penalty

All India tourist permit is granted by the State Transport Authority (STA) under Section 88 (9) of the Motor Vehicles Act, 1988. Tax is payable at the rates prescribed in the first Schedule to the *Adhiniyam*. In case of public service vehicles, tax will be calculated on the basis of the seating capacity of the vehicle and distance of the route allowed. If the tax due had not been paid within the prescribed period, penalty was also leviable at the rate specified under Section 13 of the *Adhiniyam*.

We scrutinised (between January 2014 and August 2014) the records in seventeen offices for the period between April 2009 and March 2014 and found that vehicle tax in respect of 44 vehicles out of 125 vehicles, was paid short by the vehicle owners due to tax deposited at lower rates. Failure of the TAs to detect the application of incorrect rate of tax resulted in short realisation of vehicle tax of ₹ 56.60 lakh. Besides the penalty of ₹ 61.66 lakh was also leviable.

After we pointed out, the Principal Secretary, Transport Department accepted the facts and stated (September 2014) in the exit conference that necessary instructions are being issued to concern RTO's/DTO's to recover the outstanding tax dues.

4.4.9 Non levy of vehicle tax and penalty on Maxicab vehicles plying on contract carriage

According to Section 3(1) of the *Adhiniyam*, a tax shall be levied on every Maxicab vehicle used or kept for use in the State at the rate specified in the first Schedule to the *Adhiniyam*, failing which the owner shall be liable to pay a penalty at the rate specified in the *Adhiniyam*.

We scrutinised (between January 2014 and August 2014) the records in seventeen offices for the period between April 2009 and March 2014 and found that vehicles tax amounting to ₹ 99.57 lakh was not paid by the vehicle owners in respect of 350 vehicles out of 4,015 vehicles. Besides, no action was taken by the TA to detect such vehicles and recover the tax according to provisions of *Adhiniyam* and the Rules made

thereunder. A penalty of ₹ 90.59 lakh though leviable was not levied. This resulted in non-realisation of Government revenue of ₹ 1.90 crore.

After we pointed out, the Principal Secretary, Transport Department accepted the facts and stated (September 2014) in the exit conference that necessary instructions are being issued to concern RTO's/DTO's to recover the outstanding tax dues.

4.4.10 Working of internal audit wing

Internal audit wing (IAW) has been established in the Department with the objective of conducting internal audit of all subordinate offices and issuing instructions for taking proper corrective action on irregularities detected during such examination.

We observed that specific aspects relating to "Assessment and collection of tax on public service vehicles plying on regular stage/contract carriage permit" were not covered by the IAW, which indicates that effective safeguard against leakage of revenue under the system was not ensured. Besides, the Government of India, Ministry of Road Transport and Highways had embarked upon a scheme for creation of a National Database network, with the help of National Informatics Centre (NIC) amongst all the RTOs in the State. Two softwares were designed by the NIC for this purpose, VAHAN for registration of vehicles, collection of taxes, penalty etc. and the SARATHI for issue of Learner's license, Driving License, Motor Training School license etc. However, there is no interlinking of data-base amongst the Office of RTOs/ARTOs/DTOs but TC Office can access the data-base of RTOs/ARTOs/DTOs through central server. In absence of the mechanism for interlinking the database, the Offices were not in a position to ensure, whether the vehicle owners had paid due taxes properly.

The Department should devise a mechanism for consolidating the centrally available data specifically for the vehicles plying on stage/contract carriage to avoid leakage of tax revenue.

4.4.11 Absence of departmental manual

As an internal control measure, it is essential that departmental manual is prepared outlining the process required to be followed by different level of staff in order to ensure proper functioning of various wings of the Department.

The Transport Department did not have any departmental manual setting out the functions and responsibilities of the officials of all categories in accordance with instructions issued by the Government/Department. In the absence of the manual various checks and balances to be exercised by the Department for registration of vehicles, levy of taxes etc. could not be ensured.

Further, it was also noticed that after computerisation in the Department the records/register related to accountal of tax paid or due are not being maintained manually. In the computerised software of the Department, there is no check available to detect the short levy of taxes, issue of fitness certificates before clearance of tax dues, issue of demand notices etc. In absence of this necessary check, the leakage of revenue could not be plugged.

The Government may consider prescribing a manual and proper mechanism to exercise the check over leakage of revenue receipt amongst the various functionaries of the Department.

4.4.12 Conclusion

The Performance Audit revealed a number of compliance and system deficiencies as discussed in preceding paragraphs that requires attention of the Department. We conclude that:

- the instances of non adherence to stipulated conditions for grant of permits for vehicles which had completed 15 years of life, from the year of manufacturing were still plying on stage carriage permit;
- inordinate delay in revising the seating capacity of passenger vehicles in accordance with the rules;
- non levy of tax, levy of tax at lower rates and non recovery of outstanding dues;
- irregular grant of exemption from payment of tax due to lack of co-ordination between TC Office and the unit offices ;
- cases of irregular issuance of fitness certificates of vehicles and resultant non realisation of tax; and
- inaction in follow up of demand notices and auction of seized vehicles was also noticed.

4.5 Other Audit observations

We scrutinised the records of various transport offices and noticed several cases of non-observance of the provisions of the Acts/Rules/Government notifications/instructions resulting in non/short realisation of tax, fees etc., as mentioned in the succeeding paragraphs of this chapter. These cases are illustrative and are based on a test check carried out by us. Such omissions on the part of the transport authorities have been pointed out in earlier Audit Reports, but not only these irregularities continue to persist, these remain undetected till audit is conducted. There is need for the Government to improve the internal control system so that such omissions can be avoided.

4.6 Non realisation of tax and penalty on vehicles

According to the Section 3(1) of *Madhya Pradesh Motoryan Karadhan Adhiniyam (Adhiniyam)*, 1991, tax shall be levied on every vehicle used or kept for use in the State at the rates (Monthly/quarterly) specified in the first Schedule to the *Adhiniyam*. If the owner of the vehicle defaults in making payment of tax, he/she shall be liable to pay penalty at the rate of four *per cent* per month as per Section 13 on the unpaid amount of tax which shall not be more than twice the amount of tax. Further, according to Section 22 of the *Adhiniyam* and Rules thereunder, the Taxation Authority (TA) is required to maintain a Demand and Collection register to watch the recovery of tax. He is also required to review the register at periodic intervals and issue demand notices to the defaulters. Further, the Transport Commissioner instructed to all RTOs/ DTOs vide circular no. 10/12 dated 15.12.1992 that a RTO/DTO must inspect his office twice in a year.

4.6.1 We scrutinised (between March 2012 and February 2013) the records (Demand and Collection Register, NOC issuance register, vehicle surrender register, permit surrender register, as well as computerized database) and found that tax amounting to ₹4.18 crore was not paid by the vehicle owners in respect of 1,553 vehicles out of 16,562 vehicles test checked, for the period between April 2010 and March 2013. There was nothing on record to show that the vehicles were declared off road or were transferred to any other district/State. No action was taken by the TAs to recover the tax from the defaulting vehicle owners according to the provisions of *Adhiniyam* and the Rules made thereunder. Further, penalty of ₹ 2.69 crore though leviable was not levied. The inspection of all offices was conducted by the TAs, but the omission was not detected by them which indicated that the inspection was ineffective. This resulted in non-realisation of Government revenue of ₹ 6.87 crore as mentioned in the **Table-4.2**.

Table - 4.2

(₹in crore)						
Sl. No	No. of offices	Category of vehicles No. of vehicles	Period involved	Tax not paid	Penalty leviable	Total
1	19 ⁶	Goods vehicles/ 836	4/10 to 3/13	1.62	1.10	2.72
2	19 ⁷	Public service vehicles kept as reserve /412	4/10 to 3/13	2.00	1.14	3.14
3	13 ⁸	Maxicab/Taxicab/305	4/08 to 3/12	0.56	0.45	1.01
	Total	1,553		4.18	2.69	6.87

After we pointed out the cases (between February 2013 and February 2014), six TA⁹ stated (between February 2013 and January 2014) that an amount of ₹74,000 has been recovered in five cases and demand notices have been issued to the defaulters in 291 cases.

4.6.2 We scrutinised (between September and October 2013) the records (Demand and Collection Register, NOC issuance register, as well as computerized database) in three District/Regional Transport offices¹⁰ and found that vehicle tax in respect of 30 motor vehicles out of 375 vehicles test checked, was paid by the owners during the period between April 2010 and March 2013 after delays ranging from one to 25 months. However, penalty was neither paid by the owners along with tax, nor was it demanded by the TAs. The inspection of all offices was conducted by the TAs, but the omission was not detected by them which indicated that the inspection was ineffective. This resulted in non-realisation of penalty of ₹3.95 lakh.

After we pointed out the cases (between September and October 2013), the TA, Guna stated (September 2013) that demand notices would be issued to the vehicle owners for recovery whereas other TAs stated that action would be taken after scrutiny of the cases.

We reported the matter to the Government and the Department in June 2014; their replies have not been received (December 2014).

4.7 Non realisation of tax and penalty on Earthmover/Harvester

According to notification dated 28 December 2007, rates of taxes on motor vehicles i.e. Crane, Loader, Earthmover, Harvester etc. were amended according to their unladen weight i.e. up to 7000 kg ₹ 3700 per quarter and thereafter for each 1000 kg or part thereof ₹500 per quarter. If the tax due has not been paid within the prescribed period, penalty is also leviable at the rate specified under section 13 of the *Adhiniyam* *ibid*.

We scrutinised (between March 2012 and February 2013) the records (Demand and Collection Register, NOC issuance register, as well as computerized database) in 18

⁶ Regional Transport Officer (RTO) – Bhopal, Gwalior, Hoshangabad, Indore, Jabalpur, Morena, Rewa, Sagar and Shahdol, Additional Regional Transport Officer (ARTO) – Chhatarpur, Chhindwara, Guna, Katni and Satna and District Transport Officer (DTO) – Betul, Datia, Jhabua, Neemuch and Ratlam

⁷ RTO – Bhopal, Gwalior, Hoshangabad, Indore, Jabalpur, Morena, Rewa, Sagar and Shahdol, ARTO – Chhatarpur, Chhindwara, Guna, Katni, and Satna and DTO – Betul, Datia, Jhabua, Neemuch and Ratlam

⁸ RTO – Bhopal, Hoshangabad, Indore, Rewa and Shahdol, ARTO – Chhatarpur, Chhindwara, Guna and Satna and DTO – Betul, Jhabua, Neemuch and Ratlam

⁹ RTO – Bhopal, Indore and Sagar, ARTO – Chhindwara and Satna, DTO – Datia.

¹⁰ ARTO - Guna, DTO – Betul and Ratlam

District/Regional Transport offices¹¹ and found that tax in respect of 394 vehicles (harvester, earthmover, crane etc.) out of total 2,596 vehicles, for the period between April 2010 and March 2013, was not paid by the vehicle owners. Inspection of all the offices was conducted by the TAs, but the omission was not detected by them which indicated that the inspection was ineffective. This resulted into non-realisation of tax of ₹ 61.55 lakh. Besides, penalty of ₹ 38.36 lakh leviable on the unpaid amount of tax was also not levied.

After we pointed out the cases (between February 2013 and February 2014), four TAs¹² stated (between May and September 2013) that an amount of ₹ 42,000 was recovered in two cases and demand notices has been issued in 73 cases to the defaulters.

We reported the matter to the Government and the Department in June 2014; their replies have not been received (December 2014).

4.8 Non/short realisation of trade fee

According to Rule 34 of the Central Motor Vehicles (CMV) Rules, 1989, an application for grant or renewal of a trade certificate shall be made by the dealer in Form 16 and shall be accompanied by the appropriate fee (for motorcycle ₹ 50 and for others ₹ 200 per vehicle) as specified in Rule 81 *ibid*. The fee is chargeable for each vehicle sold by the dealer. Further, the Transport Commissioner issued order (January 2012) to recover trade fee as per rule.

We scrutinised (between February 2013 and February 2014) the trade fee register and returns submitted by the dealers (wherever available) and from information furnished by the TAs in 11 District/ Regional Transport Offices¹³ and found that 3,00,016 vehicles were registered under different categories between April 2010 and March 2013. However, the dealers had not deposited the requisite trade fee or deposited less trade fee than that prescribed. The TAs neither ascertained the actual number of vehicles sold nor recovered the leviable trade fee. This resulted in non/short realisation of revenue of ₹ 2.19 crore.

After we pointed out the cases (between February 2013 and February 2014), the TA, Indore and Chhatarpur stated (March 2013) that trade tax is collected from the dealers under Section 4 of *Adhiniyam* as per rates specified in the third Schedule. The reply does not address the issue of non-recovery of trade fee prescribed under the CMV Rules, 1989 whereas TA, Neemuch stated (December 2013) that trade fee will be levied as per rules in future. Remaining TAs¹⁴ stated (between February 2013 and February 2014) that action would be taken after getting instruction from headquarters. We do not agree as the Transport Commissioner had issued an order that the trade fee would be recovered according to CMV Rules, 1989.

We reported the matter to the Government and the Department in June 2014; their replies have not been received.

11 RTO – Gwalior, Hoshangabad, Indore, Jabalpur, Morena, Rewa, Sagar and Shahdol, ARTO – Chhatarpur, Chhindwara, Guna, Katni and Satna, DTO – Betul, Datia, Jhabua, Neemuch and Ratlam
 12 RTO – Morena, Rewa, Sagar and ARTO – Chhindwara
 13 RTO - Hoshangabad, Indore, Jabalpur, Rewa and Shahdol ARTO – Chhatarpur, Chhindwara, Katni and Satna, DTO – Betul and Neemuch
 14 RTO - Hoshangabad, Jabalpur, Rewa and Shahdol ARTO – Chhindwara, Katni and Satna, DTO – Betul

4.9 Short realisation of composition fees from goods vehicles carrying excess load

According to Section 194 of the MV Act, 1988 the composition fees for carrying excess load by goods vehicles shall be a minimum of ₹ 2,000 and an additional amount of ₹ 1,000 for first tonne and thereafter ₹ 500 for per tonne or part thereof for excess load.

We scrutinised (between October and December 2013) the offence register with Madhya Pradesh Treasury Code-6 (MPTC-6) in seven border check posts¹⁵ for the period between April 2010 and March 2013 and found that 330 goods vehicles had carried excess load from one to five tonne beyond the registered laden weight (RLW). The Officer-In-Charge (OIC) only levied and recovered composition fee of ₹ 5.09 lakh as against the recoverable fee of ₹ 11.69 lakh from vehicle owners. This resulted short-realisation of composition fee of ₹ 6.60 lakh.

After we pointed out the cases (between October and December 2013), OIC Datia and Ratlam stated (November 2013) that recovery from the defaulters will be intimated whereas OIC Jhabua and Neemuch stated (December 2013) that recovery would be made in accordance with MV Act in future.

We reported the matter to the Government and the Department in June 2014; their replies have not been received (December 2014).

¹⁵

Kaimaha, Majhgwa (Satna), Malthon (Sagar), Morena, Paharibandha, Sanjay Nagar (Chhatarpur) and Sendhwa (Badwani)

CHAPTER - V

LAND REVENUE

Chapter – V

Land Revenue

5.1 Tax administration

The Revenue Department is headed by the Principal Secretary at the Government level. The Principal Revenue Commissioner (PRC) is the Head of the Department and is assisted by the Commissioner, Settlement and Land Records (CSLR). Commissioners of Divisions exercise administrative and fiscal control over the districts included in the Division. In each district, the Collector administers the activities of the Department. It is entrusted upon the Collector of a district to place one or more Assistant Collector(s) or Joint Collector(s) or Deputy Collector(s) in charge of a sub-division of a district. The officers so placed in charge of a sub-division are called Sub Divisional Officers (SDO). They have to exercise such powers of the Collector as are directed by the State Government by notification. Superintendents/Assistant Superintendents, Land Records (SLR/ASLR) are posted in the Collectorate for maintenance of revenue records and settlement. Tehsildars/Additional Tehsildars are deployed in the tehsils as representatives of the Revenue Department. There are 10 revenue divisions, each headed by a Commissioner, 50 districts, each headed by a Collector and 341 tehsils in the State.

Receipts from Land Revenue are regulated under the provisions of the following Acts and Rules and notifications issued thereunder:

- Madhya Pradesh Land Revenue Code (MPLRC), 1959;
- Madhya Pradesh *Panchayat Raj Adhiniyam* (MPPRA), 1993;
- Madhya Pradesh *Upkar Adhiniyam*, 1982;
- Madhya Pradesh *Lokdhan (Shodhya Rashiyon Ki Vasuli) Adhiniyam* (MPLA), 1987 and
- Revenue Book Circular (RBC).

5.2 Internal Audit and inspection

Internal Audit is an important mechanism to ensure that the departmental operations are carried out in accordance with the applicable laws, regulations and approved procedures in an economical, efficient and effective manner, subordinate offices are maintaining various records, registers/account books properly and accurately, and adequate safeguards are being taken against non/short collection or evasion of revenue.

We observed that no internal audit wing existed in the Department. In the absence of this, internal control mechanism in the Department was weak .

Internal Audit wing may be formed to ensure regular internal audit for eliminating the weakness and defective practices in the system and resultant leakage of revenue.

5.3 Results of audit

Test check of the records of 68 units relating to land revenue during the year 2013-14 indicated underassessment of revenue and other irregularities involving ₹ 154.44 crore in 76,322 cases which fall under the following categories in the **Table-5.1**.

Table - 5.1

(₹ in crore)			
Sl. No.	Categories	No. of Cases	Amount
1.	Incorrect application of rates resulted in loss of premium and ground rent	77	0.75
2.	Non-renewal of lease of <i>nazul</i> land	13	0.76
3.	Underassessment of diversion rent/premium	150	0.42
4.	Non-raising of demand of diversion rent/premium and penalty	10,660	0.77
5.	Non-levy/realisation of process expense	36	3.07
6.	Non-registration of revenue recovery certificates	06	0.48
7.	Other observations	65,380	148.19
Total		76,322	154.44

During the course of the year, the Department accepted underassessment and other deficiencies of ₹ 96.63 crore in 76,154 cases, which were pointed out in audit during the year 2013-14. An amount of ₹ 3.33 crore was realised in 90 cases by the Department during the year 2013-14 (for the year 2011-12 and 2012-13).

A few illustrative audit observations involving ₹ 94.83 crore highlighting important audit findings are mentioned in the following paragraphs.

5.4 Audit observations

We scrutinised the records related to assessment and collection of Land Revenue which revealed short levy of premium and ground rent and other irregularities as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out by us. Such omissions on the part of the assessing authorities have been pointed out in earlier Audit Reports, but not only do these irregularities continue to persist; these remain undetected till audit is conducted. There is need for the Government to improve the internal control system so that such omissions can be avoided.

5.5 Underassessment of premium and ground rent

RBC-IV-I provides for levy of premium on market value of 60 per cent of *nazul* land allotted to development authority and Housing Board or the plot area for residential purpose, whichever is more. Ground rent is leviable at prescribed rates for residential purpose. According to the circular of April 2003 issued by Revenue Department, Government of Madhya Pradesh, *nazul* land would be valued according to the provisions of the guidelines issued by the Collector after reducing development charges.

We observed (January 2012) during test check of case files of allotment of land in Collectorate (*Nazul*), Gwalior, that land measuring 24.658 hectare situated in village Dongarpur, within the limit of Municipal Corporation, Gwalior was allotted to Madhya Pradesh Housing Board by the Collector, Gwalior in April 2011 for residential purpose at a premium of ₹ 8.79 crore and ground rent of ₹43.94 lakh. We noticed that the Department incorrectly valued the land rates considering the rates applicable for agriculture land for the year 2010-11 instead of the rates applicable to land allotted for residential purpose during 2011-12 in terms of the provision of RBC-IV-I. Levy of incorrect rate not only led to underassessment of premium and ground rent but also resulted in short levy/realisation of revenue of ₹91.75 crore as per details in **Table-5.2**.

Table - 5.2

(₹ in crore)			
<u>Village/Area Sq.metre</u> <u>Rate per Sq. metre</u> <u>development charges</u>	<u>Premium</u> <u>Yearly</u> <u>Ground rent</u> <u>Leviable¹</u>	<u>Premium</u> <u>Yearly</u> <u>Ground rent</u> <u>Levied</u>	<u>Short levy</u> <u>Premium</u> <u>Ground rent</u>
<u>Dongarpur/ 24.658</u> <u>hectare</u> <u>2,46,580 Sq. metre</u> <u>(8,000-1,500 = ₹ 6,500)</u>	<u>96.17</u> 4.81	<u>8.79</u> 0.44	<u>87.38</u> 4.37
Total			₹ 91.75

After we pointed out the case, Additional Collector, Gwalior stated in March 2014 that compliance would be submitted to audit after receipt of information from Sub Divisional Officer.

We reported the matter to the Department and Government in May 2014; their replies have not been received (December 2014).

¹ Leviable Premium = ₹ 96.17 crore at the rate of ₹ 6500 per Sq. metre on 1,47,948 Sq. metre (60% of 2,46,580 = 1,47,948 sq. metre)
Leviable Yearly Ground rent = ₹ 4.81 crore per year (5% of ₹ 96.17 crore)

5.6 Non remittance of land revenue and *upkar* in Government Account

As per Rule 7 (i) of Madhya Pradesh Treasury Code (volume I) read with Government notification issued in November 2001, land revenue and *upkar* collected by Tehsil offices should be remitted into the treasury in Government account under the major head 0029-Land Revenue without any delay.

We observed between August 2012 and March 2014 during test check of statement of demand and collection and challans of 21 Tehsil offices² land revenue and *upkar* of ₹ 2.26 crore collected between 2006 and 2013 by Tehsil offices was deposited in Panchayat Fund rather than in the treasury under Major head '0029'-Land revenue. Thus, failure to adhere to the prescribed system of remittances deprived the exchequer of revenue of ₹ 2.26 crore. Moreover, the discrepancy was not pointed out by the Department, though the inspection of 12 Tehsils³ was conducted by the higher departmental Authorities between March 2009 and January 2014, which is indicative of ineffective inspections.

After we pointed out, respective Tehsildars stated in May 2014 that land revenue and *upkar* would be deposited in Major Head '0029' land revenue and audit would be intimated.

We reported the matter to the Department and Government in May 2014; their replies have not been received (December 2014).

5.7 Underassessment of premium and ground rent in renewal of temporary lease

Paragraph 32 (2) of RBC IV-I provides for levy of 30 per cent premium and 7.5 per cent of full premium as yearly ground rent on allotment of Government plots on temporary lease for three years for commercial purposes. The same rates are applicable for renewal of temporary lease. The premium in such cases is equal to the market value of plots worked out in accordance with the market value guidelines of the district.

