



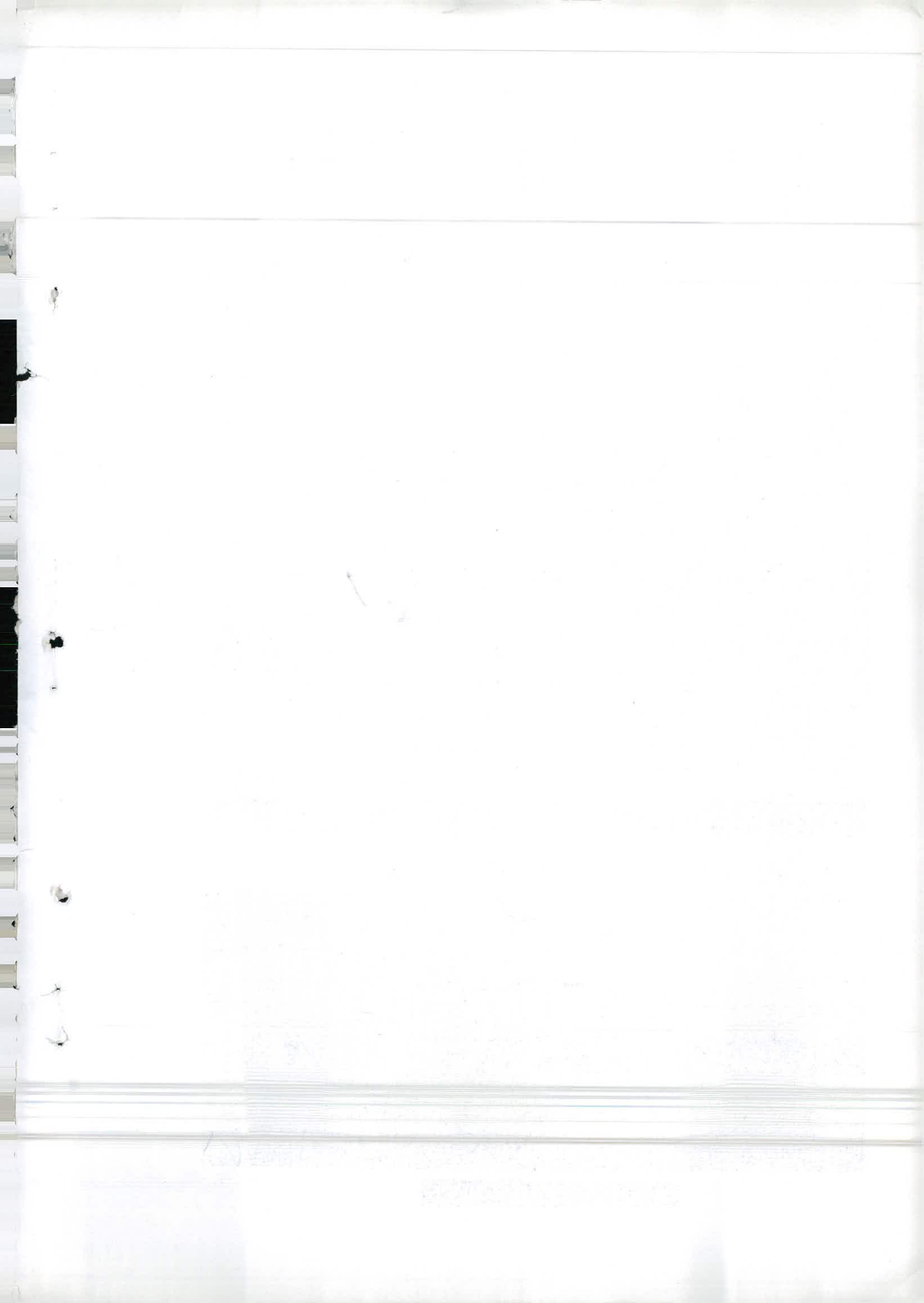
**Report of the  
Comptroller and Auditor General  
of India**

**for the year ended 31 March 2011**

**No. 3**

**(Revenue Receipts)**

**Government of Madhya Pradesh**



## TABLE OF CONTENTS

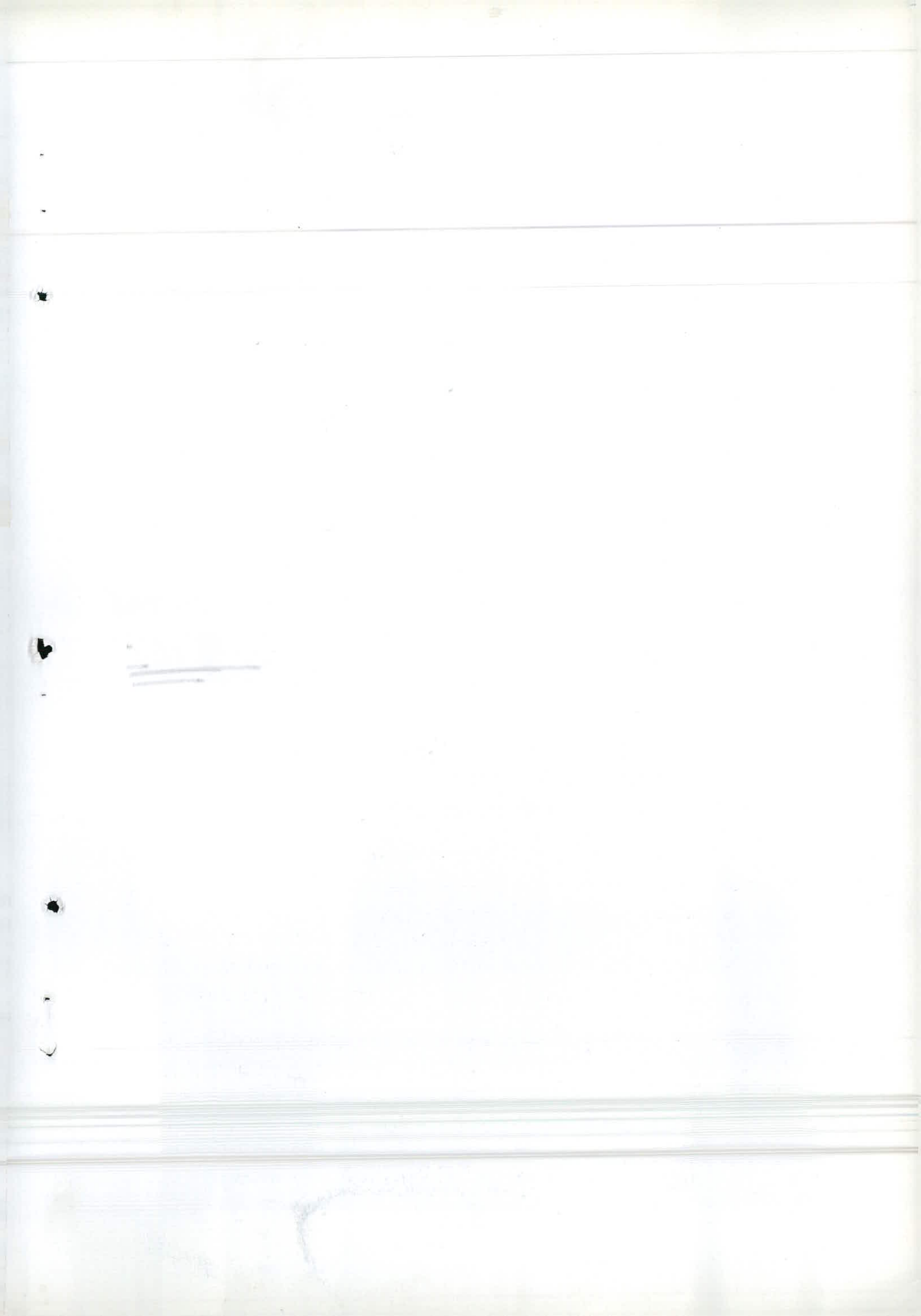
Paragraph	Particulars	Page
	Preface	vii
	Overview	ix
<b>CHAPTER - I : GENERAL</b>		
1.1	Trend of revenue receipts	1
1.2	Response of the Departments/Government towards audit	4
1.3	Analysis of the mechanism for dealing with the issues raised by audit	7
1.4	Audit planning	9
1.5	Results of audit	9
<b>CHAPTER - II : COMMERCIAL TAX</b>		
2.1	Tax administration	13
2.2	Trend of receipts	13
2.3	Assessee profile	14
2.4	Arrears of sales tax	14
2.5	Arrears in assessment	14
2.6	Cost of collection	15
2.7	Working of internal audit wing	15
2.8	Results of audit	16
2.9	<b>Working of commercial tax check posts in Madhya Pradesh (A performance audit)</b>	17
2.10	<b>Utilisation of declaration forms in inter-state trade and commerce (A performance audit)</b>	43
2.11	Non/short levy of entry tax	56
2.12	Application of incorrect rate of tax	58
2.13	Allowance of inadmissible input tax rebate	60
2.14	Short levy of purchase tax	63
2.15	Incorrect determination of turnover	64
2.16	Non-levy of tax on sales incorrectly treated as tax free/exempted	67
2.17	Incorrect grant of exemption	68
2.18	Non-realisation of profession tax	70
2.19	Non/short levy of tax under the CST Act	71

<b>Paragraph</b>	<b>Particulars</b>	<b>Page</b>
2.20	Mistake in computation of tax	72
2.21	Non-recovery of tax from closed unit	73
2.22	Incorrect determination of value addition	73
<b>CHAPTER - III : STATE EXCISE</b>		
3.1	Tax administration	77
3.2	Trend of receipts	77
3.3	Cost of collection	78
3.4	Working of internal audit wing	78
3.5	Results of audit	78
3.6	Non-realisation of excise duty	80
3.7	Non-recovery of excise duty/non-imposition of penalty	82
3.8	Non-levy of penalty on shortage of spirit/foreign liquor	84
3.9	Short-recovery of annual licence fee	85
3.10	Non-realisation of excise duty due to non disposal of foreign liquor	86
3.11	Non-realisation of duty on irregular issue of liquor	87
3.12	Irregular issue of country liquor	88
3.13	Incorrect allowance of wastage of spirit and foreign liquor	88
<b>CHAPTER - IV : TAXES ON VEHICLES</b>		
4.1	Tax administration	93
4.2	Trend of receipts	93
4.3	Analysis of budget preparation	94
4.4	Cost of collection	94
4.5	Working of internal audit wing	94
4.6	Results of audit	95
4.7	<b>Computerisation in the Motor Vehicles Department (A performance audit)</b>	96
4.8	Non-realisation of vehicle tax and penalty on vehicles	111
4.9	Levy of vehicle tax at incorrect rate and non-levy of penalty	113

Paragraph	Particulars	Page
4.10	Short realisation of vehicle tax and non-levy of penalty on motor vehicles	113
4.11	Non-realisation of penalty	114
4.12	Incorrect levy of vehicle tax and non-levy of penalty on public service vehicles having all India tourist permits	115
4.13	Non-levy of vehicle tax and penalty on public service vehicles plying on all India tourist permits	116
<b>CHAPTER - V : LAND REVENUE</b>		
5.1	Tax administration	119
5.2	Trend of receipts	119
5.3	Analysis of budget preparation	120
5.4	Working of internal audit wing	120
5.5	Results of audit	121
5.6	Misclassification of receipts from land revenue and <i>upkar</i> in Government account	122
5.7	Irregular exchange of land	122
5.8	Non-recovery of process expenses	123
5.9	Non-recovery of premium and ground rent in case of advance possession	124
5.10	Under assessment of diversion rent, premium and <i>upkar</i>	125
5.11	Non-assessment and levy of <i>Panchayat</i> cess on diversion rent	125
<b>CHAPTER - VI : STAMP DUTY AND REGISTRATION FEE</b>		
6.1	Tax administration	129
6.2	Trend of receipts	129
6.3	Analysis of budget preparation	129
6.4	Cost of collection	130
6.5	Working of internal audit wing	130
6.6	Results of audit	130
6.7	Short levy of stamp duty and registration fees on agreement to lease	132
6.8	Incorrect determination of market value/non-finalisation of cases	135

<b>Paragraph</b>	<b>Particulars</b>	<b>Page</b>
6.9	Loss of revenue due to lack of provision in the schedule of duty	136
6.10	Short levy of stamp duty and registration fee due to misclassification	137
6.11	Non-registration of instruments	138
6.12	Illegal sale of Government land	140
6.13	Irregular remission of stamp duty and registration fee	141
6.14	Short levy of stamp duty and registration fee due to non-mentioning of facts affecting duty in instruments	144
6.15	Short levy of stamp duty/incorrect exemption from payment of stamp duty on agreement/memorandum relating to deposit of title deed	145
6.16	Non-reimbursement of stamp duty and registration fees	146
6.17	Short levy of stamp duty and registration fee on instruments of power of attorney (POA)	147
6.18	Short levy of stamp duty on instrument of assignment of debt	148
6.19	Short levy of registration fee and non-levy of penalty	149
<b>CHAPTER - VII : ENTERTAINMENT DUTY</b>		
7.1	Results of audit	153
7.2	Non-levy of penalty for breach of rules	154
7.3	Non-levy of entertainment duty on cinema houses	155
7.4	Non-recovery of entertainment duty from cable operators	156
7.5	Non-levy of advertisement tax	157
<b>CHAPTER - VIII : ELECTRICITY DUTY</b>		
8.1	Tax administration	161
8.2	Trend of receipts	161
8.3	Analysis of budget preparation	162
8.4	Working of internal audit wing	162
8.5	Results of audit	162
8.6	Non-imposition of penalty	163

<b>Paragraph</b>	<b>Particulars</b>	<b>Page</b>
8.7	Loss of revenue due to non-realisation of inspection fee	164
8.8	Loss of revenue due to short recovery of electricity duty	165
<b>CHAPTER - IX : FOREST RECEIPTS</b>		
9.1	Tax administration	169
9.2	Trend of receipts	169
9.3	Analysis of budget preparation	170
9.4	Working of internal audit wing	170
9.5	Results of audit	170
9.6	Irregular felling in excess of marked trees	171
9.7	Irregular sale of timber	172
<b>CHAPTER - X : MINING RECEIPTS</b>		
10.1	Tax administration	175
10.2	Trend of receipts	175
10.3	Analysis of budget preparation	176
10.4	Working of internal audit wing	176
10.5	Results of audit	176
10.6	Non/short realisation of contract money	178
10.7	Short realisation of royalty on major minerals	179
10.8	Short realisation of revenue due to non-revision of contract money	179
10.9	Loss of revenue due to non-realisation of dues in trade quarries	180
10.10	Short realisation of royalty on minor minerals	181
10.11	Unauthorised retention of Government money by the lessees	182
10.12	Non-realisation of rural infrastructure and road development tax	183
10.13	Loss of revenue due to irregularities in issuing temporary permits	184
10.14	Non-imposition of penalty due to non-submission of returns	184
10.15	Non-levy of interest on belated payment	185
10.16	Non/short realisation of dead rent	186



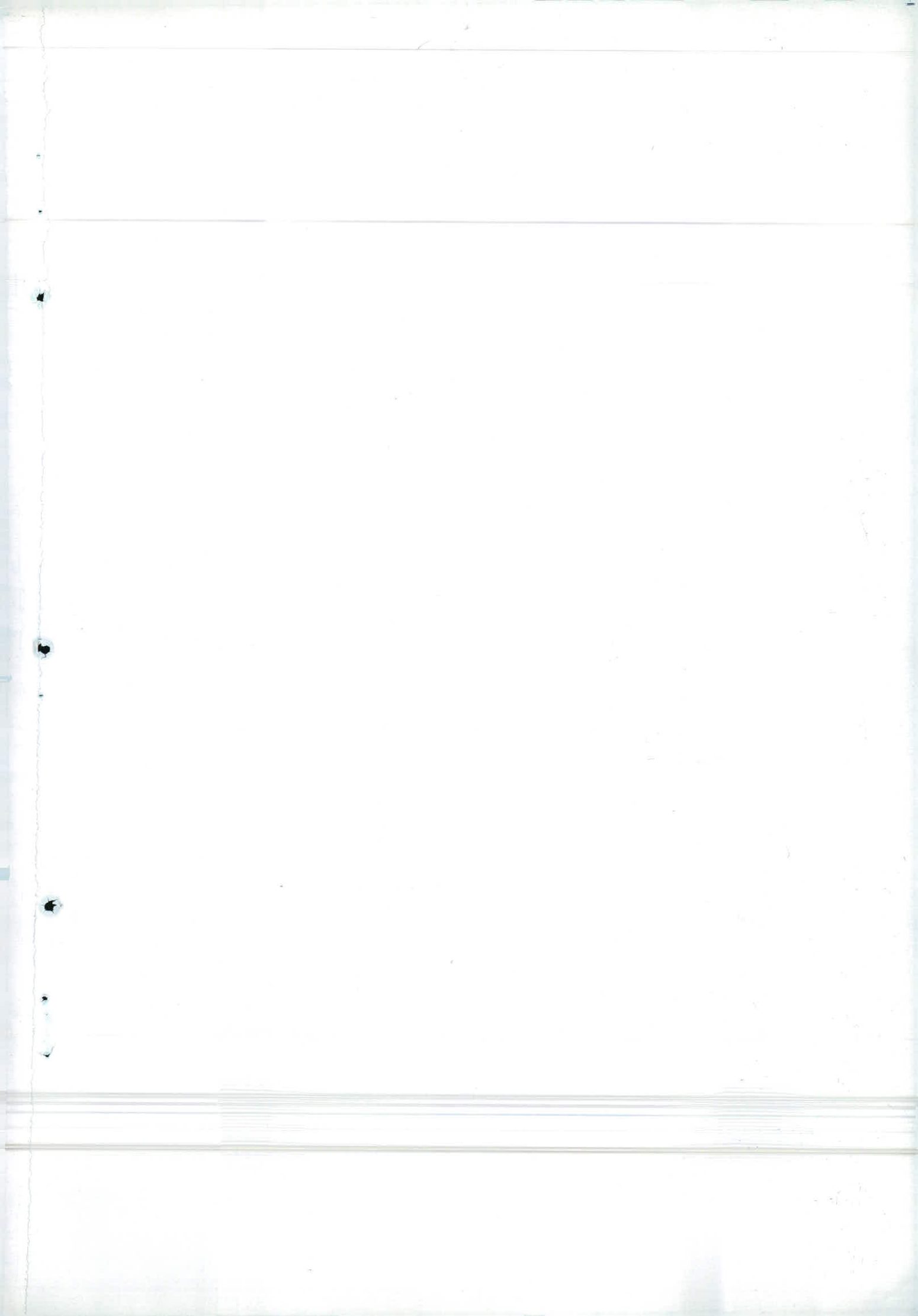


## PREFACE

This Report for the year ended 31 March 2011 has been prepared for submission to the Governor under Article 151 (2) of the Constitution.

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

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



## OVERVIEW

This Report contains 68 paragraphs including three performance audits relating to non/short levy of tax, interest, penalty, etc. involving ₹ 291.79 crore. Some of the major findings are mentioned below:

### I General

The total receipts of the State Government for the year amounted to ₹ 51,854.18 crore against ₹ 41,394.67 crore for the previous year. Fifty two *per cent* of this was raised by the State through tax revenue (₹ 21,419.33 crore) and non-tax revenue (₹ 5,719.77 crore). The balance 48 *per cent* was received from the Government of India as State's share of divisible union taxes (₹ 15,638.52 crore) and grants-in-aid (₹ 9,076.56 crore).

(Paragraph 1.1.1)

Test check of records of commercial tax, state excise, motor vehicles tax, stamp duty and registration fee, land revenue, other tax receipts, forest receipts and other non-tax receipts conducted during the year 2010-11 revealed under-assessment/short levy/loss of revenue amounting to ₹ 1,955.06 crore in 4,36,829 cases.

(Paragraph 1.5.1)

### II Commercial Tax

A performance audit on "**Working of Commercial Tax Check Posts in Madhya Pradesh**" revealed that :

- Absence of any provision to report penalty cases to circle offices resulted in loss of revenue of ₹ 12.77 lakh.  
(Paragraph 2.9.9)
- Absence of any provision for verification of TINs of dealers contained in Form 49 furnished by the transporters at the check posts resulted in loss of revenue of ₹ 1.18 lakh.  
(Paragraph 2.9.13)
- Non/short levy of penalty resulted in loss of revenue of ₹ 35.91 lakh.  
(Paragraph 2.9.17)
- Non-levy of tax on transporters who failed to give information about the consignor, consignee or the goods or who furnished forged documents resulted in loss of revenue of ₹ 38.67 lakh.  
(Paragraph 2.9.18)
- Deficient monitoring over movement of goods under transit pass resulted in non-realisation of penalty of ₹ 62.25 crore.  
(Paragraph 2.9.20.2)

A performance audit on "Utilisation of declaration forms in inter-state trade and commerce" revealed that:

- 181 declaration forms were not returned by the dealers whose registration certificates were cancelled.

**(Paragraph 2.10.7)**

- There was irregular grant of concession of ₹ 7.29 crore on incomplete declarations.

**(Paragraph 2.10.9)**

- There was short levy of tax of ₹ 11.36 crore on sale without declarations.

**(Paragraph 2.10.11.1)**

- There was short levy of tax of ₹ 47.37 lakh due to application of incorrect rate of tax.

**(Paragraph 2.10.12)**

There was non/short levy of entry tax of ₹ 1.97 crore against 33 dealers in 38 cases in 24 offices.

**(Paragraph 2.11)**

Tax of ₹ 1.52 crore was short realised from 32 dealers due to application of incorrect rate of tax in 34 cases in 19 offices.

**(Paragraph 2.12)**

Tax of ₹ 1.51 crore was short realised from 13 dealers in 13 cases due to irregular allowance of input tax rebate in 12 offices.

**(Paragraph 2.13)**

There was short levy of purchase tax of ₹ 1.26 crore in case of one dealer in one office.

**(Paragraph 2.14)**

There was non-levy of tax and interest of ₹ 88.69 lakh on sales of taxable commodities as the same were incorrectly treated as tax-free by 13 assessing authorities in 17 cases of 15 dealers.

**(Paragraph 2.16)**

Tax of ₹ 91.13 lakh was short realised due to irregular grant of exemption in three cases of three dealers in three offices.

**(Paragraph 2.17)**

### III State Excise

Excise duty of ₹ 24.07 crore was not realised on unacknowledged export/transport of foreign liquor/beer against 338 permits by 12 units in six districts.

(Paragraph 3.6.1)

Excise duty/penalty of ₹ 6.71 crore was not realised on inadmissible wastage in transport/export of foreign liquor/beer in 3,160 cases from 15 units in 10 districts.

(Paragraph 3.7.1)

Penalty of ₹ 2.06 crore was not realised in case of one distillery on shortage of spirit/foreign liquor.

(Paragraph 3.8)

Excise duty of ₹ 50.30 lakh was not realised from 22 licensees on irregular issue of liquor in two districts.

(Paragraph 3.11)

### IV Taxes on Vehicles

A performance audit on "**Computerisation in Motor Vehicles Department**" revealed that :

- 11,991 Registration certificates were issued for validity periods beyond the permissible period.

(Paragraph 4.7.7)

- Driving licences to drive a transport/other than transport vehicle were issued for a period beyond permissible period.

(Paragraph 4.7.11)

- Driving licence to drive motor vehicle with gear or light motor vehicle was issued to applicants who were minors.

(Paragraph 4.7.12)

- In key fields either data was not entered or invalid data was entered.

(Paragraph 4.7.15)

- In absence of validation checks duplicate insurance cover notes were used for 1,66,987 vehicles.

(Paragraph 4.7.19)

- PAN data not given due importance as it was not entered in the database in respect of 26,07,756 vehicles.

(Paragraph 4.7.20)

- The locally developed application did not capture information relating to enforcement, insurance updation, applicant's biometrics for learner's licence etc. leaving scope for issue of improper driving licences or other misuses.

(Paragraph 4.7.21)

Tax and penalty of ₹ 8.94 crore was not realised from 2,771 vehicles owners in 26 offices.

(Paragraph 4.8)

Levy of tax at incorrect rate in cases of 68 private service vehicles by one office resulted in non-realisation of revenue of ₹ 87.98 lakh including penalty.

(Paragraph 4.9)

There was non-realisation of penalty of ₹ 23.56 lakh on belated payment of vehicle tax from 535 vehicles in 24 offices.

(Paragraph 4.11)

## V Land Revenue

In 23 *Tahsil* offices land revenue and *upkar* was deposited in *Panchayat Nidhi* instead of under the head 'Land Revenue'. This resulted in misclassification of receipts of ₹ 2.22 crore.

(Paragraph 5.6)

Irregular exchange of *Nazul* land with the agricultural land of a trust contrary to the provisions of Revenue Book Circular (RBC) was noticed during verification of records in three offices.

(Paragraph 5.7)

Premium and ground rent of ₹ 70.50 lakh was not realised in two cases of advance possession in Collectorate (*Nuzul*), Umaria.

(Paragraph 5.9)

Diversion rent, premium and *upkar* were underassessed in four Collectorates and one *Tahsil* resulting in short realisation of revenue of ₹ 20.84 lakh in 30 cases.

(Paragraph 5.10)

## VI Stamp duty and registration fee

There was short levy of stamp duty and registration fees of ₹ 14.87 crore on agreement to lease in 46 cases in 19 offices.

(Paragraph 6.7)

Incorrect determination of market value/non finalisation of 621 cases in 24 offices resulted in short/non-realisation of stamp duty and registration fee of ₹ 12.98 crore.