During the test check of files regarding temporary lease (November 2012) in Collectorate (Nazul Section) Dhar, we observed that a temporary lease of a plot measuring 1,740 sq. metre was renewed in March 2012. The plot was situated on road in village Eklara Khurd of Dharampuri Tehsil and a petrol pump was running on the said plot. According to the market value guidelines of Dhar district for the year 2011-12, the rates of plot of the locality were ₹ 7,000 per sq. metre. Therefore, 30 per cent of premium and yearly ground rent worked out to ₹36.54 lakh and ₹ 9.13 lakh respectively. We however noticed that the collector applied the rates applicable for agriculture land and determined the 30 per cent of premium and yearly ground rent as ₹1.04 lakh and ₹ 0.26 lakh respectively. The temporary lease was renewed on payment of ₹ 1.04 lakh towards 30 per cent premium and three year ground rent amounting to ₹ 0.78 lakh (totaling ₹ 1.82 lakh). The under assessment resulted in short realisation of premium and ground rent of ₹ 62.12 lakh.

After this was pointed out, the Revenue Inspector (Nazul) stated in November 2012 that the premium and ground rent was determined in accordance with the guidelines. The reply is not in conformity with the provisions of guidelines as nowhere in the guidelines, it was provided that rates of agriculture land would be applicable for petrol pump rather than plot rates.

² Amla(Betul), Badwaha (Khargone), Bhandar (Datia), Bhichiya (Mandla), Burhanpur, Chhinor (Gwalior), Dabra (Gwalior), Huzur (Bhopal), indore, Karhal (Sheopur), Katangi (Balaghat), Kurai (Seoni), Laundi (Chhatarpur), Mahidpur (Ujjain), Manpur (umaria), Multai (Betul), Pipariya (Hosangabad), Prasiya (Chhindwara), Sehore, Uchera (satna), Vidisha

³ Amla (Betul), Badwaha (Khargone), Bhandar (Datia), Chhinor (Gwalior), indore, Karhal (Sheopur), Kurai (Seoni), Laundi (Chhatarpur), Mahidpur (Ujjain), Multai (Betul), Sehore, Vidisha

We reported the matter to the Department and Government in May 2014; their replies have not been received (December 2014).

5.8 Underassessment of diversion rent, premium and *upkar*

Under Section 59 and 172 of MPLRC, 1959, where land assessed for one purpose is diverted for any other purpose, the Land Revenue payable on such land shall be revised and reassessed in accordance with the purpose for which it has been diverted from the date of such diversion at the rates fixed from time to time by the Government. Further, *Panchayat Upkar* at the rate of 50 *paisa* for each rupee of diversion rent is also leviable in *Gram Panchayat* area.

During test check of diversion cases, in office of one Tehsildar⁴ and three Collectorate (Diversion)⁵, between November 2012 and February 2014, we observed that there was underassessment of diversion rent and premium in 20 cases of diversion decided between October 2010 and August 2013. We noticed that diversion for the commercial purposes was treated as residential purpose, rates were incorrectly applied or assessment was done on reduced area. We also observed that in 13 out of these 20 cases, *panchayat upkar* was not assessed though the land was situated in *Gram Panchayat* area. This resulted in short/non levy of premium, diversion rent and *upkar* of ₹ 19.75 lakh as per details given in the **Annexure-XIII**

After we pointed out, the Sub Divisional officer, Bhopal, Burhanpur and Tehsildar Badarwas (Shivpuri) stated between May and December 2013 that recovery would be made under intimation to Audit. The Superintendent, Land Records of Collectorate (Diversion), Dewas stated in respect of three cases in November 2012 that area as per application for diversion was taken for assessment. The replies do not explain as to why the area/lay out approved by the Town and Country Planning Department was not considered for assessment of premium and diversion rent. As such, the cases are required to be reviewed for rectification.

We reported the matter to the Department and Government in May 2014; their replies have not been received (December 2014).

⁴ Tahsildar Badarwas (Shivpuri)
⁵ Bhopal, Burhanpur and Dewas

CHAPTER - VI

STAMP DUTY AND REGISTRATION FEES

Chapter-VI

Stamp Duty and Registration Fees

6.1 Results of audit

Test check of the records of 97 out of 233 units related to Stamp duty and Registration fees during the year 2013-14 indicated non realisation of revenue due to inordinate delay in finalisation of cases, short realisation of Stamp duty and Registration fees, incorrect exemption and other observations involving ₹356.46 crore in 3,139 cases which fall under the following categories in the following **Table-6.1**.

Table - 6.1

Sl. No.	Categories	(₹ in crore)	
		No. of Cases	Amount
1.	2.	3.	4.
1	Performance Audit on “Assessment and Levy of Stamp duty and Registration fees”	1	85.46
2.	Loss of revenue due to inordinate delay in finalisation of cases	874	10.58
3.	Short realisation of Stamp duty and Registration fees due to undervaluation of properties/incorrect exemption	590	11.88
4.	Incorrect exemption from payment of Stamp duty and Registration fees	131	94.00
5.	Loss of revenue due to misclassification of instruments	68	17.54
6.	Other observation	1475	137.00
Total		3139	356.46

During the course of the year, the Department accepted underassessment and other deficiencies of ₹ 41.43 crore in 1,794 cases, which were pointed out in audit during the year 2013-14 and reported realisation of ₹ 3.35 crore in 462 cases.

A Performance Audit on “**Assessment and Levy of Stamp duty and Registration fees**” involving revenue impact of ₹ 85.46 crore is mentioned in succeeding paragraphs.

6.2 Performance Audit on “Assessment and Levy of Stamp Duty and Registration Fees”

Highlights

There was short levy of Stamp duty and Registration fees of ₹ 40.13 crore on instruments of lease deeds of mines due to incorrect determination of average annual royalty.

(Paragraph 6.2.10)

Inaction on the part of the Department to ensure registration of lease deeds of mobile towers led to short levy of Stamp duty and non levy of Registration fees of ₹ 13.92 lakh in 44 cases.

(Paragraph 6.2.11)

Incorrect application of rates on instruments of agreements related to development of land by the Department led to short levy of stamp duty of ₹ 33.63 lakh.

(Paragraph 6.2.12)

Incorrect determination of market value and non-finalisation of referred cases led to short levy of Stamp duty and Registration fees of ₹ 13.69 crore.

(Paragraph 6.2.13)

There was short levy of Stamp duty and Registration fees of ₹ 1.22 crore on instruments of power of attorney and due to misclassification of documents.

(Paragraph 6.2.14 and 6.2.15)

There was short realisation of Stamp duty and Registration fees of ₹ 21.49 lakh by selling land belonging to Scheduled Tribe persons for consideration of ₹ 3.60 crore instead of ₹ 11.24 crore to non Scheduled Tribe Persons. This also resulted in failure in safeguarding the interests of Scheduled Tribe Persons by depriving them of land with market value of ₹ 7.64 crore.

(Paragraph 6.2.17)

There was non/short realisation of revenue of ₹ 9.69 crore due to non-registration of instruments of development agreement and short/non levy of Stamp duty and Registration fees in 24 cases.

(Paragraph 6.2.18)

There was short/non levy of Stamp duty and Registration fees of ₹ 10.23 crore due to undervaluation of development expenditure on mortgage deeds of developing land in 99 cases.

(Paragraph 6.2.19)

6.2.1 Introduction

Stamp duties other than duties or fees collected by means of judicial stamps is a subject included in the Concurrent List of the Seventh Schedule of the Constitution of India. The Indian Stamp Act, 1899 and the State Acts impose duty on various instruments at the rates specified therein. Such duties are paid by executors of instruments by either using impressed stamp paper of proper denomination or by affixing stamps of proper denomination. The State Governments have made rules for the purpose of the Act by virtue of powers vested in them. These rules lay down the detailed procedure for determination and collection of Stamp duty. The Indian Registration Act, 1908 and rules made thereunder by the State Governments, broadly outline the system of assessment and collection of Registration fees. The Sub-Registrar or the registering authority examines the documents presented before them to see that they have been presented within the time allowed and that the instruments have been properly stamped as required under the Indian Stamp Act.

The revenue of the Department has gone up from ₹ 1783.15 crore in 2009-10 to ₹ 3389.99 crore in 2013-14. This increase in receipts led to the decision of conducting this Performance Audit.

6.2.2 Organisation Set up

Registration and Stamps Department is under the Commercial Tax Department headed by the Principal Secretary. The Inspector General, Registration and Superintendent of Stamps, Madhya Pradesh (IGR) is the head of the Department. Two Joint Inspectors General, Registration (JIGR), one Deputy Inspector General Registration (DIGR), one Senior District Registrar (SDR), one District Registrar (DR) and one Accounts officer (AO) are deployed at the headquarters. There are 50 Registration Districts notified in the State. There is one SDR in 15 Registration districts, 35 DRs in the remaining districts and 233 Sub Registrar (SR) offices in the State. The SR office is the place where all the registration works take place and having the maximum interface with the common public. Collector is the head of Registration administration at the district level. The role of DR is to guide SRs in their day-to-day function, pass orders in cases of valuation of stamps required, penalty, refund and inspection of SR and public offices where Stamp duty is involved.

6.2.3 Scope of Audit and methodology

The Performance Audit on “Assessment and levy of Stamp duty and Registration fees” was conducted between April and July 2014 covering the period from 2009-10 to 2013-14 and selected 45¹ out of 233 SR offices. The

¹ Bhikangaon, Bhopal-I, Bhopal-II, Bhopal-III, Bina, Chachoda, Chhindwara, Dabra, Depalpur, Dhar, Guna, Gunnaur, Gwalior-I, Gwalior-II, Hoshangabad, Indore-I, Indore-II, Indore-III, Indore-IV, Jabalpur-I, Jabalpur-II, Kasarawad, Katni, Khachrod, Khargone, Khurai, Maheshwar, Mahidpur, Maihar, Mhow, Nagda, Narsinghpur, Pandurna, Panna, Raghogarh, Sagar, Sanver, Satna, Seoni Malwa, Sihora, Singroli, Sogahpur, Tarana, Ujjain and Vidisha.

selection of units was done through simple random sampling method. The audit objectives, criteria and methodology were discussed with Inspector General, Registration and Superintendent of Stamps, Madhya Pradesh in the Entry Conference held in March 2014. The draft Performance Audit report was forwarded to the Government and Department in August, 2014 and discussed with the Principal Secretary, Commercial Tax Department, in the Exit Conference held in August, 2014. Views of the Government have been incorporated suitably in the relevant paragraphs.

6.2.4 Audit objectives

The Performance Audit was conducted to assess whether:

- Internal control mechanism of the Department was effective and sufficient systems were in place to examine that the documents have been presented within prescribed time and the instruments have been properly stamped before their registration to safeguard collection of duty and fee on instruments;
- The provisions of the Act/Rules and departmental instructions related to registration of different deeds/instruments, determination of market value and classification of documents are adequate and enforced accurately to safeguard revenue of the state; and
- Departmental inspections were being conducted regularly as per their prescribed roster.

6.2.5 Audit criteria

The audit criteria were derived from the following:

Indian Stamp Act, 1899;

The Registration Act, 1908;

Indian Stamp (Madhya Pradesh Prevention of Undervaluation of Instruments) Rules, 1975;

Madhya Pradesh Preparation and Revision of Market Value Guidelines Rules, 2000;

Madhya Pradesh Stamp Rules, 1942;

Madhya Pradesh Municipal Corporation Act, 1956;

Madhya Pradesh Municipalities Act, 1961;

Madhya Pradesh *Panchayat Raj Adhiniyam*, 1993; and

Madhya Pradesh *Upkar Adhiniyam*, 1982.

Circulars and orders of the Government of Madhya Pradesh, issued from time to time.

The relevant provisions of the Acts/Rules and orders have been cited in the paragraphs concerned.

6.2.6 Acknowledgement

Indian Audit and Accounts Department acknowledges the co-operation of the Registration Department in providing necessary information and records for audit.

6.2.7 Trend of receipts

Actual receipts from Stamp duty and Registration fees during the period 2009-10 to 2013-14 along with the total tax receipts during the same period are exhibited in the following **Table-6.2**.

Table - 6.2

(₹ in crore)						
Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual tax receipts vis-a-vis total tax receipts
1.	2.	3.	4.	5.	6.	7.
2009-10	1560.00	1783.15	(+) 223.15	(+) 14.30	17272.77	10.32
2010-11	1900.00	2514.27	(+) 614.27	(+) 32.33	21419.33	11.74
2011-12	2000.00	3284.41	(+) 1284.41	(+) 64.22	26973.44	12.18
2012-13	3200.00	3944.24	(+) 744.24	(+) 23.26	30581.70	12.90
2013-14	4000.00	3389.99	(-) 610.01	(-) 15.25	32342.12	10.52

(Source: Budget estimates and Finance Accounts of the Government of Madhya Pradesh)

It may be seen that in the year 2013-14, Department failed to achieve the budgetary targets. Though the percentage of variation in 2012-13 was (+) 23.26 per cent, but in 2013-14, it was reduced by ₹ 610.01 crore which was 15.25 per cent of budget estimates. Department attributed this drop in collection of revenue to the order issued by Hon`ble Madhya Pradesh High Court (Gwalior Bench), on PIL (July 2010) and also due to worldwide recession, fewer number of documents were got registered.

The reason assigned to this drop in collection of revenue is not convincing as there were several other causes which have duly been highlighted in the system and compliance issues of this Report.

6.2.8 Arrears of revenue

Position of arrears of Stamp duty and Registration fees during the period 2009-10 to 2013-14, as furnished by the Registration Department, is given in the following **Table-6.3**.

Table - 6.3

(₹ in crore)					
Year	Opening balance	Addition during the year	Total	Recovery during the year	Closing Balance
1.	2.	3.	4.	5.	6.
2009-10	62.74	19.99	82.73	15.63	67.10
2010-11	67.10	23.35	90.45	18.28	72.17
2011-12	72.17	19.46	91.63	19.25	72.38
2012-13	72.38	33.44	105.82	20.50	85.32
2013-14	85.32	60.27	145.59	30.68	114.91

(Source: Information furnished by the Department)

There was no time bound programme with the Department to reduce the arrears.

We recommend that the Department should take appropriate steps to reduce the arrears by fixing the target for recovery for all field units.

6.2.9 Audit observations

The Performance Audit revealed a number of deficiencies in the system and compliance and also in the provisions of the Acts and Rules. Some of the important points are discussed in the succeeding paragraphs.

6.2.10 Short levy of Stamp duty and Registration fees on instruments of lease deeds of mines

6.2.10.1 Incorrect determination of average annual royalty

According to the instructions of Government of Madhya Pradesh (March 1993), Mineral Resources Department, Stamp duty and Registration fees are leviable on average annual royalty on new mining lease to be calculated on the basis of mineral to be extracted as shown in the application for mining lease or the production given in the mining plan, whichever is higher.

During scrutiny of documents registered in Sub Registrar office Satna and Singroli, and information collected from respective District Mining offices, we noticed that while sanctioning mining leases for a period of 20 to 30 years, lease deed was executed /registered (between September 2011 and March 2014) on the basis of the average production of the first five years as shown in the mining plan instead of the average of the proposed production for the complete lease period as per the instruction *ibid*. The lessee of limestone and coal had paid Stamp duty and Registration fees amounting to ₹ 54.23 crore as against the leviable amount of ₹ 85.97 crore. This resulted in short levy/recovery of Stamp duty and Registration fees of ₹31.74 crore. In another case at SR office in Sohagpur, it was noticed that cess at the rate of five *per cent* on Stamp duty was not levied. This resulted in short realisation of revenue amounting to ₹16.04 lakh (Annexure-XIV).

After we pointed this out, Sub Registrar, Singroli and Sohagpur stated (February 2014 and March 2014) that action for recovery would be taken and Sub Registrar, Satna stated (June 2014) that the case was finalised by Collector of Stamps, accordingly the documents were registered.

The reply of Sub Registrar, Satna was not acceptable as Collector of Stamps should have calculated the duty on the average production for the complete lease period instead of average production for the first five years.

However, during Exit Conference, the Principal Secretary, Commercial Tax Department stated (August 2014) that the matter would be discussed with mining Department and MPSMCL for levy of stipulated Stamp duty / Registration fees.

6.2.10.2 Non registration of contract lease by sub-lessees of sand mines

According to the instructions issued by Mineral Resources Department, Government of Madhya Pradesh in March 1993, full amount of contract money shall be treated as premium for the purpose of levy of Stamp duty. Further, as per Article 33(b), Schedule 1A of Indian Stamps Act, 1899, when the lease is granted for a premium then same duty as a conveyance is leviable. Besides, as per Indian Registration Act, 1908 Registration fees shall be levied at the rate of 75 per cent of Stamp duty.

Information collected from District Mining Offices Gwalior and Hoshangabad regarding leases sanctioned to Madhya Pradesh State Mining Corporation Limited (MPSMCL) indicated that the corporation entered into an agreement with six contractors for mining lease in March 2013 for the period of two years for ₹ 94.09 crore. Stamp duty of ₹ 4.70 crore and Registration fees of ₹ 3.53 crore was leviable and recoverable in this contract. MPSMCL, however, executed a contract on a stamp paper of ₹ 100 in each case. This resulted in a short realisation of ₹ 8.23 crore (**Annexure-XV**).

Interestingly, even though MPSMCL is a Government organisation, which entered in the sub-lease agreement with private contractors, it failed to safeguard the revenue interest of the Government.

During Exit Conference, the Principal Secretary, Commercial Tax Department stated (August 2014) that the matter would be discussed with mining Department and MPSMCL for levy of stipulated Stamp duty / Registration fees.

We recommend that the Government may consider prescribing a periodic return by the public offices to the DRs which may contain details of number of documents presented before them and those not found duly stamped to safeguard the leakage of leviable Stamp duty.

6.2.11 Non execution/registration of lease deed of mobile tower

Article 33 of Schedule 1-A of the Indian Stamp Act, 1899, provides for levy of Stamp duty on lease deeds at the rates prescribed therein. Section 17 of the Registration Act, 1908, provides that registration of lease deed for any term exceeding one year is compulsory. Section 33 of the IS Act provides that it would be obligatory on every public officer to impound cases which are

unduly stamped and initiate action under Section 38 of the Act. As per Para 469 of *Karyapalik Anudesh* (executive instructions) of Registration Department, the DR is required to inspect the records of public offices to see whether Stamp duty was being paid correctly and the documents which require registration are submitted in SR offices.

The Information collected from four municipal corporations /municipalities² revealed that in total 455 cases, no objection certificate was issued by Nagar Nigam/Nagar Palika for installation of Mobile Towers. In these cases, the land for installation of mobile tower was taken by the mobile company on lease from the land owners for the period ranging between one to 30 years. These lease deeds were required to be compulsorily registered under Section 17 of the Registration Act, 1908. We found that these lease agreements were not registered and executed on stamp paper of ₹100 each. Out of 455 cases, audit test checked 44 cases produced before audit. This resulted in short levy of Stamp duty and non levy of Registration fees of ₹13.92 lakh in these cases. It is important to mention that the inspection of Nagar Nigam, Hoshangabad was conducted by DR but no objection related to registration of lease deeds of mobile towers was pointed out. DR, Chhindwara stated (June 2014) that inspection of municipalities was included in the roster of DR, but no inspection was conducted, while DR, Jabalpur did not provide information regarding inspection of public offices.

During the Exit Conference, the Principal Secretary, Commercial Tax Department stated (August 2014) that, matter would be sorted out in consultation with Municipal Corporations / Municipalities.

We recommend that necessary co-ordination among the Department for timely exchange of information from other bodies/Departments must be ensured to safeguard against leakage of revenue.

6.2.12 Incorrect application of rates

Article 5(d) of Schedule 1-A under the Indian Stamp Act, 1899 (IS Act) provides that Stamp duty at the rate of two *per cent* of market value of land was leviable up to 31 March 2011 on the instruments of agreements related to the development of land for construction of building on a land by a person other than the owner or lessee of such land. Article 5(d) was amended with effect from 1 April 2011, according to which the Stamp duty at the rate of three *per cent* on the market value equal to the estimated cost of the proposed construction or development as mentioned in the agreement, was leviable. Further, the State Government reduced the rate of Stamp duty to one *per cent* with effect from 1 April 2012 on instruments of agreement related to development of land for the purpose of development of residential colony.

In SR Offices Chhindwara and Gwalior-I, we test checked 1,650 instruments out of a total of 16,483 instruments and found that in five instruments of builder agreements registered between August 2012 and November 2013 between land owner and builder for construction of building, the estimated cost of construction mentioned in the agreements was ₹ 16.81 crore and Stamp duty of ₹ 50.44 lakh was leviable thereon at the rate of three *per cent*. We however noticed that Stamp duty of ₹ 16.81 lakh was

² Chhindwara, Jabalpur, Narsinghpur and Pandhurna

levied at the rate of one *per cent* on the estimated cost of construction mentioned in the agreements. This resulted in short levy of Stamp duty of ₹ 33.63 lakh due to incorrect application of rates.

After we pointed this out, Sub Registrar, Chhindwara stated (June 2014) in respect of one case that Stamp duty at the rate of one *per cent* was leviable on development agreement while in remaining four cases Sub Registrar, Gwalior stated (July 2014) that cases would be referred to Collector of Stamps for determination of market value of the property and duty leviable thereon.

The reply of Sub Registrar, Chhindwara was not acceptable as these agreements were executed for construction work where duty at the rate of three *per cent* was leviable.

Further, during the Exit Conference, the Principal Secretary, Commercial Tax Department stated (August 2014) that a detailed inquiry would be made.

6.2.13 Incorrect determination of market value/non-finalisation of cases

Under Section 47-A of the Indian Stamp (IS) Act, 1899, if the Registering Officer, while registering any instrument finds that the market value of any property set forth was less than the market value shown in the market value guidelines, he should before registering such instrument, refer the same to the Collector for determination of the correct market value of such property and duty leviable thereon. Further, according to the departmental instructions of July 2004, a maximum period of three months has been prescribed for disposal of cases referred to the Collector by the Sub-Registrar (SR) offices for determination of correct market value of properties and duty leviable thereon. Besides, market value of the property is calculated according to rates and provisions prescribed in the market value guidelines.

6.2.13.1 We observed in 13 Sub Registrar offices³ from the register of cases referred by Sub Registrars that total 668 cases were referred by the Sub Registrars to the Collector of Stamps between April 2009 and March 2014 for determination of the market value of the properties. Out of these, 353 cases had not been finalised, though period up to 57 months had already elapsed beyond the expiry of the prescribed period. In these cases, the short levy of Stamp duty and Registration fees of ₹ 12.30 crore was recoverable on the basis of market value worked out by the Sub Registrars.

After we pointed out the cases the respective SRs stated (between March and July 2014) that the Collector of Stamps would be requested for early disposal of the cases.

During the Exit Conference, the Principal Secretary, Commercial Tax Department stated (August 2014) that a detailed inquiry would be made.

We recommend that the Government should evolve a monitoring mechanism, by which it may be ensured that there should not be any unreasonable delay by DRs in deciding the cases under Section 47-A.

³ Bhopal-I, Bhopal-II, Bina, Chhindwara, Depalpur, Gunnor, Gwalior-I, Indore-II, Indore-III, Jabalpur-I, Khurai, Satna and Sohagpur.