**(Paragraph 6.8)**

Lack of provision in schedule 1-A to the Indian Stamp Act, 1899, resulted in loss of revenue of ₹ 3.96 crore in two cases, in one office.

**(Paragraph 6.9)**

There was short levy of stamp duty and registration fee of ₹ 2.69 crore due to misclassification of documents in 32 cases in seven offices.

**(Paragraph 6.10)**

Non-registration of instruments resulted in non-realisation of revenue of ₹ 1.40 crore in three offices in 102 cases.

**(Paragraph 6.11)**

## **VII Entertainment duty**

In case of 129 cable operators, penalty was not levied by three offices for breach of rules resulting in non-realisation of revenue of ₹ 96.55 lakh.

**(Paragraph 7.2)**

There was non-levy of entertainment duty of ₹ 24.04 lakh on 58 cinema houses.

**(Paragraph 7.3)**

Entertainment duty of ₹ 17.29 lakh was not recovered by 14 offices from 574 cable operators and 11 hotels/lodges.

**(Paragraph 7.4)**

## **VIII Electricity duty**

Penalty of ₹ 2.24 crore was not imposed on 74,541 owners of electrical installations for breach of rules.

**(Paragraph 8.6)**

Due to not carrying out periodic inspections of medium and high voltage electrical installations, inspection fee of ₹ 1.25 crore was not realised.

**(Paragraph 8.7)**

Incorrect application of rates of duty on mines resulted in short recovery of electricity duty of ₹ 2.23 crore in cases of 47 consumers.

**(Paragraph 8.8)**

## **X Mining receipts**

There was short realisation of royalty of ₹ 4.95 crore on major minerals from six lessees in five offices.

**(Paragraph 10.7)**

In two offices Government money of ₹ 81.78 crore was unauthorisedly retained by two lessees of major minerals.

**(Paragraph 10.11)**

There was non-realisation of revenue of ₹ 18.96 crore on account of rural infrastructure and road development tax from holders of 271 mining leases in 14 offices.

**(Paragraph 10.12)**



## 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 2010-11, the State's share of net proceeds of divisible Union taxes and duties assigned to States and grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are mentioned below:

(₹ in crore)						
Sl. No.	Particulars	2006-07	2007-08	2008-09	2009-10	2010-11
1.	<b>Revenue raised by the State Government</b>					
	• Tax revenue	10,473.13	12,017.64	13,613.50	17,272.77	21,419.33
	• Non-tax revenue	2,658.46	2,738.18	3,342.86	6,382.04	5,719.77
	<b>Total</b>	<b>13,131.59</b>	<b>14,755.82</b>	<b>16,956.36</b>	<b>23,654.81</b>	<b>27,139.10</b>
2.	<b>Receipts from the Government of India</b>					
	• Share of net proceeds of divisible Union taxes and duties	8,088.54	10,203.50	10,767.14	11,076.99	15,638.52 <sup>1</sup>
	• Grants-in-aid	4,474.15	5,729.41	5,853.71	6,662.87	9,076.56
	<b>Total</b>	<b>12,562.69</b>	<b>15,932.91</b>	<b>16,620.85</b>	<b>17,739.86</b>	<b>24,715.08</b>
3.	<b>Total receipts of the State (1 and 2)</b>	<b>25,694.28</b>	<b>30,688.73</b>	<b>33,577.21</b>	<b>41,394.67</b>	<b>51,854.18</b>
4.	<b>Percentage of 1 to 3</b>	<b>51</b>	<b>48</b>	<b>50</b>	<b>57</b>	<b>52</b>

The above table indicates that during the year 2010-11, the revenue raised by the State Government was 52 per cent of the total receipts (₹ 51,854.18 crore) against 57 per cent in the preceding year. The balance 48 per cent of receipts during 2010-11 was from the Government of India.

1

For details please see statement No. 11: "Detailed accounts of revenue by minor heads" in the Finance Accounts of the Government of Madhya Pradesh for the year 2010-11. 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.

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

(₹ in crore)							
Sl. No.	Head of revenue	2006-07	2007-08	2008-09	2009-10	2010-11	Percentage of increase (+)/ decrease (-) in 2010-11 over 2009-10
1.	Tax/VAT on sales, trade etc.	5,261.41	6,045.07	6,842.99	7,723.82	10,256.76	(+) 32.79
2.	State excise	1,546.68	1,853.83	2,301.95	2,951.94	3,603.42	(+) 22.07
3.	Stamp duty and Registration fee	1,251.10	1,531.54	1,479.29	1,783.15	2,514.27	(+) 41.00
4.	Taxes on goods and passengers	744.60	916.44	1,332.57	1,332.88	1,746.20	(+) 31.01
5.	Taxes on vehicles	634.30	702.62	772.56	919.01	1,198.38	(+) 30.40
6.	Taxes and duties on electricity	714.55	626.08	343.06	2,146.49	1,476.32	(-) 31.22
7.	Land revenue	132.21	129.15	338.84	180.03	360.81	(+) 100.42
8.	Other taxes on income and expenditure - taxes on professions, trades, callings and employments	163.81	185.02	172.29	203.92	217.89	(+) 6.85
9.	Other taxes and duties on commodities and services	19.55	20.10	20.28	19.21	29.42	(+) 53.15
10.	Hotel receipts	4.92	7.79	9.67	12.20	15.85	(+) 29.92
11.	Taxes on immovable property other than agricultural land	-	-	-	0.12	0.01	(-) 91.67
<b>Total</b>		<b>10,473.13</b>	<b>12,017.64</b>	<b>13,613.50</b>	<b>17,272.77</b>	<b>21,419.33</b>	

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

**State excise-** The increase of 22.07 per cent was due to increase in receipt of auction amount during auction of liquor shops.

**Stamp duty & Registration fee-** The abnormal increase of 41 per cent was attributed to the real estate sector emerging out of economic recession and increase in the number of documents registered. Under the Registration Act, 1908, the registration of Power of Attorney and sale contracts was made compulsory with effect from 14 January 2010 leading to increase in the number of documents as well as unexpected rise in revenue.

**Taxes on vehicles-** The increase of 30.40 per cent was attributed to increase in life-time tax and registration of more vehicles.

**Taxes and duties on electricity-** Revenue for the year 2008-09 was credited in the year 2009-10. As a result the revenue for the year 2009-10 stood inflated and thus the revenue for the year 2010-11 showed a declining trend of 31.22 per cent.

**Other taxes and duties on commodities and services-** The increase of 53.15 per cent was attributed to realisation of entertainment duty from DTH services by the Government.

The other Departments did not inform the reasons for variation (March 2012) despite being requested (April 2011).

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

(₹ in crore)							
Sl. No.	Head of revenue	2006-07	2007-08	2008-09	2009-10	2010-11	Percentage of increase (+)/ decrease (-) in 2010-11 over 2009-10
1.	Non-ferrous mining and metallurgical industries	923.91	1,125.39	1,361.08	1,590.47	2,121.49	(+) 33.39
2.	Forestry and wildlife	536.50	608.89	685.60	802.00	836.61	(+) 4.32
3.	Miscellaneous general services	736.58	374.60	380.17	399.12	143.00	(-) 64.17
4.	Other non-tax receipts	159.30	220.17	580.56	2,068.46	1,900.94	(-) 8.10
5.	Interest receipts	132.73	206.98	163.29	1,284.03	298.56	(-) 76.75
6.	Other administrative services	59.55	68.15	55.58	80.94	85.14	(+) 5.19
7.	Major and medium irrigation	29.82	37.42	37.08	56.75	194.89	(+) 243.42
8.	Police	24.26	25.03	23.63	41.98	62.55	(+) 49.00
9.	Public works	16.39	20.33	21.74	27.37	36.77	(+) 34.34
10.	Medical and public health	20.88	21.93	20.88	21.84	22.77	(+) 4.26
11.	Co-operation	18.54	29.29	13.25	9.08	17.05	(+) 87.78
<b>Total</b>		<b>2,658.46</b>	<b>2,738.18</b>	<b>3,342.86</b>	<b>6,382.04</b>	<b>5,719.77</b>	

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

**Non-ferrous mining and metallurgical industries-** The increase of 33.39 per cent was attributed to recovery of outstanding amount under the M.P. Rural and Road Development Act from companies, constant vigil and monitoring by the Department and increase in royalty of minor minerals.

**Major and medium irrigation-** The increase of 243.42 per cent is mainly due to receipts from N.T.P.C. Singrauli under Chief Engineer, Ganga Kachar Water Resources Department in the year 2010-11.

**Co-operation-** The increase of 87.78 per cent was attributed to effective efforts of recovery of loans and interest.

The other departments did not inform the reasons for variation (March 2012) despite being requested (April 2011).

## 1.2 Response of the Departments/Government towards audit

The succeeding paragraphs 1.2.1 to 1.2.6 discuss the response of the Departments/Government towards audit observations/recommendations.

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

The Accountant General (Economic and Revenue Sector Audit), Madhya Pradesh (AG) conducts periodical inspection of the Government Departments to test check the transactions and verify the maintenance of the 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 Departments and the Government.

A review of inspection reports issued up to December 2010 disclosed that 13,285 paragraphs involving ₹ 9,355.55 crore relating to 3,690 IRs remained outstanding at the end of June 2011 as mentioned below along with the corresponding figures for the preceding two years.

	June 2009	June 2010	June 2011
Number of outstanding IRs	6,201	5,040	3,690
Number of outstanding audit observations	19,731	15,608	13,285
Amount involved (₹ in crore)	5,319.01	9,862.06	9,355.55

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

(₹ in crore)

Sl. No.	Name of the Department	Nature of receipts	Number of outstanding IRs	Number of outstanding audit observations	Money value involved
(1)	(2)	(3)	(4)	(5)	(6)
1.	Commercial Tax	Taxes/VAT on sales, trade etc.	849	4,174	919.33
2.	Energy	Electricity duty	37	133	1,737.42
3.	State excise	Entertainment tax	174	350	19.94
		Excise duty	198	738	604.58

(1)	(2)	(3)	(4)	(5)	(6)
4.	Revenue	Land revenue	922	2,986	2,156.58
5.	Transport	Taxes on motor vehicles	372	1,903	322.89
6.	Stamps and registration	Stamp duty and registration fee	385	1,055	94.91
7.	Mines and geology	Royalty and rent	186	812	2,575.39
8.	Forest and environment	Forest produce receipts	319	531	747.30
9.	Food and civil supplies	Other non-tax receipts	95	243	24.60
10.	Agriculture		80	171	14.01
11.	Co-operative		73	189	138.60
<b>Total</b>			<b>3,690</b>	<b>13,285</b>	<b>9,355.55</b>

Even the first replies required to be received from the heads of offices within one month from the date of issue of the IRs were not received for 520 IRs issued up to December 2010. This large pendency of the IRs due to non-receipt of the replies is indicative of the fact that the heads of offices and heads of the Departments failed to initiate action to rectify the defects, omissions and irregularities pointed out by the AG in the IRs. Although this was pointed out in the earlier report for the year ended 31 March 2010, no corrective measures were taken in this regard.

**It is recommended that the Government take suitable steps to install an effective procedure for prompt and appropriate response to audit observations as well as taking action against officials/officers who do not send replies to the IRs/paragraphs as per the prescribed time schedules and also fail to take action to recover loss/outstanding demand in a time bound manner.**

### 1.2.2 Departmental audit committee meetings

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

(₹ in crore)

Head of revenue	Number of meetings held	Number of paragraphs settled	Amount
Commercial tax	4	411	34.53
Mining	2	134	110.36
Stamp duty and registration fees	4	369	25.19
State excise	2	136	35.84
Land revenue	2	516	140.85
Forest	3	129	101.77
<b>Total</b>	<b>17</b>	<b>1,695</b>	<b>448.54</b>

The table shows that the settlement of outstanding paragraphs has not been satisfactory in the case of Mining, State Excise and Forest Departments. This was mainly due to non-production of relevant records by the Departments during the audit committee meetings.

### 1.2.3 Non-production of records to audit for scrutiny

The programme of local audit of Commercial Tax, Motor Vehicle Tax, State Excise, Stamp duty and Registration fee, Land Revenue and Mining Receipts offices is drawn up sufficiently in advance and intimations are issued, usually one month before the commencement of audit, to the Department to enable them to keep the relevant records ready for audit scrutiny.

During 2010-11, as many as 1,559 assessment files, registers and other relevant records relating to 104 offices were not made available to audit. In 550 cases, the tax involved was ₹ 284.89 crore and in the remaining cases the tax effect could not be computed. Year-wise break up of such cases are given below:

(₹ in crore)			
Name of Department/ No. of offices	Number of assessment cases not audited	Number of cases in which revenue involved could be ascertained	Revenue involved
Commercial Tax/ 22	538	538	284.18
Stamps and Registration/ 15	31	1	0.50
Land Revenue/ 57	980	11	0.21
Mining/ 9	9	---	---
Co-operative Society/ 1	1	---	---
<b>Total</b>	<b>1,559</b>	<b>550</b>	<b>284.89</b>

### 1.2.4 Response of the Departments to the draft audit paragraphs

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

Eighty eight paragraphs (clubbed into 68 paragraphs) included in this Report were sent to the Principal Secretaries/Secretaries of the concerned Departments. Their replies (except for three paragraphs of the Forest Department) have not been received (March 2012).

The paragraphs pertaining to these Departments have been included in this Report without the response of the Departments.

### 1.2.5 Follow up on Audit Reports-summarised position

The Report of the Comptroller & Auditor General of India for the year ended 31 March 2010 (Revenue Receipts) was laid on the table of *Vidhan Sabha* on 28 March 2011. Reports for the years upto 2005-06 and 2007-08 have been fully discussed and that for the year 2006-07 has been partly discussed by the Public Accounts Committee (PAC). The reports from 2008-09 onwards are yet to be discussed. The recommendations of the PAC have been received for Audit Reports pertaining to different years.

Action Taken Reports (ATR) on the PAC recommendations upto 1992-93 have been received. ATRs from 1993-94 to 2003-04 have been partly received and thereafter ATRs have not been received from the concerned Departments although the instructions of November 1994 issued by the State Legislature Affairs Department stipulate that these should be issued within six months from the date of recommendations by the PAC.

### 1.2.6 Compliance with the earlier Audit Reports

During the period from 2005-06 to 2009-10, the Departments/ Government accepted audit observations involving ₹ 1,798.84 crore of which only ₹ 15.58 crore was recovered till 31 March 2010 as mentioned below:

(₹ in crore)				
Year of the Audit Report	Total money value of the Report	Accepted money value	Amount recovered	Percentage of recovery to amount accepted
2005-06	85.85	32.56	2.42	7.43
2006-07	318.57	288.61	1.93	0.67
2007-08	623.43	421.89	4.86	1.15
2008-09	1,339.50	112.89	3.11	2.76
2009-10	1,469.91	942.89	3.26	0.35
<b>Total</b>	<b>3,837.26</b>	<b>1,798.84</b>	<b>15.58</b>	

The percentage of recovery as compared to the accepted cases has been extremely low over the last five years. The Government may consider ensuring recovery at least in accepted cases.

### 1.3 Analysis of the mechanism for dealing with the issues raised by audit

In order to analyse the system of addressing the issues highlighted in the Inspection Reports/Audit Reports by the Departments/Government, the action taken on the paragraphs and reviews included in the Audit Reports of the last 10 years in respect of one Department is evaluated and included in each Audit Report.

The succeeding paragraphs 1.3.1 to 1.3.2.2 discuss the performance of the **Mining Department** to deal with the cases detected in the course of local audit conducted during the last six years and also the cases included in the Audit Reports for the years 2000-01 to 2009-10.

### 1.3.1 Position of Inspection Reports

The summarised position of inspection reports issued during the last six years, paragraphs included in these reports and their status as on 31 March 2011 are tabulated below:

(₹ in crore)

Year	Opening balance			Addition during the year			Clearance during the year			Closing balance during the year		
	IRs	Para-graphs	Money Value	IRs	Para-graphs	Money Value	IRs	Para-graphs	Money Value	IRs	Para-graphs	Money Value
2005-06	284	806	575.33	26	136	226.81	55	199	40.30	255	743	761.84
2006-07	255	743	761.84	19	74	33.33	4	47	11.90	270	770	783.27
2007-08	270	770	783.27	21	85	90.06	6	58	70.16	285	797	803.17
2008-09	285	797	803.17	32	179	368.14	5	39	161.19	312	937	1,010.32
2009-10	312	937	1,010.12	41	268	1,824.35	61	211	181.12	292	994	2,653.35
2010-11	292	994	2,653.35	37	208	282.36	130	313	193.73	199	889	2,741.98

Out of 313 paragraphs cleared during the year 2010-11, 179 paragraphs were settled in the normal course on the basis of replies and the remaining 134 paragraphs were settled in Audit Committee meetings held with the Department.

### 1.3.2 Assurance given by the Department/Government on the issues highlighted in the Audit Report

#### 1.3.2.1 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 below:

(₹ in crore)

Year of AR	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	Cumulative position of recovery of accepted cases
2000-01	6	14.40	2	10.83	10.41	10.41
2001-02	6	44.96	..	...	...	10.41
2002-03	5	120.86	3	0.79	...	10.41
2003-04	7	19.76	3	2.46	...	10.41
2004-05	4	2.53	2	2.23	0.13	10.54
2005-06	6	2.16	1	0.13	...	10.54
2006-07	8	5.20	8	5.26	0.29	10.83
2007-08	1 (Review)	395.76	1	0.11	....	10.83
2008-09	8	102.93	1	1.53	1.01	11.84
2009-10	11	447.89	3	138.24	0.32	12.16



The percentage of recovery as compared to the accepted cases has been extremely low over the last ten years. We have brought (October 2011) this issue to the notice of the Department as well as the Government.

### 1.3.2.2 Action taken on the recommendations accepted by the Departments/Government

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

The following paragraphs discuss the issues highlighted in a review on the Mining Department featured in the Audit Report 2007-08 including the recommendations and action taken by the Department on the recommendations accepted by it as well as the Government.

Year of AR	Name of the Review	Number of recommendations	Details of the recommendations accepted	Status
2007-08	Mining Receipt in Madhya Pradesh	5	3	The recommendations have been considered by the Government and action was being taken to implement the same.

## 1.4 Audit planning

The unit offices under various departments are categorised into high, medium and low risk units according to their revenue position, past trends of audit observations and other parameters. The annual audit plan is prepared on the basis of risk analysis which *inter-alia* 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, features of the tax administration, audit coverage and its impact during the past five years etc.

During the year 2010-11, the audit universe comprised of 986 auditable units, of which 406 units were planned for audit and 398 units were audited, which is 40.37 *per cent* of the total auditable units.

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

## 1.5 Results of audit

### 1.5.1 Position of local audit conducted during the year

Test check of the records of 398 units of Commercial tax, State excise, Motor vehicles, Forest and other Departmental offices conducted during the year 2010-11 revealed underassessment/short levy/loss of revenue aggregating

₹ 1,955.06 crore in 4,36,829 cases. During the course of the year, the Departments accepted underassessment and other deficiencies of ₹ 737.07 crore involved in 1,75,021 cases which were pointed out in audit during 2010-11. The Departments collected ₹ 70.50 crore in 31,204 cases during 2010-11.

### **1.5.2 This Report**

This report contains 68 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 on "**Working of commercial tax check posts in Madhya Pradesh**", "**Utilisation of declaration forms in inter-state trade and commerce**" and "**Computerisation in motor vehicles department**" relating to short/non-levy of tax, duty and interest, penalty etc., involving financial effect of ₹ 291.79 crore. The Departments/Government have accepted audit observations involving ₹ 110.29 crore out of which ₹ 1.99 crore has been recovered. The replies in the remaining cases have not been received (March 2012). These are discussed in the succeeding chapters II to X.

## EXECUTIVE SUMMARY

<b>Tax collection</b>	<p>In 2010-11 the collection from commercial tax increased by 32.79 <i>per cent</i> over the previous year, reason for which was not informed by the Department despite being requested (April 2011 followed by reminders in July and September 2011).</p>
<b>Results of audit conducted by us in 2010-11</b>	<p>In 2010-11 we test checked the records of 100 units relating to commercial tax and found under-assessment of tax and other irregularities involving ₹ 265.45 crore in 1,017 cases.</p> <p>The Department accepted under-assessment and other deficiencies of ₹ 59.48 crore in 570 cases, which were pointed out by us during the year 2010-11. An amount of ₹ 44 lakh was recovered in 272 cases during the year 2010-11.</p>
<b>What we have highlighted in this Chapter</b>	<p>In this Chapter we present two performance audits on “<b>Working of commercial tax check posts in Madhya Pradesh</b>”, “<b>Utilisation of declaration forms in inter-state trade and commerce</b>” and illustrative cases of ₹ 85.10 crore selected from observations noticed during our test check of records relating to assessment and collection of tax in the office of the Commercial Tax Officers (CTOs) and Regional Assistant Commissioners (RACs), where we found that the provisions of the Acts/Rules were not observed.</p> <p>It is a matter of concern that similar omissions have been pointed out by us repeatedly in the Audit Reports for the past several years, but the Department has not taken corrective action.</p>
<b>Our conclusion</b>	<p>The Department needs to initiate immediate action to recover non/short levy of entry tax/purchase tax, incorrect grant of exemption, non recovery of tax from closed units, non-realisation of professional tax, non/short levy of penalty, non-levy of tax on transporters, non/short levy of tax on sale without declaration etc., pointed out by us, more so in those cases where it has accepted our contention.</p>

### 2.3 Assessee profile

The Department reported that during 2010-11 there were 2,17,209 registered dealers, of which approximately 46,774 were large tax payers and 1,70,435 were small tax payers. All registered dealers having turnover upto ₹ 20 lakh or paying annual tax upto ₹ 10,000 are required to file annual returns whereas other dealers are required to file quarterly returns. In case of dealers who failed to furnish returns, advance tax notices are issued by the competent officer. The Department further informed that the number of returns received is not maintained at the Department headquarters. Thus, a vital monitoring mechanism is absent in the Department.

### 2.4 Arrears of sales tax

Position of arrears of sales tax during the last five years (2006-07 to 2010-11), as furnished by Commercial Tax Department, is given in the following table.

(₹ in crore)				
Year	Opening balance of arrears	Additions during the year	Collection by the end of the year	Balance arrears
2006-07	759.30	702.79	877.84	584.25
2007-08	584.25	739.77	752.48	571.54
2008-09	571.54	1,086.23	1,111.73	546.04
2009-10	546.04	1,206.32	1,165.41	586.95
2010-11	586.95	1,214.02	1,271.17	529.80

The amount of arrears of sales tax at the year end was ₹ 529.80 crore out of which an amount of ₹ 450 crore was more than five years old.

### 2.5 Arrears in assessment

The details of assessments relating to sales tax/VAT, profession tax, entry tax, luxury tax, tax on works contracts pending at the beginning of the year, additional cases becoming due for assessment during the year, cases disposed during the year and pending cases at the end of each year during 2008-09, 2009-10 and 2010-11 as furnished by the Commercial Tax Department are mentioned in the following table:-

Name of tax	Opening balance	New cases due for assessment during the year	Total assessments due	Cases disposed during the year	Balance at the end of the year	Percentage of column 5 to 4	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	
<b>Commercial Tax Department</b>							
Sales tax/VAT	2008-09	3,03,293	3,41,838	6,45,131	3,78,096	2,67,035	58.61
	2009-10	2,67,035	3,53,048	6,20,083	3,72,161	2,47,922	60.02
	2010-11	2,47,922	2,53,990	5,01,912	3,74,824	1,27,088	74.68
Profession tax	2008-09	1,27,515	1,50,048	2,77,563	1,53,188	1,24,375	55.19
	2009-10	1,24,375	1,40,241	2,64,616	1,57,938	1,06,678	59.69
	2010-11	1,06,678	88,196	1,94,874	1,27,626	67,248	65.49

	(1)	(2)	(3)	(4)	(5)	(6)	(7)
Entry tax	2008-09	1,88,411	2,36,999	4,25,410	2,55,054	1,70,356	59.95
	2009-10	1,70,356	2,29,913	4,00,269	2,48,537	1,51,732	62.09
	2010-11	1,51,732	2,00,164	3,51,896	2,62,535	89,361	74.61
Luxury tax	2008-09	698	1,330	2,028	1,364	664	67.26
	2009-10	664	1,026	1,690	1,052	638	62.25
	2010-11	638	3,619	4,257	3,234	1,023	75.97
Tax on works contracts	2008-09	3,747	5,160	8,907	6,366	2,541	71.47
	2009-10	2,541	6,273	8,814	6,183	2,631	70.15
	2010-11	2,631	6,704	9,335	6,593	2,742	70.63

Thus, there has been increase in disposal of assessment during 2010-11 as compared to the previous years.

## 2.6 Cost of collection

The gross collection in respect of VAT/Taxes on Sales, Trade etc., expenditure incurred on collection as furnished by the concerned Department and the percentage of expenditure to gross collection during the years 2008-09, 2009-10 and 2010-11 along with the relevant all India average percentage of expenditure on collection to gross collection for preceding years are mentioned below:

(₹ in crore)				
Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage
2008-09	6,842.99	96.23	1.41	0.83
2009-10	7,723.82	85.33	1.10	0.88
2010-11	10,256.76	98.35	0.96	0.96

The above table indicates that the percentage of expenditure on collection in respect of VAT/Taxes on Sales, Trade etc. was considerably higher than the all India average percentage for the years 2008-09 and 2009-10.

## 2.7 Working of internal audit wing

In pursuance of the Government orders dated 11 October 1982, 15 posts (five Assistant Commissioners, five Commercial Tax Officers and five Assistant Commercial Tax Officers) were sanctioned for internal audit in the Department. However, due to constant increase in the number of registered dealers and assessment cases, establishment of check posts and deployment of available staff in revenue work, system of internal audit is not working so far as internal audit of assessments are concerned. During the year 2010-11 internal audit of only the establishment records was done.

## 2.8 Results of audit

Test check of the records of 100 units relating to Commercial Tax/VAT revealed under-assessment of tax and other irregularities involving ₹ 265.45 crore in 1,017 cases which fall under the following categories:

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
1.	<b>Working of commercial tax check posts in Madhya Pradesh (A performance audit)</b>	1	63.10
2.	<b>Utilisation of declaration forms in inter-state trade and commerce (A performance audit)</b>	1	12.85
3.	Non/short levy of tax	294	31.43
4.	Application of incorrect rate of tax	164	10.99
5.	Incorrect determination of taxable turnover	94	3.63
6.	Incorrect grant of exemption/deduction/set off	142	27.95
7.	Other irregularities	321	115.50
	<b>Total</b>	<b>1,017</b>	<b>265.45</b>

During the course of the year, the Department accepted under-assessment and other deficiencies of ₹ 59.48 crore in 570 cases, which were pointed out in audit during the year 2010-11. An amount of ₹ 44 lakh was realised in 272 cases during the year 2010-11.

Two performance audits “**Working of commercial tax check posts in Madhya Pradesh**” involving revenue implication of ₹ 63.10 crore, “**Utilisation of declaration forms in inter-state trade and commerce**” involving revenue implication of ₹ 12.85 crore and a few illustrative cases with money value of ₹ 9.15 crore are mentioned in the following paragraphs.

## **2.9 Working of commercial tax check posts in Madhya Pradesh**

### **Highlights**

Absence of any provision to report penalty cases to circle offices resulted in loss of revenue of ₹ 12.77 lakh.

**(Paragraph 2.9.9)**

Absence of any provision for verification of TINs of dealers contained in Form 49 furnished by the transporters at the check posts resulted in loss of revenue of ₹ 1.18 lakh.

**(Paragraph 2.9.13)**

Non/short levy of penalty resulted in loss of revenue of ₹ 35.91 lakh.

**(Paragraph 2.9.17)**

Non-levy of tax on transporters who failed to give information about the consignor, consignee or the goods or who furnished forged documents resulted in loss of revenue of ₹ 38.67 lakh.

**(Paragraph 2.9.18)**

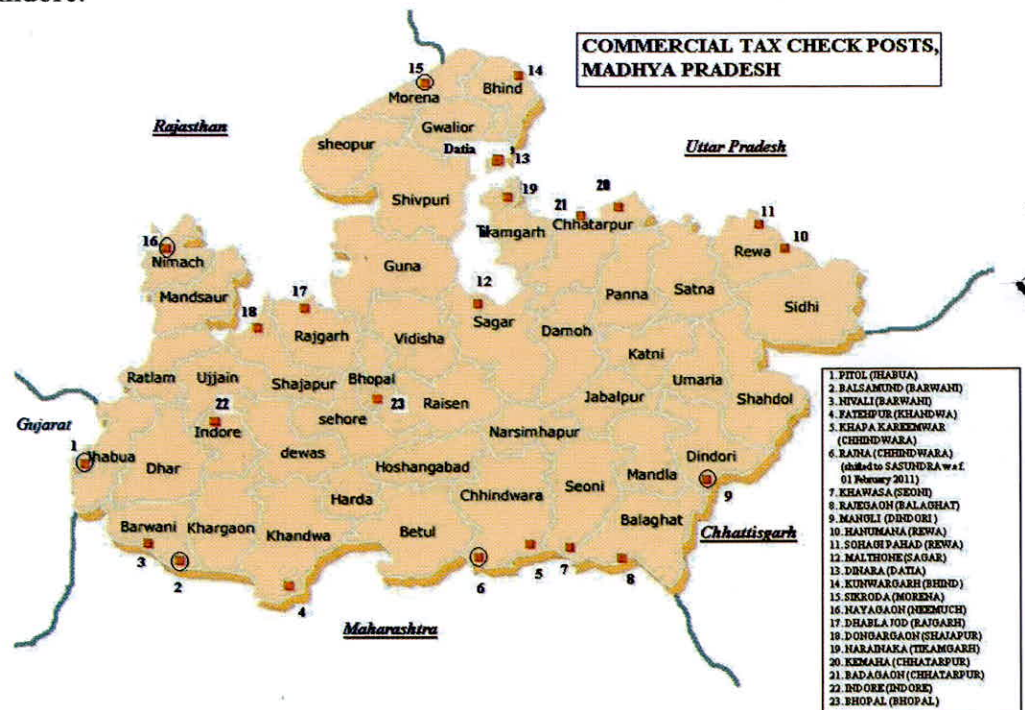
Deficient monitoring over movement of goods under transit pass resulted in non-realisation of penalty of ₹ 62.25 crore.

**(Paragraph 2.9.20.2)**

## 2.9.1 Introduction

In order to prevent evasion of tax on goods imported inside and exported outside Madhya Pradesh (MP), the Commercial Tax Department (CTD) of the Government of MP has been empowered to establish check posts where vehicles can be intercepted, searched and detained by the officer in-charge of the check post (CPO). The Madhya Pradesh VAT Act, 2002 (Act) empowers the Government and the Commissioner, Commercial Tax (CCT) to establish check posts in the prescribed manner at notified places in order to prevent or check evasion of tax. Accordingly, the Government established 23 check posts<sup>1</sup> at 23 places in the state between 1 April 2006 and 1 October 2009 through issuance of three notifications<sup>2</sup>.

The work of data entry of declaration forms at the check posts have been computerised through the Centre for Entrepreneurship Development Madhya Pradesh (CEDMAP) for which space, furniture and power supply was to be provided by the Department and computer system operators and stationery was to be provided by CEDMAP. The head office of CEDMAP is located at Indore.



Source : Mapsofindia.com and check posts indicated manually.

<sup>1</sup> Badagaon, Balsamund, Bhopal, Dhabla Jod, Dinara, Dongargaon, Fatehpur, Hanumana, Indore, Kemaha, Khapa Kareemwar, Khawasa, Kunwargarh, Malthone, Mangli, Narainka, Nayagaon, Nivali, Pitol, Rajegaon, Rajna (shifted to Sasundara w.e.f. 1 February 2011), Sikroda, Sohagi Pahad.

<sup>2</sup> Notifications dated 31 March 2006, 31 August 2009 and 8 September 2009.



### **2.9.2 Organisational set-up**

The Commercial Tax Department which administers the VAT Act, Entry Tax (ET) Act and Central Sales Tax (CST) Act in MP is headed by the Principal Secretary at the Government level and by the CCT at the Department level. The CCT is assisted by the Additional Commissioner (Enforcement) in the functioning of check posts while the Deputy Commissioners (DCs) administer the proper functioning of check posts established in their respective Divisions. The administration of each check post is entrusted to an Assistant Commissioner (AC) or Commercial Tax Officer (CTO) or Assistant Commercial Tax Officer (ACTO) who is assisted by Commercial Tax Inspectors.

### **2.9.3 Scope of Audit**

A performance audit on the "Working of check posts in MP" was conducted during November 2010 to March 2011 covering the period from 2006-07 to 2010-11. Out of the 23 check posts in the State seven check posts<sup>3</sup> were selected randomly for the review, taking at least one check post located near the borders of MP.

### **2.9.4 Audit objectives**

We conducted the performance audit with a view to ascertain whether:

- an adequate and effective internal control system existed to prevent evasion of tax on goods and to ensure compliance to the provisions of the Act, Rules and notifications including the efficacy of controls in the computerised system; and
- infrastructure facilities in the check posts were adequate to check evasion of tax.

### **2.9.5 Acknowledgement**

We acknowledge the co-operation of the CTD, the check post officers and field offices for providing necessary information and co-operation to audit. An entry conference to discuss the objectives, scope and methodology of audit was held with the Principal Secretary and Commissioner of the Department in January 2011. The performance audit report was forwarded to Government and Commissioner in July 2011. The exit conference was held in August, 2011 in which the Commissioner represented the Department. The views of the Department have suitably been incorporated in relevant paragraphs.

<sup>3</sup> Balsamund, Dinara, Mangli, Nayagaon, Pitol, Rajna/Sasundra, Sikroda (Notified in March 2006).

### 2.9.6 Trend of revenue

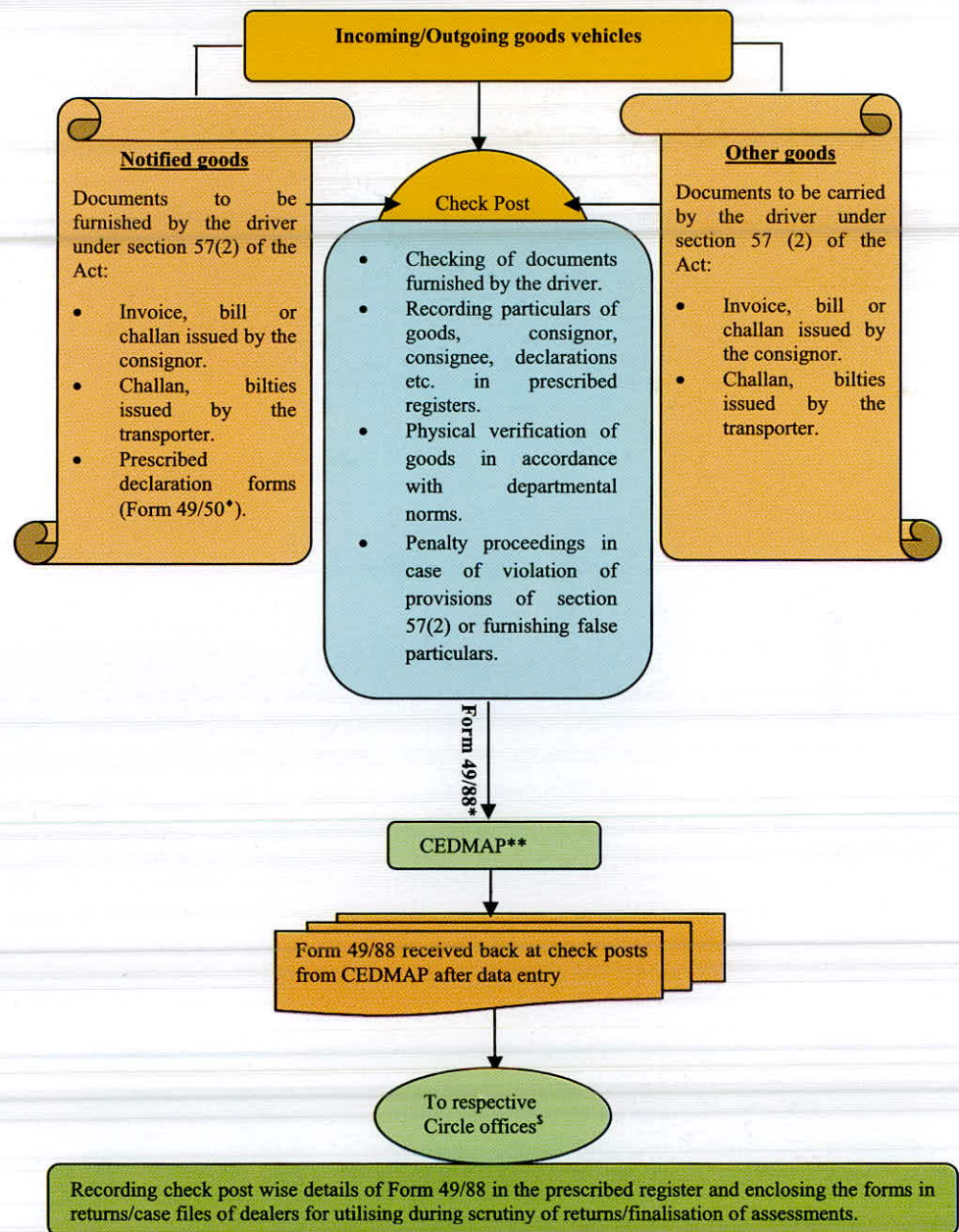
The collection of revenue at the check posts during the period 2006-07 to 2010-11 and its percentage to the revenue collected by the CTD is shown in the following table.

(₹ in crore)

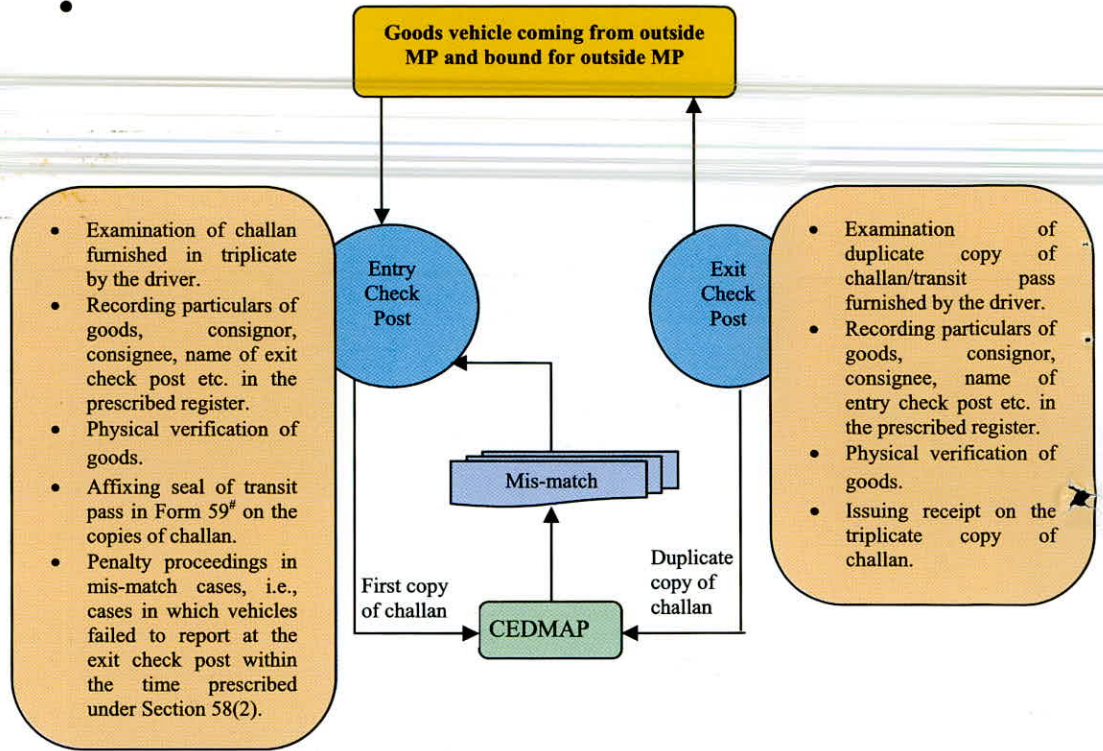
Year	Collection of revenue at the check posts	Total revenue collected by the CTD	Percentage
2006-07	2.02	5,261.41	0.04
2007-08	4.25	6,045.07	0.07
2008-09	5.97	6,842.99	0.09
2009-10	7.37	7,723.82	0.10
2010-11	6.02	10,256.76	0.06

(The figures in column 2 were provided by the Department and those in column 3 have been taken from Finance Accounts.)

## 2.9.7 System flow at check posts



- ♦ Form 50 - Check post declaration applicable to a person other than a registered dealer.
- \* Form 49/88 - Check post declaration applicable to a registered dealer (Form no. 88 has been renumbered as Form no 49).
- \*\* Centre for Entrepreneurship Development, Madhya Pradesh - the body entrusted with the responsibility of data entry of Form 49/88 and transit passes.
- \$ 78 Circle offices.



## Audit findings

### 2.9.8 Inappropriate location of check posts

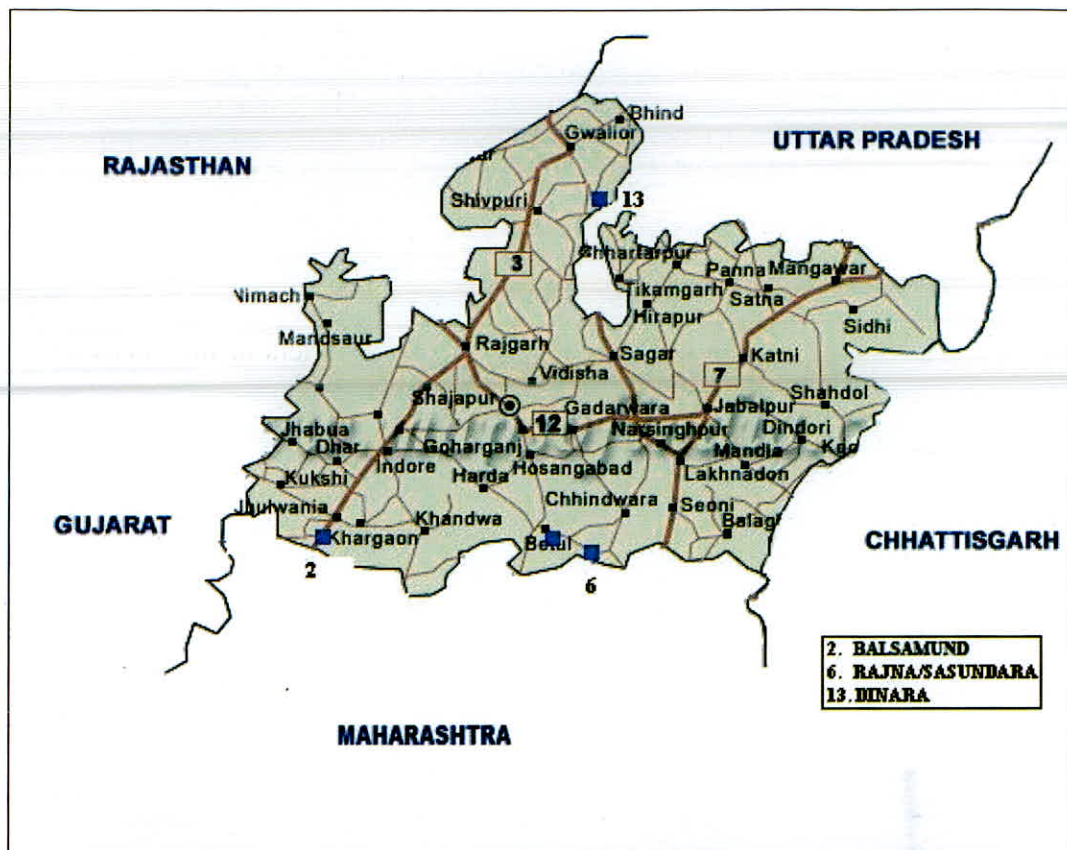
The Act provides for the establishment of check posts at the notified places with a view to prevent or check evasion of tax. As per Section 57(2) of the Act, a transporter is required to stop the vehicle or carrier at every check post or bring and stop the vehicle or carrier at the nearest check post while entering and leaving the limits of the State. Thus, position of check post/barrier is of utmost importance for preventing or checking tax evasion.

We observed that out of seven check posts selected for the review, three check posts<sup>4</sup> have been established at places where the vehicles coming from neighbouring States can be diverted to various places within MP

through pocket roads without reaching the check posts or vehicles moving under transit passes can be unloaded within MP after delivering the transit passes at these exit check posts. Thus, inappropriate location of these check posts facilitates unscrupulous dealers for covert inter-State trade with consequent evasion of tax. The position of these check posts may be seen in the map given in the following page:

<sup>4</sup> Balsamund, Dinara and Rajna (shifted to Sasundra with effect from 1 February 2011).

# Form 59 - Transit pass for transit of goods by road through the State.



Source : Mapsofindia.com and check posts indicated manually.

We observed that the existing check post at Rajna was shifted to Sasundra (in the interior part of the district) with effect from 1 February 2011 vide notification dated 28 January 2011. We also observed that the CPO, Rajna apprised (December 2010) the controlling DC that shifting of the check post would allow the vehicles, coming from other States, to divert to various places in MP through by-pass roads without reaching the proposed check post at Sasundra.

As regards check post at Dinara, the CPO had apprised the controlling DC about the tax evasion due to the usage of optional/pocket roads by the vehicles coming/going from/to Jhansi (Uttar Pradesh) without reaching the check post at Dinara.

The Department in the exit conference (August 2011) assured that notification for new check posts to cover pocket roads would be issued.

### **2.9.9 Loss of revenue due to absence of any provision to report penalty cases to circle offices**

The Register of penalty cases required to be maintained at every check post is meant for recording the particulars of penalty cases, such as penalty case number, name of transporter, amount of tax involved in goods on which penalty was imposed etc. However, columns relating to name of goods, value of goods on which penalty is imposed out of the total defaulter vehicle and reasons for imposition of penalty have not been prescribed in the register. In the absence of these particulars it could not be verified whether the value of goods and rate of tax were determined correctly for computing the quantum of

penalty. Besides, we could not categorise the penalty cases according to the reasons for imposition of penalty, for test check. Out of the total 2,714 penalty cases finalised (2006-07 to 2010-11) at the seven check posts, we test checked 1,628 cases. The findings are discussed in the following paragraphs:

Under Section 57 of the MP VAT Act, where a transporter fails to furnish before the CPO all the documents including prescribed declaration forms in respect of goods notified by the Government, he shall be liable for penalty imposed upon him in accordance with the provisions of the Act. However, there is no provision in the Act/Rules to transmit these penalty cases to the circle offices to ensure their inclusion during assessments by the circle officers.

**2.9.9.1** We observed that in 576 cases in the test checked seven check posts, penalty was imposed upon transporters who failed to furnish prescribed declarations in respect of notified goods being purchased/sold by the dealers of MP but information relating to imposition of penalties in these cases along

with copies of bills/invoices was not transmitted to the concerned circle offices for placing in the assessment files of the dealers in order to verify the accounting of these transactions at the time of assessment. For test check we collected details of 68 bills/invoices contained in 58 penalty cases. On cross verification of the details of these bills/invoices from the concerned circle offices we found that 35 numbers of bills/invoices involving goods valued at ₹ 78.17 lakh with tax effect of ₹ 7.95 lakh relating to 29 penalty cases were not accounted for by the dealers. Out of these 29 penalty cases, in 11 cases our observation was pointed out on the basis of scrutiny of assessment files and in the remaining cases on the basis of quarterly returns.

Under Section 5 of the Act read with Rule 5 of the MP VAT Rules, every dealer shall be liable to pay tax in respect of sales or supplies of goods effected by him in MP with effect from the date on which his turnover in a year first exceeds rupees five lakh.

**2.9.9.2** We observed at five check posts<sup>5</sup> that in 12 out of 232 cases, penalty was imposed upon transporters who failed to furnish documents/declarations in respect of goods being imported by persons/works contractors (unregistered) from outside MP. Of these 12 cases in seven cases though the turnover exceeded the limit of ₹ five lakh, the information relating to these penalty cases was not transmitted to the concerned circle offices in order to bring such importers into the tax net. Therefore, due to non-reporting of these penalty cases to the concerned circle offices the Government was deprived of tax

of ₹ 4.82 lakh involved in such goods valued at ₹ 76.73 lakh.

In the exit conference (August 2011) the Department did not accept the observation and stated that there was no provision for such reporting.

<sup>5</sup> Balsamund, Mangli, Pitol, Rajna, Sikroda.

The Government may consider prescribing a mechanism of transmission of penalty cases to the circle offices for their utilisation at the time of assessment or scrutiny of returns submitted by the dealers.

### 2.9.10 Loss of revenue due to lack of control over goods/vehicles outgoing from MP

Section 57 (2) of the MP VAT Act read with notifications dated 31 March 2006 and 20 April 2010 provides that every driver of a vehicle while leaving the limits of MP shall carry with him an invoice, bill or challan issued by the consignee and *bilties* issued by the transporter and stop the vehicle at the check post and in respect of notified goods, namely oilseeds, vegetable and edible oil and cotton, furnish all the documents mentioned above including declaration in Form 49. Thus, it is evident that neither any document is required to be furnished at the check posts in respect of goods other than notified goods nor any register has been prescribed for keeping the record of such outgoing goods.

No document including declaration in Form 49 is required to be furnished at the check posts in respect of sugar which is other than notified goods and no register has been prescribed for keeping the record of such goods outgoing from MP. Besides, C forms are also not required in respect of inter-state sale of sugar in view of the provisions of the Central Sales Tax Act, 1956.

During scrutiny of records of RAC, Neemuch in February 2011 we observed that five dealers, assessed in 2009-10 for the period 2006-07 to 2008-09,

imported sugar valued at ₹ 43.22 crore from outside MP of which sugar valued at ₹ 33.34 crore was claimed to be sold in the course of inter-state trade. Thus, entry tax of ₹ 32.97 lakh was not levied on the purchase value of ₹ 32.97 crore of sugar sold in the course of inter-state trade as per provision. Therefore, for verifying the genuineness of such inter-state sales, no record was available with the Department. However, from the inter-state sale lists available in the assessment case files of the dealers, we test checked the status of registration of those purchasing dealers of Rajasthan whose TIN<sup>6</sup> was mentioned in the sale lists from the official website of Commercial Tax Department of the Government of Rajasthan. Of the 16 purchasing dealers test checked, three were not found registered. We do not rule out such evasion of tax in other cases of outgoing goods.