6.2.13.2 In eight SR offices⁴ we test checked 8,247 instruments out of a total of 81,895 instruments and found that in 47 instruments registered between June 2010 and March 2014, the market value determined on the basis of guidelines issued by IGR for the respective year, was ₹ 56.32 crore against the registered value of ₹ 38.03 crore. The SRs did not refer these instruments to the Collector for determination of the correct value of the properties and duty leviable thereon. This resulted in short levy of Stamp duty and Registration fees of ₹ 1.32 crore as mentioned in the **Table-6.4**.

Table - 6.4

(₹ in lakh)					
Sl. No.	No. of SR offices/ instruments	Period of registration	Nature of irregularities	Stamp duty and Registration fees Leviable/ Levied	Short levy of Stamp duty and Registration fees
1.	2.	3.	4.	5.	6.
1.	<u>7</u> 25	Between 6/2010 and 2/2014	Non observance of provisions prescribed in guidelines regarding land properties situated within Municipal limit/ urban specified villages	<u>252.86</u> 174.67	78.19
2.	<u>4</u> 9	Between 4/2013 and 3/2014	Non observance of provisions prescribed in guidelines regarding property situated road side or corner plots	<u>88.22</u> 56.75	31.47
3.	<u>6</u> 13	Between 11/2010 and 2/2014	Non observance of provisions prescribed in guidelines regarding House/ plot properties	<u>87.20</u> 64.78	22.42
Total	<u>8</u> 47			<u>428.28</u> 296.20	132.08

After we pointed out the cases, three SRs⁵ stated (between April and July 2014) in respect of nine cases that the valuation of properties was correct and SR, Indore-III stated (May 2014) in respect of four cases that duty was levied correctly as per rules. The reply is not tenable as it is not in conformity with the facts and rules as in some cases either valuation of land was not done as per the rates given in guideline or other considerations which affect valuation of land such as piece of land situated in corner or value of tube wells and boundary wall were not considered for valuation of land. In remaining 34 instruments, the respective SRs stated (between March and July 2014) that necessary action would be taken and cases would be referred to the Collector of Stamps.

During the Exit Conference, the Principal Secretary, Commercial Tax Department stated (August 2014) that a detailed inquiry would be made.

⁴ Bhopal-I, Bhopal-III, Gwalior-I, Indore-III, Narsinghpur, Panna, Satna and Sohagpur (Shahdol).

⁵ Bhopal -I, Bhopal -III and Gwalior -I.

6.2.13.3 The registration Department issues annual guidelines to determine the market value of the immovable property. Paragraph 4 of the said guidelines issued by District Registrar, Chhindwara, contains provision for determination of market value of agriculture land in urban area and villages adjacent thereto. Sub-Para 4.3 has stipulated provisions to valuate rates for municipalities and specified (*Vishista*) villages.

During scrutiny of documents related to additional Book –I (which contains permanent record of typed / printed instruments related to transfer of immovable property) in Sub-Registrar, Pandhurna, for the period 2009-10 to 2013-14, it was noticed that the documents related to *Vishista* villages were not duly stamped as per the rates prescribed in the Paragraph 4 of the guidelines. These provisions were not invoked in 15 cases out of 215 test checked during audit, which resulted in a short realisation of Stamp duty and Registration fees amounting to ₹ 6.61 lakh. All the cases related to *Vishista* villages registered between 2009-10 and 2013-14 need to be re-examined and Stamp duty and Registration fees levied as per rule.

During the Exit Conference, the Principal Secretary, Commercial Tax Department stated (August 2014) that appropriate action would be taken.

6.2.14 Short levy of Stamp duty and Registration fees on instruments of power of attorney

Article 45 (d) of Schedule 1-A of the Indian Stamp Act, 1899 provides that when power of attorney (POA) is given without consideration and authorising the agent to sale, gift, exchange or permanently alienate any immovable property situated in Madhya Pradesh for a period not exceeding one year, duty of ₹1000 (₹ 100 up to March 2011) is chargeable on such instruments. Further, when such rights are given with consideration or without consideration for a period exceeding one year or when it is irrevocable or when it does not purport to be for any definite term, the same duty as a conveyance on the market value of the property is chargeable on such instruments.

In five Sub Registrar offices⁶, we test checked 4,325 instruments out of total 42,525 instruments and found that in 13 instruments of POA registered /executed between July 2010 and March 2014, the power to sale immovable property valued at ₹ 4.44 crore as per the guidelines of the respective years was given. POA was given for indefinite period in six cases, in two cases property had already been sold and in remaining five cases POA was irrevocable. In these cases, Stamp duty and Registration fees of ₹ 28.71 lakh was leviable in accordance with the above provisions. We, however, noticed that in all these cases, duty and fees of ₹ 0.13 lakh was charged. This resulted in short levy of Stamp duty and Registration fees of ₹ 28.58 lakh.

After we pointed out the cases, the respective Sub Registrars stated between April and July 2014, that documents would be referred to the Collector of Stamps for determination of market value of the property and duty leviable thereon.

⁶

Bhopal-I, Bhopal-III, Gunnor (Panna), Panna and Sohagpur (Shahdol).

Further, during the Exit Conference, the Principal Secretary, Commercial Tax Department stated (August 2014) that appropriate action would be taken.

6.2.15 Short levy of Stamp duty and Registration fees due to misclassification

Under the IS Act, Stamp duty is leviable on instruments as per their recital at the rates specified in schedule 1A or prescribed by the Government through notifications. Departmental instructions (September 2005) provide that duty on the instruments styled as agreement to sale, release and settlement shall be chargeable at the rate of conveyance deed if the conditions specified in the instructions are not fulfilled, and prescribed entries are not mentioned in the instruments.

During scrutiny of registered instruments, we test checked 7988 instruments out of total 79273 instruments in nine SR Offices⁷, and found that there was misclassification of documents in 25 cases which resulted in short levy of Stamp duty and Registration fees of ₹ 93.33 lakh as mentioned in **Table-6.5**.

Table - 6.5

(₹in lakh)				
Sl. No.	No. of cases/ Registered Between	Nature of irregularity	Stamp duty and Registration fees leviable levied	Stamp duty and Registration fees short levied
(1)	(2)	(3)	(4)	(5)
1.	9 / July 2011 and March 2014	Agreement to sale with possession/without mention about status of possession treated as agreement to sale without possession.	60.94 9.11	51.83
2.	4 / June 2010 and March 2013	Usufructuary ⁸ mortgage treated as simple mortgage.	20.12 5.09	15.03
3.	7 / April 2013 and March 2014	Gift treated as co-ownership deed.	22.61 6.00	16.61
4.	5 / April 2013 and March 2014	Gift treated as release	25.36 15.50	9.86
Total	25 cases	-	129.03 35.70	93.33

After we pointed out, SR Khargone stated (October 2013), that matter would be referred to Collector of Stamps for proper valuation, thereafter, in June 2014, he stated that five cases had been registered by Collector of Stamps and further decision is awaited while in one case recovery amounting to ₹ 2.78 lakh has been made in March 2014. SR Bhopal –I, Bhopal –III, Indore-II and Sohagpur in respect of 12 cases stated that cases would be referred to Collector of Stamps for determination of market value of the property and duty leviable thereon, while in two cases, SR Nagda and Vidisha stated that necessary action will be taken. In respect of one case SR, Bhopal –I stated that lapse occurred due to heavy work. In respect of two cases related to SR

⁷ Bhopal –I, Bhopal –III, Gwalior-I, Indore-II, Khargone, Maheshwar, Nagda, Sohagpur and Vidisha

⁸ Usufructuary mortgage is a mortgage in which beneficiary holds possession of the property and is entitled to avail all the benefits during validity of mortgage.

Bhopal-III, DR instructed to SR to send these cases for his scrutiny. In respect of one case SR, Maheshwar stated that duty was levied correctly. In respect of remaining one case SR Gwalior -I stated (July 2014) that executants were co-owners.

The reply of SR, Maheshwar is not acceptable as the office treated the gift as release which was not correct as release can only be made in favour of all other co-owners. In this case, there were four co-owners, out of which one co-owner relinquished his share in property to one of the remaining co-owners. Since property was not released in favour of all the remaining co-owners, therefore, Stamp duty should have been levied treating transfer of property as gift. The reply of Gwalior -I is not acceptable, being contrary to the facts on records as both executants were not co-owners.

However, during the Exit Conference, the Principal Secretary, Commercial Tax Department stated (August 2014) that appropriate action would be taken.

6.2.16 Blockage of Government revenue due to delay in registration of instruments

Section 33 of the IS Act provides that it would be obligatory on every public officer to impound cases which are unduly stamped and initiate action under Section 38 of the Act. Further, Section 35(f) of the Act provides that any such instrument not being a Bill of Exchange or Promissory Note shall, subject to all just exceptions, be registered or authenticated on payment of the duty with which the same is chargeable, or in case of an instrument insufficiently stamped, of the amount required to make up such duty. As per IGR circular (January 2013), instruments unduly stamped, should not be kept pending for next day.

In four Sub Registrar (SR) offices⁹, we test checked 7,817 instruments out of total of 78,098 instruments between June and July 2014 and found that in 47 instruments registered between November 2008 and December 2013, the Stamp duty of ₹ 6.84 crore was leviable on these instruments. These instruments were, however, presented on the stamp of only ₹ 37.39 lakh. Sub Registrar was supposed to either agree for attaching the deficit stamp paper under Section 35(f) or impound the instrument under Section 33 of IS Act. We found that these instruments were kept unnecessarily pending for the period ranging from one month to five years. This resulted in blockage of Government revenue of ₹ 6.46 crore in the shape of Stamp duty and Registration fees of ₹ 78.76 lakh aggregating ₹ 7.25 crore for the said period.

After we pointed out the cases, the Sub Registrar, Indore -I had stated that the documents were kept pending due to non receipt of Registration fees, while SRs of Bhopal -I and Gwalior -I had stated that no time limit had been prescribed for recovery of Stamp duty in Section 35(f) of IS Act.

The reply of SR Indore -I is not acceptable as SR should not have accepted these documents without registration fees while, replies of SRs Bhopal -I and Gwalior -I, is not acceptable, being contrary to the provisions of section 33 of IS Act and also IGR's order (January 2013) clearly stated that unduly stamped or undervalued documents shall not be kept pending even for the next day.

⁹

Bhopal-I, Gwalior-I, Indore-I and Indore-III.

During the Exit Conference, the Principal Secretary, Commercial Tax Department stated (August 2014) that appropriate action would be taken.

6.2.17 Short levy of Stamp duty and Registration fees and failure in safeguarding the interest of Scheduled Tribe

As per provisions of Section 165(6) of the Madhya Pradesh Land Revenue Code, 1959, areas other than those specified in the notification under Clause (i), not to be transferred or be transferable either by way of sale or otherwise or as a consequence of transaction of land to a person not belonging to such tribe without permission of a Revenue Officer not below the rank of Collector, given for reasons to be recorded in writing.

We test checked 6,165 cases out of total of 61,583 cases and found that in four cases at three SR offices¹⁰, land belonging to persons of Scheduled Tribe community was sold to non Scheduled Tribe persons. Respective District Collectors had ordered that sale consideration of the land shall not be less than the rates/valuation as per the prevailing guidelines and seller shall pay the purchase price of the land by way of a cheque/demand draft in presence of Sub-Registrar. However, Sub-Registrars ignored the orders of the Collector in these cases and land was sold to non Scheduled Tribe persons for consideration of ₹ 3.60 crore instead of ₹ 11.24 crore valued as per guidelines. This resulted in short levy of Stamp duty and Registration fees amounting to ₹ 21.49 lakh, besides financial loss of ₹ 7.64 crore as SRs failed in discharging his duties in protecting the rights of persons belonging to Scheduled Tribe as enshrined in Section 165 of Madhya Pradesh Land Revenue Code.

After we pointed this out, SR, Bhopal –I and Gwalior –I in respect of two cases each, stated (May 2014) that the cases would be referred to Collector of Stamps for determination of market value of the property and duty leviable thereon. While in one case SR, Gwalior –I stated that a document cannot be valued outside its recital and other documents cannot be verified for this purpose. The SR, Indore –I, replied that the valuation of land was done as per guidelines issued for the year 2010-11.

The reply of SR Gwalior is not acceptable, as provisions of Section 165 of the MP Land Revenue Code were not followed. Further, in one case, SR, Gwalior referred the matter to Collector of Stamps; this approach should have been adopted in other case also. The reply of SR Indore –I, is not acceptable, as the documents were registered in the year 2012-13 but SR valued it on the basis of guidelines for the year 2010-11.

However, during the Exit Conference, the Principal Secretary, Commercial Tax Department stated (August 2014) that the action would be taken.

¹⁰ Bhopal – I, Gwalior –I and Indore –I

6.2.18 Short levy of Stamp duty and Registration fees on instruments of developer agreement

Stamp duty is charged at the rate prescribed under Article 5(d) of Schedule 1-A to the IS Act on the basis of estimated development and construction expenditure mentioned in the instrument. Rule 2 of MP *Nagar Palika* (MPNP) *Niyam* and MP *Gram Panchayat* (MPGP) *Niyam* provides that the development expenditure means the expenditure incurred on developing the land in accordance with the norms prescribed therein under the approval of the competent authority (Municipal Commissioner/Sub Divisional Officer). Such norms were only available with the Municipal Corporations Bhopal and Indore. A departmental instruction issued in April 2013 provides that where power to sale of land is given by owner to the developer, the instruments captioned under developer agreement shall be charged as conveyance.

6.2.18.1 During scrutiny of records in five offices¹¹, we test checked 5,314 instruments out of total 53,086 instruments and found that 24 instruments of developer agreements registered between February 2013 and March 2014 were executed between land owner and developer for development of land. The estimated development expenditure on the basis of rates applicable in Municipal Corporation/MPHB worked out to ₹ 337.11 crore. Accordingly Stamp duty of ₹ 8.41 crore and Registration fees of ₹ 2.70 crore was leviable on these instruments. We, however, noticed that Stamp duty of ₹ 1.35 crore and Registration fees of ₹ 41.95 lakh only was levied on the basis of amount mentioned in the documents by the developers/colonisers. This resulted in short levy of Stamp duty and Registration fees of ₹ 9.33 crore.

6.2.18.2 We observed from the records of SR, Jabalpur in June 2014 that one instrument related to joint venture for development of land was executed in February 2014. The recitals of the instruments indicated that right to sale the land was transferred to the developers. As such instrument was chargeable as conveyance and accordingly Stamp duty and Registration fees of ₹ 15.67 lakh was leviable. We, however, noticed that stamp duty Registration fees of ₹ 2.95 lakh was levied on this instrument. This resulted in short levy of Stamp duty and Registration fees of ₹ 12.72 lakh.

After we pointed out the cases, SR stated (June 2014) that cases would be referred to Collector of Stamps.

6.2.18.3 During scrutiny of one development permission case provided by SDO (Revenue), Satna, we observed (June 2014) that permission for development land was granted by SDO (Revenue), Satna in August 2013. The estimated development expenditure cost worked out to ₹ 12.80 crore on the basis of rates prescribed by MPHB. We, however, noticed that instruments regarding development and construction were neither executed nor got registered. This resulted in non levy/realisation of Stamp duty and Registration fees of ₹ 23.05 lakh.

After we pointed this out, SR stated (June 2014) that document was not presented for registration. DR, Satna instructed (June 2014) to SDO (Revenue), Satna to register the agreement.

¹¹ Bhopal-I, Jabalpur-I, Khargone, Satna and Vidisha.

Further, in Exit Conference, the Principal Secretary, Commercial Tax Department stated (August 2014) that matter would be sorted out in a manner so as to protect the interest of Government Revenue.

We recommend that the Government should either prescribe the rates for development deeds for the purpose of levy of Stamp duty or should direct for this purpose that rates of MPHB shall be treated as benchmark rates all over the State.

6.2.19 Non/short levy/realisation of Stamp Duty and Registration fees on mortgage deeds executed by colonisers/developers

Article 38(b) of Schedule 1-A to IS Act read with Government Notification (September 2007) and Section 75 of the Madhya Pradesh *Panchayat Raj Adhiniyam*, 1993 provides for levy of duty on a mortgage deed (without possession) at the rate of one *per cent* of the amount secured by such deed. Further, under Rule 12 of Madhya Pradesh *Nagar Palika Niyam* and Madhya Pradesh *Gram Panchayat Niyam*, a coloniser has to develop the land in accordance with the norms prescribed therein and has to mortgage 25 *per cent* of the land/ plot in favour of local authorities as a security against the expenditure on development of the land. Section 17 of the Registration Act, 1908, provides that registration of such mortgage deed is compulsory.

6.2.19.1 We observed from the records and information collected from SDO (Revenue) during audit of nine SR offices¹² that permission for development of land was granted by SDO (Revenue) to the colonisers in total 30 cases.

The estimated development expenditure of the land was ₹ 249.06 crore based on rates provided by MPHB for development of land. Though the colonisers had mortgaged 25 *per cent* of plots during this period, neither the applicable duty was paid by the colonisers nor did they get these instruments registered. This resulted in non levy/realisation of Stamp duty and Registration fees of ₹ 3.29 crore.

After we pointed out, Sub Registrar Khargone and Tarana stated (between June and July 2014) in respect of two cases that these cases would be referred to Collector of Stamps while in respect of two cases, SR Kasrawad and Sihora stated (June 2014) that necessary action will be taken. In respect of 13 cases, SR Dhar, Indore-IV, Narsinghpur and Satna stated (between May and July 2014) that instruments would be registered when received.

6.2.19.2 We test checked 16,028 instruments out of total 1,59,177 instruments, from the records of 18 Sub Registrar offices¹³ and found that in 84 instruments mortgage deeds executed by the colonisers were registered in 2013-14. The estimated development expenditure mentioned in the instruments was not justified as there was huge variation in estimated development expenditure in these instruments *vis-a-vis* estimated development expenditure calculated as per the rates provided by MPHB thus causing evasion of Stamp duty and Registration fees. The estimated development expenditure as per rates provided by MPHB was ₹ 615.47 crore against ₹ 136.85 crore as mentioned in

¹² Depalpur, Dhar, Indore, Khargone, Kasrawad, Narsinghpur, Satna, Sihora and Tarana.

¹³ Bhopal-I, Bhopal-II, Bhopal-III, Chhindwara, Depalpur, Guna, Indore-III, Indore-IV, Jabalpur-II, Katni, Khargone, Mahidpur, Mhow, Raghogarh, Sagar, Sanver, Seonimalwa and Vidisha.

instruments. This resulted in short levy/realisation of Stamp duty and Registration fees of ₹ 6.94 crore.

Further, during the Exit Conference, the Principal Secretary, Commercial Tax Department stated (August 2014) that matter would be sorted out in a manner so as to protect the interest of Government Revenue.

We recommend that the Government may consider prescribing a periodic return by the public offices to the DRs which contain details of number of documents presented before them and those not found duly stamped to safeguard the leakage of leviable Stamp duty. These officers may also be held accountable for cases of short payment of Stamp duty.

6.2.20 Loss of revenue due to amendment in guidelines withdrawn later

Clause 4 of the guidelines issued by IGR, prescribed the rates for valuation of agriculture land in urban area and for specified villages in the nearby periphery of urban area, for the period up to 2012-13. However, in the year 2013-14, an amendment was made in Clause 4 by inserting a word "*Nazul Bhoomi*" (*Nazul* land) after "*Krishi Bhoomi*" (agriculture land). *Nazul* land is a Government land which is used for construction or public utility purpose viz *bazar* or entertainment places.

During test check of 780 cases out of total of 7,761 cases at Sub-Registrar, Indore-IV we noticed that in two cases, District Collector allotted the *Nazul* land to two executants and valued the land on the basis of guidelines issued for 2013-14. The inclusion of word *Nazul* land after agriculture land paved the way for misclassification between the agriculture land and the *Nazul* land which ultimately resulted in short levy of Stamp duty and Registration fees of ₹ 2.57 crore¹⁴.

During the Exit Conference, the Principal Secretary, Revenue Department stated (August 2014) that from 2014-15, this amendment has been withdrawn from the guidelines.

The reply is not acceptable as changes were made only for the year 2013-14 without concurrence with the Finance Department and any justified reason. Thus the inclusion of word *Nazul* land was not only irregular but also led to short levy of SD and RF.

6.2.21 Transfer of rights to construct and develop land through power of attorney

According to the circular issued by the IGR (December 2011), if the rights to construct and develop land have been transferred through power of attorney to the person other than landlord, then such power of attorney shall attract Stamp duty in accordance with the rates prescribed in article 5(d) of schedule 1-A.

¹⁴

Leviable SD/ RF
₹3.03 crore/ ₹2.14 crore

Levied SD/RF
₹1.50 crore/ ₹1.10 crore

Short Levied SD/RF
₹1.50 crore/ ₹1.07 crore

Presently these rates are three *per cent* of the estimated cost of proposed construction or development.

During scrutiny of Additional Book-IV (contains permanent and confidential information related to transfer of movable property) in five Sub-Registrar offices¹⁵, we test checked 5,195 cases out of total of 51,213 cases and found in 46 cases that rights for construction or development were transferred to persons other than landlord on power of attorney on stamp papers of ₹100/1000 only instead of realisation of Stamp duty at the rate of three *per cent* on estimated cost of construction or development. The revenue foregone could not be calculated in absence of estimated cost of construction or development of land in these instruments.

When we pointed this out (August 2014), the IGR stated (August 2014) that such cases would be examined by DRs and DIGR and revenue would be recovered as per rule.

6.2.22 Non reconciliation of stamps issued by treasury

The Government has formulated a system (June 2004) in which Treasury Officer shall issue advice detailing printed numbers on non judicial stamps along with date and dispatch to concerned registration office in a sealed envelope. The Sub-Registrar shall reconcile these numbers with the numbers printed on stamps used for registry purposes. This exercise has been formulated to detect and check the use of counterfeit stamps.

We observed during test check of records of 45 Sub-Registrar offices that such advice was neither sent by the treasury officers nor was any action taken by Sub-Registrars to get these advices and reconcile the stamps issued by treasury with the stamps used for registration of agreements/documents. Due to non reconciliation of stamps issued by treasury, the risk of use of counterfeit stamps could not be ruled out.

During the Exit Conference, the Principal Secretary, Revenue Department stated (August 2014) that Department is moving to e-stamping system, after which, matter would automatically be resolved.

6.2.23 Ineffective spot verification policy

Random spot verification policy was implemented vide IGR's circular (January 2013) in the State. Selection of instruments for random spot verification is done by Head Quarters in case of SR Office Bhopal, Indore, Gwalior & Jabalpur while in remaining SR Offices the same is done by Regional Deputy Inspector General, Registration. Random spot verification policy mandates the Sub registrars to visit the selected property and verify whether the details of property given by the executants were correct.