In the exit conference (August 2011) the Department did not accept the observation and stated that there was no provision for such control.

<sup>6</sup> Taxpayer Identification Number.

### 2.9.11 Physical verification of goods vehicles crossing check posts

No specific target for conducting physical verification of goods has been fixed by the Department.

The Act and the Rules made thereunder empower the CPO for inspecting and searching the goods being carried in the vehicles crossing the check posts to prevent evasion of tax. As per the directions contained in various circulars issued by the CCT, physical verification of goods vehicles crossing check posts shall be conducted only in case of "doubt".

We observed that no vehicle-wise records are maintained at the check posts. Therefore, we could not determine the actual number of vehicles which crossed the check posts during the period covered in the performance audit. However, the average number of vehicles crossing the check posts per day was furnished by the respective CPOs. We

compared the data with the number of penalty cases instituted at the seven check posts during 2006-07 to 2010-11 on the basis of vehicles physically verified and found that the number of vehicles physically verified was disproportionate to the total number of vehicles crossing the check posts per day as shown in the table below:

Sl. No.	Name of check post	Average no. of vehicles crossing the check post per day (as per information provided by the Department)	Physical verification during 2006-07 to 2010-11	
			No. of vehicles physically verified and found liable for penalty	Penalty recovered (₹ in lakh)
1.	Balsamund	2,500	09	15.48
2.	Sikroda	968	09	1.43
3.	Dinara	353	Nil	Nil
4.	Nayagaon	1,361	09	1.97
5.	Rajna/Sasundra	1,200	47	8.85
6.	Pitol	900	146	32.88
7.	Mangli	165	35	8.85
	<b>Total</b>	<b>7,447</b>	<b>255</b>	<b>69.46</b>

It is evident that the number of vehicles physically verified is low in case of Balsamund, Sikroda, Rajna/Sasundra and Nayagaon check posts as compared to the average number of vehicles crossing these check posts per day. No vehicle was physically verified at Dinara check post during 2006-07 to 2010-11. Although there was lesser traffic at Pitol in comparison to Balsamund, Nayagaon and Rajna/Sasundra, largest amount of penalty was recovered as a result of physical verification conducted for highest number of vehicles. Therefore, had the Government/Department prescribed any daily/weekly/monthly/annual target for physical verification of vehicles crossing check posts, more cases of tax evasion would have been detected.

In the exit conference (August 2011) the Department did not accept the observation and stated that physical verification was not required because it was against the principle of hassle-free trade. Only doubtful vehicles were to



be checked. It was further stated that mobile checking of vehicles takes place after the vehicles cross the check posts on a regular basis. Increased verification was also not feasible due to lack of manpower.

### 2.9.12 Inadequate infrastructure at check posts

Infrastructural facilities such as weigh bridge, parking yard, cash chest, telephones, drinking water, toilets etc. are considered necessary for efficient functioning of check posts as the check posts are required to work round the clock.

During the course of the audit we observed that:

- Permanent building was not available at four<sup>7</sup> out of seven check posts.
- Cash chest for safe custody of penalty deposited by transporters was not available at any check post.
- Parking yard, godown, crane, weigh bridge etc., essential for conducting physical verification of detained goods, were not provided at any check post.
- Computers/internet and telephones, essential for instant cross-verification of documents furnished by the transporters from the circle offices, were not available at any check post except Pitol where telephone has been provided.
- Drinking water facility was not available at any check post while toilets and resting rooms were available only at two<sup>8</sup> out of seven check posts. Non-availability of such basic amenities adversely affects the functioning of check posts as the check posts function round the clock.



(Bundles of TPs lying in Dinara and Sikroda check posts)<sup>9</sup>

In the exit conference (August 2011), the Department accepted the observation and assured that new infrastructure would be introduced soon.

<sup>7</sup> Dinara, Mangli, Nayagaon and Sikroda.

<sup>8</sup> Pitol and Sasundra.

<sup>9</sup> Photographs were captured by digital camera by review party with permission of the Department.

### 2.9.13 Absence of provision for verification of TIN contained in Form 49 furnished by the transporters

Declarations in Form 49 furnished by the transporters at check posts in respect of notified goods being imported or exported by the registered dealers of MP *inter alia* contain name, address and TIN of such registered dealers. Form 49 acts as a tool for monitoring the liability and payment of tax by the registered dealers engaged in such inter-state trade. However, no procedure has been prescribed for verifying the status of registration of the dealers while accepting declarations at check posts in order to confirm their genuineness and to ensure the collection of tax involved in the goods being transported under such declarations.

On a random verification of declaration forms (October, 2010) from the departmental website<sup>10</sup>, we found that out of three dealers mentioned in three declarations accepted at three check posts<sup>11</sup>, two were not registered while registration of one dealer was cancelled with effect from 31 January 2009. Thus, the Government was deprived of tax of ₹ 1.18 lakh involved in aggregate invoice value of ₹ 20.60 lakh of goods imported under these

three declarations because the importers of these goods were not registered with the Department.

In the exit conference (August 2011), the Department accepted the observation and assured that the facility of internet connectivity would be provided to all the check posts. With the introduction of downloading of Form 49 from the departmental website, this aspect would be taken care of.

<sup>10</sup> MPtax.net.

<sup>11</sup> Mangli, Rajna and Sikroda.

**2.9.14 Lack of monitoring over maintenance of records**

Circulars dated 29 August 2005 and 31 March 2006 issued by the CCT prescribe various registers which are required to be maintained at the check posts. Batch Registers of declarations in Form 49 is required to be maintained in check posts for recording the information relating to forwarding of declarations to the circle offices.

- We observed the following irregularities in the maintenance of the prescribed registers.

Sl. No.	Name of register	Irregularity
1.	Stock Register of receipt books (MPTC 6)	Not maintained in any of the seven check posts.
2.	Register of incoming vehicles	Not maintained in Balsamund, Nayagaon, Rajna/Sasundra and Sikroda check posts.
3.	Register of Form 50	Not maintained in Dinara, Mangli and Sikroda check posts.
4.	Register of detained vehicles	Not maintained in any of the check posts except Pitol check post.
5.	Register of unloading of goods	Not maintained in any of the check posts except Pitol check post.

No instructions have been issued for periodical closing and submission of the registers to the CPO or higher authorities for effective monitoring.

- As a result, none of the registers maintained at the check posts was periodically closed and submitted to the CPO or higher authorities. Due to this, the CPO/higher authorities were unable to monitor forwarding of declarations to circle offices in time to facilitate them to finalise assessment cases of the dealers. Loss of revenue due to non forwarding of declarations in Form 50 has been pointed out in the subsequent paragraphs.
- During review of the records of seven check posts during November 2010 and March 2011, we observed at Dinara and Mangli check posts that Batch Registers of Form 49 were not maintained, while at four check posts<sup>12</sup> no entries were made regarding acknowledgement of circle offices to whom the declarations in Form 49 were forwarded. Therefore, we could not verify the timely despatch of declarations to these circle offices. However, during review of the acknowledgment receipts of two circle offices<sup>13</sup> at Balsamund check post we observed that batches of March 2007 were received in March 2010 in the circle office at Jhabua. Similarly, monthly batches related to December 2006 to June 2009 were received in January 2010 in the circle office at Neemuch. Thus, due to delayed forwarding to the circle offices declarations in Form 49 remained unutilised for verification of import purchases during scrutiny of returns/finalisation of assessments of dealers.

<sup>12</sup> Balsamund, Nayagaon, Rajna and Sikroda.

<sup>13</sup> Jhabua and Neemuch.

In the exit conference (August 2011) the Department stated that all check posts were being computerised very soon and effective monitoring would be possible through the system thereafter.

### **2.9.15 Preparation of working manual**

Besides Act and Rules, a working manual of an organisation consists of a consolidated set of instructions to be followed by the officials in discharge of their duties and ensures standard operating procedures across the State. We observed that no working manual had been prepared in the Department for day to day functioning of check posts.

In the exit conference (August 2011), the Department stated that user manual for enforcement module of departmental application software (including working of check posts) was available online to all CTD users. The Department's manual would also be prepared.

### **2.9.16 Internal audit**

Internal audit is one of the most vital tools of the internal control mechanism and functions as the “eyes” and “ears” of the management. It also independently appraises whether the activities of the organisation are being conducted efficiently and effectively. We observed that during 2006-07 to 2010-11, no internal audit was conducted in the check posts selected for review.

In the exit conference (August 2011), the Department stated that no internal audit was being conducted but regular inspections were being conducted by the higher officials.

**2.9.17 Loss of revenue due to non/short levy of penalty**

Section 57(8) of the MP VAT Act provides that if a transporter fails to furnish before the CPO all the documents including prescribed declarations relating to notified goods or to carry with him an invoice, bill, challan and *bilties* relating to other goods or submits false or forged documents or declarations he shall be liable for penalty or a lump sum amount in lieu of penalty as shown below:

Period	Maximum penalty	Minimum penalty	Amount payable in lump sum by way of composition
1.04.2006 to 31.03.2007	3.5 times of tax	3 times of tax	2 times of tax
1.04.2007 to 11.05.2008	10 times of tax	8 times of tax	5 times of tax
12.05.2008 to 31.07.2009			3 times of tax
1.08.2009 to 31.03.2011	7 times of tax	5 times of tax	3 times of tax

(Under Section 57(8) *ibid* tax (in the above table) means VAT which would have been payable if the goods were sold within the State on the date of inspection).

**2.9.17.1** Out of 1,423 penalty cases test checked in four check posts<sup>14</sup> we observed that in nine cases, penalty on defaulters was imposed incorrectly taking the base rate of entry tax payable on detained goods instead of VAT which would have been payable if the goods had been sold within the State. This resulted in short realisation of penalty of ₹ 24.93 lakh.

In the exit conference (August 2011), the Department did not accept the observation and stated that VAT was not attracted on purchase of machinery by contractors used in the execution of work contracts as per the explanation inserted in section 57(8) of MP VAT Act 2002 w.e.f. 1 April 2011.

The contention of the Department is not to the point. The audit objection is that penalty should have been imposed on VAT and not on entry tax in terms of provisions of section 57 (8) of the Act.

As per Section 57 (10) of the MP VAT Act, where the transporter abstains from bringing or stopping the vehicle or carrier at the check post, the CPO may impose an additional maximum penalty equal to twice the amount of tax which would have been payable if the goods were sold within MP.

**2.9.17.2** Out of 928 penalty cases test checked in four check posts,<sup>15</sup> we observed that in 30 penalty cases the transporters carrying goods involving tax of ₹ 5.49 lakh were trying to abstain from bringing or stopping their vehicles at the check posts were forced by the CPOs to get the vehicles stopped yet the CPOs did not

impose the maximum additional penalty equal to ₹ 10.98 lakh.

<sup>14</sup> Balsamund, Nayagaon, Pitol, Rajna/Sasundra.

<sup>15</sup> Balsamund, Mangli, Rajna/Sasundra and Sikroda.

In the exit conference (August 2011), the Department accepted the observation and agreed to issue instructions to the check posts for imposing maximum additional penalty in cases where the transporters abstain from bringing or stopping the vehicle or carrier at the check posts.

### 2.9.18 Loss of revenue due to non-levy of tax

As per Section 57 (15) and (16) of the MP VAT Act where a transporter fails to give information about the consignor, consignee or the goods in movement or transports the goods with forged documents, besides imposing penalty, it shall be presumed that the goods so transported have been sold in MP by him and he shall be deemed to be a dealer for the purpose of levy, collection and assessment of tax.

Out of 1,628 penalty cases test checked in seven check posts, we observed that in 379 penalty cases, penalty was imposed on the transporters who failed to give information about the consignor, consignee or the goods or who furnished forged documents. However, the CPOs failed to

forward the cases of such transporters treating them as dealers to the circle offices for levy of tax. This resulted in non-realisation of tax of ₹ 38.67 lakh involved in the value of goods being transported.

In the exit conference (August 2011), the Department stated that as per Act CPOs were not authorised to levy and collect tax. However, instructions would be issued for forwarding such cases to the circle offices so that it is taken care of during assessment proceedings.

### 2.9.19 Non-realisation of revenue due to delayed forwarding of check post declarations to circle offices

As per instructions issued in December 2005 by the CCT, declarations collected at the check posts shall be forwarded to the circle offices in monthly batches after their data entry by CEDMAP. Further, as per notifications dated 30 September 1997 and 9 June 2003 issued under Section 3(2) of the Entry Tax Act, persons/works contractors (unregistered) are liable to pay entry tax at specified rates on specified goods.

We noticed that separate Batch Registers of Form 50 were not maintained at any of the seven check posts. Therefore, we could not verify whether the declarations in Form 50 collected at these check posts were forwarded to circle offices. Further, during test check of records of Balsamund and Pitol check posts, we observed that 81 declarations in Form 50, furnished by the transporters during 2008-09 to 2010-11 in respect of notified goods valued at ₹ 9.01 crore imported by

persons/works contractors (unregistered) in MP, were not forwarded to the concerned CTOs. This resulted in non-realisation of entry tax of ₹ 21.02 lakh on these goods.

After we pointed out the matter, the CPO, Balsamund stated (December 2010) in 51 cases that action would be taken after examination. In the remaining two cases the CPO, Balsamund did not furnish specific reply and stated that action on the basis of verification of Form 50 is done in circle offices and not at the check post. The reply does not explain why the declarations in Form 50 were not forwarded to the concerned circle offices for further action. CPO, Pitol (March 2011) stated that instructions had been issued for forwarding of remaining declarations of the year 2008-09 to the concerned circle offices.

### **2.9.20 Deficient monitoring over movement of goods under transit pass**

Section 58 of the MP VAT Act provides that when a vehicle coming from any place outside MP and bound for any other place outside MP passes through the State, the person in-charge of such vehicle shall obtain, in the prescribed form and manner, a transit pass (TP) from the CPO of the first check post (entry check post) after his entry into the State and deliver it within a week to the CPO of the last check post (exit check post) before his exit from the State. A register in the prescribed format is required to be maintained at entry/exit check posts.

**2.9.20.1** We observed the following irregularities in the maintenance of the registers.

Sl. No	Name of register	Irregularity
1.	Register of documents/challan at entry check post	Not maintained at Nayagaon check post. Entries regarding name of consignee/consignor/transporter, name/value of goods, place of trans-shipment etc. were not completed at Balsamund, Sikroda, Dinara and Rajna/Sasundra check posts.
2.	Register of documents/challan at exit check post	Not maintained at Nayagaon check post. At Pitol, Mangli and Dinara check posts entries in the column "Date and time mentioned in the TP for reporting at the exit check post" were not made. We observed that during the selected months, although 44 TPs were delivered after 10 to 112 days at these exit check posts, no reasons/remarks in respect of the delay were recorded in the prescribed column.

The non-maintenance/incomplete maintenance of registers denies the Department an opportunity to ascertain whether the goods entering the State for transit to other states are actually transmitted to other states or are being disposed of within the State without payment of the requisite entry tax.

Section 58 of the MP VAT Act provides that the CPO of the entry check post shall intimate the information contained in the TP issued by him to the CPO of the exit check post. If within a week of receipt the TP is not delivered at the exit check post the CPO of the exit check post shall immediately bring this fact to the notice of the CPO of the entry check post, who shall then, presuming that the goods covered under such TP have been sold within the State by the transporter, initiate action to recover the penalty from the transporter under Section 57 of the Act.

**2.9.20.2** For efficient monitoring over movement of goods under transit pass and expedient detection of defaulters, the work relating to data entry of TPs and preparation of mis-match reports (TPs issued but not delivered at the exit check posts) has been entrusted to CEDMAP and this work has to be done at every check post.

We observed that the CEDMAP collected TPs from entry and exit check

posts at intervals of one month for data entry and returned the TPs pertaining to a month with completion certificate to check posts after two to six months. Due to belated data entry of TPs, mis-match reports were also prepared late. Consequently, at five check posts<sup>16</sup> 8,241 penalty cases were instituted on the basis of mis-match reports prepared by CEDMAP of which 5,283 cases remained undisposed till March 2011 because the transporters could not be traced and notices could not be served to them. Out of these, 310 cases of two check posts<sup>17</sup> involve penalty of ₹ 6.56 crore. In the remaining cases, the Department could not initiate action for levy of penalty as the requisite particulars like name of consignee/consigner/transporter, name/value of goods, place of trans-shipment etc., were not entered in the registers. Thus due to improper maintenance of these registers, the Department was deprived of unascertainable amount of revenue.

We observed that register of penalty cases (out to out) and penalty case files were not maintained at two check posts<sup>18</sup>. We collected data of TPs of these two check posts for the months April 2009 and October 2010 from CEDMAP and compared the TPs issued from these check posts (IN\_DATA) from the TPs delivered at the exit check posts (OUT\_DATA) in order to detect the undelivered TPs and defaulter vehicles. Results of verification are shown in the table below.

<sup>16</sup> Dinara, Mangli, Nayagaon, Pitol and Rajna.

<sup>17</sup> Dinara and Nayagaon.

<sup>18</sup> Balsamund and Sikroda.



Name of entry check post	Period/Date for which verification of TPs issued was done No. of TPs issued	Result of verification of TPs	Value of goods covered under the TPs found undelivered (₹ in crore)	Tax involved (₹ in crore)	Penalty remained unrecovered (₹ in crore)
Balsamund	<u>9 April 2009</u> 524 TPs issued for Dongargaon and Nayagaon exit check posts	57 TPs found undelivered at the exit check posts of which name and value of goods were mentioned only in 41 TPs. Remaining TPs were issued on challans/documents not containing particulars of goods.	2.43	0.17	1.38
Sikroda	<u>1 to 18 April 2009</u> 4,985 TPs issued for Gavadi and Rajna exit check posts	650 TPs found undelivered at the exit check posts of which name and value of goods mentioned only in 279 TPs. Remaining TPs were issued on challans/documents not containing particulars of goods.	19.06	1.44	11.49
	<u>1 to 15 October 2010</u> 7,412 TPs <sup>19</sup>	1,334 TPs found undelivered at the exit check posts of which name and value of goods were mentioned only in 905 TPs. Remaining TPs were issued on challans/documents not containing particulars of goods.	89.59	8.56	42.82
		<b>Total</b>	<b>111.08</b>	<b>10.17</b>	<b>55.69</b>

In the absence of mismatch report penalty of ₹ 55.69 crore could not be levied. In the exit conference (August 2011), the Department did not accept the observation and stated that provision was there to match all out-to-out vehicles

<sup>19</sup> Issued for Balsamund, Dinara, Fattehpur, Hanumana, Khapa Kareemwar, Khawasa, Kunwargarh, Mangli, Pitol, Rajegaon and Rajna exit check posts.

through the enforcement module of the application software and a provision to capture truck numbers was also there to find out defaulter trucks in subsequent entries.

The fact remains that though there is a module to match out to out vehicles, delayed generation of mismatch reports is not serving the purpose of having such a module and the same was highlighted in the audit observation.

## Information System (IS) related findings

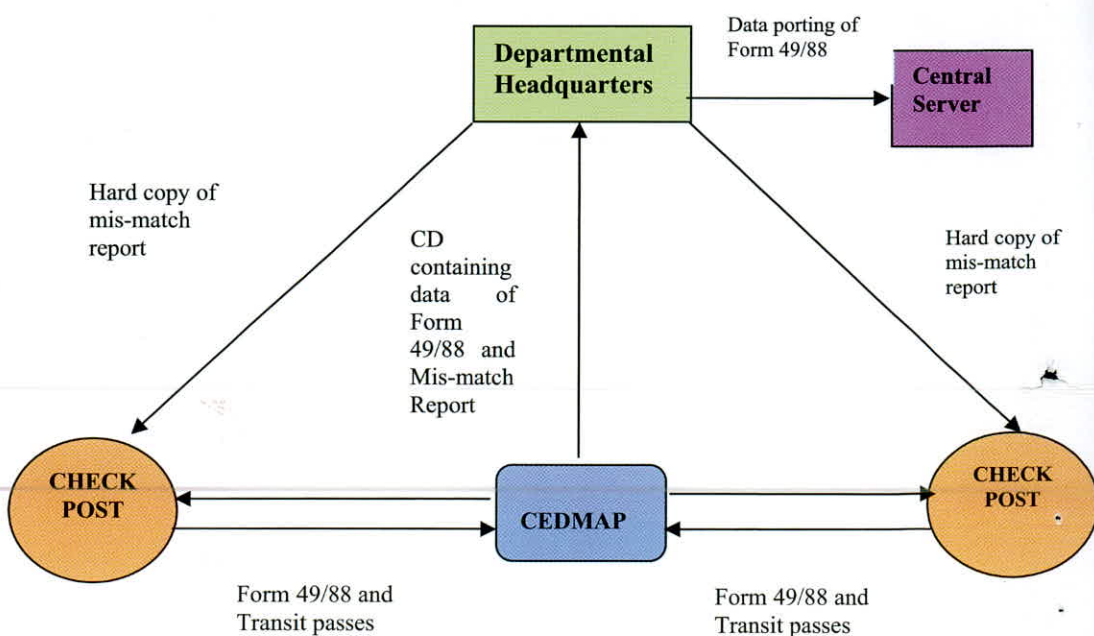
### 2.9.21 Introduction

Prior to computerisation of the declarations (Form 85 and Form 75) received at the check posts, the work of reconciling the two copies of Form 85 submitted by the 'out to out' transporters at the entry and exit check posts was done manually. Thus, the generation of mis-match reports was a cumbersome task and this handicap was exploited by the transporters to their advantage. It was decided by the Department (September 2005) to undertake data entry of the declarations received at the check posts in order to prevent heavy evasion of tax by the 'out to out' transporters of goods. The work of computerisation which involved data entry of the declarations (Form 85 and 88/49), Transit Passes (TPs), reconciliation of these TPs and preparation of mis-match reports was awarded to Centre for Entrepreneurship Development, MP (CEDMAP), an undertaking of the Government of MP.

We decided to review the efficacy of controls in the computerised system developed by CEDMAP.

### 2.9.22 System architecture and work flow

The application software is based on Visual Basic (6) with Windows 98/XP as the Operating System. The database is maintained in MS Access and the systems are connected through LAN.



Data entry of the declarations and the TPs is done at the check posts/ CEDMAP centres by the operators provided by the agency. The data for a month is consolidated at Indore and mis-match reports are generated, which is sent to the departmental headquarters in a CD (text format) for porting at the central server and transmission to various circle offices. For generation of mis-match reports, the bar codes pasted on the TPs/Challans at the entry and exit check posts are reconciled and the data where incoming vehicle is being shown but no outgoing is recorded is marked as mis-match. The period for such mis-match is the common incoming and outgoing month as well as outgoing data for the next month.

### **2.9.23 IT controls**

#### **General controls**

##### **Planning**

We observed that the work of computerisation was awarded to CEDMAP in September 2005 on the basis of a proposal by CEDMAP itself. The administrative sanction for the work was given by the Department on the basis of a note submitted by the CCT (17 August 2005) to the Principal Secretary of the Department in which the proposal and the rates quoted by CEDMAP was approved and recommended. Thus the benefit of competitive rate was denied to the Department. We also noticed that no agreement was signed with the service provider during the award of work. This not only jeopardises the interests of the Department but also makes its position vulnerable in case of unilateral rate hike and sub standard service quality.

We further noticed that no formal User Requirement Specification (URS) was prepared by the Department/CEDMAP and there was nothing on record to show that the System Design Document prepared by CEDMAP was vetted and approved by the Department. When we pointed this out, the DC stated (May 2011) that after evaluating the requirements of the Department, the proposal of system design was obtained from CEDMAP. We are of the opinion that a detailed URS would have taken care of some of the deficiencies in the system highlighted in the subsequent paragraphs.

## Implementation

The administrative sanction accorded in September 2005 provided that the data entry of Form 49/88 and TPs would be done by CEDMAP at the check posts for which space, furniture and power supply at check posts would be provided by the Department and computer systems, operators and stationery etc. would be provided by CEDMAP. However, no time schedule for periodic submission of data of declarations/mis-match reports by CEDMAP to the Department for porting/circulation has been incorporated in the above sanction *ibid*.

We observed in six check posts<sup>20</sup> that the data entry of Form 49/88 and TPs was carried out by CEDMAP at places other than the check posts due to non-provision of adequate infra-structure facilities at check posts. We noticed that CEDMAP collected Form 49/88 and TPs from the entry and exit check posts after one month and took another two to six months for completion of data entry and preparation of mis-match reports. This time lag would hinder

departmental efforts to initiate action against defaulting transporters and dealers. Thus, the objective of faster and more efficient verification of check post declarations and timely detection of mis-match cases to prevent tax evasion, as mentioned in the note of the CCT proposing outsourcing of the work to CEDMAP, largely remained unfulfilled.

## Physical security

Physical security arrangements like fire extinguishers, fire alarm and smoke detection system were not available at the seven check posts/CEDMAP centres where computers systems were kept for data entry/processing work.

As a result of non-provision of fire fighting equipments there is the risk that in case of a fire the Department would not be in a position to salvage the data/records at CEDMAP offices.

## Inadequate data fields in the application

Data fields relating to description and value of goods were not included in the data entry form of transit passes. Due to the absence of these data fields in IN\_DATA and OUT\_DATA, mis-match reports prepared on the basis of these data do not contain the quantum of tax involved in cases of evasion for the purpose of management information. Besides, for institution of penalty in mis-match cases, the amount of tax evaded and penalty leviable/recoverable is calculated manually. Thus, manual intervention in monitoring of vehicles moving under transit pass restricts the faster disposal of mis-match cases.

### 2.9.24 Input and validation controls

Input control guarantee that (i) the data received for processing are genuine, complete, not previously processed, accurate and properly authorised and

<sup>20</sup> Balsamund, Dinara, Mangli, Nayagaon, Pitol and Rajna/Sasundra.

(ii) data are entered accurately and without duplication. Input control is extremely important as the most important source of error or fraud in computerised systems is incorrect or fraudulent input. Controls over input are vital to the integrity of the system.

The accuracy of the data input to a system can be controlled by imposing a number of computerised validity checks on the data presented to the system. Automated validation checks should be sufficient to ensure that all data accepted into the system is capable of acceptance by all subsequent processes, including acceptance into other systems where there is an automatic transfer of data.

### 2.9.24.1 Acceptance of duplicate data

According to the CCT's circular of August 2005 transit passes should be issued in running numbers from 0 hours to 24 hours at every check post.

We test checked the data of 1 April 2009 of Balsamund check post and found that out of 954 records, 15 TPs were found entered twice for different vehicles. This was due to lack of validation controls in the system which enabled acceptance

of duplicate numbers for different vehicles. We further noticed that the data type of such field (transit\_pass\_no) was "text" whereas it should be a numerical field.

After we pointed this out, the DC stated (May 2011) that the TP number was entered manually on the challans by the CPO and the serial number was broken due to heavy workload and diversion of attention of the CPOs. It was further stated that the text format had been implemented to accommodate the missing numbers, which were then entered in combination of numbers and alphabets. We are of the opinion that necessary changes in system logic should be made so that duplicate entries are not accepted at the input level.

**2.9.24.2** In order to assess the existence and effectiveness of validation checks in the application developed for data entry, we analysed the data of Form 49/88, transit passes and mis-match reports using IDEA<sup>21</sup>, MS-Access and MS-Excel.

#### Data of Form 49/88

In the data for the month of October 2010 for seven check posts test checked which contained 1,12,788 records, we noticed the following discrepancies showing lack of validation checks in the application.

- In 853 records, quantity of goods was 1000 MT or more which is improbable.
- In 59 records, quantity was entered in the field of invoice value.
- In 22 records, invoice value ranged between ₹ 50 crore and ₹ 979 crore which is unrealistic.

<sup>21</sup>

Interactive Data Extraction and Analysis.

- In 2,065 records, although the goods were being imported from outside MP, the consignor-place was shown as Indore, Bhopal, Dewas etc. i.e., districts of MP.
- In 604 records, although the goods were being exported outside MP, the destination was shown as Indore, Dewas, Bhopal and Satna, i.e., districts of MP.

### **Data of transit passes and mis-match reports**

In the data for the month of April 2009 (1,26,863 records inward data and 2,42,449 records in outward data) for all the check posts we noticed the following discrepancies.

- (i) In 285 records (outward) and 33 records (inward), number of *bilties* was shown as zero which is invalid because in the absence of *bilties* transit pass could not be issued.
- (ii) In 17 records (inward) transit pass number was shown as “MP”, “MH”, “68/3”, “226+” etc. which are garbage values and in 14 cases TP numbers were not found entered. Similarly, in the data of 30 April 2009 of check post Dinara, we noticed that five TP numbers were not found entered out of 41 records examined by us.
- (iii) In 117 records (outward), nine records (inward) and three records of mis-match report, truck number was shown as NA-00-NA-0000 which were invalid.
- (iv) In 5,603 records (inward) and 540 records of mis-match report, transporter name was shown as NA.
- (v) In 8,064 records (inward) and 681 records of mis-match report, transporter place was shown as NA.

### **2.9.25 Output controls**

For detection of defaulter vehicles/transporters moving under transit pass, mis-match reports are prepared by CEDMAP through reconciliation of barcodes entered in inward and outward data of a month. Therefore, barcode is the key field for detection of defaulters.

Output controls are those controls which ensure that results which are obtained are in accordance with the parameters set. Inaccurate results indicate that either there was default in setting the parameters or the optical recognition system not working properly resulting in throwing of inaccurate outputs.

We observed during the analysis of outward data of April 2009 for all the check posts that out of total 2,42,449 records, barcodes were entered as “NA” in 286 records. Of the 286 records, barcodes were found entered in the corresponding 108 records of inward data of April 2009. This implies that these 108 TPs were delivered at the exit check posts. However, 25 of these TPs/vehicles were found included in the mis-match report of the month. Thus,,

inclusion of 25 TPs/vehicles which were not defaulters in the mis-match report resulted in unfruitful institution of penalty cases against such transporters.

### **2.9.26 Change management**

As per the information furnished by CEDMAP, change requirements in the data entry system were executed in consultation with the Department. Notification dated 31 March 2006 incorporated list of 34 categories of goods for which declaration in Form 49 is required to be furnished by the transporter at the check post while entering MP. With effect from 14 July 2008 three categories of goods were omitted from the aforesaid list.

We analysed the data of Form 49 for the month of October 2010 for all the check posts and found that out of 1,12,788 records 1,716 records also contained three categories of goods which were omitted from the list. As Form 49 was not required in respect of these goods with effect from 14 July 2008, records containing these goods in the

relevant data field have become redundant. The Department did not inform CEDMAP to make the required changes in the automated system.

### **2.9.27 Conclusion**

We observed that the location of some of the check posts was not conducive to check evasion of tax. No mechanism existed to ensure that the penalty cases were sent to the circle offices at required intervals. We noticed that substantial revenue was lost due to deficient maintenance of records at the check posts and absence of any system to verify TIN of dealers under Form 49. Moreover, inadequate infrastructure at the check posts severely hampered their efficient functioning. No internal audit was conducted during the period 2006-07 to 2010-11. We also noticed cases of non/short levy of tax and penalty at the check posts due to deficient monitoring of out-to-out vehicles and lack of coordination with circle offices. Besides, we observed deficiency in controls in the IT system implemented in the check posts.

### **2.9.28 Summary of recommendations**

The Government may consider implementation of the following recommendations;

- selecting appropriate locations for the check posts to avoid diversion of vehicles and consequent evasion of tax;
- issuing necessary instructions for reporting of penalty cases to circle offices so that these can be utilised for verifying account of import transactions of notified goods not supported with declarations in Form 49 at the time of assessment/scrutiny of returns;
- issuing necessary instructions for maintenance of a register at the check posts in order to keep a record of every vehicle carrying goods bound for locations outside MP;

- prescribing minimum number of vehicles to be physically verified weekly/monthly by each Inspector posted at the check posts;
- providing adequate infrastructure and amenities at the check posts for their efficient functioning;
- prescribing an appropriate mechanism for verifying the status of registration of the dealers while accepting Form 49 at the check posts; and
- prescribing a time schedule for completion of data entry and periodic submission of data/mis-match reports by CEDMAP to the Department.

**In the exit conference (August 2011), the Department accepted the last three recommendations.**



## **2.10 Utilisation of declaration forms in inter-state trade and commerce**

### **Highlights**

181 declaration forms were not returned by the dealers whose registration certificates were cancelled.

**(Paragraph 2.10.7)**

There was irregular grant of concession of ₹ 7.29 crore on incomplete declarations.

**(Paragraph 2.10.9)**

There was short levy of tax of ₹ 11.36 crore on sale without declarations.

**(Paragraph 2.10.11.1)**

There was short levy of tax of ₹ 47.37 lakh due to application of incorrect rate of tax.

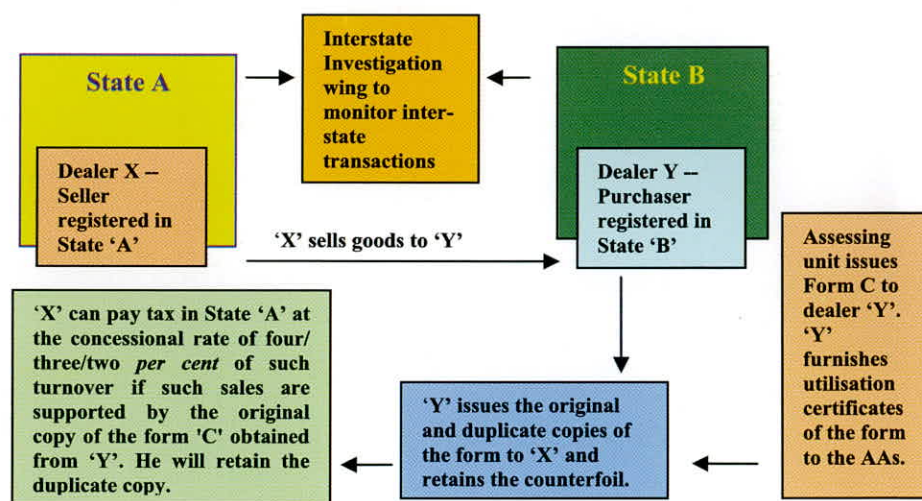
**(Paragraph 2.10.12)**

### 2.10.1 Introduction

Under the Central Sales Tax Act, 1956, (CST Act) registered dealers are eligible to certain concessions and exemptions of tax on interstate transactions on submission of prescribed declarations in form C, E-I/E-II and F. The State Government grants these incentives to dealers for furtherance of trade and commerce on production of these declaration forms. It is the responsibility of the Commercial Tax Department (CTD) to ensure proper accounting of declaration forms and to take adequate safeguards against misutilisation of these forms/certificates on which tax relief is allowed involving large amount of revenue to the state exchequer. Section 10 and 10A of CST Act contains penal provisions for contravention of the provisions of the Act.

#### Form 'C'

Under the provisions of the CST Act, every dealer, who in the course of inter-state trade or commerce, sells to a registered dealer, goods of the classes, specified in the certificate of registration of the purchasing dealer, shall be liable to pay tax at the concessional rate of four *per cent* (three *per cent* w.e.f. 1 April 2007 and two *per cent* w.e.f. 1 June 2008) of such turnover provided such sales are supported by the declarations in form 'C'.

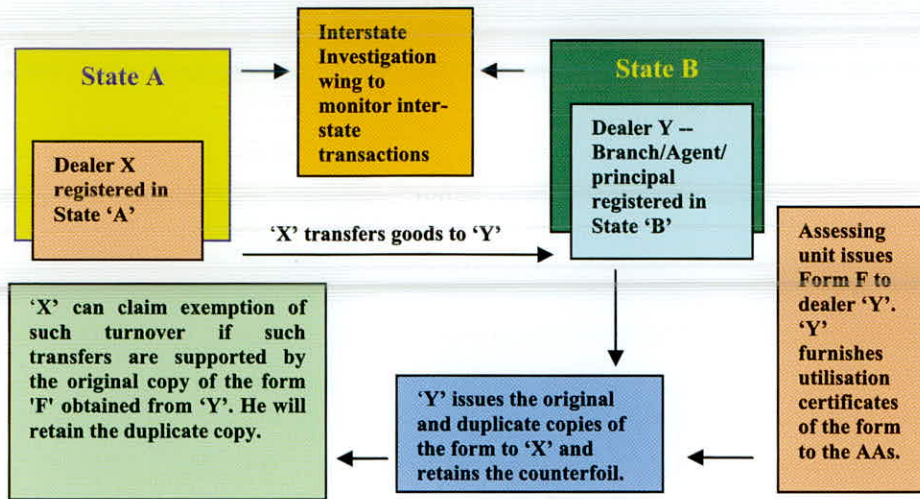


#### Form 'F'

Under Section 6A of CST (Amendment) Act 1972, transfer of goods claimed other than by way of sale made by a registered dealer to any other place of his business located outside the State or his agent or principal in other States is exempt from levy of tax on production of prescribed declarations in Form 'F', duly filled in and signed by the principal as the case may be, along with evidence of despatch of such goods. Filing of declaration in Form 'F' was not mandatory upto May 2002. However, the CST Act provided for the Assessing Authority (AA) to make such enquiries as he deemed necessary to satisfy himself about bonafides of the transfer of such sale *patties*<sup>22</sup>, dispatch particulars, way bills etc. Form F has been prescribed under Rule 12(5) of the

<sup>22</sup> Sale *patties*: Sale notes defining transfer of title of documents with full particulars in the course of inter-State consignment sale of goods.

CST Rules, 1957. According to the proviso to Rule 12 (5), a single form F can be issued for all the transactions of transfer in one month.



We decided to review the efficacy in utilisation of the declaration forms in inter-state trade and commerce to examine the adequacy and effectiveness of internal control mechanism in the Department to safeguard against misutilisation of such forms.

### 2.10.2 Organisational set up

The Principal Secretary, Commercial Tax Department is the administrative head of the Department at the Government level while the Commissioner of Commercial Tax (CCT) is the head of the Department. The Department is divided in four zones, each headed by zonal Additional Commissioners. Each zone comprises of the divisional offices headed by 14 divisional Deputy Commissioners (DCs). Under the divisions, there are 78 circle offices headed by the Commercial Tax Officers/Assistant Commissioners (CTOs/ACs). In addition to above, four audit wings have been established, each headed by a DC.

### 2.10.3 Audit objectives

The performance audit was conducted to ascertain whether:

- exemption/concession of tax granted by the assessing authorities was supported by original/valid declaration forms;
- there is a system of uploading the particulars of the dealers and the forms in the TINXSYS website; and
- appropriate steps are taken on receipt and detection of fake, invalid and defective (without proper or insufficient details) forms.

#### 2.10.4 Scope of Audit

The performance audit covered 13 ACs and 13 CTOs<sup>23</sup> encompassing assessment cases completed during the period 2007-08 to 2009-10 where exemptions/concessions were granted under the Central Sales Tax Act. It was conducted between October 2010 and March 2011. The scope of the review was limited only to 'C' and 'F' forms. We also included cases of exemptions/concessions granted under the CST Act which were noticed during regular audit conducted for the period 2006-07 to 2009-10. During the course of the performance audit, we also sent the declaration forms for verification to different states and the results have been included in the succeeding paragraphs.

#### 2.10.5 Acknowledgement

We acknowledge the co-operation of the Commercial Tax Department and its field offices for providing necessary information and cooperation to audit. An entry conference to discuss the objectives, scope and methodology of audit was held in Bhopal in January 2011 in which the Principal Secretary, Commissioner and Additional Commissioner of the Commercial Tax Department participated. The exit conference was held in August 2011 in which the Commissioner, Director and two Dy. Commissioners of Commercial Tax Department participated. The views of the Department/Government have suitably been incorporated in the relevant paragraph.

#### 2.10.6 Trend of revenue

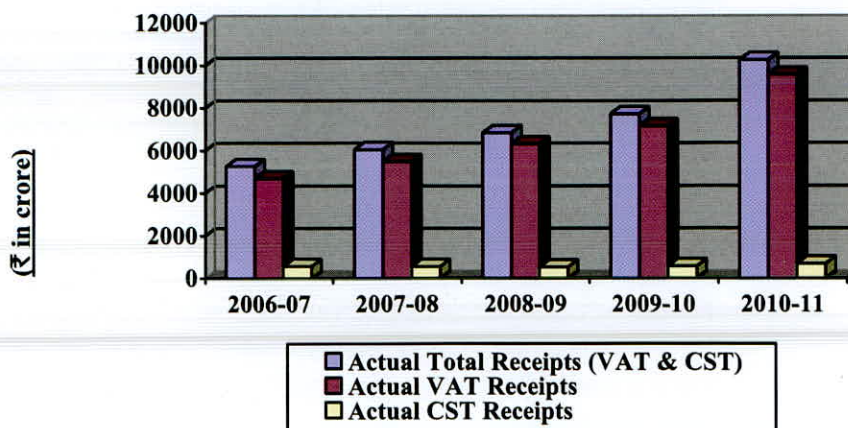
Actual receipts from Central Sales Tax (CST) during the period from 2006-07 to 2010-11 along with the total tax receipts under CST and receipts under the MP VAT Act during the same period are exhibited in the following table and graph.

(₹ in crore)

Sl. No.	Year	Total Receipts (VAT& CST)	VAT Receipts	CST Receipts	Percentage of Col. (5 to 3)
1	2006-07	5,261.41	4,695.57	565.84	10.75
2	2007-08	6,045.07	5,488.14	556.93	9.21
3	2008-09	6,842.99	6,323.22	519.77	7.59
4	2009-10	7,723.82	7,153.83	569.99	7.37
5	2010-11	10,256.76	9,574.04	682.71	6.66

The above table shows that the composition of CST in the total VAT and CST receipts of the Department has been declining over the last five years.

<sup>23</sup> ACs- Chhindwara (2), Dewas, Guna, Indore (2), Itarsi, Khandwa (2), Morena, Ratlam, Sagar and Sendhwa  
CTOs- Betul, Bhopal (2), Hoshangabad, Indore (4), Itarsi, Jabalpur, Rewa, Satna and Ujjain



In the exit conference the Department stated (August 2011) that tax collection figures (share of CST) to total receipts of CST and VAT were lower in comparison to previous years but this is due to reduction in CST rates from four *per cent* to three *per cent* and then three *per cent* to two *per cent*. Revenue collection is actually increasing if this tax rate reduction is taken into account.

There was decline in the growth of CST receipts compared to the VAT receipts in the year 2010-11 as compared to the year 2009-10. The VAT receipts grew by 34 *per cent* whereas CST receipts grew by only 20 *per cent*.

## Audit findings

### System deficiencies

#### 2.10.7 Non-returning of the declarations forms issued to the dealers on cancellation of the registration certificate

Under Section 7(4)(b) of the CST Act, 1956 a certificate of registration granted under this Section may be cancelled by the authority granting it where he is satisfied, after due notice to the dealer to whom it has been granted, that he has ceased to carry on business or has failed to pay any tax or penalty payable under this Act, or in the case of a dealer registered has ceased to be liable to pay tax under the sales tax law of the appropriate State or for any other sufficient reason.

There is no mechanism to ensure that the declaration forms issued to the dealer are returned back after cancellation of the registration to prevent misuse. During test check of records of three circle offices<sup>24</sup> we noticed in 11 out of 18 cases that neither the declarations issued to the dealers were returned nor were their accounts submitted after cancellation of the registration certificates. We further noticed that 181 'C'

<sup>24</sup>

Indore (2) and Ujjain.

and 'F' forms remained with these 11 dealers even after the cancellation of their registration certificates. We cannot rule out misuse of these forms.

In the exit conference the Department (August 2011) accepted the observation.

### 2.10.8 Deficiency in uploading data on TINXSYS

TINXSYS is an important tool to verify dealers and Central statutory forms issued by other state Commercial Tax Departments and submitted to them by the dealers in support of their claim for concessions. It also provides MIS (Management information system) and other Business Intelligence Reports to the Department to monitor inter-State trade movements. The Department was required to upload the relevant data in TINXSYS.

During test check of records in 13 RACs<sup>25</sup> and 13 Circle Offices<sup>26</sup> (between October 2010, and January 2011), we observed that details of only 146 out of 796 declaration forms could be verified by us from TINXSYS. Similarly, 195 out of 534 dealers test checked by us could not be verified from the website. Moreover, in 104

cases, either the TIN number was not entered or the old CST number was mentioned. We further observed during test check from TINXSYS that in case of five dealers in three RACs<sup>27</sup> and two Circle offices<sup>28</sup> either the selling/purchasing dealer's name was different or the registration was shown as cancelled on the website although the dealer was still active.

Under the present system, there is no facility in TINXSYS to enter the amount mentioned in the 'C' forms. We examined the report of data availability in TINXSYS for the state of MP from the year 2006 to 2010 and found that though the data on dealer main records and C and F forms issued had been increasing over these years, yet the number of C and F form utilisation had remained constant for the last four years. The above situation underscores the necessity of ensuring the uploading of data in TINXSYS to reap its benefits.

In the exit conference the Department stated (August 2011) that an effective system as well as infrastructure existed in the Department and data was being uploaded in TINXSYS. It was further stated that a beginning had been made in issuing 'C' forms through the system and in the near future printed 'C' forms would be issued.

<sup>25</sup> RACs- Chhindwara (2), Dewas, Guna, Indore (2), Itarsi, Khandwa (2), Morena, Ratlam, Sagar and Sendhwa.

<sup>26</sup> CTOs- Betul, Bhopal (2), Hoshangabad, Indore (4), Itarsi, Jabalpur, Rewa, Satna and Ujjain.

<sup>27</sup> RACs- Bhopal, Chhindwara and Sendhwa.

<sup>28</sup> CTOs - Indore (2).

## Compliance deficiencies

### 2.10.9 Irregular grant of concession on incomplete declarations

Under Section 6 of the CST Act, the concession shall be allowed subject to the production of a certificate duly filled and signed by the registered dealer to whom the goods were sold containing the prescribed particulars in prescribed form from the prescribed authority in the case of inter-state sale. Under Section 6A, the concession shall be allowed subject to the production of a certificate duly filled and signed by the dealer to whom the goods is transferred along with evidence of dispatch of such goods in case of transfer of goods claimed otherwise than by way of sale. The CCT also instructed vide circular dated 01.01.2005 all the Assessing Authorities (AAs) not to accept incomplete declarations and to examine all declarations before assessment. These instructions were issued pursuant to an audit review on a similar subject published in Audit Report (Revenue Receipts) Government of MP for the year ended 31 March 2004.

During test check of records of 13 regional offices<sup>29</sup> and 13 circle offices<sup>30</sup>, we observed (between October 2010 and January 2011) that 796 declarations relating to 150 out of 711 dealers test checked, were found incomplete on account of various deficiencies such as purchase order, commodity, purpose, TIN, Railway Receipt number/truck receipt number etc. not being mentioned/partly mentioned. We noticed that the Assessing Authorities (AAs) allowed concession of ₹ 7.29 crore on these deficient declarations.

After we pointed this out between October 2010 and January 2011, three AAs<sup>31</sup> accepted the audit observation and stated that necessary compliance would be made. Four AAs<sup>32</sup> stated that action would be taken while AC Morena stated that correct forms were accepted and wherever discrepancies had been noticed, those would be reconciled. AC Sendhwa stated

that necessary compliance was being observed. AC Indore stated that declarations were verified from bills. We do not accept the reply as declarations should be complete in all respects while allowing concession. AC Dewas stated that C forms were not liable for cancellation. We do not accept the reply as declarations should be complete as per instructions of the Commissioner. The replies of the remaining 15 AAs are awaited.

<sup>29</sup> Chhindwara (2), Dewas, Guna, Indore (2), Itarsi, Khandwa (2), Morena, Ratlam, Sagar, Sendhwa.

<sup>30</sup> Betul, Bhopal (2), Hoshangabad, Indore (4), Itarsi, Jabalpur, Rewa, Satna, Ujjain.

<sup>31</sup> AC Bhopal, Guna and CTO Ujjain.

<sup>32</sup> AC Chhindwara, Khandwa (2) and CTO Indore.

## 2.10.10 Irregular grant of exemption/concession

### 2.10.10.1 Irregular grant of concession on fake declaration forms

Under the provision of section 8(2) of the CST Act, tax on inter-state sales of goods (other than declared goods) not supported by the prescribed declaration in form 'C' shall be levied at the rate of 10 per cent or the rate applicable in the State, whichever is higher. However, this provision was amended from 1 April 2007 and as per the amended provision in such circumstances the tax shall be levied at the rate of tax applicable in the state on such goods. Under the CST Act, if a registered dealer misrepresents while purchasing any goods covered by his registration certificate (RC) or utilises such goods for any purpose other than that mentioned in his RC, he is liable to be prosecuted. However, the authority competent to grant the RC may, in lieu of prosecution, impose penalty of a sum not exceeding one and a half times of the tax leviable as if the transaction is not supported by the prescribed declarations.

In two Regional offices<sup>33</sup> and one circle office at Betul we observed that three dealers had availed/were allowed concession of ₹ 4.28 lakh on the strength of five declarations in form 'C' during the period between August 2009 and October 2009. But on cross verification we observed that these declaration forms were not issued from the concerned circles of the two states<sup>34</sup> from where they were stated to have been issued. Thus, it was evident that the dealers claimed/were allowed concession on the basis of fake declaration forms which resulted in short levy of tax of ₹ 1.71 lakh. Besides maximum penalty of ₹ 2.57 lakh was also leviable.

### 2.10.10.2 Misutilisation of declaration forms

In one regional office at Dewas and one circle office at Indore we observed that two dealers were allowed (January and December 2009) concession/exemption of ₹ 40,495 on the strength of two declarations in form 'C' and 'F'. But on cross verification with the purchasing dealers in Uttar Pradesh we observed that these forms were issued to dealers other than those who had used the forms to purchase the goods. This resulted in irregular grant of concession/exemption of tax of ₹ 40,495. Besides maximum penalty of ₹ 13,920 was also leviable.

<sup>33</sup> Indore and Chindwara.

<sup>34</sup> Chhattisgarh and Delhi.



### 2.10.10.3 Irregular grant of concession due to variation in figures of the declaration form

In one regional office at Chhindwara and three Circle offices<sup>35</sup> we observed that four dealers had availed/were allowed concession of ₹ 3.65 lakh on the strength of four declarations in form 'C' during the period between January 2010 and September 2010. In two cases the selling dealers had exhibited their sales at ₹ 34.44 lakh against the purchases of ₹ 4.27 lakh as per the utilisation submitted by the purchasing dealer in Uttar Pradesh. In another two cases, the selling dealers had exhibited their sales at ₹ 24.25 lakh against the purchases of ₹ 56.30 lakh as per the utilisation submitted by the purchasing dealers in Uttar Pradesh. Thus, there is a possibility of suppression of sales/purchases to the extent of ₹ 58.69 lakh (sales) and ₹ 60.57 lakh (purchases) which needs investigation by the Department.