We observed between March and June 2014 in two SR offices (Bhopal-I and Dabra) that SRs fed 653 instruments out of 6976 instruments for random spot verification, as selected by respective competent authorities. After verification, 81 cases of under valuation of property were detected by them in documents ranging from 10 *per cent* to 26 *per cent*. In other SR offices, the data of spot verification was not maintained manually and hence could not be provided to

¹⁵

Bhopal –III, Gunnor, Indore-II, Mhow and Ujjain.

audit. Since there is no provision for penalty relating to undervaluation of instruments, cases of evasion of tax in instruments not selected for spot verification policy could not be ruled out.

During the Exit Conference, the Principal Secretary, Revenue Department stated (August 2014) that the Department has moved for an amendment in Indian Stamps Act for levy of penalty on undervaluation, as the Act is a central Act.

6.2.24 Internal control mechanism

Internal audit is a vital arm of internal control mechanism and is generally defined as the control of all controls. It helps the organisation to assure that the prescribed systems are functioning reasonably well.

A summarised position of audit carried out by this wing during 2009-10 to 2013-14 is as under in **Table-6.6**.

Table - 6.6

Period	Total number of Units	Number of units planned for internal audit	Number of units actually audited	Shortfall in reference to units planned	
				Number	Percentage
2009-10	226	40	-	40	100
2010-11	226	18	13	5	28
2011-12	226	81	30	51	63
2012-13	226	72	28	44	61
2013-14	233	96	26	70	73
Total	1137	307	97	210	68

The above table shows that the shortfall in inspection was ranging between 28 per cent and 100 per cent during these years. We found that no norms had been fixed for inspection by IGR at any level. We further found that no system existed for inspection of office of District Registrar by any of the officers of Stamps and Registration Department. Computerisation and implementation of e-stamping system was in progress and could not be implemented anywhere in the State up to 2013-14. Due to lack of an effective internal audit mechanism, cases of misclassification of documents, short levy of Stamp duty and Registration fees etc. were observed which are duly illustrated in the preceding paragraphs.

During the Exit Conference, the Principal Secretary, Commercial Tax Department stated (August 2014) that due to lack of sufficient staff, targets set for internal audit could not be achieved.

We recommend that the Government should take immediate steps to strengthen the internal audit wing and internal control mechanism to

ensure timely realisation of revenue and also to avoid non/short levy of Stamp duty and Registration fees.

6.2.25 Conclusion

The Performance Audit revealed a number of compliance and system based deficiencies as discussed in the preceding paragraphs and requires top attention of the Government/Department. We observed that:

- the Department failed to co-ordinate with other bodies/Departments to collect timely information on the number of registerable documents leading to substantial loss of Stamp duty and Registration fees;
- there was inordinate delay in disposal and inadequate follow up of referred cases to District Registrar for early finalisation of cases resulting in unnecessary blockage of Government money;
- the Department failed to follow various provisions of the Act/Rules resulting in non/short assessment and realisation of Stamp duty and Registration fees;
- misclassification of nazul land as agriculture land in the market value guidelines led to short realisation of Stamp duty and Registration fees; and
- the internal control mechanism was not adequate due to lack of internal audit, inadequate inspection, and spot verification by DRs and SRs respectively.

CHAPTER - VII

MINING RECEIPTS

CHAPTER - VII

ENDING PARAGRAPH

Chapter- VII

Mining Receipts

7.1 Tax administration

The Mineral Resources Department functions under the overall charge of the Secretary Mining, Government of Madhya Pradesh. The Director, Geology and Mining, is the head of the Department who is assisted by Deputy Directors at Headquarters and District Mining Officers (DMOs) at the district level. The DMOs are assisted by Assistant DMOs and Mining Inspectors. The DMOs, Assistant DMOs and Inspectors are under the administrative control of the Collector at the district level.

7.2 Working of Internal Audit Wing

Internal audit is a vital arm of internal control mechanism and is generally defined as the control of all controls. It helps the organisation to assure that the prescribed systems are functioning reasonably well.

We observed that no internal audit wing existed in the Department. In the absence of this, internal audit of the mining units was not conducted during the period 2009-10 to 2013-14.

7.3 Results of audit

Test check of the records of 23 units out of 51 units relating to Mining Receipts during 2013-14 revealed non/short realisation of revenue and other irregularities involving ₹ 196.58 crore in 531 cases which fall under the following categories as depicted in the **Table-7.1**.

Table - 7.1

Sl. No.	Categories	(₹ in crore)	
		No. of cases	Amount
1.	Non/short levy of dead rent/royalty	185	12.40
2.	Non-assessment of rural infrastructure and road development tax	30	2.03
3.	Short realisation of contract money in trade quarries	71	3.72
4.	Non levy of interest on belated payments	204	0.84
5.	Other observations	41	177.59
Total		531	196.58

During the course of the year, the Department accepted non/short realisation/levy of revenue and other deficiencies of ₹ 188.97 crore in 328 cases, which were pointed out in audit during the year 2013-14 and recovered ₹ 1.73 crore in 60 cases.

A few illustrative cases involving ₹ 26.29 crore highlighting important audit findings are mentioned in the following paragraphs.

7.4 Audit observations

We scrutinised application fee for lease/permit/prospecting license, royalty, dead rent, interest for belated payments of dues and road development tax in District Mining Offices and found several cases of non observance of the provisions of the Acts/Rules, non/short levy of dead rent/royalty/contract money/road development tax and other cases mentioned in the succeeding paragraphs of this chapter. These cases are illustrative and are based on a test

check carried out by us. Such omissions on the part of the assessing authorities have been pointed out in earlier Audit Reports, but not only do these irregularities continue to persist; these remain undetected till audit is conducted. There is need for the Government to improve the internal control system so that such omissions can be avoided.

7.5 Non/short realisation of dead rent of quarry lease

According to Rule 30 (1) (a) of Madhya Pradesh Minor Mineral Rules (MPMMR), 1996, every lessee shall pay yearly dead rent for every year, except for the first year, at the rates specified in Schedule IV, in advance for the whole year, on or before the twentieth day of the first month of the year. Further, condition no. 26 of this rule provides that in case of breach by lessee of any of the conditions specified in this rule, the Collector/Additional Collector shall give notice in writing for breach committed by lessee and direct him to remedy the breach within 30 days from the date of notice and if the breach is not remedied or shown proper cause, the sanctioning authority may determine the lease and forfeit the whole or part of the security deposit or in the alternative may receive from the lessees such penalty for the breach not exceeding four times the amount of the said half yearly dead rent as the lessor may fix.

We observed (between August 2013 and February 2014) during scrutiny of individual files of lessees of 16 DMOs¹ that 107 quarry lessees out of 625 test checked had paid dead rent of ₹26.53 lakh against the payable amount of ₹3.32 crore for the period from January 2007 to December 2013. The Department did not take any action to recover the unpaid balance of Government money. This resulted in non/short realisation of dead rent of ₹ 3.05 crore as given in **Annexure-XVI**.

After we pointed out the cases (between August 2013 and February 2014), DMO Bhind and Rewa stated that recovery would be made by issuing demand notices. DMO Datia and Shivpuri stated that audit would be intimated after recovery. DMO, Hoshangabad stated that recovery of dead rent is being made as per rule and recovery is not pending. We do not agree with the reply as the lessee (M.P. State Mining Corporation) was sanctioned quarry lease of sand on 22.9.2010 for 10 years with retrospective effect from 3.10.2005 and as per rule, the lessee was required to pay the dead rent for every year except first year of sanction of lease. Other DMOs stated that action for recovery would be taken after scrutiny.

We reported the matter to the Department and the Government between September 2013 and March 2014, their replies have not been received (December 2014).

7.6 Non realisation of dead rent of mining lease

According to Section 9A (i) of Mines and Minerals (Development and Regulation) Act 1957, and rules made thereunder, every lessee of mining lease has to pay dead rent every year to the State Government at the rates prescribed in Schedule III of the Act in respect of all areas included in the lease provided that where the lessee becomes liable to pay royalty for any mineral removed or consumed, he shall be liable to pay either such royalty or the dead rent in respect

¹ Badwani, Bhind, Bhopal, Chhindwara, Datia, Dhar, Gwalior, Hoshangabad, Jhabua, Khargone, Mandla, Neemuch, Rewa, Shivpuri, Singrouli and Umaria

of that area, whichever is greater. Further, according to Rule 27 (conditions) sub rule (5) of Mineral Concession Rules (MCR), 1960, if the lessee makes any default in the payment of royalty or dead rent as required under Section 9 of the Act *ibid*, the State Government shall give notice to the lessee requiring him to pay the royalty or dead rent within sixty days from the date of receipt of the notice and if the royalty or dead rent is not paid, determine the lease and forfeit the whole or part of the security deposit.

We observed (October 2013) during scrutiny of case files of lessees in District Mining Office, Chhindwara that one lessee out of 18 test checked holding mining lease of major minerals had not paid the amount of dead rent of ₹5.23 lakh due for the year 2012 and 2013. The DMO did not issue demand notice to recover the dead rent. This resulted in non realisation of dead rent of ₹ 5.23 lakh.

After we pointed this out (October 2013), DMO Chhindwara stated that action of recovery would be taken after scrutiny.

We reported the matter to the Government and the Department in May 2014; their replies have not been received (December 2014).

7.7 Non/Short realisation of contract money

According to Rule 37 (i) of Madhya Pradesh Minor Mineral Rules, 1996 and condition no. 5(i)/ 9 of the contract agreement for trade quarry stipulates that every contractor has to pay contract money to the State Government on the scheduled date. If the contract money remains unpaid for more than one month, the contract will be cancelled and quarry may be re-auctioned. Consequently, upon re-auction of the quarry, if the Government sustains any loss, the same was to be recovered from the defaulting contractor as arrears of land revenue.

We observed (between August 2013 and January 2014) during test check of the 219 case files, challans, agreement of trade quarries of 11 DMOs² for the period 2011-13 that contract money of ₹ 4.08 crore was due for payment whereas the contractors paid an amount of ₹ 1.07 crore only. The Department had neither initiated any action to realise the contract money nor cancelled the contract and re-auctioned the same. This resulted in non/short realisation of contract money of ₹ 3.01 crore as given in Annexure-XVII from 43 contractors.

After we pointed this out, the cases (between August 2013 and January 2014), DMO, Rewa stated that action of recovery would be taken after issuing demand notices to contractors. DMO Bhopal, Narsinghpur and Shivpuri stated that audit would be intimated after action for recovery. District Mining Officer, Khargone and Mandla stated that action would be taken after scrutiny.

We reported the matter to the Government and the Department in May 2014; their replies have not been received (December 2014).

7.8 Short realisation of royalty

7.8.1 Mining lease

According to Section 9 (i) of Mines and Minerals (Development and Regulation) Act 1957, every lessee of a mining lease has to pay royalty in respect of minerals removed or consumed by him from the leased area, at the

² Badwani, Bhopal, Chhindwara, Datia, Dhar, Gwalior, Khargone, Mandla, Narsinghpur, Rewa and Shivpuri

rates specified in the Schedule-II of the Act. Further, as per instructions issued by Director, Geology and Mining (DGM) in September 2005, assessment of tax for every half year period January to June and July to December should be completed by 30th of July and January respectively.

We observed (October 2013) during scrutiny of case files, assessment and annual production statement in three DMOs³ that out of 42 lessess, four lessees had paid ₹ 1.14 crore between May 2005 and July 2013 for consumption/transportation of Dolomite, Limestone and Rock phosphate against the payable amount of royalty ₹1.69 crore. DMOs did not initiate action to recover the outstanding amount of royalty till the date of audit. This resulted in non realisation of revenue of ₹ 55.12 lakh. Had the DMOs scrutinised the returns on time as per instructions of DGM, delay in realisation of royalty could have been avoided.

After we pointed out the cases (October 2013); DMO, Narsinghpur stated that audit would be intimated after issue of notice of demand to contractors. DMO, Jhabua stated that notice of demand would be issued after scrutiny of the cases and DMO Chhindwara stated that the action of recovery would be taken after scrutiny.

We reported the matter to the Government and the Department in May 2014; their replies have not been received (December 2014).

7.8.2 Quarry lease

As per general conditions of quarry lease contained in Rule 30 (1) (b) of Madhya Pradesh Minor Minerals Rules, 1996, lessee shall pay the dead rent or royalty in respect of each mineral whichever is higher in amount but not both in respect of each mineral. The lessee shall pay royalty in respect of quantities of mineral intended to be consumed or transported from the leased area, no sooner the amount of dead rent already paid equals the royalty on mineral consumed or transported by him. Further, condition no. 26 of this rule provides that in case of breach by lessee of any of the conditions specified in this rule, the Collector/Additional Collector shall give notice in writing for breach committed by lessee and direct him to remedy the breach within 30 days from the date of notice and if the breach is not remedied or shown proper cause, the sanctioning authority may determine the lease and forfeit the whole or part of the security deposit or in the alternative may receive from the lessees such penalty for the breach not exceeding four times the amount of the said half yearly dead rent as the lessor may fix.

We observed (between August 2013 and February 2014) during scrutiny of case files and returns of quarry lease holders in nine DMOs⁴ that 13 lessees out of 229 test checked had paid royalty of ₹ 2.87 crore in respect of mineral removed between January 2009 and December 2013 against payable amount of ₹ 3.55 crore detailed in **Annexure-XVIII**, which resulted in the short realisation of royalty of ₹ 67.84 lakh. DMOs did not initiate any action to recover the revenue.

After we pointed out the cases (between August 2013 and February 2014), DMO, Bhind, Neemuch and Singroli stated that audit would be intimated

³ Chhindwara, Jhabua and Narsinghpur

⁴ Barwani, Bhind, Datia, Gwalior, Hoshangabad, Narsinghpur, Neemuch, Shivpuri and Singroli

after recovery. DMO Datia, Narsingpur and Shivpuri stated that notices of demand would be issued for recovery. DMO, Badwani, and Hoshangabad stated that recovery would be made after scrutiny.

We reported the matter to the Government and Department in May 2014; their replies have not been received (December 2014).

7.8.3 Trade quarry

According to condition no. 5(2) of Rule 37 of Madhya Pradesh Mines and Minerals Rules, 1996 if the contractor extracts or carries away any quantity of minerals exceeding the prescribed quantity, he shall be liable to pay royalty at the prevalent rate for such excess quantity extracted or carried away. If the contract money or any other amount remains unpaid for more than one month, the contract will be cancelled and quarry may be re-auctioned. Consequently, upon re-auction of the quarry, if the Government sustains any loss, the same was to be recovered from the defaulting contractor as arrears of land revenue.

We observed (October 2013) during scrutiny of the case files and return of contractors of trade quarries in DMO, Narsinghpur that one contractor out of 20 test checked had paid royalty of ₹ 46.59 lakh against payable amount of ₹ 53.33 lakh during the period of April 2011 to March 2013 for removed quantity of mineral. The DMO did not initiate any action against the contractor to recover the outstanding amount of royalty. This resulted in short realisation of revenue of ₹ 6.74 lakh.

After we pointed out the case DMO, Narsinghpur stated (October 2013) that recovery would be made from the contractor.

We reported the matter to the Government and the Department in May 2014; their replies have not been received (December 2014).

7.9 Non/Short realisation of interest on belated payments

• Short levy/realisation of interest on belated payments of quarry lease

As per Rule 30 (i) (d) of Madhya Pradesh Minor Mineral Rules, 1996, every lessee of quarry lease is required to pay dead rent to the State Government on or before the 20th day of first month of the year, failing which the lessee is liable to pay interest at the rate of 24 *per cent* per annum till the default continues, besides any penal action to be taken under the rules.

We observed (between September 2013 and January 2014) during scrutiny of case files related with dead rent and royalty in respect of quarry leases in 10 DMOs⁵ that 65 lessees of quarry lease out of 453 test checked had delayed payment of dead rent ranging from 20 to 1,415 days and paid interest ₹ 0.66 lakhs against the payable amount of ₹ 11.58 lakh. The DMOs did not take any action for realisation of interest on these belated payments. This resulted in short realisation of interest of ₹ 10.92 lakh.

⁵ Barwani, Bhopal, Chhindwara, Datia, Dhar, Gwalior, Jhabua, Narsinghpur, Rewa and Shivpuri

After we pointed out the cases (between September 2013 and January 2014) five DMOs⁶ stated that audit would be intimated after recovery of interest amount. Other DMOs stated that recovery would be made after scrutiny of the cases.

We reported the matter to the Government and the Department in May 2014; their replies have not been received (December 2014).

- **Non/short realisation of interest on belated payments of trade quarry**

According to Rule 37(1) Madhya Pradesh Minor Mineral Rules, 1996 and condition no. 5 (i) of the contract agreement, contractors of trade quarries are required to pay contract money on or before the date indicated in their contract agreement failing which, the contractor is liable to pay in addition to the contract money, interest at the rate of 24 *per cent* per annum till the default continues.

We observed (between September 2013 and February 2014) during scrutiny of the case files, contract money in respect of trade quarries in 11 DMOs⁷ that 49 contractors out of 220 test checked had delayed the payment of contract money for the period ranging from five to 530 days and paid interest of ₹ 0.18 lakh against the payable amount of ₹ 31.12 lakh. The DMO did not initiate the action for levy of interest on the delayed payments. This resulted in non/short levy of interest of ₹ 30.94 lakh.

After we pointed out the cases (between September 2013 and February 2014), DMO, Narsinghpur, Singrauli and Shivpuri stated that recovery would be made after issuing demand notices. Other DMOs stated that recovery would be made after scrutiny.

We reported the matter to the Government and Department in May 2014; their replies have not been received (December 2014).

7.10 Non-levy/recovery of cost of minerals on unauthorised excavation

As per Rule 13(1) of Mineral Conservation and Development Rules, 1988, every holder of a mining lease shall carry out mining operations in accordance with the approved mining plan. If the mining operations are not carried out in accordance with the mining plan, the Regional Controller, Indian Bureau of Mines (IBM) or the authorised officer may order suspension of all or any of the mining operations. Further, Section 21(5) of the Mines and Minerals (Development and Regulation) Act, 1957 envisages that whenever, any person raised without any lawful authority, any mineral from any land, the State Government may recover from such person the mineral so raised, or where such mineral has already been disposed of, the price thereof along with royalty.

We observed (between October and November 2013) from the *Khatonis*, case files, challans relating to mining leases in DMOs Jhabua and Mandla that out of 48 lease holders, two mining lease holders excavated during the

⁶ Bhopal, Datia, Jhabua, Narsinghpur and Rewa

⁷ Barwani, Bhopal, Chhindwara, Datia, Dhar, Gwalior, Mandla, Narsinghpur, Singrauli, Shivpuri and Umariya

year 2010 to 2012 in excess of limits prescribed in the approved five years mining plan without the prior approval of revised mining plan. We further observed that the prescribed periodic returns were not found to be submitted. Further, cost of minerals were neither worked out nor demanded by the Department. Thus, excavation over and above the approved quantity was illegal, which attracted recovery of cost of minerals amounting to ₹ 99.08 lakh as given in **Annexure XIX**.

After we pointed out the cases, DMO Jhabua and Mandla stated (between October and November 2013) that action would taken as per rule after issuing demand notices to the concerned lessee.

We reported the matter to the Government and the Department in May 2014; their replies have not been received (December 2014).

7.11 Levy and collection of rural infrastructure and road development tax

7.11.1 Non realisation of rural infrastructure and road development tax

According to the provisions of Madhya Pradesh Rural Infrastructure and Road Development Act, 2005 and notification (September 2005), rural infrastructure and road development tax at the rate of five *per cent* per annum of the market value of major minerals produced after deducting amount of royalty actually paid by the lessee. The Act further provides that the competent authority shall assess the sale value of minerals on the basis of returns/accounts submitted by the lessees and shall assess and demand the tax by the end of May each year. In case of non-payment of tax, competent authority shall, under Section 4(2), impose penalty not exceeding three times of the tax payable, but not before giving a reasonable opportunity to the assesses of being heard. According to Sub-Section 5 of Section 4 of the Act *ibid*, the competent authority shall recover the amount of tax and penalty, if not paid, as the arrears of land revenue.

We observed (October 2013) during scrutiny of case files of major minerals in respect of mining leases in DMO, Shivpuri that a lessee had paid road development tax of ₹2.29 lakh against the payable amount of ₹8.36 lakh. This resulted is non-realisation of tax of ₹6.07 lakh as detailed in **Annexure-XX** besides penalty under the act. The DMO, Shivpuri neither issued demand notices nor initiated any action under the provisions of Act to recover the amount of tax.

After we pointed out the case, DMO, Shivpuri stated (October 2013) that recovery would be made after issuing demand notice.

We reported the matter to the Government and the Department in May 2014; their replies have not been received (December 2014).

7.11.2 Non payment of rural infrastructure and road development tax on idle mines

According to the provisions of Madhya Pradesh Rural Infrastructure and Road Development Act, 2005 and notification of September 2005, rural infrastructure and road development tax at the rate of five *per cent* per annum of the market value of major minerals produced after deducting amount of royalty actually paid by the lessee and ₹4,000 per hectare per year in case of idle mines is to be levied on lessees holding mining leases.

We observed (between September 2013 and January 2014) during scrutiny of the case files of major minerals in respect of mining leases in four DMOs⁸ that out of 86 leases, 14 lessees had not paid road development tax for the period October 2005 to March 2013 of ₹ 5.16 lakh on idle mines. The DMOs neither issued demand notices nor initiated any action under the provisions of Act to recover the amount of tax. This resulted in non-realisation of tax of ₹ 5.16 lakh as detailed in **Annexure-XXI** besides penalty is also leviable under the act.

After we pointed out the cases, DMO, Datia stated (September 2013) that the matter has been sent to Government for cancellation of mining leases of idle mines and due recovery. Whereas DMO Mandla stated (November 2013) that recovery would be made after issuing demand notice. Other DMOs stated that action would be taken/recovery would be made after scrutiny.

We reported the matter to the Government and the Department in May 2014; their replies have not been received (December 2014).

7.12 Levy and collection of Stamp Duty and Registration Fees

7.12.1 Short levy of Stamp Duty and Registration Fees due to incorrect determination of average annual royalty

According to the instructions of Government of Madhya Pradesh (March 1993), Mineral Resources Department, Stamp Duty and Registration Fees are leviable on average annual royalty on new mining lease to be calculated on the basis of mineral to be extracted as shown in the application for mining lease or the production given in the mining plan, whichever is higher. Further, as per Section 33 of Indian Stamp Act, 1899 the amount of Stamp Duty shall be levied five times on the market value of average annual royalty for the lease period 20 to 30 years.

During examination of case files of mining lease of DMO Mandla and Neemuch, we noticed that while sanctioning mining leases for a period of 20 to 30 years, lease deed were executed/registered (between December 2010 and June 2011) on the basis of the average production of the first five years as shown in the mining plan instead of the average of the proposed production for the complete lease period as per the instruction *ibid*. The lessee of dolomite and limestone had paid Stamp Duty and Registration Fees amounting to ₹ 47.48 lakh as against the leviable amount of ₹ 7.02 crore as detailed in **Annexure-XXII**. This resulted in short levy/recovery of Stamp Duty and Registration Fees of ₹ 6.54 crore. The District Registrar and Sub Registrar did not also ensure correct realisation of Stamp duty and Registration fees at the time of registration of the lease agreements. Similar nature of para was brought to the notice of Government in Audit Report 2012-13, yet the Department has not taken action to check such persistent irregularities.