### 2.10.11 Non/short levy of tax on sale not supported with/defective declarations

Under Section 6 of the CST Act, the concessional sale/exemption shall be allowed to a dealer subject to the production of the declaration duly filled and signed by the purchaser to whom the goods are sold in prescribed form obtained from prescribed authority. Similarly under Section 6A of the CST Act, exemption shall be allowed to a dealer who transfers the goods to another dealer to whom the goods have been transferred subject to the production of the prescribed form in prescribed manner to the prescribed authority. Rule 12 of the Central Sales Tax (R&T) Rules 1957 provides for the submission of original declarations.

**2.10.11.1** During test check of records of one divisional office at Sagar, fourteen regional offices<sup>36</sup> and five circle offices<sup>37</sup> we noticed (between August 2009 and April 2011) that concessional rate of tax was allowed without production of declaration forms or on duplicate copies of the declarations in 20 cases of 20 dealers assessed between August 2008 and July 2010 for the period 2002-03, 2005-06, 2006-07 and 2007-08. This resulted in non-levy of tax of ₹ 11.36 crore.

After we pointed out the cases (between August 2009 and April 2011), the AAs stated that action would be taken in

13 cases while in the other cases they replied as mentioned in the following table:-

<sup>35</sup> Guna, Khargone and Ujjain.

<sup>36</sup> Gwalior, Indore (08), Jabalpur, Khandwa, Morena and Sendhwa(2).

<sup>37</sup> Gwalior, Hoshangabad, Indore (2), and Neemuch.

Sl. No.	Name of Auditee Unit No. of dealers	Period Month of Assessment	Commodity Turnover (₹ in lakh)	Rate of tax applicable (per cent)	Rate of tax applied (per cent)	Amount of non /short levy of tax (₹ in lakh)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	RAC Indore (Sh. Sunil Mishra) 1	2006-07 January 2010	Industrial valve 170.59	12.5	3	15.57
After we pointed this out, the AA did not furnish specific reply.						
2.	RAC Khandwa (Sh. R.K.Soni) 1	2006-07 December 2008	Cotton 72.20	8	4	2.89
The concession was allowed on sale of cotton without 'C' form. After this was pointed out the AA replied that the assessment was done after verification of sale bills and other records. The reply is not tenable as the 'C' forms were not found in the case file.						
3.	RAC Indore (Dr. Gopal Porwal) 1	2006-07 September 2008	Tiles Bath Fittings 4.80	12.5	0	0.60
In the instant case there was purchase return of the goods valuing ₹ 4.80 lakh from outside the state, however, F form was not found attached. In the absence of evidence, tax at the rate of 12.5 per cent was leviable. The AA not accepting the audit contention stated that F forms were not required on purchase return. The reply is not tenable and in the absence of F forms the said goods valued at ₹ 4.80 lakh should be treated as sale and taxed at the rate of 12.5 per cent.						
4.	CTO-12 Indore 1	2007-08 March 2010	Iron & Steel 14.00	4	3	0.14
The concession was allowed on duplicate 'C' form. After this was pointed out (March 2011), the assessing authority stated that the original form was submitted in the office and duplicate was in the file. The reply is not tenable as original 'C' form is necessary for claiming concessional rate of tax.						
5.	RAC Morena 1	2007-08 April 2009	Old Vehicle & Machinery 15.45	12.5	3	1.47
Tax was levied on sale without 'C' form. After this was pointed out, the Assessing Authority stated that short levy was under examination and tax on scrap is four per cent. The reply is not tenable as the rate of tax on old vehicle and machinery is 12.5 per cent.						
6.	RAC Jabalpur (Sh. P.K.Singh) 1	2007-08 March 2010	Readymade Garments 163.46	4	0	6.54
After this was pointed out the AA refuted (July 2010) the audit observation and stated that tax had been levied in the previous year on the value of goods stock transferred which were not supported with F form. The reply is not relevant to the audit observation. Our observation relates to the incorrect allowance of deduction on account of goods stock transferred in the previous year from the current year's turnover.						

(1)	(2)	(3)	(4)	(5)	(6)	(7)
7.	RAC Gwalior 1	2002-03 March 2009	Edible Oil 130.62	10	0	13.06

Tax on inter-state sale of tax paid edible oil not supported with form 'C' was not levied. After this was pointed out the AA referring to a notification of State Government<sup>38</sup> stated (June 2010) that in case of sale of tax paid goods furnishing of 'C' form had been exempted. The contention of the AA is not correct as the exemption under the said notification was subject to the fulfillment of the requirements laid down in CST Act.

As per Rule 12 of CST (Registration and Turnover), Rule 1957 provides that a declaration may cover all transactions of sales, which take place in a quarter of financial year between two dealers in case of form C. The CCT also instructed (Circular No. 7-04-Audit-5-7 dated 01.01.05) all the Assessing Authorities (AAs) not to accept incomplete declarations and to examine all declarations before assessment.

**2.10.11.2** During test check of records of four circle offices<sup>39</sup>, we noticed that (between February 2010 and May 2011) concession of ₹ one crore was allowed on defective declaration forms in six cases (in one case correction fluid was applied in the declaration forms and in the remaining cases C forms contained transactions of more than one quarter of the financial year) of six dealers assessed between October 2008 and December

2009 for the period 2006-07 and 2007-08. This resulted in non-levy of tax of ₹ one crore.

After we pointed this out (between February 2010 and May 2011), the AAs stated that action would be taken after verification in three cases. In one case the AA stated that the C form bears transaction of one quarter. We do not agree as we found that the C form contained transactions of more than one quarter.

<sup>38</sup> Notification no. 24 dated 31<sup>st</sup> March 2003.

<sup>39</sup> Balaghat, Indore, Mandasaur and Neemuch.

### 2.10.12 Short levy of tax due to application of incorrect rate of tax

Under Section 8 of the CST Act, every dealer, who in the course of inter-state trade or commerce, sells to a registered dealer, goods of the classes specified in the certificate of the purchasing dealer shall be liable to pay tax at the concessional rate of four *per cent* (three *per cent* w.e.f. 01.04.2007 and two *per cent* w.e.f. 01.06.2008) of such turnover provided such sales are supported by declarations in form 'C'. Under Section 6(A) of the Central Sales Tax Act, 1956 as amended, transfer of goods not by reason of sales by a registered dealer to any other place of his business outside the state or to his agent or principal in other state is exempt from tax on production of declaration in form 'F' duly filled in and signed by the principal officer of the other place of business or his agent or principal as the case may be, along with evidence of dispatch of goods.

During test check of records of seven regional offices<sup>40</sup> and three circle offices<sup>41</sup> we noticed (between August 2007 and April 2011) that tax of ₹ 47.37 lakh was short levied due to application of incorrect rate of tax in 12 cases of 11 dealers assessed between July 2006 and March 2010 for the period 2000-01, 2003-04, 2006-07 and 2007-08.

After we pointed this out (August 2007 and April 2011), the AAs stated in nine cases that action would be taken after verification and in the other cases, they replied as mentioned below:

Sl. No.	Name of Auditee Unit No. of dealers	Period Month of Assessment	Commodity Turnover (₹ in lakh)	Rate of tax applicable (per cent)	Rate of tax applied (per cent)	Amount of short levy of tax (₹ in lakh)
1.	CTO Circle-9 Indore 2	2007-08 December 09	Railway Signals 49.69 24.61	12.5 12.5	4 (local rate) 4 (Central rate)	3.89 1.93
Tax was levied at the rate of four <i>per cent</i> instead of 12.5 <i>per cent</i> on local sale and tax was levied at the rate of four <i>per cent</i> instead of 12.5 <i>per cent</i> on sale without C form. After this was pointed out, the AA stated that MS Sheet was sold in inter-state sale. The reply is not tenable as the entire material was shown as consumed in the balance sheet. Besides, the dealer manufactured railway signals as is evidenced from the records.						
2.	RAC Shajapur 1	2006-07 July 2006	Dhania 4.25	10	4	0.25
Tax on inter-state sale of Dhania, not supported with form 'C' was levied at incorrect rate. After we pointed out the case, the AA replied that demand of ₹ 25,000 had been raised (December 2009).						

<sup>40</sup> Bhopal (2), Indore(3), Satna and Shajapur.  
<sup>41</sup> Indore, Neemuch and Sagar.

### **2.10.13 Conclusion**

There is no system to ensure that the declaration forms are returned after the registration of dealers are cancelled. We noticed that the Department has not been regular in uploading data on TINXSYS to reap its benefit. We also observed that the AAs have been granting concessions to the dealers even if the declarations are deficient which led to ineligible tax relief. Moreover, significant amount of revenue was lost due to irregular grant of concession on fake forms and forms with incomplete information.

### **2.10.14 Recommendations**

The Government may consider implementing the following recommendations;

- (i) issuing necessary instructions to ensure that the declaration forms are received back after the registration of the dealers is cancelled to obviate their misuse;
- (ii) issuing appropriate instructions to regularly upload all necessary data in TINXSYS; and
- (iii) ensuring that incomplete declarations are not accepted by the assessing authorities.

## 2.11 Non/short levy of entry tax

Nine regional offices<sup>42</sup> and 15 circle offices<sup>43</sup>

Under the MP *Sthaniya Kshetra Me Maal Ke Pravesh Par Kar Adhinyam*, 1976 and rules and notifications issued thereunder, entry tax (ET) is leviable at the specified rates on the goods entering into a local area for consumption, use or sale therein.

We observed between May 2007 and September 2010 that in 38 cases of 33 dealers, assessed/re-assessed between January 2007 and December 2009 for the periods 2002-03 to 2008-09, ET on goods like iron and steel, plant and machinery, motor vehicles,

paper, high speed diesel (HSD), coal, furnace oil etc. valued at ₹ 193.14 crore, was either not levied or was levied at incorrect rate on their entry into local area. This resulted in non/short realisation of ET of ₹ 1.97 crore including interest and penalty of ₹ 9.86 lakh.

After we pointed out the cases, the assessing authorities (AAs), in five cases of three dealers raised additional demand (between November 2009 and December 2010) of ₹ 6.07 lakh, in 26 cases of 23 dealers stated (between May 2007 and September 2010) that action would be taken after verification and in two cases of two dealers, no specific comment was offered. In the remaining cases of five dealers, the departmental replies and our comments are as under:

Sl. No.	Name of auditee unit/ No. of dealers	Commodity	Amount involved (₹ in lakh)	Departmental reply	Our comments
(1)	(2)	(3)	(4)	(5)	(6)
1.	RAC-Gwalior 1	Railway sleepers	11.74	The AA stated that the factory of the dealers was situated in railway siding which was not covered in any local area.	We do not find the reply in consonance with the judicial decisions <sup>44</sup> in which it has been held that railway sidings and rail lines are covered in local area.

<sup>42</sup> Bhopal, Chhindwara, Gwalior, Indore (4), Satna, and Ujjain.

<sup>43</sup> Bhopal (2), Datia, Dewas, Gwalior (2), Indore (4), Jabalpur, Rajgarh, Seoni, Shivpuri and Tikamgarh.

<sup>44</sup> (i) M/s Larsen and Toubro Ltd. v/s CCT (2002) 35 VKN 50 (MP Bd.).

(ii) M/s Simical Engineering Co. v/s CCT (2004) 4 STJ 519 (MP Bd.).

(1)	(2)	(3)	(4)	(5)	(6)
2.	RAC I/c, Circle-III, <u>Gwalior</u> 1	<i>Bidi and Tendupatta</i>	6.15	The AA stated that most of the import purchase of <i>Bidi</i> was used in inter-state sale which does not attract ET and the whole purchase of <i>tendupatta</i> was not import purchase.	The contention of the AA is not in consonance with the facts as there is no document or record to prove that imported <i>bidi</i> was subjected to inter-state sale. Further, in case of <i>tendupatta</i> the AA himself has held it liable to tax and not tax paid. However, he levied tax incorrectly at the rate of one <i>per cent</i> instead of two <i>per cent</i> .
3.	RAC Dvn-I <u>Bhopal</u> 1	Iron and Steel	1.43	The AA stated that tin ingots and tin alloy are not covered under section 14(IV) of CST Act (declared goods).	The reply is not acceptable because tin alloys and ingots are covered under Section 14(IV) of the CST Act.
4.	CTO- <u>Seoni</u> 1	Plant and Machinery	0.47	The AA stated that ET was not leviable on machinery in that period.	The reply is contrary to the provisions of entry number 54 of Schedule-II of the ET Act.
5.	CTO- <u>Seoni</u> 1	Tractor	0.21	The AA stated that ET was not leviable on tractors w.e.f. 1 April 2006 under the ET Act.	The reply is contrary to the provisions prevailing during 2006-07. ET was leviable on tractors during 2006-07.

We reported the cases to the Commissioner Commercial Tax, Madhya Pradesh (CCT, MP) and the Government between December 2010 and May 2011; their replies have not been received (March 2012).

## 2.12 Application of incorrect rate of tax

Two regional offices<sup>45</sup> and 17 circle offices<sup>46</sup>

The Madhya Pradesh *Vanijyik Kar Adhiniyam* (Adhiniyam) and the MP VAT Act, read with the Central Sales Tax (CST) Act, and notifications issued thereunder specify the rates of commercial tax and VAT leviable on different commodities. Under the *Adhiniyam* and the Act, a dealer is liable to pay interest if he fails to pay tax payable by him according to the periodic returns. The *Adhiniyam* also provides for re-assessment and where the omission leading to such re-assessment is attributable to the dealer, he is liable to pay penalty not exceeding the amount of tax so re-assessed.

We observed between June 2007 and October 2010 that in 34 cases of 32 dealers, assessed between December 2005 and December 2009 for the period 2002-03 to 2007-08, tax on sales turnover of ₹ 17.22 crore was levied at incorrect rates. This resulted in short levy of tax of ₹ 1.52 crore including interest/penalty of ₹ 10.24 lakh. A few instances are mentioned below:

Sl. No.	Name of auditee unit/No. of cases	Assessment period/ Month of assessment	Name of commodity	Turn-over (₹ in crore)	Rate of tax applicable (per cent)	Rate of tax applied (per cent)	Amount of short levy of tax (₹ in lakh)
1.	CTO, Circle-V, Bhopal 1	2006-07 April 2009	Ujala Supreme (whitening agent)	4.22	12.5	4	36.00
2.	CTO, Circle-II, Indore 2	2007-08 (1)Oct 2009 (2)Nov 2009	Banners	1.01 0.96	12.5 12.5	4 4	21.00 (including interest)
3.	RAC - I/c CTO, Circle-I, Jabalpur 1	2006-07 June 2009	Kerosene (sold otherwise than through PDS*)	1.60	12.5	4	14.00

After we pointed out the cases, the assessing authorities (AAs), in case of seven dealers raised demand (between December 2008 and March 2011) of ₹ 6.52 lakh. In case of two dealers the AA accepted (between March 2008 and April 2010) the audit observation. In 15 cases of 14 dealers it was stated

<sup>45</sup> Indore and Neemuch.

<sup>46</sup> Bhopal (04), Chhindwara, Dewas, Indore (06), Jabalpur, Rajgarh, Ratlam, Shivpuri and Tikamgarh.

\* Public distribution system.



(between March 2009 and October 2010) that action would be taken after verification.

In the remaining 10 cases of nine dealers, departmental replies and our comments thereon are as under:

Sl. No.	Name of auditee unit/No. of dealers	Amount involved (₹ in lakh)	Commodity	Departmental reply	Our comments
(1)	(2)	(3)	(4)	(5)	(6)
1.	CTO, Circle I, <u>Ratlam</u> 1 (two cases)	0.83	Inverters	The dealer sold UPS.	The reply is contradictory to the fact recorded in purchase list and trading account of the dealer which clearly show purchase and sale of inverters.
2.	CTO, Circle-VI, <u>Indore</u> 1	11.80	Advertising material like flex boards, flex banners	The dealer dealt in processing of films, flex printing material and vinyl printing and not in advertising material.	Reply is contrary to the facts on record like sales invoices which confirmed sale of advertising material like flex boards, flex banners etc.
3.	CTO , Circle-XV, <u>Indore</u> 3	9.72	Leaf Spring	Tax has been levied as per the judicial decision in which Leaf Spring was held to be Iron & Steel.	The reply of the AA is not acceptable in the light of the decision <sup>47</sup> of the CCT, MP where leaf spring is liable to tax at the rate of 12.5 per cent.
4.	CTO, Circle-V, <u>Bhopal</u> 1	8.51	Hydraulic Ram Machine	The sale relates to power generating machine and tax was levied at correct rates.	The reply is not in consonance with the fact that sale of Hydraulic ram machine is clearly recorded in the local sale detail schedule. Moreover, Hydraulic ram is a machine used for pumping water and not for generating power.

<sup>47</sup> [(2007) 11 STJ 64 (CCT, MP)].

(1)	(2)	(3)	(4)	(5)	(6)
5.	CTO, Circle-V, <u>Bhopal</u> 1	36.00	Ujala Supreme (whitening agent)	The levied tax is correct and is in accordance with the entry no.55 (organic casting) of Schedule-II of the Act.	The reply of the AA does not correctly interpret the fact as entry 55 is of chemicals whereas ujala supreme is a post-wash whitener in liquid form. It is an optical whitening agent of varying chemical structure and is different from chemical.
6.	CTO, Circle-V, <u>Bhopal</u> 1	2.26	Banners (LD foam Banners)	The AA merely stated that levy of tax is correct.	The reply is not in consonance with the fact that the purchase orders received by the assessee and assessment order clearly establish sale of banners which is liable to tax at the rate of 12.5 per cent.
7.	CTO, Circle-V, <u>Bhopal</u> 1	1.57	Gas Kits	The sale relates to Gas Cylinder and tax was correctly levied.	The reply does not interpret the fact correctly as the sold cylinders are used as a component of Gas kits. Gas kits used in motor vehicles are parts of motor vehicle attracting tax at the rate of 12.5 per cent.

We reported the matter to the CCT, MP and the Government between December 2010 and May 2011; their replies have not been received (March 2012).

### 2.13 Allowance of inadmissible input tax rebate

Regional office, Satna

As per the provisions of notification no. A-3-195-2005-1-V(31) dt. 31 March 2006 and as amended vide notification no. (39) dt. 14<sup>th</sup> June 2006 if the goods manufactured are goods specified in Schedule I or II of the VAT *Adhiniyam* are transferred outside the State, the dealer would be allowed full input tax rebate on the goods used or consumed in the manufacture of the goods. The amount equal to the input tax at the rate at which it is realised for the type of transactions, shall be included in computation of cumulative quantum of tax benefit.

**2.13.1** We observed in August 2010 that a dealer, assessed in June 2009 for the period 2006-07 was incorrectly allowed non-adjustment of amount equal to Input Tax Rebate (ITR) payable by the dealer on account of goods transferred out of the state, while computing cumulative quantum of tax benefit. This resulted in allowance of inadmissible ITR of ₹ 79.75 lakh.

The AA did not furnish specific reply.

One divisional office<sup>48</sup>, two regional offices<sup>49</sup> and four circle offices<sup>50</sup>

As per Section 14 of the Madhya Pradesh VAT Act, 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 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.

**2.13.2** We observed between May 2010 and October 2010 that in eight cases of eight dealers, assessed between April 2009 and February 2010 for the periods between 2006-07 and 2007-08, the dealers were allowed inadmissible ITR of ₹ 29.12 lakh including interest of ₹ 1.78 lakh on account of non paying back of ITR claimed on the goods transferred out of state otherwise than by way of sale or excess allowance of ITR on sale of tax free goods.

After we pointed out the cases, the AAs in seven cases<sup>51</sup> (involving tax ₹ 27.78 lakh) stated (between May 2010 and October 2010) that action would be taken after verification. In one case the AA (DC, Division-II,

Indore) replied (September 2010) that the ITR has been allowed on the purchase of packing material made within the state and these packing materials have been used in packing of goods sold within the state. The imported packing materials have been used in the packing of goods which have been sold out of state. The reply of the AA is not acceptable as there is no separate account of tax paid and imported packing materials and ITR has not been claimed in the returns.

48

Indore.

49

Sagar and Ujjain.

50

Gwalior and Indore (3).

51

RAC, Sagar and Ujjain; RAC I/c, Circle-III, Gwalior (2); RAC I/c, Circle-X, Indore; CTO, Circle-15, Indore ; CTO, Circle-II, Indore.

As per Section 14 of the Madhya Pradesh VAT Act, 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, 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, as per provisions of Notification no. A-3-95-05-1-V(28), dt.17 August 2007 issued under Section 14(6)(vi) of the Madhya Pradesh VAT Act, motor vehicles other than those used in/for manufacture or mining of goods for sale are not eligible for ITR.

**2.13.3** We observed during the period from July 2009 to October 2010 that four dealers assessed between September 2008 and November 2009 for the period 2006-07 to 2007-08 were granted inadmissible ITR of ₹ 41.89 lakh, as mentioned below :

(₹ in lakh)

Sl. No.	Name of auditee unit	Period of assessment/ Month of assessment order	Amount of inadmissible ITR	Our observation
(1)	(2)	(3)	(4)	(5)
1.	RAC-Sagar 1	2007-08 July 2009	31.35	The AA incorrectly allowed ITR of ₹ 46.11 lakh at the rate of 12.5 <i>per cent</i> instead of ₹ 14.75 lakh at the rate of four <i>per cent</i> on purchase of Rock Phosphate. This resulted in incorrect allowance of ITR of ₹ 31.35 lakh.
In reply, the AA stated (October 2010) that action would be taken after verification.				
2.	RAC - Khandwa 1	2006-07 October 2008	5.90	The AA while finalising the case incorrectly allowed ITR of ₹ 1.29 crore instead of ₹ 1.23 crore. This resulted in allowance of inadmissible ITR of ₹ 5.90 lakh.
In reply, the AA accepted (February 2010) the audit objection and raised a demand of ₹ 16.62 lakh including penalty of ₹ 12.47 lakh. The difference of ₹ 1.75 lakh (₹ 5.90 - ₹ 4.15) is due to the fact that the case was reassessed on the basis of new records of the assessee as the old records were destroyed in a fire in the premises of the assessee.				

(1)	(2)	(3)	(4)	(5)
3.	RAC, Dvn-II, <u>Bhopal</u> 1	2006-07 September 2008	3.98	The dealer purchased cement valued at ₹ 6.16 crore on which ITR of ₹ 76.97 lakh at the rate of 12.5 <i>per cent</i> was admissible. However, the AA allowed ITR of ₹ 80.95 lakh resulting in excess grant of ITR of ₹ 3.98 lakh.
The AA replied (July 2009) that the ITR was allowed on the basis of bills of purchase after verification. The reply is not acceptable as the amount recorded in the purchase list does not tally with the figures in the audited Profit and Loss account.				
4.	RAC - <u>Jabalpur</u> 1	2007-08 November 2009	0.66	The AA allowed ITR of ₹ 66,134 on purchase of truck not meant for use in manufacture of goods.
The AA replied (August 2010) that action would be taken after verification.				

We reported the cases to the CCT, MP and the Government between December 2010 and May 2011; their replies have not been received (March 2012).

## 2.14 Short levy of purchase tax

Circle III, Gwalior Office

Madhya Pradesh *Vanijyik Kar Adhiniyam*, provides that every dealer, who in the course of his business purchases any goods without paying tax thereon, shall be liable to pay purchase tax on the purchase price of such goods at the concessional rate of four *per cent* or at the prescribed lower rate, except in case of goods specified in Schedule III, if after such purchase the goods are used or consumed in the manufacture or packing of other goods for sale. High Speed Diesel (HSD) is specified in Schedule-III of the *Adhiniyam* and is taxable at the prescribed rate of 28.75 *per cent* including surcharge.

We observed in October 2009 that a dealer, assessed in March 2009 for the period 2005-06 purchased HSD valued at ₹ 5.75 crore without paying tax thereon and used the same in the manufacture of other goods. The AA while finalising the assessment levied purchase tax on HSD incorrectly at the concessional rate of 6.9 *per cent* instead of prescribed rate of 28.75 *per cent*. This resulted in short levy of tax of

₹ 1.26 crore at the differential rate of 21.85 *per cent*.

After the case was pointed out (October 2009), the AA stated that purchase tax at concessional rate was levied in view of a notification<sup>52</sup>. The reply is not acceptable as the said notification has been issued under Section 9 of the *Adhiniyam* and is not applicable for charging purchase tax under Section 10 *ibid*.

<sup>52</sup> No. A-3-8-2001-ST-V(24) dated 30<sup>th</sup> March 2001.

We reported the matter to the CCT, MP and the Government between February and May 2011; their replies have not been received (March 2012).

## 2.15 Incorrect determination of turnover

10 regional offices<sup>53</sup> and seven circle offices<sup>54</sup>

As per Section 2 of the Madhya Pradesh *Vanijyik Kar Adhiniyam* and the Madhya Pradesh VAT Act, turnover in relation to any period means the aggregate of sale prices received and 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 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. Under the *Adhiniyam*, packing material is liable to tax at the same rate as applicable to the goods packed therein.