After we pointed out the case DMO, Neemuch stated (January 2014) that action would be taken as per rule by obtaining guidance from the Government, whereas DMO, Mandla stated (November 2013) that action would be taken after scrutiny as per rule.

We reported the matter to the Government and the Department in May 2014; their replies have not been received (December 2014).

⁸ Barwani, Chhindwara, Datia and Mandla

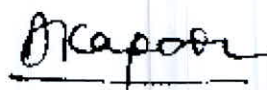
7.12.2 Short realisation of Stamp Duty and Registration Fees

According to the instructions issued by Mineral Resources Department, Government of Madhya Pradesh in March 1993, full amount of contract money shall be treated as premium for the purpose of levy of Stamp Duty. Besides, as per Indian Registration Act, 1908 Registration Fee shall be levied at the rate of 75 per cent of Stamp Duty.

We observed (between September and October 2013) during test check of case files of trade quarry in DMO Bhind and Datia regarding leases sanctioned to MP State Mining Corporation Limited (MPSMCL) that the corporation entered into an agreement with seven contractors between March 2013 and March 2015 for the period of two years for ₹ 123.77 crore. Stamp Duty of ₹ 6.18 crore and Registration Fees of ₹ 4.64 crore was leviable and recoverable in this contract. MPSMCL, however, executed a contract on a stamp paper of ₹ 100 in each case. This resulted in short realisation of revenue of ₹ 10.82 crore to the Government as detailed in **Annexure-XXIII**.

After we pointed out the case DMO, Bhind stated (October 2013) that audit would be intimated after taking necessary action for recovery whereas DMO, Datia stated (September 2013) that the paragraph related to MPSMCL and therefore the objection was not acceptable. We do not agree with the reply of DMO, Datia as MPSMCL was a lessee of the Mineral Resources Department and it was the responsibility of the lessee to pay all Government dues as per rules.

We reported the matter to the Government and the Department in May 2014; their replies have not been received (2014).



(DEEPAK KAPOOR)

Accountant General

(Economic and Revenue Sector Audit)

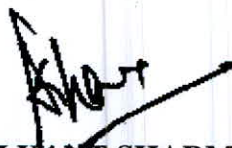
Madhya Pradesh

Bhopal

The

05 FEB 2015

Countersigned



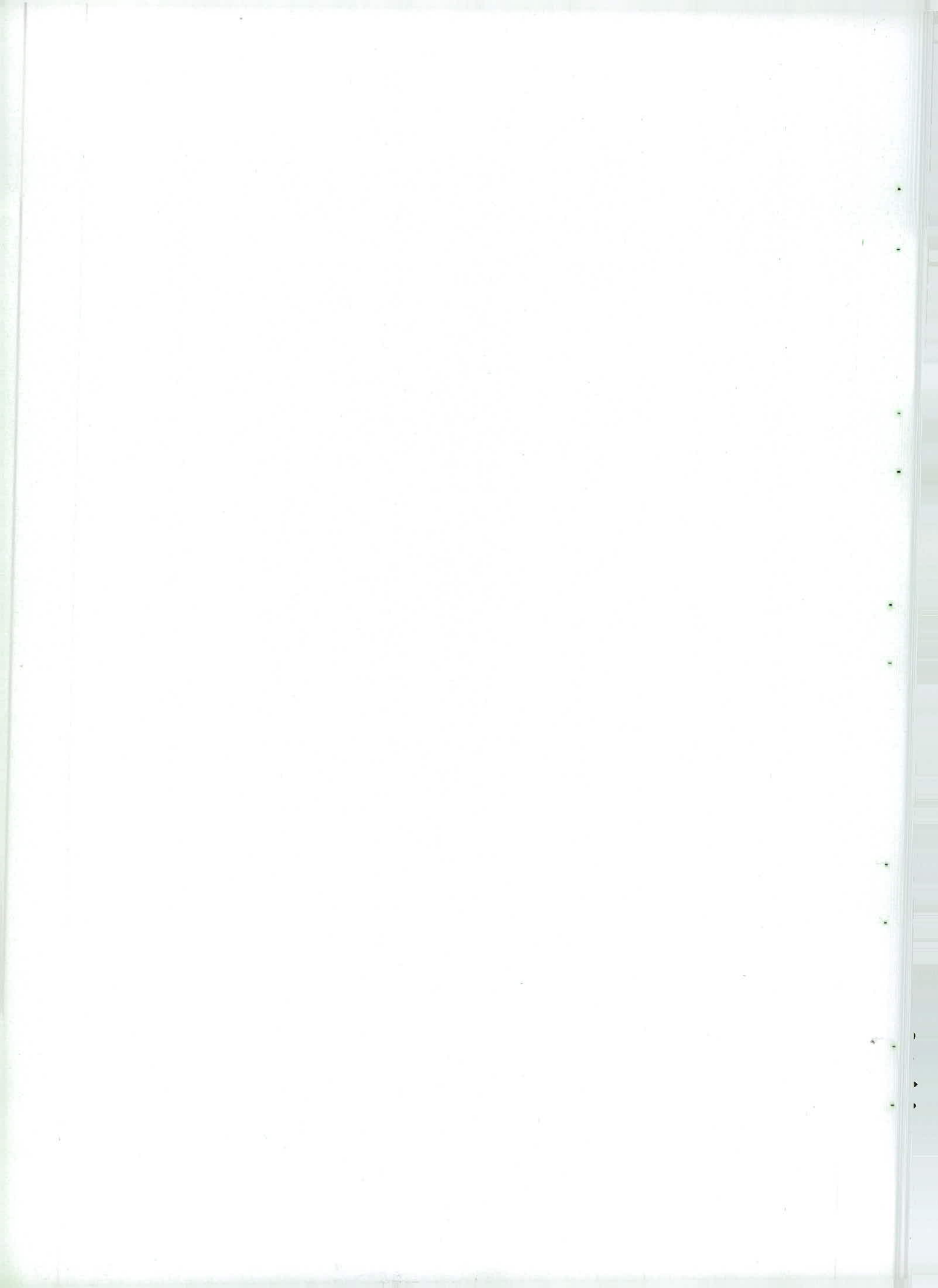
(SHASHI KANT SHARMA)

Comptroller and Auditor General of India

New Delhi

The

17 FEB 2015



ANNEXURES

Annexure-I

Para referred into the paragraph 2.4.8

Deficiencies in MP VAT Act and the Rules regarding ITR

Sl. No.	Name of Unit/No. of cases/Dealer	Period between	Claimed ITR		Allowed ITR		Purchase Above ₹ 25000/40000		Purchase below ₹ 25000/40000		Observations*	Reply of the Department
			Purchase Value	VAT	Purchase Value	VAT	Purchase Value	VAT	Purchase Value	VAT		
1	CTO Waidhan/5/5	09-10 to 10-11	11534235	655308	11348497	657020	5520595	335713	2580590	147081	1,2,3	Action will be taken after verification
2	RAC Sagar/2/2	10-11	191076849	9376424	191076849	9376424	2210531	287369	366800	47684	1,2,3	Action will be taken after verification
3	CTO V Bhopal/7/7	10-11 to 11-12	17144309	1342749	17144309	1357372	15249313	1089104	3277601	236899	1,2,3	Dealerwise purchases were verified from VATIS and purchase bills
4	CTO-II Gwalior/4/4	10-11	8518094	957233	8518094	957233	4020237	457357	5509258	512180	1,2,3	Action will be taken after verification
5	CTO-III Gwalior/4/4	10-11	19791109	997964	1971109	997964	19271954	961494	521256	118650	1,2,3	Action will be taken after verification
6	CTO-XI, Indore/8/7	10-11	14428532	691785	14428532	691785	13891794	622701	1193624	53823	1,2,3	Action will be taken after verification
7	CTO-XIV, Indore/8/8	09-10 to 10-11	27979412	1203352	24536179	990917	19940341	871732	2556616	180756	1,2,3	Action will be taken after verification
8	CTO- Mandideep/2/2	10-11	7801253	362816	7253959	362687	5605613	272435	2011163	96415	1,2,3	Action will be taken after verification
9	DC-Sagar/ 4/4	10-11	1630379518	74826999	144679457	71058896	6481209	840037	0	0	1,2,3	Dealerwise purchases were verified from VATIS and purchase bills
10	DC Tax Audit Indore-I/2/2	10-11 to 11-12	8240620	678008	9023372	747949	6649632	0	0	0	1,2,3	Action will be taken after verification
11	CTO XII Indore/14/14	09-10 to 10-11	192988923	13531073	127296614	14546962	24627969	1572203	910897	55565	1,2,3	Dealerwise purchases were verified from VATIS and purchase bills
12	CTO Khandwa/12/12	08-09 to 10-11	59785454	4947472	100367815	8150980	0	0	0	0	1,2,3	Action will be taken after verification
13	CTO Morena/10/10	09-10 to 10-11	14892491	875320	106793867	8588618	0	0	0	0	1,2,3	Action will be taken after verification
14	RAC- II Bhopal/10/10	07-08 to 09-10	28968610	21370193	57914375	32838340	0	0	0	0	1,2,3	Action will be taken after verification
15	CTO XII Indore/8/8	09-10 to 11-12	325044006	18268449	341135748	14160601	50754447	1929686	4824543	7789	1,2,3	Action will be taken after verification
16	CTO-III Bhopal/3/3	10-11 to 11-12	4420511	263211	4776285	473523	1284795	17391	167830	203699	1,2,3	Action will be taken after verification
17	CTO Katni/12/12	09-10 to 11-12	83268092	6163611	81221978	3774723	79744919	98407	0	0	1,2,3	Action will be taken after verification
Total			2646262018	156511967	1249487039	169731994	255253349	9355629	23920178	1660541		

*1 Type of Goods not mentioned. 2 Goods bill amounting above ₹40000 payment made without crossed cheque. 3 Cross verification wrt to claimed ITR not done.

Annexure-II
Para referred in to the paragraph 2.4.8.6

ITR allowed though no returns were filed by the dealers

Sl. No	Name of AA	Name of Dealer with TIN	Case No. Date of Assessment	Claimed ITR (₹)		Allowed ITR (₹)		Reply of the Department	Audit Remark
				Purchase value	Amount of VAT	Purchase value	Amount of VAT		
1.	2.	3.	4.	5.	6.	7.	8.	9.	10.
1.	DC,Sagar	M/s VRC Constructions Pvt.Ltd. Bina 23497304191	258/2010 12.5.2012 09-10	-	-	891560	52518		
2.	CTO,Circle-12,Indore	M/s Arora Treaders, Indore 23711203636	374/10 30.6.12 09-10	-	-	23684775	2605900	ITR has been sanctioned as per section 14(1) of MP VAT Act 2002.	Any claim in respect of ITR that may be made by a registered dealer under sub-section (1) of Section 14, shall be qualified by a bill, invoice or cash memorandum issued by the selling registered dealer indicating therein separately the amount of tax under Section 9 collected by him. Any such claim in respect of the input tax rebate shall be made by such registered dealer in his return in Form 10.
3	CTO,Circle-12,Indore	M/s HariKrishna Packagesing, Indore 235612000857	813/10 26.6.12 09-10	-	-	4572979	220206		
4	CTO,Khandwa	M/s Yesh Electronics, Khandwa 23042005952	384/10 09-10 12.4.12	0	0	11737514	1005016	Action would be taken after verification	Final Action has not been intimated (December-2014)
5	CTO,Khandwa	M/s Ojha Constructions, Khandwa 23782006030	458/09 30.6.11 08-09	0	0	1727284	144894		
6	CTO,Khandwa	M/s Anil Shrivastava, Contractor,Khandwa 23772006375	444/09 30.6.11 08-09	0	0	1564905	148020		
7	CTO,Khandwa	M/s Shriram Choudhary, Contractor, Khandwa 23462004654	446/09 30.6.11 08-09	0	0	3000788	314286		
8	CTO,Khandwa	M/s Seva Construction, Khandwa 23882003395	450/09 8.8.2011 08-09	0	0	20664351	1668394		
9	CTO,Khandwa	M/s Talib Hussain & Sons, Khandwa 23082003505	334/09 25.4.11 08-09	0	0	3701327	356469		
10	CTO,Khandwa	M/s Talib Hussain & Sons, Khandwa 23082003505	274/10 29.3.12 09-10	0	0	5920493	588982		
11	CTO,Khandwa	M/s Ojha Constructions, Khandwa 23782006030	1039/10 16.2.12 09-10	0	0	1001550	99656		
12	CTO,Khandwa	M/s Jitendra Singh Sawner,Khandwa 23622006312	782/09 30.6.11 08-09	0	0	1950448	230330		
13	CTO, Morena	M/s Madhu Watch Co. Morena 23055601494	62/10 10.4.12 09-10	0	0	13314828	1263654	Action would be taken after verification	Final Action has not been intimated (December-2014)
14	CTO, Morena	M/s Gourav Enterprises, Morena 23865502060	240/10 16.4.10 09-10	0	0	15384352	1911317		

Sl. No	Name of AA	Name of Dealer with TIN	Case No. Date of Assessment	Claimed ITR (₹)		Allowed ITR (₹)		Reply of the Department	Audit Remark
				Purchase value	Amount of VAT	Purchase value	Amount of VAT		
1.	2.	3.	4.	5.	6.	7.	8.	9.	10.
15	CTO, Morena	M/s Shriram Treaders, Morena 23565601767	61/10 4.6.12 09-10	0	0	40394814	1976985		
16	CTO, Morena	M/s New Manish Medical Stores, Morena 23555601523	63/10 14.6.12 09-10	0	0	21265769	1103650		
17	CTO, Morena	M/s Vijay Tread link, Morena 23345605457	1014/11 11.1.13 10-11	0	0	16661603	1886965		
18	CTO-13, Indore	M/s J.M. Pharma, Indore 23971304179	CS000000006 7373/11 3.8.13/10-11	0	0	37537062	2376931	Action would be taken after verification	Final Action has not been intimated (December-2014)
19	CTO 3, Bhopal	M/s J.K. Enterprises, Bhopal 23423802086	719/11 19.9.13 10-11	0	0	1301044	149855		
20	CTO 3, Bhopal	M/s Nextech Computers, Bhopal 23303805256	947/13 28.9.13 10-11	0	0	7573872	411143		
21	CTO 3, Bhopal	M/s Amarlal Thakur Contractor, Bhopal 23963806057	375/11 24.7.13 10-11	0	0	1839893	148199	Action would be taken after verification	Final Action has not been intimated (December-2014)
22	CTO 3, Bhopal	M/s Megdoot Marketing, Bhopal 23403804425	721/11 23.9.13 10-11	0	0	1671038	92591		
23	CTO Circle, Pithampur	M/s Shubham Steel Dhamnod 23071701889	39/2011 2010-11 10.6.2013	0	0	13636480	1515570		
24	CTO Circle, Pithampur	M/s Mohanlal Kalyanmal Dhar 23121703656	67/2011 2010-11 11.6.2013	0	0	5140275	344672		
25	CTO Circle, Pithampur	M/s Ashiyana Paints Pvt. Ltd. Sector II Pithampur 23531604636	205/2011 2010-11 31.8.2013	0	0	4425678	221779	There is no provision in the Act that ITR could not be sanctioned without claimed in return or returns not submitted.	Any claim in respect of ITR that may be made by a registered dealer under sub-section (1) of Section 14, shall be qualified by a bill, invoice or cash memorandum issued by the selling registered dealer indicating therein separately the amount of tax under Section 9 collected by him. Any such claim in respect of the input tax rebate shall be made by such registered dealer in his return in Form 10.
26	CTO Circle, Pithampur	M/s Adimjati Seva Sahakari Samiti, Dharampuri, 23801703864	70/2011 2010-11 16.9.2013	0	0	8388970	419449		
27	CTO, Sendhwa	M/s Bombay Watch Co. Barwani, 23282201275	213/2011 2010-11 22.8.2013	0	0	10231542	1325826	Action would be taken after verification	Final Action has not been intimated (December-2014)
28	CTO, Sendhwa	M/s Balluji Chitarmal Verma, Kasrawad 23112204618	2337/2011 2010-11 22.5.2013	0	0	1964498	214495		
Total						22797752			

Annexure-III

Para referred in to the paragraph 2.4.9.1

Acceptance of ITR even if tax was not separately charged

Sl no	Detail of Unit	Dealer, TIN, Case No.	Period /Month of assessment	Purchase value (₹)	Amount of ITR (₹)	Amount of Penalty as per the Provisions of section 21 (₹)	Amount of Proposed Additional demand ITR (₹)	Audit Observation	Reply of the Department	Audit Remark
1	2	3	4	5	6	7	8	9	10	11
1	CTO Sagar	M/s Sagar Coopertrative agriculture and Marketing society sagar 23677500025 CS/6604 3/11 VAT	2010-11 05.09.2013	15190254	759512	2278536	3038048	AA accepted that purchase list includes VAT ,however VAT not separately charged in purchase bills	Matter will be taken up after verification	Action is awaited
2	CTO Circle Narsinghpur	M/s Nanhelal Shreeram Nema Narsinghpur 23796400367 14/2008 VAT	2007-08 08-4-2010	17394699	2160419	0	2160419	As per section 14 Rule 9 of Vat Act 2002, vat not shown separately in invoice	Action will be taken after verification	Action is awaited
3	CTO Circle Narsinghpur	M/s Nanhelal Shreeram Nema Narsinghpur 23796400367 23/2007 VAT	2006-07 18-5-2009	17173708	2121422	0	2121422	As per section 14 Rule 9 of VAT Act 2002, VAT not shown separately in purchase list	Action will be taken after verification	Action is awaited
4	CTO Circle- II Jabalpur	M/s Grover Mechanical Works Jabalpur 23265902767 516/10 VAT	2009-10 13-6-2012	1109916	53441	0	53441	As per section 14 Rule 9 of Vat Act 2002, vat not shown separately in purchase list	Action will be taken after verification	Action is awaited
5	CTO Circle, Burhanpur	M/s Emagrid Seva Sahakari Samiti Burhanpur 23601904279 292/2010 VAT	2009-10 20- 03-2012	3309624	140394	0	140394	As per section 14 Rule 9 of Vat Act 2002, vat not shown separately in purchase bills	Action will be taken after verification	Action is awaited

1	2	3	4	5	6	7	8	9	10	11
6	CTO Circle Dhar	M/s N.S. Enterprises, 23961601247 96/2010 VAT	2009-10 23-4-2012	53527232	6938694	0	6938694	As per section 14 Rule 9 of Vat Act 2002, vat not shown separately in purchase list	Action will be taken after verification	Action is awaited
7	CTO Circle-II Jabalpur	M/s Elite Engineering Company, 23135808933 756/2011 VAT	2010-11 28-9-2013	2375789	237558	0	237558	Purchase list and Bill/Invoice not attached in case file	Action will be taken after verification	Action is awaited
8	RAC, Satna	M/s Sourabh Sales Corporation, Satna, 23137101555 14/2012 VAT CS0000000093870	2011-12 22-3-2014	1.58E+08	19815553	0	19815553	Vat not shown separately in purchase list	VAT was shown in Bill/Invoice at the time of assessment hence ITR cannot be disallowed as per rules When VAT not shown in the purchase list	The reply is not in consonance with the fact the AA could not produced even one purchase bill copy in support of the reply, hence, audit objection remains as it was.
9	RAC, Dewas	M/s MP Agro B.R.K, Narsinghpur, 23472302487, CS000076264 (VAT)	2010-11 30.09.2013	6950000	903500	0	903500	Scrutiny of the record it was found that the P&M was not procured from Registered dealer	The AA mentioned the details of purchase stated that the purchase was made good from a registered dealer after paying VAT separately in the bill.	The reply is not in consonance with the fact that no revised purchase list or purchase bill mentioning TIN and VAT separately charged could be produced.
10	CTO, Circle-10, Indore	M/s H R Johnson PBK Ltd, 23831004138, 610/10(VAT)	2009-10, 14.05.2012	10208975	1276122	3828366	5104488	Scrutiny of the record it was found that the purchase of tiles etc without TIN no Dealer	The AA stated that the matter will be taken after verification	Action is awaited

1	2	3	4	5	6	7	8	9	10	11
11	CTO, Circle 10, Indore	M/s Talati Marketing, 23971001539 185/10 (VAT)	2009-10 7.5.2012	818759	36005	108015	144020	VAT tax not separately charged in purchase list/bills	Matter will be taken up after verification	Action is awaited
12	DC, Tax Audit, Bhopal	M/s Dropdi Construction, 23584003855, 23/10 (VAT)	2009-10 30.04.12	13727645	1113430	0	1113430	ITR sanctioned without purchase list/bill	Matter will be taken up after verification	Action is awaited
13	CTO Circle 5, Bhopal	M/s AJM Marketing, 23164004668, 295/11 (VAT)	2010-11 27.09.13	31070438	3422974	10268922	13691896	As per purchase list dealer has purchased goods without TIN no. URD dealer.	The AA stated that whole purchase was made from single dealer M/s Soni India, 23511201612 and ITR has been allowed/accepted after its verification.	the AA could not produced even one purchase bill copy in support of the reply, hence audit objection remains as it was.
14	CTO Circle 5, Bhopal	M/s RBS Builders, 23684007486, 763/11 (VAT)	2010-11 / 27.09.13	6511762	513504	0	513504	ITR sanctioned without separately charge purchase bill	The AA stated that action will be taken after due verification	Action is awaited
15	CTO, Madideep Circle, Raisen	Balkishan Harprasad, 23804100055, 04/11 (VAT)	2010-11 / 26.09.13	14413577	1521211	4563633	6084844	ITR sanctioned without purchase list/bill	Matter will be taken up after verification	Action is awaited
Total					41013739	21047472	62061211			

Annexure-IV

Para referred in to the paragraph 2.4.9.2

Irregular grant of ITR in absence of the purchase list/bills

Sl no	Detail of Unit	Dealer, TIN, Case No.	Period /Month of assessment	Amount of irregular grant of ITR (₹)	Amount of total ITR (₹)	Amount of Additional demand ITR (₹)	Audit Observation	Reply of the Department	Audit Remark
1	2	3	4	5	6	7	8	9	10
1	CTO 13 Indore	M/s M V Enterprises Indore 23411302838 CS3231/11 VAT	2010-11 20.06.13	603511	1533041	603511	Evidence (Purchase details of claimed ITR as per requirement) regarding ITR claim was not found on record.	Matter will be taken after verification	
2	RAC Dn 1 Bhopal	M/s Satya Narayan & Company Bhopal 23393701368 96/13 VAT	2012-13 29.03.14	5979865	5979865	5979865	Evidence (Purchase details of claimed ITR as per requirement) regarding ITR claim was not found on record.	Absence of effective mechanism for Cross verification of ITR in cases where purchases are under ` 25000. However audited accounts are submitted.	Audited accounts are not submitted and self assessment was done against provisions.
3	RAC Dn 1 Bhopal	M/s Laxmi Traders Bhopal 23883706191 109/13 VAT	2012-13 29.03.14	1882173	1882173	1882173	Evidence (Purchase details of claimed ITR as per requirement) regarding ITR claim was not found on record.	Absence of effective mechanism for Cross verification of ITR in cases where purchases are under ` 25000. However audited accounts are submitted.	Audited accounts are not submitted and self assessment was done against provisions.
4	RAC Dn 1 Bhopal	M/s Sameer enterprises Bhopal 23093706286 139/13 VAT	2012-13 (self assessed)	672222	672211	672211	Evidence (Purchase details of claimed ITR as per requirement) regarding ITR claim was not found on record.	As per the provisions/directives Cases are self assessed. There is no provision in the act for producing purchase bills however purchase details for purchases more than ` 25000 have been given in returns.	No evidence was found on record for payment of VAT and corresponding ITR claim which is required as per section 14 read with per rule 9
5	RAC Dn 1 Bhopal	M/s Kulwant aotomobile Bhopal 23233605620 3/13 VAT	2012-13 (self assessed)	603998	603998	603998	Evidence (Purchase details of claimed ITR as per requirement) regarding ITR claim was not found on record.	As per the provisions/directives Cases are self assessed. There is no provision in the act for producing purchase bills however purchase details for purchases more than ` 25000 have been given in returns.	No evidence was found on record for payment of VAT and corresponding ITR claim which is required as per section 14 read with per rule 9
6	RAC Dn 1 Bhopal	M/s Book & Cook Bhopal 23464100533 41/13 VAT	2012-13 (self assessed)	9425304	9425304	9425304	Evidence (Purchase details of claimed ITR as per requirement) regarding ITR claim was not found on record.	As per the provisions/directives Cases are self assessed. There is no provision in the act for producing purchase bills however purchase details for purchases more than ` 25000 have been given in returns.	No evidence was found on record for payment of VAT and corresponding ITR claim which is required as per section 14 read with per rule 9

7	RAC Dn 1 Bhopal	M/s Choudhary agenci Bhopal 23973702019 117/13 Vat	2012-13 (self assessed)	67184775	67184775	67184775	Evidence (Purchase details of claimed ITR as per requirement) regarding ITR claim was not found on record.	As per the provisions/directives Cases are self assessed. There is no provision in the act for producing purchase bills however purchase details for purchases more than ` 25000 have been given in returns.	No evidence was found on record for payment of VAT and corresponding ITR claim which is required as per section 14 read with per rule 9
8	RAC Dn 1 Bhopal	M/s Rathi Brothers Bhopal 23813701331 134/13 VAT	2012-13 (self assessed)	10284116	10284116	10284116	Evidence (Purchase details of claimed ITR as per requirement) regarding ITR claim was not found on record.	As per the provisions/directives Cases are self assessed. There is no provision in the act for producing purchase bills however purchase details for purchases more than ` 25000 have been given in returns.	No evidence was found on record for payment of VAT and corresponding ITR claim which is required as per section 14 read with per rule 9
9	RAC Dn 1 Bhopal	M/s Orient distributors Bhopal 23813702398 101/13 VAT	2012-13 (self assessed)	18651012	18651012	18651012	Evidence (Purchase details of claimed ITR as per requirement) regarding ITR claim was not found on record.	As per the provisions/directives Cases are self assessed. There is no provision in the act for producing purchase bills however purchase details for purchases more than ` 25000 have been given in returns.	No evidence was found on record for payment of VAT and corresponding ITR claim which is required as per section 14 read with per rule 9
10	RAC Dn 1 Bhopal	M/s B.S.S.Filling station Bhopal 23303705637 137/13 VAT	2012-13 (self assessed)	10828446	10828446	10828446	Evidence (Purchase details of claimed ITR as per requirement) regarding ITR claim was not found on record.	As per the provisions/directives Cases are self assessed. There is no provision in the act for producing purchase bills however purchase details for purchases more than ` 25000 have been given in returns.	No evidence was found on record for payment of VAT and corresponding ITR claim which is required as per section 14 read with per rule 9
11	RAC Dn 1 Bhopal	M/s Dayal Das Arjun Das Bhopal 23173700034 89/13 VAT	2012-13 (self assessed)	7893	7893	7893	Evidence (Purchase details of claimed ITR as per requirement) regarding ITR claim was not found on record.	As per the provisions/directives Cases are self assessed. There is no provision in the act for producing purchase bills however purchase details for purchases more than ` 25000 have been given in returns.	No evidence was found on record for payment of VAT and corresponding ITR claim which is required as per section 14 read with per rule 9
12	RAC Dn 1 Bhopal	M/s ChandiRam Kundan Das Bhopal 23613701053 93/13 VAT	2012-13 (self assessed)	622280	622280	622280	Evidence (Purchase details of claimed ITR as per requirement) regarding ITR claim was not found on record.	As per the provisions/directives Cases are self assessed. There is no provision in the act for producing purchase bills however purchase details for purchases more than ` 25000 have been given in returns.	No evidence was found on record for payment of VAT and corresponding ITR claim which is required as per section 14 read with per rule 9
13	RAC Dn 1 Bhopal	M/s Rajeev sales agency Bhopal 23033702245 100/13 VAT	2012-13 (self assessed)	20659802	20659802	20659802	Evidence (Purchase details of claimed ITR as per requirement) regarding ITR claim was not found on record.	As per the provisions/directives Cases are self assessed. There is no provision in the act for producing purchase bills however purchase details for purchases more than ` 25000 have been given in returns.	No evidence was found on record for payment of VAT and corresponding ITR claim which is required as per section 14 read with per rule 9
14	RAC Dn 1 Bhopal	M/s ShriRam distributors Bhopal 23133902301 11/13 VAT	2012-13 (self assessed)	21638013	21638013	21638013	Evidence (Purchase details of claimed ITR as per requirement) regarding ITR claim was not found on record.	As per the provisions/directives Cases are self assessed. There is no provision in the act for producing purchase bills however purchase details for purchases more than ` 25000 have been given in returns.	No evidence was found on record for payment of VAT and corresponding ITR claim which is required as per section 14 read with per rule 9

15	RAC Dn 1 Bhopal	M/s Mahesh Trading co. Bhopal 23573902544 14/13 VAT	2012-13 (self assessed)	118212	118212	118212	Evidence (Purchase details of claimed ITR as per requirement) regarding ITR claim was not found on record.	As per the provisions/directives Cases are self assessed. There is no provision in the act for producing purchase bills however purchase details for purchases more than 25000 have been given in returns.	No evidence was found on record for payment of VAT and corresponding ITR claim which is required as per section 14 read with per rule 9
16	RAC Dn 1 Bhopal	M/s Apoorti Shoping mall Ltd.Bhopal 23893903912 23/13 VAT	2012-13 (self assessed)	19345958	19345958	19345958	Evidence (Purchase details of claimed ITR as per requirement) regarding ITR claim was not found on record.	As per the provisions/directives Cases are self assessed. There is no provision in the act for producing purchase bills however purchase details for purchases more than 25000 have been given in returns.	No evidence was found on record for payment of VAT and corresponding ITR claim which is required as per section 14 read with per rule 9
17	CTO Circle-II Jabalpur	M/s Arora Chappal Store, 23295403211 626/10 VAT	2009-10 18-06- 2012	15921	15921	15921	Purchase list and bill invoice not enclosed in the case file	Action will be taken after verification	Action awaited
18	CTO Circle Dhar	M/s Adim Jati Seva Sahkari samiti Maryadit, Khandloi, 23491601069 339/2010 VAT	2009-10 23-2- 2012	196259	196259	196259	Purchase list and bill invoice not enclosed in the case file	Action will be taken after verification	Action awaited
19	CTO Circle Dhar	M/s Navkar Automobiles, Badnawar 23821602197 252/12	2011-12 self assessme nt	1482296	1482296	1482296	Purchase list and bill invoice not enclosed in the case file	Purchase list is not required in self assessment cases	Reply is not acceptable as per section 14 rule 9 tax should be shown separately in the invoice/bill
20	CTO Circle Dhar	M/s Kamdar Traders Nisarpur 23741602338 100/12	2011-12 self assessme nt	597319	597319	597319	Purchase list and bill invoice not enclosed in the case file	Purchase list is not required in self assessment cases	Reply is not acceptable as per section 14 rule 9 tax should be shown separately in the invoice/bill
21	CTO Circle Dhar	M/s Kisan Krishi Seva Kendra 23211602969 269/12	2011-12 self assessme nt	847561	847561	847561	Purchase list and bill invoice not enclosed in the case file	Purchase list is not required in self assessment cases	Reply is not acceptable as per section 14 rule 9 tax should be shown separately in the invoice/bill
22	CTO Circle Dhar	M/s Lalit Kumar Babulal Badnawar 23031601904 245/12	2011-12 self assessme nt	270002	270002	270002	Purchase list and bill invoice not enclosed in the case file	Purchase list is not required in self assessment cases	Reply is not acceptable as per section 14 rule 9 tax should be shown separately in the invoice/bill
23	CTO Circle Dhar	M/s Jawahar Agency, Badnawar 23441601339 234/12	2011-12 self assessme nt	1797333	1797333	1797333	Purchase list and bill invoice not enclosed in the case file	Purchase list is not required in self assessment cases	Reply is not acceptable as per section 14 rule 9 tax should be shown separately in the invoice/bill
24	CTO Circle Dhar	M/s R.K.Sales Corpn 23481601317 58/12	2011-12 self assessme nt	4358631	4358631	4358631	Purchase list and bill invoice not enclosed in the case file	Purchase list is not required in self assessment cases	Reply is not acceptable as per section 14 rule 9 tax should be shown separately in the invoice/bill

25	CTO Circle Dhar	M/s Ashish Traders, Ghatbillod 23501601306 56/12	2011-12 self assessment	2912230	2912230	2912230	Purchase list and bill invoice not enclosed in the case file	Purchase list is not required in self assessment cases	Reply is not acceptable as per section 14 rule 9 tax should be shown separately in the invoice/bill
26	CTO Circle Dhar	M/s Rangil Chand Pannalal, Dhar 23431700042 310/12	2011-12 self assessment	92738	92738	92738	Purchase list and bill invoice not enclosed in the case file	Purchase list is not required in self assessment cases	Reply is not acceptable as per section 14 rule 9 tax should be shown separately in the invoice/bill
27	CTO Circle Dhar	M/s Kamal Traders, Dhar 23421700096 594/12	2011-12 self assessment	426205	426205	426205	Purchase list and bill invoice not enclosed in the case file	Purchase list is not required in self assessment cases	Reply is not acceptable as per section 14 rule 9 tax should be shown separately in the invoice/bill
28	CTO Circle Dhar	M/s Gulab Chand Omkarlal, Manawar 23021700413 319/12	2011-12 self assessment	731778	731778	731778	Purchase list and bill invoice not enclosed in the case file	Purchase list is not required in self assessment cases	Reply is not acceptable as per section 14 rule 9 tax should be shown separately in the invoice/bill
29	CTO Circle Dhar	M/s Ambika Krishi & Beej Vikas Sahakaritha Mydt. Dhar 23691704070 495/12	2011-12 self assessment	513146	513146	513146	Purchase list and bill invoice not enclosed in the case file	Purchase list is not required in self assessment cases	Reply is not acceptable as per section 14 rule 9 tax should be shown separately in the invoice/bill
30	CTO Circle Dhar	M/s Shailendra Automobile, Manawar 23701703240 458/12	2011-12 self assessment	3209803	3209803	3209803	Purchase list and bill invoice not enclosed in the case file	Purchase list is not required in self assessment cases	Reply is not acceptable as per section 14 rule 9 tax should be shown separately in the invoice/bill
31	CTO Circle Dhar	M/s Bhanja Enterprises, Dhar 23561703899 482/12	2011-12 self assessment	513519	513519	513519	Purchase list and bill invoice not enclosed in the case file	Purchase list is not required in self assessment cases	Reply is not acceptable as per section 14 rule 9 tax should be shown separately in the invoice/bill
32	CTO Circle Dhar	M/s Maa Bhawani Motors rewinding & Machinery, Dhar 23571704330 507/12	2011-12 self assessment	716665	716665	716665	Purchase list and bill invoice not enclosed in the case file	Purchase list is not required in self assessment cases	Reply is not acceptable as per section 14 rule 9 tax should be shown separately in the invoice/bill
				207188986	208118505	207188975			

Annexure-V

(Para referred in to the paragraph 2.4.9.5)

Excess amount of allowed ITR with respect to claimed ITR

Sl no	Detail of Unit	Dealer, TIN, Case No.	Period /Month of assessment	Amount of total ITR Claimed (₹)	Amount of total ITR Allowed (₹)	Excess Amount of ITR Allowed (₹)	Penalty (₹)	Amount of Additional demand ITR (₹)	Audit observation	Reply of the Department	Audit Remark
1	2	3	4	5	6	7	8	9	10	11	12
1	CTO Circle 3 Bhopal	Ms/ Laxmi Traders Bhopal 23853802092 CS00036363 CS00003051 VAT	2010-11 2011-12 24.09.13	19663437	20226195	562758	0	562758	Excess ITR was allowed against claimed ITR	ITR was allowed after due verification of the documents submitted by the dealer	the AA did not comment point of objection of allowance of excess ITR than it was claimed
2	CTO Circle 3 Bhopal	M/s Bombay Agency Royal Market Bhopal 23773802524 CS0000000578 8 VAT	2010-11 08.05.13	18713	48654	29941	89823	119764	Excess ITR was allowed @13% instead of schedule rate of 5%. Excess amount of ITR objected includes ITR amount ₹ 29941 and Penalty ₹ 89823	Matter will be taken after verification.	Action is awaited
3	CTO Circle-II Jabalpur	M/s Khilwani Brothers Jabalpur 23055902388 156/10 vat	2009-10 22/2011	693425	723833	30408	0	30408	Excess ITR was allowed against claimed ITR	Matter will be taken after verification.	Action is awaited
4	CTO Circle Dhar	M/s Hanuman Cot Trading Dhar 23841604611 CS000000003 9640 VAT	2010-11 1.2.2013	167635	175636	8001	24003	32004	Excess ITR was allowed against claimed ITR	Matter will be taken after verification.	Action is awaited
5	CTO Circle Dhar	M/s N.S. Enterprises Dhar, 23961601247 96/2010 VAT	2009-10 23- 4-2012	6468962	6535482	66520	0	66520	Excess ITR was allowed against claimed ITR	Matter will be taken after verification.	Action is awaited

1	2	3	4	5	6	7	8	9	10	11	12
6	DC Division - 1 Indore	M/s Simplex Infrastructure ltd./2338010320 7, 268/11(VAT)	2010- 11/7.9.12	20878997	22036180	1157183	3471549	4628732	Excess ITR was allowed against claimed ITR	ITR was allowed according to MP VAT Act rule 14(3) carry forward of ITR	the reply is not in consonance with the provision of MP VAT Act 14(3) read with rule 9
7	CTO Circle 11, Indore	M/s Hitech Metal Farmins 23961100048, CS000078318 (VAT)	2010-11 / 30.09.11	7296904	8023863	726959	2180877	2907836	Excess ITR was allowed against claimed ITR	The matter will be taken up after verification	Action is awaited
8	CTO Circle, Waidhan, Singroli	M/s Gajendra Traders, 23607305433, 141/11 (VAT)	2010-11 / 21.3.13	2492899	2701075	208176	624528	832704	Excess ITR was allowed against claimed ITR	The matter will be taken up after verification	Action is awaited
9	CTO Circle 10, Indore	M/s Vinayak Telecom, 23461004390, 819/10 (VAT)	2009-10 / 14.5.12	4706745	5097668	390923	1172769	1563692	Excess ITR was allowed against claimed ITR	The matter will be taken up after verification	Action is awaited
10	CTO Circle 2, Gwalior	M/s Maheshwari Enterprises, 23125202155	2010-11 / Self assessment	2719601	2827589	107988	323964	431952	Excess ITR was allowed against claimed ITR	The matter will be taken up after verification	Action is awaited
11	CTO Circle 2, Gwalior	M/s Pramod Agency, 23355205375 , CS000053645 (VAT)	2010-11 /26.4.13	3612628	3648755	36127	108381	144508	Excess ITR was allowed against claimed ITR	The AA stated that the tax has been paid on wages on freight also. As the goods received was on FOR basis which includes loading unloading and freights. The tax has been paid on whole price.	The AA in his reply has himself accepted that the objected quantum of ITR was paid on wages on goods purchase, in addition to the cost of goods. ITR has to be allowed on cost of goods only.
12	CTO Circle 5, Bhopal	M/s Sam Systems, 23594001182, 664/11 (VAT)	2010-11 / 28.9.13	3225789	3246224	20435	61305	81740	Excess ITR was allowed against claimed ITR	The AA stated that the additional list of 13 percent ITR enclosed.	It was neither found the case nor provided by the department.
13	CTO Circle 11, Indore	M/s Dig Earth Equipments, 23041105113, CS000014859 (VAT)	2010-11 / 30.9.13	1513875	1688324	174449	523347	697796	Excess ITR was allowed against claimed ITR	The matter will be taken up after verification	Action is awaited
			Total	73459610	76979478	3519868	8580546	12100414			

Annexure-VI

Para referred in to the paragraph 2.4.9.6

Irregular grant of ITR on the purchase beyond certified purchases

Sl no	Detail of Unit	Dealer, TIN, Case No.	Period /Month of assessment	Amount of ITR Claimed/ Accepted (₹)	Amount of ITR accepted as per Audited Accounts (₹)	Amount of ITR objected / (₹)	Amount of Penalty as per the Provisions of Section 21 (₹)	Amount of Proposed Additional demand ITR (₹)	Audit Observation	Reply of the Department	Audit Remark
1	2	3	4	5	6	7 (5-6)	8	9	10	11	12
1	CTO Circle Sagar	M/s S R Computers 23487502797 CS2347/194/11 VAT	2010-11 01.06.13	617413	603749	13664	40992	54656	Scrutiny of case it was found that ITR was grant on the purchase of ₹. 12128052 instead of actual gross purchase of ₹. 11854763.	Action will be taken after verification.	Action is awaited
2	RAC Khandwa	M/s Jitendra Kumar Suresh Chandra Khandwa 23962002827 224/11 VAT	2010-11 25.06.13	78646	0	78646	235938	314584	Scrutiny of case it was found that ITR was grant on the purchase of Vardana of ₹. 1572924 which is not certified in the audited account.	Action will be taken after verification.	Action is awaited
3	RAC Khandwa	M/s Aarti Enterprises Khandwa 23672006751 209/11 VAT	2010-11 26.08.11	40719	0	40719	0	40719	Scrutiny of case it was found that ITR was grant on the purchase of Vardana of ₹. 814384 which is not certified in the audited account.	Action will be taken after verification.	Action is awaited
4	RAC Dn 2 Bhopal	M/s Prakash Music centre Bhopal 23834104064 98/11 VAT	2010-11 18.09.13	12354658	11846366	508292	1524876	2033168	Scrutiny of case it was found that ITR was grant on the purchase of ₹. 95091623 instead of ₹. 91181685.	ITR was allowed on the VAT amount shown separately in the Bills. However in Audited account net purchases have been shown after deducting discounts	the reply is not in consonance with the provision ITR was allowed on Gross purchase without deducting cash discount resulting in excess allowance of ITR

1	2	3	4	5	6	7 (5-6)	8	9	10	11	12
5	CTO Circle Narsinghpur	M/s Krishi Mitra 23386401708 29/2009 vat	2008-09 20-6-2011	394468	334568	59900	0	59900	Difference of purchase between audited accounts and purchase list	Action will be taken after verification	Action is awaited
6	CTO Circle-II Jabalpur	M/s Anushri Marketing Jabalpur, 23025904490 150/2011 vat	Self Assessment 2010-11	724932	717286	7646	22938	30584	More ITR is claimed in return than purchase as per audited accounts. Claimed ITR was sanctioned by the AA	ITR sanctioned is correct	no reply over point of objection could be furnished
7	CTO Circle-II Jabalpur	M/s Anand Traders Jabalpur, 23205903421 232/10 VAT	2009-10 24-12-2011	760978	733608	27370	0	27370	sanction of ITR in assessment order in excess of purchase list	Action will be taken after verification	Action is awaited
8	CTO Circle Pithampur	M/s Tikamsa, Dulichand, Oil product Kukshi, Dhar 23091602162 60/2011 vat	2010-11 6.9.2013	3631008	2346697	1284311	3852933	5137244	Sanction of ITR in Assessment order in excess of VAT paid as shown in Trading Account	Reversal was proper	The reply does not interpret the fact correctly. Point of objection was on excess sanction of ITR, not on reversal. Point of objection remains un replied
9	CTO Circle 10 Indore	M/s Saniya Steel Fabricator Pvt. Ltd. 23681003978 708/10-11 VAT	2010-11 27.09.13	820390	736545	83845	251535	335380	As per audited a/c purchases were 16824714. However the ITR was assessed on purchase of ₹ 18100454. Thus resulted in excess grant of ITR with reference to purchases of audited a/c	Action will be taken after verification	Action is awaited
10	CTO Circle 10 Indore	M/s Roshan Sales Corporation Indore 23471001814 346/11 VAT	2010-11 27.09.13	6210124	6130935	79189	237567	316756	Scrutiny of case it was found that ITR was grant on the purchase of ₹ 47770188 instead of ₹ 47161035 (i.e without deducting cash discount).	ITR was allowed on net purchases after deducting the cash discount. Further the ITR was given on the VAT amount shown separately in the Bills.	the reply is not in consonance with the provision ITR was allowed on Gross purchase without deducting cash discount resulting in excess allowance of ITR
			Total	25633336	23449754	2183582	6166779	8350361			

Annexure-VII

Para referred in to the paragraph 2.4.10.1

Irregular acceptance and adjustment of carried forward ITR from previous year

Sl no	Detail of Unit	Dealer, TIN, Case No.	Period /Month of assessment	Amount of ITR brought forward/ (₹)	Amount of ITR adjusted in the assessment order (₹)	Amount of Penalty as per the Provisions of section 21 (₹)	Amount of Proposed Additional demand ITR (₹)	Audit Observation	Reply of the Department	Audit Remark
1	2	3	4	5	6	7	8	9	10	11
1	CTO Morena	M/s Kamal Agency Morena 23655601843 736/11 VAT	2010-11 26.12.12	0	552305	0	552305	No balance of ITR, from previous year, was carried forward by the dealer in the 1st return.	The matter will be taken after verification.	Action is awaited
2	CTO Morena	M/s Umesh Trading company Porsa Morena 23845501877 1043/11 VAT	2010-11 14.01.13	0	60320	0	60320	No balance of ITR, from previous year, was carried forward by the dealer in the 1st return.	The matter will be taken after verification.	Action is awaited
3	CTO 13 Indore	M/s M V Enterprises Indore 23411302838 CS3231/11 VAT	2010-11 20.06.13	0	929530	0	929530	No balance of ITR, from previous year, was carried forward by the dealer in the 1st return.	The matter will be taken after verification.	Action is awaited
4	DC Division -I Indore	M/s Lukash Indian Service ltd /23291401553/251-2010	2009-10/02.04.12	0	95962	0	95962	No balance of ITR, from previous year, was carried forward by the dealer in the 1st return.	According to MP VAT Act rule 14(3) carry forward of ITR	The carry forward of ITR was not in accordance the provision contained in section 14(3) of the Act and rule 9 of the Act
5	DC Division -I Indore	Ms Symbiotech Pharma lab, 23721503506, 183/10 (VAT)	2009-10, 03-04-12	0	162673	0	162673	No balance of ITR, from previous year, was carried forward by the dealer in the 1st return.	According to MP VAT Act rule 14(3) carry forward of ITR	Against the provision of MP VAT Act 14(3) read with rule 9
6	AC, Dewas	Anik Industries, 23192305842, CS 00006712 (VAT)	2010-11/30.09.13	0	1802151	5406453	7208604	No balance of ITR, from previous year, was carried forward by the dealer in the 1st return. Disallowed ITR 1802151 and penalty 5406453 total 7208604	ITR allowed as per audited account. Therefore ITR Carry forwarded for next year	The reply is not in consonance with the relevant provisions as the objection related to previous year and ITR carried forward to next year.