**2.15.1** We observed between July 2008 and October 2010 that turnover in 28 cases of 28 dealers, assessed between January 2007 and March 2010 for the periods between 2003-04 and 2008-09, was less determined by ₹ 3.54 crore against the aggregate of turnover of the dealers recorded in their audited books of accounts/sale list/relevant records. Thus, turnover aggregating ₹ 3.54 crore was not assessed to tax and resulted in non-levy of tax of ₹ 28.26 lakh including penalty of ₹ 2.44 lakh.

After we pointed out the cases, the AA in four cases of four dealers raised demand of ₹ 7.40 lakh (December 2010) and in one case of another dealer the reply of the AA (September 2008) is awaited. In 21 cases of 21 dealers the AAs stated (between February 2009 and October 2010) that action would be taken after verification, while in the remaining two cases of two dealers the replies of the AAs are as given in the following table:

Sl. No.	Name of auditee unit	Our observation	Department reply/ our comments
(1)	(2)	(3)	(4)
1.	RAC, Dvn-I, Bhopal	Due to non-furnishing of 'F' forms on account of sale out of state, turnover of ₹ 3.77 crore was to be regarded as inter-state sale. The AA incorrectly determined the same as ₹ 3.28 crore.	The AA stated (July 2008) that the sale was assessed after allowing deduction of expenses and commission. The reply is not acceptable because no after-sale deduction is allowable under the rules.

<sup>53</sup> Bhopal (2), Jabalpur (2), Neemuch, Sagar (2), Satna (2) and Shajapur.  
<sup>54</sup> Dewas, Indore, Jabalpur, Khargone, Narsinghpur, Rewa and Shajapur.

(1)	(2)	(3)	(4)
2.	CTO-Rewa	Sale value of vehicle, as per audited accounts, was not included in the turnover, which resulted in short realisation of tax of ₹ 62,500.	The AA replied (October 2010) that the vehicle was registered in the name of dealer not in the name of firm and therefore was not included in the turnover. The reply is not tenable as depreciation is charged from the account of the firm. Accordingly the turnover should have been shown in the books of the firm.

Under the Madhya Pradesh *Vanijyik Kar Adhinyam*, and rules and notifications issued thereunder commercial tax is leviable on sales of goods other than those specified in schedule I or exempted by the Government by issue of notification.

According to a judicial pronouncement\* the transfer of materials consumed in processing of job work has been held to be a deemed sale of the material so consumed and accordingly it is taxable.

**2.15.2** We observed in two circle offices between June 2008 and February 2009, in six cases of two dealers, assessed between January 2006 and April 2007 for the periods 2002-03 and 2005-06, incorrect determination of TTO to the extent of ₹ 55.99 lakh resulting in non-levy of tax of ₹ 5.15 lakh as shown below :

Sl. No.	Name of auditee unit	Our observation	Department's reply/ our comments
1.	CTO-III, Jabalpur	Printing ink was purchased for use in job work. Its deemed sale of ₹ 17.83 lakh (worked out after adding on an average of 15 per cent profit on the basis of trading A/c of three years) was liable to tax at the rate of 9.2 per cent.	The AA stated (February 2009) that in case of job work, goods were not liable to tax. The reply does not correctly interpret the fact since the property of the used material stood transferred during the process of job work, hence the used material was liable to tax.
2.	CTO, Circle-Betul	The AA allowed the deduction of the value of the rubber solution and hardener with the contention that they were consumables and their properties did not stand transferred during the process of repairing works. This resulted in non-realisation of tax of ₹ 3.51 lakh.	The AA stated (June 2008) that the repairing material, solution and hardener, used in repairing of conveyor belts, vapourise and disappear after use and lose their identity. The reply does not interpret the fact correctly as the property of repairing material solution and hardener stand transferred during the process of repairing.

\*

M/s S P Tools & Processors Ltd. v/s CCT, MP [(2001)27 TLD 323(MP Board)].

Two circle offices<sup>55</sup>

As per provisions of Section 2(u)(vi) of the MPVAT Act and Section 9-A of MP *Vanijiyik Kar Adhinyam* sale means any transfer of property in goods for cash or deferred payment or for other valuable consideration and includes a transfer of the right to use any goods including leasing thereof for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration, and such transfer, delivery or supply of any goods shall be deemed to be a sale of those goods.

**2.15.3** During test check of records of circle offices between June 2008 and July 2010 we observed that in three cases of two dealers, assessed between August 2007 and June 2009 for the period between 2004-05 and 2007-08, the AA while determining the taxable turnover did not include the receipt of rent of containers/lease

rent of ₹ 2.02 crore in the turnover. Thus, the turnover could not be assessed to tax resulting in non-levy of tax to the tune of ₹ 10.16 lakh including penalty of ₹ 1.84 lakh.

After we pointed out the case, the AA raised the demand of ₹ 3.68 lakh (December 2009) including penalty of ₹ 1.84 lakh in one case and in remaining two cases stated (July 2010) that action would be taken after verification.

As per provisions of Section 2(w) of MP *Vanijiyik Kar Adhinyam* taxable turnover means that part of a dealer's turnover which remains after deduction therefrom sale price of goods which are in the nature of tax paid goods in the hand of a dealer.

**2.15.4** During test check of records of regional office, Jabalpur in August 2009 we observed that in case of one dealer, assessed in March 2009 for the period 2005-06, the AA

while determining the taxable turnover allowed deduction of tax paid sale of iron and steel scrap valued at ₹ 87.92 lakh. The deduction allowed was not correct as the scrap was obtained during the process of re-rolling of iron and steel and it was liable to tax. This resulted in non-realisation of tax amounting to ₹ 3.52 lakh.

After we pointed out the case, the AA stated (August 2009) that besides selling of manufactured goods the dealer had traded the tax paid goods. The reply is not in consonance with the facts on record which revealed that the dealer purchased tax paid scrap valued at ₹ 2.61 crore which was consumed in the process of re-rolling instead of trading and on which the AA allowed set off on account of its consumption in the manufacturing process, as is evident from the audited trading and manufacturing accounts and its schedule and assessment orders.

<sup>55</sup>

Dewas and Jabalpur.



We reported the matter to the CCT, MP and the Government between December 2010 and May 2011; their replies have not been received (March 2012).

## 2.16 Non-levy of tax on sales incorrectly treated as tax free/exempted

Five regional offices<sup>56</sup> and eight circle offices<sup>57</sup>

The Madhya Pradesh *Vanijyik Kar Adhiniyam*, and the MP VAT Act, read with the Central Sales Tax (CST) Act and notifications issued thereunder prescribe rates of commercial tax leviable on different commodities except those which are specified under Schedule I of the *Adhiniyam/Act* or exempted through notifications.

We observed between February 2007 and October 2010 that in 17 cases of 15 dealers, assessed between January 2006 and September 2009 for the period between 2002-03 and 2007-08, the assessing authorities (AAs) did not levy tax on sales turnover of ₹ 18.75 crore of taxable commodities like high density polyethylene

(HDPE)/polypropylene (PP) fabrics, pump sets up to 3HP, cotton bandage etc., incorrectly treating them as tax free goods or goods exempted from tax. This resulted in non-levy of tax of ₹ 88.69 lakh including interest. A few illustrative cases are mentioned below:

(₹ in lakh)					
Sl. No	No. of dealers No. of cases	Commodity	Turnover	Rate of tax applicable (per cent)	Amount of tax not levied
(1)	(2)	(3)	(4)	(5)	(6)
1.	6 8	HDPE/PP Fabrics	1,717.16	4.6	79.14
The AAs did not levy tax on sale of HDPE/PP fabrics, incorrectly treating the same as tax free cloth. After we pointed out the case the AAs stated (February 2007 and March 2010) that HDPE fabric was tax free vide notification <sup>58</sup> dated 24.08.2000. The reply is not in consonance with the contents of the notification/judgement <sup>59</sup> and not acceptable because as per notification all varieties of cloth are exempted. HDPE/PP 'fabric' is plastic goods and is, thus, liable to be taxed.					
2.	1 1	Paper Waste	12.96	9.2	1.19
The AA did not levy tax on sale of paper waste, incorrectly treating the same as tax free goods. After we pointed out the case the AA raised (July 2010) a demand of ₹ 1.31 lakh.					

<sup>56</sup> Guna and Indore (4).

<sup>57</sup> Bhopal, Gwalior (2), Indore, Narsinghpur, Rajgarh, Seoni and Shajapur.

<sup>58</sup> Notification no.68 dt.24 August 2000.

<sup>59</sup> MP High Court order in the case of M/s Raj Pack Well v/s Union of India [1990 (50) ELT 201].

## 2.18 Non-realisation of profession tax

As per provisions of Section 3 (2) of the Profession Tax Act, 1995, every person who carries on a trade either himself or by an agent or representative or who follows a profession or calling other than agriculture in Madhya Pradesh shall be liable to pay profession tax at the rate specified against the class of such persons in column (3) of the Schedule of the Act. Section 8 (2) of the said Act further provides that such person liable to pay tax shall obtain a certificate of registration from the competent authority in the prescribed manner. Further Section 8(4) of the Act provides that where an employer or a person liable to registration has willfully failed to apply for such certificate within the time specified in sub-section (3), the Assessing Authority may after giving him a reasonable opportunity of being heard, impose penalty not exceeding ₹ 20 for each day of delay subject to a maximum of ₹ 2,500.

Cross verification of information obtained from 41 Circle Offices<sup>60</sup> of Commercial Tax Department with (i) lists furnished in respect of liquor licences, cinema houses, video parlours and cable operators by the State Excise Department and (ii) lists of beauty parlours furnished by the Customs and Central Excise Department revealed that 3,689 persons remained unregistered with the Commercial Tax Department under the Act for the years 2005-06 to 2009-10, although they were liable to pay profession tax. This resulted in non-realisation of profession tax of ₹ 78.28 lakh at rates ranging from ₹ 2,000 to ₹ 2,500 per annum.

The matter was reported to the Department and the Government in April and May 2011; their replies have not been received (March 2012).

<sup>60</sup> Balaghat, Bhopal (6), Chhatarpur (Nowgaon), Datia, Dewas, Hoshangabad, Indore (15), Jabalpur (4), Katni, Khargone, Narsinghpur, Rewa, Sagar (2), Shajapur, Sidhi and Ujjain (3).

## 2.19 Non/short levy of tax under the CST Act

Two Regional offices<sup>61</sup>

Notification no. A-3-38-06-1-V(46) dated 5 July 2006 issued under the Central Sales Tax Act, 1956, provides, *inter alia*, concessional rate of tax of one *per cent* applicable to inter-state sale of copper wire rod, copper wire bar and copper cathode supported with 'C' form. The said concessional rate is not available/applicable in respect of inter-state sale of copper wire or paper covered copper conductors supported with 'C' form.

**2.19.1** We observed between August 2010 and September 2010 that in two cases of two dealers, assessed in December 2009 for the period 2007-08, tax on sale of copper wire and paper covered copper conductors of ₹ 7.86 crore supported with declaration in form 'C' was incorrectly levied at concessional rate of one *per cent*. Since the commodities involved were different from the commodity covered under the notification, the dealers were liable to pay

tax at normal rate of three *per cent* applicable for transactions supported with declarations in form C. This resulted in short levy of tax of ₹ 15.68 lakh as detailed below :

(₹ in lakh)

Sl. No.	Name of auditee unit No. of dealers	Period Month of assessment	Commodity Turnover	Rate of tax applicable ( <i>per cent</i> )	Rate of tax applied ( <i>per cent</i> )	Amount of non/short levy of tax
1.	RAC, Satna 1	2007-08 December 2009	Copper wire 546.00	3	1	10.92
Tax on inter-state sale of copper wire (supported with 'C' form), was levied at incorrect rate. After we pointed out the case, the AA stated (August 2010) that copper wire rod had been sold to the cable manufacturers who use it as their raw material. The reply of the AA is contrary to the fact recorded in the purchase and sale list where purchase and sale of copper wire is clearly mentioned.						
2.	RAC, Satna 1	2007-08 December 2009	Paper covered Copper Conductors 239.38 (236.33+3.05)	3 3	1 2	4.76
Tax on inter-state sale of paper covered copper conductors, supported with form 'C', was levied at incorrect rate. After we pointed out the case, the AA stated (September 2010) that the assessee had manufactured and sold paper covered <i>copper strips</i> . The reply of the AA is contrary to the fact recorded in audited accounts where the manufacture of paper covered copper conductors has been clearly mentioned.						

<sup>61</sup> RAC, Satna(Sh N.L.Bhalavi), and RAC, Satna(Sh. S.M.Chaturvedi).

Notification no. A-3-59-05-1-V(16) dated 31 March 2006 issued under the Central Sales Tax Act, provides, *inter alia*, concessional rate of tax of two *per cent* applicable among other commodities to vegetable and edible oils. The said concessional rate is not available/applicable in respect of non-edible oils.

**2.19.2** In Regional office, Gwalior we observed in June 2010 that in two cases of one dealer, assessed between June 2009 and March 2010 for the periods 2006-07 and 2007-08, tax on inter-state sale of non-edible oils of ₹ 5.86 crore, was levied at incorrect rates. This resulted in short levy of tax of ₹ 8.19 lakh.

We reported the cases to the Department and the Government between December 2010 and May 2011; their replies have not been received (March 2012).

## **2.20 Mistake in computation of tax**

During test check of records of two regional offices<sup>62</sup> and circle office, Indore between February 2010 and May 2010 we observed that in case of three dealers, assessed between March 2009 and December 2009 for the period 2005-06 to 2007-08, the assessing authorities (AAs) erroneously levied/computed tax of ₹ 6.61 lakh instead of ₹ 29.49 lakh. This resulted in short levy of tax of ₹ 22.88 lakh.

After we pointed out the cases, the AAs accepted the audit observation involving ₹ 20.39 lakh in two cases and raised demand of ₹ 20.31 lakh (one case) and stated in respect of the third case that action would be taken after verification.

The cases were reported to the Department and the Government between December 2010 and May 2011; their replies have not been received (March 2012).

<sup>62</sup> Bhopal and Indore.

## 2.21 Non-recovery of tax from closed unit

Circle office, Jhabua

As per notification dated 19 February 1991 read with notification dated 16 October 1986 and 6 October 1994, a dealer holding eligibility certificate (EC) for exemption from payment of tax shall keep his industrial unit running during the period of eligibility and also for a period of five years from the date of expiry of the period of eligibility, failing which the EC shall be cancelled by the District Level Committee (DLC)/State Level Committee (SLC) empowered to issue the EC. The amount of tax exemption availed by the dealer shall be recovered. The notification also states that if the circumstances so warrant, such cancellation may be given retrospective effect.

We observed in June 2010 that a dealer, holding EC for exemption from payment of tax, failed to keep his industrial unit running for a period of five years after expiry of the eligibility period. The dealer was availing the facility of exemption from payment of tax from 01.11.1998 to 30.10.2006. The AA, however, did not take any action to refer the matter to the DLC/SLC for cancellation of EC of the dealer. This resulted in non-recovery of tax benefit of ₹ 10.98 lakh which was availed by the dealer during the period between 1 November 1998 and 31 March 2004.

After we pointed out the case, the AA stated (June 2010) that the registration of the dealer was still valid and the assessee had furnished returns of 2009-10. On scrutiny of the returns, we found

that the transaction was nil which proves that the unit had become idle. Further, the AA did not take any action to get the EC cancelled.

We reported the matter to the Department and the Government between February and May 2011; their replies have not been received (March 2012).

## 2.22 Incorrect determination of value addition

Two regional offices<sup>63</sup> and two circle offices<sup>64</sup>

Section 9-B of the Madhya Pradesh *Vanijyik Kar Adhiniyam*, provides for levy of tax at prescribed rates on the value addition on resale of goods specified in Part II to VI of Schedule II to the *Adhiniyam*.

We observed between June 2007 and September 2010 that in six cases of four dealers, assessed between July 2006 and March 2009 for the periods 2003-04 to 2005-06, value addition on

resale of goods was determined less by ₹ 64 lakh. This resulted in short realisation of tax of ₹ 5.31 lakh.

<sup>63</sup> Indore and Khandwa.

<sup>64</sup> Indore and Narsinghpur.

After we pointed this out, in one case, the AA, RAC Khandwa, stated that the assessment was correct. The reply is neither in consonance with the facts recorded in the audited accounts nor did the AA provide any proof in support of his reply. However, the AA raised a demand of ₹ 70,085 in September 2010. In the remaining five cases the AA stated that action would be taken after verification.

We reported these cases to the Department and the Government between January and May 2011; their replies have not been received (March 2012).

## EXECUTIVE SUMMARY

<b>Tax collection</b>	<p>In 2010-11 the collection of taxes from state excise increased by 22.07 <i>per cent</i> over the previous year which was due to the increase in auction amount.</p>
<b>Results of audit conducted by us in 2010-11</b>	<p>In 2010-11 we test checked the records of 20 units relating to state excise receipts and found under assessment, loss of revenue, non-levy of penalty etc. involving ₹ 155.25 crore in 14,151 cases.</p> <p>The Department accepted under assessment and other deficiencies of ₹ 99.46 crore in 9,079 cases, which were pointed out by us during the year 2010-11. An amount of ₹ 85 lakh was recovered in 731 cases during the year 2010-11.</p>
<b>What we have highlighted in this Chapter</b>	<p>In this Chapter we present illustrative cases of ₹ 38.74 crore selected from observations noticed during our test check of records relating to assessment and collection of state excise revenue in the office of the District Excise Officers (DEOs)/ Assistant Excise Commissioners (AECs), where we found that the provisions of the Acts/Rules were not observed.</p> <p>It is a matter of concern that similar omissions have been pointed out by us repeatedly in the Audit Reports for the past several years, but the Department has not taken corrective action.</p>
<b>Our conclusion</b>	<p>The Department needs to initiate immediate action to recover duty, penalty and annual fees not recovered/short recovered, more so in those cases where it has accepted our contention.</p>

In 2010-11 the collection of taxes from state excise increased by 22.07 per cent over the previous year which was due to the increase in auction amount.

### 3.3 Cost of collection

The gross collection in respect of state excise, expenditure incurred on collection as furnished by the Department and the percentage of expenditure to gross collection during the years 2008-09, 2009-10 and 2010-11 along with the relevant all India average percentage of expenditure on collection to gross collection for the relevant previous year are mentioned below:

(₹ in crore)

Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage for the relevant year
2008-09	2,301.95	505.46	21.96	3.27
2009-10	2,951.94	818.34	27.72	3.66
2010-11	3,603.42	963.86	26.75	3.64

The percentage of expenditure on the collection of state excise is abnormally higher than the all India average percentage. We observed that in the Finance Accounts there is no separate head showing 'collection charges' as is available in case of other taxes like taxes on sales/trade, taxes on vehicles etc., and the cost of liquor paid to the manufacturers from the budget provisions for expenditure was also being booked under the head '2039-State excise' along with other expenditures.

The Government may consider opening a separate sub-head for collection charges as is done for other taxes for effectively monitoring the functioning and the performance of the Department. This will also enable the State to compare the cost of collection position *vis-a-vis* the all India average percentage of expenditure on collection. Although this was pointed out earlier in para 3.3 of the Audit Report for the year ended 31 March 2010, no corrective measures were taken in this regard.

### 3.4 Working of internal audit wing

An audit cell has been established in the Excise Department which is headed by a Joint Director from MP Finance Service. Six officials from the Treasury and Accounts Directorate, MP have been posted on deputation basis. The work of internal audit is conducted by this cell.

A roster for internal audit is prepared every year. Internal audit is generally conducted in accordance with the roster. Out of 50 units planned for internal audit 41 units were inspected during the year 2010-11.

### 3.5 Results of audit

Test check of the records of 20 units relating to State Excise receipts revealed underassessment, loss of revenue, non-levy of penalty, etc. amounting to ₹ 155.25 crore in 14,151 cases which can be categorised as given in the following table:



(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
1.	Loss of revenue due to short production of alcohol	4,336	19.34
2.	Accumulation of arrears of licence fees/auction fees	37	5.10
3.	Non-levy of penalty due to breach of license conditions	549	0.13
4.	Non-levy of penalty/duty on excess wastages of spirit /liquor	197	4.38
5.	Loss of revenue due to acceptance of tenders at lower rates	2,581	0.46
6.	Other observations	6,451	125.84
	<b>Total</b>	<b>14,151</b>	<b>155.25</b>

During the course of the year, the Department accepted underassessment and other deficiencies of ₹ 99.46 crore in 9,079 cases, which were pointed out in audit during the year 2010-11. An amount of ₹ 85 lakh was realised in 731 cases during the year 2010-11.

A few illustrative audit observations involving ₹ 38.74 crore are mentioned in the following paragraphs.

### 3.6 Non-realisation of excise duty

#### 3.6.1 On unacknowledged export/transport of foreign liquor/beer

The Madhya Pradesh Excise Act, 1915 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\*. Besides, the licensee shall obtain a verification report from the officer-in-charge of the foreign liquor warehouse and furnish it to the authority, who issued the transport/export permit, within 40 days of the expiry of the 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.

We observed from export/transport permits register and excise verification certificate (EVC) received register in seven bottling units of foreign liquor<sup>1</sup>, three breweries<sup>2</sup> and two central godowns of outside manufacturers<sup>3</sup> of six districts<sup>4</sup> between February and December 2010 that the licensees exported/transported 8,88,336.23 proof litres (PL) foreign liquor (spirit) and 6,43,232.16 bulk litres (BL) beer on 338 permits between April 2009 and July 2010, which involved duty<sup>5</sup> of ₹ 24.07 crore. Though the verification reports of receipt of quantity of liquor so exported/transported were not received from the destination units within the

prescribed time limit, the Department did not initiate any action for adjustment of duty against the bank guarantee or bond even after a lapse of one to 12 months after the permissible period of 40 days. This resulted in non-realisation of revenue of ₹ 24.07 crore.

After we pointed out the cases, the Excise Commissioner (EC) stated (between February and April 2011) in respect of the cases of Chhatarpur and Gwalior districts that 54 verification reports had been received except for one verification report of Gwalior district. The remaining AECs/DEOs stated (between February 2010 and March 2011) that 39 verification reports had

<sup>1</sup> M/s Cox India Ltd., Nowgaon (Chhatarpur), Gwalior distillers Ltd, Rairu (Gwalior), M/s Redson distilleries Pvt. Ltd., Jabalpur, M/s United Spirit Ltd, Govindpura (Bhopal), M/s United Spirit Ltd, Sarvar, Bhopal, M/s Som distillery Ltd, Sehatganj, Raisen and M/s Som distillery and brewery Ltd, Raisen.

<sup>2</sup> M/s Jagpin breweries Ltd, Nowgaon (Chhatarpur), M/s Mount Everest Breweries Ltd., Indore and M/s Som distilleries and brewery Ltd., Raisen.

<sup>3</sup> M/s United Breweries Ltd, Bhopal and M/s Millenuim beer industries Ltd., Bhopal.

<sup>4</sup> Bhopal, Chhatarpur, Gwalior, Indore, Jabalpur and Raisen.

<sup>5</sup> Rate of duty - Spirit ₹180 and 300 per PL and Beer ₹ 30 per BL for the year 2009-10 & 2010-11.

\* Form of bond to be executed on the removal of foreign liquor from the licensed premises of FL9/FL9A/FL10A/FL10B/B-3 license for export/transport in Bond.

been received and 244 verification reports would be submitted on their receipt. The replies are not acceptable as the duty was recoverable in all these cases as verification reports were found to have not been received within the prescribed period at the time of audit, for which the Department did not take any action.

We reported the matter to the EC and Government between December 2010 and May 2011; their replies except that of EC in respect of Chhatarpur and Gwalior districts have not been received (March 2012).

### 3.6.2 On unacknowledged export/transport of spirit

The MP Distillery Rules, 1995 provide that the removal of spirit from a distillery to another distillery or liquor warehouse or bottling unit or any other industrial unit within or outside the State of Madhya Pradesh shall be made without payment of duty subject to execution of a bond in form D-2\* by the seller licensee with adequate solvent sureties for the payment as prescribed by Excise Commissioner (EC). The licensee shall obtain a verification report from the officer-in-charge of the destination unit and furnish it to the authority who issued the export/transport permit within 40 days of the expiry of period of permit. If the licensee fails to do so, the amount prescribed by the EC shall be recovered from the security bond executed. This shall be in addition to any other penalty which may be imposed under the rules.

During test check of the records of two distilleries<sup>6</sup> between May 2009 and May 2010, we observed that the licensees exported/transported 1,19,620.1 proof litre (PL) extra neutral alcohol (ENA)/rectified spirit (RS) on 12 permits during the period between October 2008 and March 2010 involving excise duty of ₹ 2.07 crore without payment of duty or executing a bond in Form D-2 with adequate solvent sureties. The officer-in-charge (OIC) of the distilleries did not take any action to send the cases to the EC to fix the amount for execution of the bond. We further observed that though the verification reports from the destination units were not obtained and submitted to the permit issuing authority

within the prescribed period of 40 days, no amount could be recovered from the licensees due to non-execution of security bond. This resulted in non-realisation of revenue of ₹ 2.07 crore.

After we pointed out the cases, the EC stated (May 2011) that the verification reports had been received in respect of Gwalior district. DEO, Khargone stated (December 2010) that all the verification reports have been received. The replies are not acceptable as the Department failed to recover the duty on non-receipt of the verification reports within the prescribed time limit as per rule.

<sup>6</sup> M/s Associated Alcohol and Brewery Ltd., Barwah, Khargone and M/s Gwalior Distillers Ltd. Rairu, Gwalior.