1	2	3	4	5	6	7	8	9	10	11
7	CTO Waidhan , Singroli	M/s Pooja Furniture, Sidhi, 23797304795, 1401/10 (VAT)	2009-10 /21.06.12	0	189713	569139	758852	No balance of ITR, from previous year, as no return was submitted by the dealer. Disallowed ITR 189713 and penalty total 758852	The matter will be taken after verification	Action is awaited
8	CTO Waidhan , Singroli	M/s Prakash Steel Traders 23057304232, 01/2011 (VAT)	2010-11 / 18.1.2012	0	28177	84531	112708	No return was submitted by the dealer	The matter will be taken up after verification	Action is awaited
9	CTO circle 1, Jabalpur	M/s Pancham Trading, 23595808971 , 295/10 (VAT)	2009-10 / 17.5.12	0	293065	0	293065	No return was submitted by the dealer	The matter will be taken up after verification	Action is awaited
10	DC, Khandwa	M/s Manjit Cotton 23782204977, 4/09 (VAT)	2008-09 / 7.4.2011	0	62861	188583	251444	No balance of ITR brought forwarded from previous year	The matter will be taken up after verification	Action is awaited
11	CTO circle 14, Indore	M/s Metro Traders 23801403746, 585/10 (VAT)	2009-10 / 25.6.12	0	16888	50664	67552	No balance of ITR, from previous year, was carried forward by the dealer in the 1st return.	The matter will be taken up after verification	Action is awaited
12	CTO circle 14, Indore	M/s Sun Marketing, 23461401896, 826/10 (VAT)	2009-10 / 23.4.12	0	65057	195171	260228	No balance of ITR, from previous year, was carried forward by the dealer in the 1st return.	The matter will be taken up after verification	Action is awaited
13	DC, Khandwa	M/s Shriram Agro Industries, 23062004292 , 26/10 (VAT)	2009-10 / 28.4.12	0	54856	166568	219424	No balance of ITR, from previous year, was carried forward by the dealer in the 1st return.	The matter will be taken up after verification	Action is awaited
14	CTO circle 2, Gwalior	M/s Kiran Infrastructure, 23335204416, CS000077540 (VAT)	2010-11 / 30.9.13	0	40000	120000	160000	No balance of ITR, from previous year, was carried forward by the dealer in the 1st return.	The matter will be taken up after verification	Action is awaited
15	CTO circle 2, Gwalior	M/s S.K.Agrawal, 23075206014 CS000056550 (VAT)	2010-11 / 23.5.13	0	36223	108669	144892	1st return was not submitted	The AA stated that on the basis of previous year assessment order, adjustment of ₹ 36223 made	Previous year assessment order not provided by the department

1	2	3	4	5	6	7	8	9	10	11
16	CTO Circle 5, Bhopal	M/s Alok Trading Co, 23974004562, 774/11 (VAT)	2010-11 / 6.8.13	119923	90449	0	90449	As per Ist return of dealer ITR brought forward ₹ 119923 but adjusted ITR ₹ 209972.	The AA stated that ITR of / ₹ 209972/-was carried forward in previous year .case of the same dealer	The audit objection remain as it was that ITR carried forward from previous was ₹ 1,19,923/- and the ITR adjusted in the case of the year under question, as carried forward ITR was ₹ 2,09,972/- i.e. more ITR of ₹ 90449/- was adjusted in the case.
17	CTO Circle 5, Bhopal	M/s MP State Electronic Devt, 23154000745, 47/11 (VAT)	2010-11 / 27.9.13	376601	376601	1129803	1506404	No balance of ITR, from previous year, was carried forward by the dealer in the Ist return.	The matter will be taken up after verification	Action is awaited
18	CTO Circle 5, Bhopal	M/s Path Enterprises, 2324005035, 44/11 (VAT)	2010-11 / 8.7.13	0	763932	2291796	3055728	Ist return was not submitted by the dealer. Therefore adjustment of brought forward ITR Rs 763932 irregular.	The AA stated that ITR of Rs 7,63,932/- was carried forwarded in the case no 85/10 of the year 2009-10.	Audit objection was that no claim of previous year carried forward ITR was claimed by the dealer vide returns still the carried forward ITR was adjusted in the present years case
19	CTO Circle 5, Bhopal	Ms Balajee Dkistributors/23034 005564case no 727/11(VAT)	2010-11 06- 08-13	0	535340	1606020	2141360	The adjustment of brought forward ITR without submission of Ist return.	The AA stated that ITR has been carry forwarded from previous years case of the same dealer.	The reply is not in consonance with the relevant provisions. As first return has not been submitted by the dealer yet the carried forward ITR of previous year has been adjusted in the demand of current year, leaving the legal requirement of verification of the ITR from previous year, in abeyance
			Total		6156103	11917397	18071500			

Annexure-VIII

Para referred in to the paragraph 2.4.10.2

Irregular carry forward of ITR to next year with respect to return

Sl no	Detail of Unit	Dealer, TIN, Case No.	Period /Month of assessment	Amount of ITR Carry forward in the 4th Return of (₹)	Amount ITR Carry forward in the Assessment order (₹)	Amount of Irregular ITR Carry forward according to audit observation (₹)	Amt of penalty as per the provisions of Sec 21 (₹)	Amt of proposed additional demand of ITR (₹)	Audit observation	Reply of the Department	Audit Remark
1	2	3	4	5	6	7	8	9	10	11	12
1	DC Division -I Indore	M/s Lukash Indian Service ltd/ /23291401553 /251/10	2009-10/ 02.04.2012	1248	95258	94010	0	94010	No balance of ITR, in 4th return, was carried forward by the dealer in the next year.	According to MP VAT Act rule 14(3) carried forward of ITR	Against the provision of MP VAT Act 14(3) read with rule 9
2	AC, Dewas	Anik Industries, 23192305842, CS 00006712 (VAT)	2010-11/ 30.09.2013	0	1644239	1644239	0	1644239	No balance of ITR, in 4th return, was carried forward by the dealer in the next year.	ITR granted as per audited account and carry forwarded to next year.	Fact remains the same as no ITR has been carry forwarded by the dealer in 4th return
3	CTO Circle 2, Gwalior	M/s Mahesh Kumar & Company /23745201232 /144/11(VAT)	2010-11, 26.04.2013	12313	53455	53455	0	53455	No balance of ITR, in 4th return, was carried forward by the dealer in the next year.	The AA stated that matter will be taken after verification	Action is awaited
4	CTO Circle 2, Gwalior	M/s S.K.Agrawal, 23075206014 CS000056550 (VAT)	2010-11 / 23.5.13	5834	5834	5834	0	5834	4th return was not submitted by the dealer. Hence irregular ITR ₹.5834 C/F	there are no adjustment in the assessment year 2009-10. Hence ₹ 5834 carry forwarded to next year.	4th return was not submitted by the dealer.
5	CTO Circle , Mandideep	M/s Makson Healthcare Pvt Ltd, 2365410641, 16/11(VAT)	2010-11 / 16.9.13	66273	418960	352687	1058061	1410748	As per 1st return dealer has been claimed ₹ 66273 C/F for next year but AA allowed ₹ 418960 C/F	The AA stated that ITR has been adjusted as per carried forward ITR in previous years AO	As per provision rule 9 of MP VAT Act the amount of ITR carried forward, as claimed in first return by the dealer has to be taken in to account not the amount carried forward in the AO.

1	2	3	4	5	6	7	8	9	10	11	12
6	CTO Circle 3, Gwalior	M/s Satish Saluja Batteries, 23835307349, CS000085770 (VAT)	2011-12 / 17.1.14	0	60603	60603	0	60603	As per 4th return dealer has been claimed nil amount C/F for next year but AA allowed ₹ 60603 C/F	The AA stated that matter will be taken after verification	Action is awaited
7	CTO Circle 3, Gwalior	M/s Varsha Disposal House, 23595305347, 707/2011 (VAT)	2010-11 / 24.5.13	0	490890	490890	0	490890	4th return was not submitted by the dealer. Hence irregular ITR ₹.490890 C/F	The AA stated that matter will be taken after verification	Action is awaited
8	CTO Circle 11, Indore	M/s Hertz Electronics, 23961100242, CS000011991 ,28/11(VAT)	2010-11 / 30.9.13	0	266818	266818	800454	1067272	No balance of ITR, in 4th return, was carried forward by the dealer in the next year.	The AA stated that matter will be taken after verification	Action is awaited
9	CTO Circle 5, Bhopal	M/s Alok Trading Co, 23974004562, 774/11 (VAT)	2010-11 / 6.8.13	129231	363555	234324	0	234324	As per 4th return dealer has C/F ₹129231 but during assessment AA C/f 363555 . Therefore irregular C/F amount ₹ 234324	The AA stated that the unadjusted amount of ITR ₹ 3,63,555/- was carried forward for next year	The audit observation however remains the same as amount of ₹ 1,29,391/- only was carried forward by the dealer in the IV th return and the AA carred forwarded the ITR of ₹ 3,63,555/- for next year
10	CTO Circle 5, Bhopal	M/s Neo Power Systems, 23774003314, 232/11 (VAT)	2010-11 / 28.9.13	516167	476778	39389	0	39389	As per 4th return dealer has been claimed ₹ 516167 amount C/F for next year but AA allowed ₹ 476778 C/F Henceve excees amount ₹ 39389 irregular	The AA stated that matter will be taken after verification	Action is awaited
11	CTO Circle 5, Bhopal	M/s MP State Electronic Devt, 23154000745, 47/11 (VAT)	2010-11 / 27.9.13	0	381822	381822	0	381822	No balance of ITR, in 4th return, was carried forward by the dealer in the next year.	The matter will be taken up after verification	Action is awaited
Total				731066	4258212	3624071	1858515	5482586			

Annexure-IX

Para referred in to the paragraph 2.4.11

Irregular acceptance of ITR on the purchase of goods not eligible for ITR

(₹ in lakh)

Sl no	Detail of Unit	Dealer, TIN, Case No.	Name of Commodity	Period /Month of assessment	Amount of ITR Claimed/ Accepted	Amount of total ITR Objected	Penalty as per the Provisions of Section 21	Amount of Proposed Additional demand ITR
1	CTO III Bhopal	M/s Sri Jay Enterprises Bhopal 23833805692 CS82558(1263) VAT	Tendupatta	2011-12 26.12.13	29.47	29.47	0	29.47
2	CTO III Bhopal	Jiya enterprises Bhopal 23703806491 CS82555 VAT	Tendupatta	2011-12 26.12.13	48.32	48.32	0	48.32
3	CTO III Bhopal	M/s Jai Dev Enterprises Bhopal 23789028774 CS82570 VAT	Tendupatta	2011-12 27.12.13	17.58	17.58	0	17.58
4	CTO III Bhopal	M/s Jagdamba Enterprises Bhopal 23383806085 CS82522 VAT	Tendupatta	2011-12 27.12.13	43.09	43.09	0	43.09
Total					138.46	138.46	0	138.46
1	CTO Khandwa	M/s Kaka Traders,Mundi,Khandwa 23672006118 264/10 VAT	Soyabeen	2009-10 22.02.12	1.19	1.19	3.58	4.77
2	CTO Circle Burhanpur	M/s Abdul Shaikh A Rahman Gining Factory, Burhanpur 23901910031 286/2010 VAT	Soyabeen	2009-10 24-10-12	2.91	2.89	8.67	11.56
3	CTO Circle Dhar	M/s Hanuman Cot Trading Dhar 23841604611/ CS39640	Soyabeen	2010-11 01-2-13	1.76	1.53	4.59	6.12
4	CTO Circle 10 Indore	M/s Red Rose Cotton Waste Company 23921001227 247/11 VAT	Soyabeen	2010-11 30.09.13	15.64	15.64	46.92	62.56
Total					21.5	21.25	63.76	85.01
1	DC Div II Bhopal	M/s Vishal Nirmiti Bankhedhi 23464302875 48/10 VAT	Sand & Metal	2009-10/ 30.06.12	177.98	0.88	2.64	3.52
2	CTO Morena	M/s Goyal Concrete and pipes Morena 23545501072 880/10 VAT	Sand & Metal	2009-10 23.04.12	0	0.12	0.37	0.49
3	CTO Circle 12 Indore	M/s Ascent Enterprises Indore 23206120348 418/10 VAT	Office Equipments	2009-10 30.06.12	12.21	1.99	5.96	7.79
4	CTO Circle Morena	M/s M P Stone Morena 23965503654 28/10 VAT	Building material	2009-10 11.06.12	0	0.86	2.59	3.46
5	RAC Khandwa	M/s Fatehguru Govind singh & company 23271908001 323/11 VAT	Building material	2010-11 14.08.13	0	0.39	1.18	1.57
Total					190.19	4.24	12.74	16.83

Annexure-X

Para referred in to the paragraph 2.4.11.4

Non reversal of ITR on sale of tax free goods obtained as co-product in manufacturing process

Sl No	Detail of Unit	Dealer, TIN, Case No.	Period /Month of assessment	Amount of ITR Claimed/Accepted (₹)	Amount of non/less reversal of ITR (₹)	Amount of Penalty as per the Provisions of section 21 (₹)	Amount of Additional demand (₹)	Audit Observation	Reply of the Department	Audit Remark
1	2	3	4	5	6	7	8	9	10	11
1	CTO Khandwa	M/s Ashok Udyog Khandwa 23672003224 468/09 VAT	2008-09 27.6.11	300711	211870	635610	847480	Dealer sold tax free goods obtained as co-product during manufacturing process. The AA failed to do reversal or did less reversal of the ITR in pursuance of the provision of Section 14(1)(a)(6)(i) of the Act	Matter will be taken after verification	Action is awaited
2	RAC Khandwa	M/s Vasudev Interprises Khandwa 23682004727 193/11 VAT	2010-11 30.08.13 08.10.13	1131246	180374	541122	721496	Dealer sold tax free goods obtained as co-product during manufacturing process. The AA failed to do reversal or did less reversal of the ITR in pursuance of the provision of Section 14(1) (a) (6)(i) of the Act	Matter will be taken after verification	Action is awaited
3	RAC Khandwa	M/s Fatehguru Govind singh & company 23271908001 323/11 VAT	2010-11 14.08.13	159697	9882	29646	39528	Dealer traded tax free goods using vardana as packing material. During assessment proportionate ITR reversal on used vardana was not done.	Matter will be taken after verification	Action is awaited
4	CTO Circle Narsingpur	M/s Amit Polimers Narsingpur 23266402326 66/2009 VAT,122/2011,90/2011	2008-09 16/8/2010 Self Assessment 2009-10 vat, Self Assessment 2010-11 vat	119686	111112	333336	444448	Non reversal of ITR on goods used for manufacturing of tax free goods	Action will be taken after verification	Action is awaited

1	2	3	4	5	6	7	8	9	10	11
5	CTO Circle Narsingpur	M/s Asra Polymers Pvt. Ltd. Narsinghpur 23766401693 48/2009 vat 121/2010 vat 65/2011 vat	2008-09, 17-8-2010 Self Assessment 2009-10 Self Assessment 2010-11	114182	113454	344362	457816	Non reversal of ITR on goods used for manufacturing of tax free goods	Action will be taken after verification	Action is awaited
6	CTO Circle Narsingpur	M/s Balaji, Khandsari Udyog Singpur Bada, 23616403958 281/2008 vat	2007-08 23-4-2010	55316	55316	165948	221264	Non reversal of ITR on goods used for manufacturing of tax free goods	Action will be taken after verification	Action is awaited
7	CTO Circle II Jabalpur	M/s JK Traders Jabalpur, 23605901455 82/2010 VAT	Self Assessment 2009-10	299697	22861	0	22861	Non reversal of ITR on goods used for manufacturing of tax free goods	Action will be taken after verification	Action is awaited
8	CTO Circle Burhanpur	M/s Balaji Processor, Burhanpur 23501908117 217/2009 VAT	2008-09 27-4-2011	462017	43264	129792	173056	Non reversal of ITR on goods used for manufacturing of tax free goods	Action will be taken after verification	Action is awaited
9	CTO Circle Dhar	M/s Shriram Gining and processing company 23791703918 VAT CS0000000043031	2010-11 19.2.2013	1989037	232640	0	232640	Non reversal of ITR on goods used for manufacturing of tax free goods	Action will be taken after verification	Action is awaited
10	CTO Circle Dhar	M/s Mukhaji babulal 23481600056 349/2010 VAT	2009-10 9-4-2012	36542	30567	0	30567	Non reversal of ITR in packing material used on tax free goods	Action will be taken after verification	Action is awaited
11	CTO Circle Neemuch	M/s Girdhar Trading Company 23883203343 339/2012 VAT	2011-12 Self assessment	6362	5090	0	5090	Non reversal of ITR in packing material used on tax free goods	Action will be taken after verification	Action is awaited
12	CTO Circle-I Jabalpur	M/s Doon Engineering Jabalpur 23885800324 CS0000000011960 VAT	2010-11 23-9-2013	567454	22365	0	22365	Non reversal of ITR in packing material used on tax free goods	Action will be taken after verification	Action is awaited
13	CTO, Dewas	M/s Shriram Oil & Agro Foods, 23862306104, CS000019951 (VAT)	2010-11 / 26.9.13	1389974	161628	484884	646512	Dealer sold tax free by product (Khalli) alongwith stock transfer. During assessment proportionate ITR reversal on Tax free goods was not done.	Matter will be taken after verification	Action is awaited
			Total	6631921	1200423	2664700	3865123			

Annexure-XI

Para referred in to the paragraph 2.4.11.5

Non reversal / less reversal of ITR in the event of the goods stock transferred out of state

Sl No	Detail of Unit	& Dealer, TIN,	Case No./Period /Month of assessment	Amount of total ITR Claimed (₹)	Amount of Irregular ITR accepted (₹)	Amount of penalty as per section 21 (₹)	Amount of additional demand (₹)	Audit Observation	Reply of the Department	Audit Remark
1	2	3	4	5	6	7	8	9	10	
1	CTO, Circle 13 Indore,	M/s Themis Distributors Pvt. Ltd 23851304064	86/11 2010-11 03.09.13	5912470	51695	155085	206780	During assessment proportionate ITR reversal (5.89% instead of 7.33) on goods transferred disposed off by way of sale was not done.	Matter will be taken after verification	Action is awaited
2	RAC, CT Satna	M/s UP Tobacco Pvt. Ltd., Maihar, 23147101113	04/12 2011-12 22-10-2013	165014	107179	0	107179	Less reversal of ITR in the event of goods stock transferred out of State	Action will be taken after verification	Action is awaited
3	D.C div - 1, Indore	M/s Lukash Indian Service Ltd 23291401553	251/2010 2009-10 02.04.2012	984781	27574	82722	110296	Non reversal of ITR according the stock transfer of other state	No reply for this point	Action is awaited
4	D.C div - 1, Indore	Ms. Methodex System 23670201357/	272/2010 2009-10 15-05-12	9545973	1779254	5337762	7117016	Non reversal of ITR according the stock transfer of other state	Manufactured goods have not been sold out of state hence there is no need of reversal of ITR.	The reply does not interpret the fact correctly as deduction of stock transfer out of state has clearly been allowed in the assessment order. Hence the para remains as it is.
5	RAC Sagar	M/s Ashok Agency, Chhattarpur, 23707700944	137/11 2010-11 30.1.13	9041371	466261	1398783	1865044	On scrutiny of the record, it was found that amount of discount ₹ 9325313 deducted from total purchase ₹ 212112194 shown in audited account ₹ 202786981. So the difference of ₹9325213 @ 5 per cent reversal ₹466261	The AA stated that the matter will be taken after verification	Action is awaited

1		2	3	4	5	6	7	8	9	10
6	CTO Circle 1, Jabalpur	M/s Vikrant International 23795804011	301/10 2009-10 20.4.12	339535	58584	175752	234336	Less reversal of ITR according the stock transfer of other state	The AA stated that the matter will be taken after verification	Action is awaited
7	DC, Khandwa	M/s Agrawal Indotax Ltd, 23122003871	18/2010 2009-10 30.6.12	10048154	864493	2593479	3457972	Less reversal of ITR according the stock transfer of other state	Matter will be taken after verification	Action is awaited
8	CTO, Circle Mandideep, Bhopal	M/s Mapra Lab Pvt Ltd, 23254101667	19/11 2010-11 16.9.13	75011	44183	132549	176732	Non reversal of appropriate proportion of ITR according to stock transfer.	Matter of reversal likely to be wrongly calculated. Action will be taken after verification.	Action is awaited
9	CTO Khandwa	M/s Ashok Udyog Khandwa 23672004393 468/09 VAT	2008-09 27.6.11	300711	47854	143562	191416	Dealer sold tax free goods obtained as co-product during manufacturing process. The AA failed to do reversal or did less reversal of the ITR in pursuance of the provision of Section 14(1)(a)(6)(i) of the Act	Matter will be taken after verification	Action is awaited
			Total	36112309	3447077	10019694	13466771			

Annexure-XII

Para referred in to the paragraph 2.12

Non levy of interest

Sl. No	Name of auditee unit/Name of dealer	Assessment period/ Month of assessment	Unpaid amount of tax	Period of delay	Amount of non levy of interest (₹) @ 1.5 percent per month	Period of delay in depositing interest	Penalty (1.5 percent per month) (₹)
1	RAC Chhindwara/ M/s Niket Udhog Ltd	2003-04 December 2006/ July 2010(remand)	12,35,798	75 month 20 days	14,02,633	-	-
2	RAC Chhindwara/ M/s Niket Udhog Ltd	2005-06 March 2009	2869899	12 month	516564	-	-
3	RAC Chhindwara M/s Umia Ginning, sonsar	2006-07 June 2009	7,72,354	32 month 4 days	3,79,988	-	-
4	RAC Chhindwara M/s ICI India Ltd	2005-06 March 2009	20,390 46	35 month 4 days	10,74,577	-	-
5	ACCT-II Satna M/s Gajraj Chemicals	2008-09 June 2011	37,69,408	13 days	24,501	-	-
			37,57,107	17 days	31,935		
			6,66,994	9 days	3,001		
			9,10,191	10 days	4,551		
			20,74,782	99 days	1,02,702	30 month 28 days	3,366 (for ₹ 7262)
			23,00,530	3 days	3451		
			24,07,946	3 days	3,612	36month	1,956 (for ₹ 3612)
		Total	1,58,86,958		1,73,753		5,322
		Grand total	2,28,04,095		35,47,515		5,322

Annexure-XIII

Para referred in to the paragraph 5.8

Underassessment of diversion rent, premium and upkar

1. Collectorate (Diversion) Bhopal

(Amount in ₹)				
Case No.	Area Sq. metre	Premium		
		Leviable	Levied	Short Levy
127/A2/2012-13 dated 16-08-2013 Govindpura Circle	13,300	1,33,000 @ ₹10 per Sq. metre	14,000	1,19,000

2. Collectorate (Diversion) Burhanpur

Sl. No.	Case No. and date	Place	Area Sqm/ purpose	Leviable				Levied	
				Diversion Rent/ Upkar		Premium		Diversion Rent/ Upkar (₹)	Premium ₹
				Rate ₹ Per 10 Sqm.	Amount ₹	Rate ₹	Amount ₹		
1	2	3	4	5	6	7	8	9	10
1.	<u>102(A)/A2/2011-12</u> <u>09-05-12</u>	Jainabad Near Emakhurd within 4 km. from Municipal limit	18200 Sqm./ commercial	68.65	1,24,943 62472	10	1,82,000	13,517 Nil	90,990
2.	<u>101(B)/A2/2011-12</u> <u>09-05-12</u>	Jainabad Near Emakhurd within 4 km. from Municipal limit	28000 Sqm./ commercial	68.65	1,92,220 96110	10	2,80,000	20,786 Nil	1,39,991

Sl. No.	Case No. and date	Place	Area Sqm/ purpose	Leviabale				Levied	
				Diversion Rent/ Upkar		Premium			
				Rate ₹ Per 10 Sqm.	Amount ₹	Rate ₹	Amount ₹	Diversion Rent/ Upkar (₹)	Premium ₹
3.	<u>152/A2/2011-12</u> <u>12-07-12</u>	Shahpura Nagar Panchayat	46840 Sqm. Residential	64.60	3,02,587		1,40,511	3023	1,40,511
4.	<u>129/a2/2011-12</u> <u>14-06-12</u>	Lalbaghmal within municipal limit	1.24 hac. 8644 Residential	58	50,135	7.50	64,830	25,073	95,070
			2596 commercial	87	22,585	15	38,940	22,626	
			Remark :- (Residential area 4315 Sqm. was taken by the Department)						
5.	<u>130/A2/2011-12</u> <u>30-06-12</u>	Mohammadpura within 4 km. from municipal limit	85,900 Sqm. Residential	15.10	1,29,709 64,855	---	6,51,274	96,240 Nil	6,51,274
6.	<u>128/A2/2011-12</u> <u>13-06-12</u>	Lalbaghmal within municipal limit	2 hactere out 3.124 hactere 20,000 Sqm. Residential	58	1,16,000	7.5	1,50,000	69,742	1,20,030
Total		Residential Commercial upkar	1,61,384 48,796		5,98,431 3,39,748 2,23,437		15,07,555	2,51,007	12,37,866

Short levy Diversion Rent = 6,87,172 (9,38,179-2,51,007)

Premium= 2,69,689 (15,07,555-12,37,866)

Non levy Upkar= 2,23,437

Total= ₹9,56,861+2,23,437= ₹ 11,80,298 (Say= ₹11.80 Lakh)

3. Collectorate (Diversion) Dewas

Sl. No.	Case No./date of order	Diversion year	Area taken by Deptt. Sqm.	Area approved by T and CP. Sqm.	Leviable Diversion Rent/ Premium ₹	Levied Diversion Rent/ Premium ₹	Short levy Diversion Rent ₹		Premium	Short realisation of premium and diversion rent up to 2012-13 (09+10)
		Name of Place					Per year	up to 2012-13		
1	56/A-2/2009-10	2009-10	1457.25	4970	40,257 @ ₹ 81 per 10 Sqm.	11,810	28,447	1,13,788	52,680	1,66,468
	25-10-2010	Dewas Sr				21,870				
					74550 @ ₹ 15 per Sqm.					
2	82/A-2/2010-11	2010-11	1850	7000	38,500 @ ₹ 55 per 10 Sqm.	10,175	28,325	84,975	77,250	1,62,225
	23-09-11	Nagada				27,750				
					1,05,000 @ ₹ 15 per Sqm.					
3	2/A-2/2011-12	2011-12	3220	9777	35,197 @ ₹ 36 per Sqm.	11,592	23,605	47,210	98,355	1,45,565
	11-11-2011	Bilawali				48,300				
					1,46,665@ ₹ 15 per Sqm.					
Total										4,74,258

4. Tahsildar Badarwas (Shivpuri)

S No.	Case No./Date	Diversion year/ Area Sqft.	Diversion Rent			Panchayat upkar @ 50% of Diversion Rent ₹
			₹ Per Year	Period upto 2012-13	Amount ₹	
1	2	3	4	5	6	7
1	<u>28/2010-11</u> 30-05-2011	<u>2010-11</u> 1500	570	3 years	1,710	855
2	<u>29/2010-11</u> 31-05-2011	<u>2010-11</u> 2,32,875	16,302	3 years	48,906	24,453
3	<u>32/2010-11</u> 25-06-2011	<u>2010-11</u> 2700	1,026	3 years	3,078	1,539
4	<u>33/2010-11</u> 25-06-2011	<u>2010-11</u> 22,500	7,223	3 years	21,669	10,835
5	<u>34/2010-11</u> 28-06-2011	<u>2010-11</u> 68,576	49,581	3 years	1,48,743	74,372
6	<u>62/2011-12</u> 27-02-2012	<u>2011-12</u> 1,80,370	84,413	2 years	1,68,826	84,413
7	<u>65/2011-12</u> 29-02-2012	<u>2011-12</u> 22,500	3,150	2 years	6,300	3,150
8	<u>69/2011-12</u> 22-03-2012	<u>2011-12</u> 2,400	912	2 years	1,824	912
9	<u>70/2011-12</u> 22-03-2012	<u>2010-11</u> 510	291	3 years	873	437
10	<u>76/2011-12</u> 11-04-2012	<u>2011-12</u> 1600	912	2 years	1,824	912
Total 10 cases	Decided between May 2011 and April 2012	2010-11(06)	74,993	----	2,24,979	2,01,878
		2011-12(04)	89,387	----	1,78,774	say ₹ 2.02 lakh
		5,35,531(10)	1,64,380	----	4,03,753	

Grand total (1+2+3+4)= 1,19,000+11,80,298+4,74,258+2,01,878 = 19,75,434 say ₹ 19.75 lakh

Annexure-XIV

Para referred in to the paragraph 6.2.10.1

Statement showing Short levy of Stamp Duty and Registration Fee due to incorrect determination of average annual royalty

Sl No	Name of Unit	Name of lessee/Lease period	Village/ Minerals/ Area	Date of execution of agreement	Avg. annual production as per mining plan	Base royalty amount for calculation of stamp duty (₹)	Rate of stamp duty	Payable SD/Cess/RF (₹)	Paid SD/Cess/RF (₹)	Balance SD/Cess/RF (₹)
1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.
1.	SR/DMO Singroli,	M/s Sasan.Power Ltd (30 years)	Muher/ Coal 1586.05 Hect.	16.09.2011	1149266.666 Tonne @ ₹ 107 per tonne	<u>614857665</u> (1149266.666 x 107 x 5) 5 times for 30 years lease	5 per cent	<u>307428833</u> <u>15371442</u> 230571625	<u>195007500</u> <u>9750375</u> 146256125	<u>112421333</u> <u>5621067</u> 84315500 = 202357900
2.	SR/DMO Singroli,	M/s MPSMCL (30 years)	Dongri, Digwa Coal 1138.99 Hect.	17.05.2013	2234705.882 tonne @ ₹ 262 per tonne	<u>2927464706</u> (2234705.882 x 262x 5) 5 times for 30 years lease	5 per cent	<u>146373235</u> <u>7318662</u> 109779926	<u>87823946</u> <u>Nil</u> 65867959	<u>5849289</u> <u>7318662</u> 43911967 = 109779918
3.	SR, Satna	M/s Talavadi cements Ltd (20 years)	Bhumkahar Lime stone 2130.015 Ha	6.3.2014	2591018.40 tonne @ ₹ 63 per tonne	<u>489702480</u> (2591018.40 x <u>63x 3</u>) 3 times for 20 years lease	5 per cent	<u>24485124</u> <u>NA</u> 18363843	<u>21484160</u> <u>NA</u> 16113120	<u>3000964</u> <u>NA</u> 2250723 = 5251687

Sl No	Name of Unit	Name of lessee/Lease period	Village/ Minerals/ Area	Date of execution of agreement	Avg. annual production as per mining plan	Base royalty amount for calculation of stamp duty (₹)	Rate of stamp duty	Payable SD/Cess/RF (₹)	Paid SD/Cess/RF (₹)	Balance SD/Cess/RF (₹)
4.	SR, Sohagpur	M/s MPSMCL (30 years)	<u>Bicharpur Coal</u> 389.189 Ha	1.2.2004	700000 tonne @ ₹ 183. 40 per tonne	$\frac{641900000}{(700000 \times 183.40 \times 5)}$ 5 times for 30 years lease	5 per cent	$\frac{32095000}{1604750}$ -	$\frac{32095000}{\text{Nil}}$	1604750
TOTAL								893393440	574398185	318994255
Say ₹								89.34 crore	57.44 crore	31.90 crore

Annexure-XV

Para referred in to the paragraph 6.2.10.2

Statement showing Short realisation of Stamp Duty and Registration Fees

Sl No	Name of Unit	Name of lessee	Name of sub lessee/Lease period	Name of mineral	Contract money (for 2 years)/Rate of Stamp Duty (₹)	Payable stamp duty/Registration fees (In ₹)	Paid stamp duty/Registration fees (In ₹)	Balance SD/RF (In ₹)
1.	2.	3.	4.	5.	6.	7.	8.	9.
1.	SR/DMO, Gwalior	MPSMCL, Dabra Group	Star Minerals Resources Pvt. Ltd. (1.3.2013 to 28.2.2015)	Sand	233087400/5%	<u>11654370</u> 8740778	<u>100</u> --	<u>11654270</u> 8740778
		MPSMCL Bhitwarwar Group	Shiva Corporation (1.3.2013 to 28.2.2015)	Sand	22995000/5%	<u>1149750</u> 862313	<u>100</u> --	<u>1149650</u> 862313
2	SR/DMO, Hoshangabad	MPSMCL Hoshangabad Group	SR Traders (1.3.2013 to 28.2.2015)	Sand	378000000/5%	<u>18900000</u> 14175000	<u>100</u> --	<u>18899900</u> 14175000
		MPSMCL Babai Group	RSI Stone World Pvt. Ltd. (1.3.2013 to 28.2.2015)	Sand	241709895/5%	<u>12085495</u> 9064121	<u>100</u> --	<u>12085395</u> 9064121
		MPSMCL Pipariya Group	Shiva Corporation (1.3.2013 to 28.2.2015)	Sand	20999790/5%	<u>1049990</u> 787492	<u>100</u> --	<u>1049890</u> 787492
		MPSMCL Itarsi Group	Shiva Corporation (1.3.2013 to 28.2.2015)	Sand	44100000/5%	<u>2205000</u> 1653750	<u>100</u> --	<u>2204900</u> 1653750
TOTAL					<u>SD</u> <u>RF</u>	<u>47044605</u> <u>35283452</u>	<u>600</u> --	<u>47044005</u> <u>35283452</u>
GRAND TOTAL					SD + RF	82328057	600	82327457

(Say ₹8.23 crore)

Annexure-XVI*Para referred in to the paragraph 7.5***Statement showing non/short realisation of dead rent of quarry lease**

SI No	Name of Unit	No. of lessees	Payable amount (₹ in lakh)	Paid amount (₹ in lakh)	Balance amount (₹ in lakh)
1.	2.	3.	4.	5.	6.
1	DMO, Barwani	10	10.78	0.87	9.91
2	DMO, Bhind	12	10.10	-	10.10
3	DMO, Bhopal	9	12.92	2.37	10.55
4	DMO, Chhindwara	10	5.05	-	5.05
5	DMO, Datia	5	7.95	2.88	5.07
6	DMO, Dhar	5	4.63	0.13	4.50
7	DMO, Gwalior	7	8.70	2.80	5.90
8	DMO, Hoshangabad	1	219.37	3.83	215.54
9	DMO, Jhabua	10	11.26	1.25	10.01
10	DMO, Khargone	7	16.14	8.11	8.03
11	DMO, Mandla	8	5.80	0.60	5.20
12	DMO, Neemuch	4	5.10	0.72	4.38
13	DMO, Rewa	11	9.43	1.87	7.56
14	DMO, Singrouli	4	3.05	1.10	1.95
15	DMO, Shivpuri	1	0.90	-	0.90
16	DMO, Umaria	3	0.73	-	0.73
Total		107	331.91	26.53	305.38

(Say ₹3.05 crore)

Annexure-XVII
Para referred in to the paragraph 7.7
Statement showing non/short realisation of contract money

(₹ in lakh)

Sl No	Name of Unit	No. of lessees	Payable amount (₹ in lakh)	Paid amount	Balance amount
1.	2.	3.	4.	5.	6.
1.	DMO, Barwani	03	8.23	1.19	7.04
2	DMO, Bhopal	05	11.88	8.41	3.47
3	DMO, Chhindwara	01	4.59	-	4.59
4	DMO, Datia	05	12.87	6.04	6.83
5	DMO, Dhar	02	45.92	38.17	7.75
6	DMO, Gwalior	01	2.50	1.00	1.50
7	DMO, Khargone	05	10.70	3.82	6.88
8	DMO, Mandla	05	294.07	45.38	248.69
9	DMO, Narsinghpur	01	0.52	-	0.52
10	DMO, Rewa	09	8.10	-	8.10
11	DMO, Shivpuri	06	8.57	3.43	5.14
Total		107	407.95	107.44	300.51

Say ₹3.01 crore)

Annexure-XVIII

Para referred in to the paragraph 7.8.2

Statement showing short realisation of royalty on quarry lease

Sl No	Name of Unit	No. of lessees	Period	Quantity production/mineral	Rate of royalty per cum	Payable amount (₹ in lakh)	Paid amount (₹ in lakh)	Balance amount (₹ in lakh)
1.	2.	3.	4.	5.	6.	7.	8.	9.
1	DMO, Barwani	01	06/2011 to 06/2012	11401 cum Gitti	44	5.02	3.41	1.61
2	DMO, Bhind	01	2006-16	216000 cum Gitti	44	95.04	89.60	5.44
3	DMO, Datia	01	01/2009 to 12/2012	438445 cum sand	33 and 53	199.88	150.80	49.08
4	DMO, Gwalior	01	1/11 to 12/1	3475 cum Flag Stone	70	2.41	1.56	0.85
5	DMO, Hoshangabad	01	7/11 to 12/11	20564.9 sand	53	10.90	5.82	5.08
6	DMO, Narsinghpur	02	1/12 to 12/12	26881cum stone	44	11.83	10.34	1.49
7	DMO, Neemuch	02	7/12 to 6/13	49327cum stone	44	21.70	19.14	2.56
8	DMO, Shivpuri	01	1/2012 to 12/2012	5089 cum Stone Gitti	44	2.24	1.76	0.48
9	DMO, singrauli	03	1/12 to 12/13	13707cum stone Gitti	44	6.03	4.78	1.25
Total		13				355.05	287.21	67.84

(Say ₹67.84 lakh)

Annexure-XIX

Para referred in to the paragraph 7.10

Non-levy/recovery of cost of minerals on unauthorised excavation

Sl. No.	Name of Unit	Name of mineral	Year of Production	Quantity as per mining plan (in tonne)	Quantity actually excavated (in tonne)	Excess production (in tonne)	Value of mineral per tonne (₹ in lakh)	Recoverable amount (₹ in lakh)
1.	2.	3.	4	5	6	7	8	9
1.	DMO, Jhabua	Manganese	2010	945	2149.220	1204.22	3255	3919671
			2011	737	2037.010	1300.01	2537	3298125
2.	DMO, Mandla	Dolomite	2010	2000	17361	15361.00	63	967743
			2011	2000	17316	15316.00	63	964908
			2012	2000	14017	12017	63	757071
Total								9907518

(Say ₹99.08 lakh)

Note : The cost of minerals has been workout on the basis of prevailing rates published by IBM and since the rate of dolomite is not in the list of IBM, hence royalty rate of Dolomite has been taken as cost of mineral.

Annexure-XX

Para referred in to the paragraph 7.11.1

Statement showing non/short payment of Rural Infrastructure and Road Development Tax (RDTax)

Sl No	Name of Unit	Name of lessee/ mines/minerals	Minerals	Year for which tax payable	Production Quantity (in MT)	Calculation of RDTax (Average Production x PMV x 5 per cent)	Payable amount (₹ in lakh)	Paid amount (₹ in lakh)	Balance amount (₹ in lakh)
1.	2.	3.	4.	5.	6.	7.	8.	9.	10.
1.	DMO, Shivpuri	Ishwar Mining and Industrial Corporation Pvt. Ltd.	Diaspore	2011-12	2009-10 - 2117 2010-11- 1264 Total 3381	1690.5 x 2000 x 5 per cent	1.69	2.29	6.07
			Pyrophyllite		2009-10 27789 2010-11 20726 Total 48515	24257.5 x 550 x 5 per cent	6.67 8.36		
Total							8.36	2.29	6.07

(Say ₹0.06 crore)

Annexure-XXI

Para referred in to the paragraph 7.11.2

Statement showing non-payment of MP Rural Infrastructure & Road Development Tax on idle mines

Sl.No.	Name of unit/ Audit period	No. of lessee	Area of lease (in hectare)	Year for which tax payable	Rate per hectare (in ₹)	Payable Amount (₹ in lakh)	Paid Amount (₹ in lakh)	Balance Amount (₹ in lakh)
1.	2.	3.	4.	5.	6.	7.	8.	
1.	DMO Badwani (2011-13)	3	11.545	2011-12 & 2012-13	4000	0.92	-	0.92
2.	DMO Chhindwara (2012-13)	4	18.945	Oct.2005 to 2012-13	4000	2.05	-	2.05
3.	DMO Datia (2011-13)	2	14.099	2011-12 & 2012-13	4000	1.13	-	1.13
4.	DMO Mandla (2011-13)	5	13.300	2011-12 & 2012-13	4000	1.06	-	1.06
Total		14				5.16	-	5.16

(Say ₹ 5.16 lakh)

Annexure-XXII

Para referred in to the paragraph 7.12.1

Statement showing Short levy of Stamp Duty and Registration Fee due to incorrect determination of average annual royalty

Sl No	Name of Unit	Name of lessee/Lease period	Village/ Minerals/ Area	Date of execution of agreement	Quantity showed in mining plan	Base royalty amount for calculation of stamp duty (₹)	Rate of stamp duty	Payable SD/RF (₹)	Paid SD/RF (₹)	Balance SD/RF (₹)
1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.
1.	DMO, Mandla	M/s Hanuman Mines and Minerals Pvt.Ltd (30.06.2011 to 29.06.2041)	Bhatiyatola/ Dolomite 4.70 Hect.	30.06.2011	21532 MT	<u>6782580</u> (21532 x 63 x 5) 5 times for 30 years lease	5 per cent	<u>339129</u> 254346	<u>66050</u> 49537	<u>273079</u> 204809
2	DMO, Neemuch	M/s Vikram cement (01.12.2010 to 30.11.2040)	Nayagaon, Khor Limestone 564.106 Hect.	13.12.2010	1683333.33 tonne	<u>530250000</u> (1683333.33 x 63 x 5) 5 times for 30 years lease	5 per cent	<u>39768750</u> 29826562	<u>2646000</u> 1986000	<u>37122750</u> 27840562
TOTAL								<u>40107879</u> 30080908	<u>2712050</u> 2035537	<u>37385829</u> 28045371
GRAND TOTAL (SD + RF)								70188787	4747587	65431200

(Say ₹6.54 crore)

Annexure-XXIII

Para referred in to the paragraph 7.12.2

Statement showing Short realisation of Stamp Duty and Registration Fees

Sl No	Name of Unit	Name of lessee	Name of sub lessee/Lease period	Name of mineral	Contract money/Rate of Stamp Duty (₹)	Payable stamp duty/Registration fees (in ₹)	Paid stamp duty/Registration fees (in ₹)	Balance SD/RF (in ₹)
1.	2.	3.	4.	5.	6.	7.	8.	9.
1.	DMO, Bhind	MPSMCL, Tahsil Bhind	Star Minerals Resources Pvt. Ltd. (1.3.2013 to 28.2.2015)	Sand	43312500/5%	<u>2165625</u> 1624218	<u>100</u> --	<u>2165525</u> 1624218
		MPSMCL Tahsil Lahar	RSI stone world (1.3.2013 to 28.2.2015)	Sand	84735000 5%	<u>4236750</u> 3177562	<u>100</u> --	<u>4236650</u> 3177562
		MPSMCL Tahsil Raun	Star Minerals Resources Pvt. Ltd. (1.3.2013 to 28.2.2015)	Sand	241949550 5%	<u>12097478</u> 9073108	<u>100</u> --	<u>12097378</u> 9073108
		MPSMCL Tahsil Mihona	Kuber kamna pvt.ltd. (1.3.2013 to 28.2.2015)	Sand	83475000 5%	<u>4173750</u> 3130312	<u>100</u> --	<u>4173650</u> 3130312
		MPSMCL Tahsil Mehgaon	M/s Shiva corp. (1.3.2013 to 28.2.2015)	Sand	441000000 5%	<u>2200000</u> 1650000	<u>100</u> --	<u>21999900</u> 1650000
2	DMO, Datia	MPSMCL Tahsil Sevrha	M/s shiva corp. (23.3.2013 to 22.3.2015)	Sand	209999850 5%	<u>10499993</u> 7874995	<u>100</u> --	<u>10499893</u> 7874995
		MPSMCL Tahsil Datia	M/s shiva corp. (23.3.2013 to 22.3.2015)	Sand	133245000 5%	<u>6662250</u> 4996688	<u>100</u> --	<u>6662150</u> 4996688
					SD	<u>61835846</u>	<u>700</u>	<u>61835146</u>
					RF	46376884	--	46376884
GRAND TOTAL					SD + RF	108212730	700	108212030

(Say ₹10.82 crore)