\* Form of bond to be executed on the removal of spirit from the licensed premises of D-1 licence (licence for manufacture of spirit in a distillery) for export/import in bond.

We reported the matter to the EC and the Government between November 2010 and May 2011; their replies except that of EC in respect of Gwalior district have not been received (March 2012).

### 3.7 Non-recovery of excise duty/non-imposition of penalty

#### 3.7.1 On inadmissible wastage in transport and export of foreign liquor/beer

The Madhya Pradesh Foreign Liquor Rules provide that the maximum wastage allowance for all exports 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 districts. If wastages/losses during the export or transport of bottled foreign liquor/beer exceed the permissible limit, the prescribed duty on such excess wastage shall be recovered from the licensee. Further, as per amendment made by the State Government vide notification dated 3 October 2008, on all deficiencies in excess of the limits allowed under the rules, the licensee shall be liable to pay penalty at a rate exceeding three times but not exceeding four times the maximum duty payable on foreign liquor at that time, as may be imposed by the EC or any officer authorised by him.

We observed from EVCs of four foreign liquor warehouses<sup>7</sup>, four distilleries<sup>8</sup>, six breweries<sup>9</sup> and one CSD<sup>10</sup>, in 10 districts<sup>11</sup> between May 2009 and February 2011 that in 3,160 cases during export/ transport of foreign liquor/ beer, 29,299.67 PL of spirit and 1,11,321.7 BL of beer was shown as wastage in excess of the admissible limit by the licensees during the period between May 2008 and January 2011 on which duty/ minimum penalty of ₹ 6.71 crore was recoverable from the licensees. However the Department did not impose/recover the

penalty. This resulted in non-realisation of revenue of ₹ 6.71 crore.

After we pointed out the cases, the EC stated (February 2011) in regard to Chhatarpur and Khargone district that the cases for imposition of penalty were sent to the Deputy Commissioner Excise (DC) of the concerned division and

<sup>7</sup> Gwalior, Indore, Itarsi (Hoshangabad) and Jabalpur.

<sup>8</sup> M/s United Spirit Ltd, (Sarvar), Bhopal, M/s Oasis Distillery Ltd., Dhar, M/s Gwalior Distiller's Ltd, (Rairu), Gwalior and Associated Alcohol and Brewery Ltd, Khodigram, Khargone.

<sup>9</sup> M/s Lilasons Brewery Ltd, Bhopal, M/s Jagpin Breweries Ltd, (Nowgaon), Chhatarpur, M/s M P Beer Product Ltd, Indore, M/s Mount Everest Breweries Ltd, Indore, M/s Skol Breweries Ltd, (Banmore), Morena, and M/s Som Distillery and Breweries Ltd, Raisen.

<sup>10</sup> Canteen Store Department, Jabalpur.

<sup>11</sup> Bhopal, Chhatarpur, Dhar, Gwalior, Hoshangabad, Indore, Jabalpur, Khargone, Morena and Raisen.

action for recovery would be taken accordingly. DEO Dhar stated (March 2011) that an amount of ₹ 34,365 had been recovered. AEC Jabalpur in regard to CSD and Raisen stated in December 2009 and September 2010 that the cases for imposition of penalty would be sent to the DC of the division and action would be taken as per his orders. The remaining Excise Officers stated (between April 2010 and February 2011) that the cases were sent to DC of the division for imposition of penalty and action for recovery would be taken after imposition of penalty. Further reports have not been received (March 2012).

We reported the matter to the EC and Government between December 2010 and May 2011; their replies except those of EC in regard to Chhatarpur and Khargone district have not been received (March 2012).

### 3.7.2 On inadmissible wastage of spirit/country liquor

The Madhya Pradesh Distillery Rules allow wastage 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. Further, according to MP Country Spirit Rules, the maximum wastage allowance for transport of bottled country liquor from manufacturing warehouse to storage warehouse shall be 0.5 *per cent* irrespective of the distance. In case of all wastages beyond the permissible limit, the licensee shall be liable to pay penalty at a rate exceeding three times but not exceeding four times the duty payable on country liquor at that time.

We observed from the records of EVCs in one distillery<sup>12</sup>, two country liquor warehouses<sup>13</sup> and three DEOs<sup>14</sup> in five districts<sup>15</sup> between September 2009 and June 2010 that in 117 cases during export/transport of ENA<sup>16</sup>/spirit/bottled country liquor, 42,524.75 PL of spirit was shown as wastage in excess of the admissible limit by the licensees during the period between March 2009 and March 2010, on which minimum penalty of ₹ 1.91 crore was recoverable from them. It was however, seen that the penalty was not imposed and recovered by the Department. This resulted in non-realisation of revenue of ₹ 1.91 crore

After we pointed out the cases, the EC intimated (March 2011) that the recovery of ₹ 38,000 has been made by DEO Chhatarpur. AEC Gwalior stated (February 2011) that penalty of ₹ 1.73 lakh was imposed on the distiller and a notice to deposit the amount was issued (July 2010) but he did not deposit the amount as it was stayed by the EC on his appeal. He further stated that action for recovery would be taken after disposal of the case by EC. The Excise Officers Dewas and Khargone

<sup>12</sup> M/s Associated Alcohol and Brewery Ltd. Barwah (Khargone).

<sup>13</sup> Dabra (Gwalior) and Khargone.

<sup>14</sup> Chhatarpur, Dewas and Tikamgarh.

<sup>15</sup> Chhatarpur, Dewas, Gwalior, Khargone and Tikamgarh.

<sup>16</sup> Extra Neutral Alcohol.

stated between April and June 2010 that the cases for imposition of penalty had been sent to higher authorities and recovery would be made after imposition of penalty. Further reports and replies in the remaining cases have not been received (March 2012).

We reported the matter to the EC and Government between December 2010 and May 2011; their replies except the reply of EC in case of Chhatarpur district have not been received (March 2012).

### 3.8 Non-levy of penalty on shortage of spirit/foreign liquor

The Madhya Pradesh Foreign Liquor Rules, 1996, allow wastage of spirit at the rate of 1.5 per cent for racking, storage, evaporation etc. during the process of distillation and bottling of foreign liquor in manufacturing unit of foreign liquor (FL 9\* and FL 9A\*\* licensee). On any shortage in excess of the permissible limit, the licensee shall be liable to pay penalty at a rate exceeding three times but not exceeding four times the maximum duty payable on foreign liquor at that time, as may be imposed by the Excise Commissioner or any officer authorised by him.

During test check of the records of M/s S. G. Distilleries, Jabalpur in December 2010, we observed that the excise authorities in the course of physical verification of stock held by the licensee on 9 December 2010, noticed shortage of 8,021.9 PL spirit and 2,479.14 PL bottled foreign liquor. As such, minimum penalty of ₹ 2.06 crore was recoverable on 10,088.35<sup>17</sup> PL of spirit found short over the admissible limit. It was however, seen that no action was taken by the Department to impose and recover the

penalty. This resulted in non-realisation of revenue of ₹ 2.06 crore.

We reported the matter to the Excise Commissioner and Government between March and May 2011; their reply has not been received (March 2012).

<sup>17</sup> Balance as per books 27,512.87 PL, balance found on physical verification 17,011.83 PL, shortage 10,501.04 PL, admissible 412.69 PL so excess 10,088.35 PL.

\* FL 9 Licence-manufacturing and bottling of foreign liquor by blending.

\*\* Special bottling licences (FL 9A) may be granted to such licensee who has been franchised (authorised/conferred franchised) for bottling specified brand/brands of foreign liquor by the holder of a similar/appropriate licence in any part of the country outside Madhya Pradesh.

### 3.9 Short recovery of annual licence fee

The notification (for sale of liquor in liquor shops for the year 2009-10) dated 16 January 2009 issued by the Excise Commissioner, Gwalior provides that adjustment up to maximum 20 per cent in licence fee from country liquor to foreign liquor shop or *vice versa* in a group of shops may be allowed by AEC/DEO of the district by examining the demand and requirement of the concerned licensee after approval of the Dy. Commissioner of the division. The information of such adjustment should also be sent to the Excise Commissioner by AEC/DEO at the same time. Further, each shop within the group has its individual and independent identity.

During test check of the records of two District Excise Offices<sup>18</sup>, between August 2010 and February 2011, we observed that the licence fee of six foreign liquor shops<sup>19</sup> of six different groups for the year 2009-10 was ₹ 3.86 crore. An adjustment of 20 per cent of licence fee of ₹ 1.11 crore during the period from May 2009 (second fortnight) to March 2010 from eight country liquor shops<sup>20</sup> within the groups was allowed by AEC/DEO with the approval of Dy. Commissioner of the division. As such, the licence fee of foreign liquor shops for the year 2009-10 worked out to ₹ 4.97 crore. It was

however, seen that licence fee of ₹ 4.10 crore only was deposited in case of foreign liquor shops leaving the balance of ₹ 87 lakh unrecovered. This resulted in short realisation of licence fee of ₹ 87 lakh.

After we pointed out the cases, the AEC Sagar stated (August 2010) that the issue of liquor was obtained by the licensees as per their requirement under the maximum limit of adjustment of 20 per cent and the prescribed licence fee was deposited for the group. Hence, there is no loss to the Government. DEO Hoshangabad stated (February 2011) that the adjustment of 20 per cent was not availed by the licensees and no amount of licence fee has remained unrecovered. Hence, there is no loss to the Government. The reply is not acceptable as once the orders for adjustment of licence fee from country liquor shop to foreign liquor shop or *vice versa* sought by the licensee have been passed, the licensee had to necessarily deposit the additional licence fee for the shop for which quantity has been sought to be enhanced notwithstanding the fact that the licensee ultimately does not lift the enhanced quantity of the liquor for which enhancement was sought or lifts the quantity to the extent of licence fee deposited for the liquor shop for which reduction was sought.

We reported the matter to the Excise Commissioner and the Government between January and May 2011; their replies have not been received (March 2012).

<sup>18</sup> DEO Hoshangabad and AEC Sagar.

<sup>19</sup> Gadakota, Devari, Mandibamora, Shahgarh of Sagar district, Pachmari and Sohagpur of Hoshangabad district.

<sup>20</sup> Gadakota, Devari, Mandibamora, Shahgarh, Pachmari, Silari chock, Etwara and Sohagpur.

### 3.10 Non-realisation of excise duty due to non-disposal of foreign liquor

The Madhya Pradesh Foreign Liquor Rules provide that on expiry, non-renewal and cancellation of licence 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 licence 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.

We observed in one foreign liquor bottling unit<sup>21</sup> and two foreign liquor warehouses<sup>22</sup> between May and June 2010 that no action was taken by the Department to dispose of the stock of 12,938.318 PL bottled foreign liquor lying undisposed off in the foreign liquor warehouses and stock of 27,515.97 PL lying undisposed in the bottling unit on expiry of the licences of manufacturing units/non-renewal of labels of liquor, after lapse of periods ranging from two to 50 months. The disposal could not be done in

most of the cases as orders were not released by the Excise Commissioner. This resulted in non-realisation of revenue of ₹ 79.03 lakh.

After we pointed out the cases the AEC, Bhopal and Gwalior stated in June 2010 and March 2011 respectively that the proposal for disposal of foreign liquor had been sent (between September 2010 and March 2011) to the EC and action would be taken on receipt of the orders. Further report has not been received (March 2012).

We reported the matter to the EC and the Government between January and May 2011; their replies have not been received (March 2012).

<sup>21</sup> M/s Vinayak distillery Ltd., Gwalior (F.L. 9).

<sup>22</sup> Bhopal and Gwalior.



### 3.11 Non-realisation of duty on irregular issue of liquor

The conditions of sale of liquor shops for the year 2009-10 issued by the Excise Commissioner under notification dated 16 January 2009 provide that the annual licence fee of liquor shops shall be paid by the licensee in 24 fortnightly installments on due dates as prescribed therein. It is further provided in the notification that the last installment must be deposited by 25th March 2010, failing which liquor will not be issued on the amount deposited. Further, departmental instructions (02 December 2008) provide that issue of liquor against the installment of annual licence fee deposited after due date is illegal and duty along with interest shall be recovered in such cases. However, the rate of interest was not mentioned in these instructions.

During test check of records [Demand and Collection register of licence fee (G-2), challans and liquor issue register] of two District Excise Offices (DEO)<sup>23</sup> between July and November 2010 we observed that 10 licensees of liquor shops had deposited the prescribed fortnightly licence fee of ₹ 24.23 lakh after the due dates. Besides, 12 licensees of liquor shops had not deposited the last installment of annual licence fee of the year 2009-10 amounting to ₹ 26.07 lakh on or before 25 March 2010. There was delay ranging between one to six days from the prescribed date. As such, the issue of liquor was not admissible to these licensees as per rule. It

was however, seen that the Department issued the liquor against the amount deposited after the due date. This resulted in irregular issue of liquor involving duty of ₹ 50.30 lakh which was required to be recovered with interest. However, no action was taken by the Department.

We reported the matter to the EC and the Government between March and May 2011; their replies have not been received (March 2012).

<sup>23</sup>

Chhindwara and Indore.

### 3.12 Irregular issue of country liquor

The conditions for sale of liquor through shops for the year 2009-10 under notification dated 16 January 2009 issued by the Excise Commissioner, provide that if the licensee of a retail liquor shop deposits the amount of annual licence fee by deducting the amount of security deposit and any other amount due, prior to the end of the financial year 2009-10 and he desires the adjustment of security deposit against the remaining licence fee, the AEC/DEO may allow such adjustment. The issue of liquor on the amount equal to the security deposit may be allowed as per provision, but the issue of liquor on the amount in excess of the prescribed fortnightly licence fee in any fortnight will not be allowed.

During test check of the records of two Assistant Excise Commissioner<sup>24</sup> Offices, (AEC) between July and November 2010 we observed that the licensees of seven liquor shops were allowed adjustment of security deposit, of ₹ 78.02 lakh at the end of January 2010. Out of this on an amount of ₹ 76.47 lakh the issue of liquor was allowed to the licensees in Ist and IInd fortnights of March 2010 which was in excess by ₹ 35.50 lakh from the prescribed licence fee of ₹ 40.97 lakh of the fortnight. This resulted in irregular issue of liquor involving duty of ₹ 35.50 lakh.

We reported the matter to the Excise Commissioner and the Government between

January and May 2011; their replies have not been received (March 2012).

### 3.13 Incorrect allowance of wastage of spirit and foreign liquor

The Madhya Pradesh Foreign Liquor Rules provide an allowance on wastages in blending operations during manufacture of foreign liquor at the rate of one *per cent* of the quantity of spirit/Extra Neutral Alcohol (ENA) added to the blending vat\*. In case of wastages beyond the permissible limit, the licensee shall be liable to pay penalty at the rate exceeding three times but not exceeding four times the maximum duty payable on foreign liquor at that time, as may be imposed by the EC or any officer authorised by him.

We observed from the records of one distillery<sup>25</sup> in December 2010 that 2.22 lakh PL of ENA was transferred from storage vats to blending vats for manufacturing foreign liquor in 88 cases between December 2009 and October 2010 and 886.45 PL was accounted as blending wastage in storage vats. As no blending activities were conducted in the storage vats, this wastage is not admissible. Besides, in 17 cases,

<sup>24</sup> Indore and Sagar.

\* Foreign liquor manufacturing vat.

<sup>25</sup> M/s Redson Distillery (FL-9) Jabalpur.

26,573.15 PL of ENA was added to the blending vats for manufacturing foreign liquor and 299.7 PL was shown as blending wastage, thereby, excess wastage of 33.9 PL against the permissible limit of 265.8 PL was allowed. As such total wastages of 920.35 PL of ENA/foreign liquor was inadmissible on which minimum penalty of ₹ 18.72 lakh was leviable. However, it was seen that no penalty was imposed and recovered by the Department. This resulted in non-realisation of revenue of ₹ 18.72 lakh.

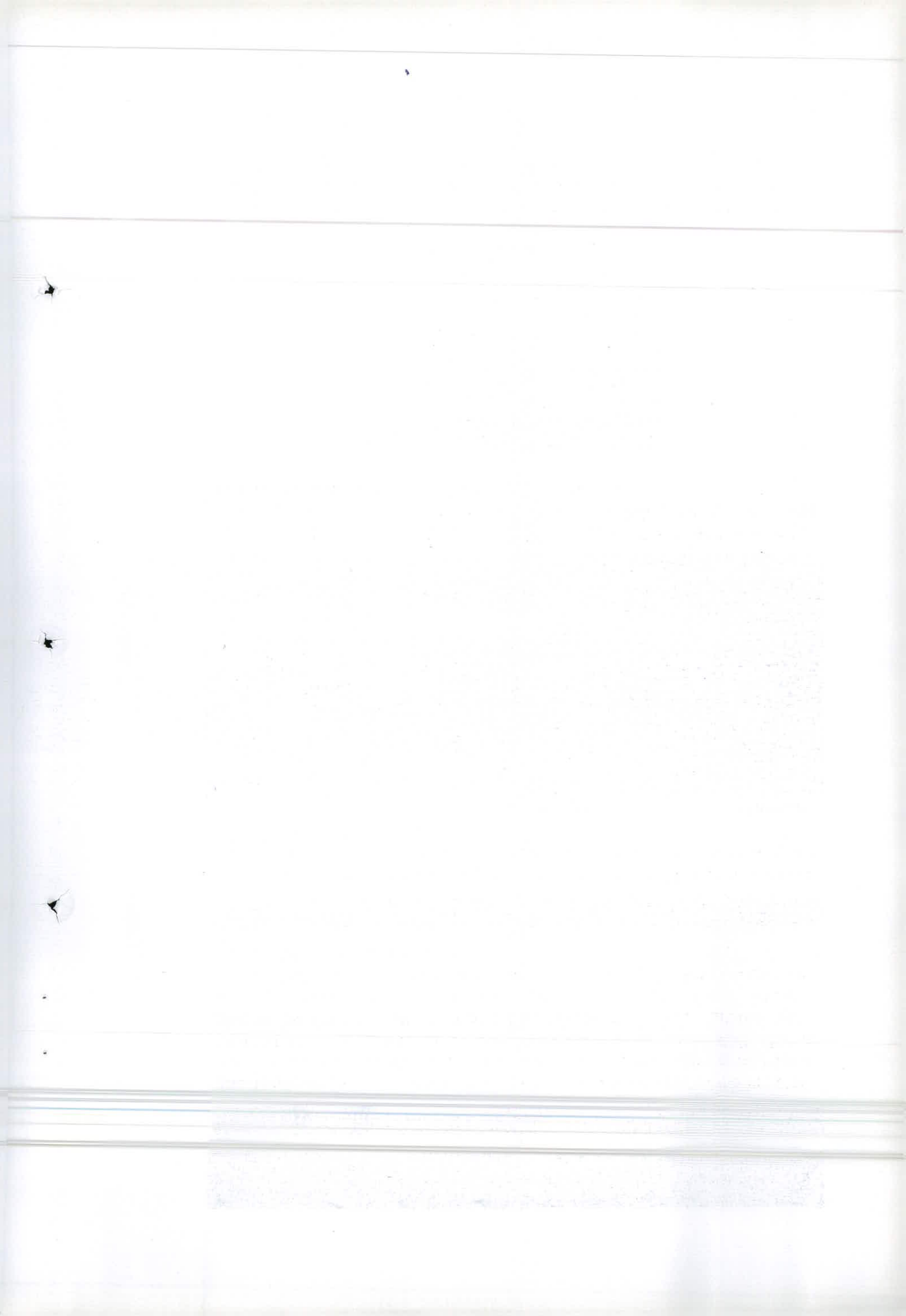
We reported the matter to the EC and the Government between March and May 2011; their replies have not been received (March 2012).

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## EXECUTIVE SUMMARY

<b>Tax collection</b>	<p>In 2010-11, the collection of taxes from motor vehicles increased by 30.40 <i>per cent</i> over the previous year which was attributed to increase in life-time tax and registration of more vehicles.</p>
<b>Results of audit conducted by us in 2010-11</b>	<p>In 2010-11, we test checked the records of 26 units relating to taxes on motor vehicles and found under-assessment of tax and other observations involving ₹ 11.46 crore in 3,845 cases.</p> <p>The Department accepted under assessment and other deficiencies of ₹ 4.56 crore in 1,849 cases, which were pointed out by us during the year 2010-11. An amount of ₹ 3.18 crore was recovered in 3,520 cases during the year 2010-11.</p>
<b>What we have highlighted in this Chapter</b>	<p>In this Chapter, we present illustrative cases of ₹ 10.49 crore selected from observations noticed during our test check of records relating to assessment and collection of tax/fee/penalty on motor vehicles in the office of the Transport Commissioner (TC) and the Regional Transport Officers (RTOs), where we found that the provisions of the Acts/Rules were not observed.</p> <p>It is a matter of concern that similar omissions have been pointed out by us repeatedly in the Audit Reports for the past several years, but the Department has not taken corrective action.</p> <p>We also conducted a performance audit on <b>“Computerisation in the Motor Vehicles Department”</b> which revealed several deficiencies in the automated system.</p>
<b>Our conclusion</b>	<p>The Department did not observe the roster fixed for internal audit. Therefore it needs to improve the internal control system including strengthening of internal audit so that weaknesses in the system are addressed and omissions of the nature detected by us are avoided in future.</p> <p>It also needs to initiate immediate action to recover non-realisation of tax and penalty pointed out by us, more so in those cases where it has accepted our contention.</p>



## CHAPTER - IV TAXES ON VEHICLES

### 4.1 Tax administration

The Transport Department functions under the overall charge of the Principal Secretary (Transport). The levy and collection of tax/fee/penalty on vehicles is administered and monitored by the Transport Commissioner (TC). He is assisted by three Deputy Transport Commissioners (DTC), internal audit wing at headquarters level, 10 regional transport offices (RTOs), 10 additional regional transport offices (ARTOs) and 30 district transport offices (DTOs) at the field level.

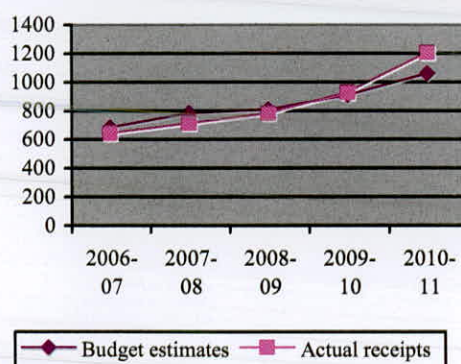
### 4.2 Trend of receipts

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

(₹ 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
2006-07	675.00	634.30	(-) 40.70	(-) 6.02	10,473.13	6.06
2007-08	775.00	702.62	(-) 72.38	(-) 9.34	12,017.64	5.85
2008-09	800.00	772.56	(-) 27.44	(-) 3.43	13,613.50	5.68
2009-10	900.00	919.01	(+) 19.01	(+) 2.11	17,272.77	5.32
2010-11	1,050.00	1,198.38	(+) 148.38	(+) 14.13	21,419.33	5.59

It may be seen that though there was an increasing trend in receipts during the years from 2006-07 to 2010-11, percentage of variation between BEs and actuals ranged between (-) 9.34 per cent and 14.13 per cent.



In 2010-11, the collection of taxes from motor vehicles increased by 30.40 per cent over the previous year which was attributed to increase in life-time tax and registration of more vehicles.

### 4.3 Analysis of budget preparation

No files regarding budget preparation were made available to the audit at Government level. However, we observed from the records available at the office of the Head of the Department that the budget estimates were prepared on an *ad hoc* basis without following any uniform criteria on estimating the receipts to be actually realised during the year.

### 4.4 Cost of collection

The gross collection in respect of taxes on vehicles, expenditure incurred on collection as furnished by the concerned Department and the percentage of expenditure to gross collection during the years 2008-09, 2009-10 and 2010-11 along with the relevant all India average percentage of expenditure on collection to gross collection for the relevant previous year are mentioned below:

(₹ in crore)

Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage for the previous year
2008-09	772.56	5.88	0.76	2.58
2009-10	919.01	12.63	1.38	2.93
2010-11	1,198.38	31.12	2.60	3.07

We noticed that the cost of collection is well below the all India average.

### 4.5 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 and checking the repetition thereof. During the year 2010-11, internal audit of 46 districts was planned against which internal audit was conducted only in 28 districts. The records of monthly and quarterly tax were scrutinised by the IAW in all districts. The Department had issued instructions on the objections for corrective measures.



#### 4.6 Results of audit

Test check of the records of 26 units in 2010-11 relating to taxes on vehicles during the year revealed underassessment of tax and other irregularities involving ₹ 11.46 crore in 3,845 cases which fall under the following categories:

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
1.	<b>Computerisation in the Motor Vehicles Department (A performance audit)</b>	1	0.00
2.	Non/short levy of vehicle tax, penalty and composition fee on public service vehicles.	1,503	6.41
3.	Non/short levy of vehicle tax and penalty on goods vehicles.	1,578	3.63
4.	Other observations	763	1.42
	<b>Total</b>	<b>3,845</b>	<b>11.46</b>

During the course of the year, the Department accepted underassessment and other deficiencies of ₹ 4.56 crore in 1,849 cases, which were pointed out in audit during the year 2010-11 and realised ₹ 3.18 crore in 3,520 cases during the year 2010-11.

A few illustrative audit observations involving ₹ 10.49 crore and a Performance Audit on “**Computerisation in the Motor Vehicles Department**” highlighting important audit findings are mentioned in the following paragraphs.

## **4.7 Computerisation in the Motor Vehicle Department**

### **Highlights**

Registration certificates were issued for validity periods beyond the permissible period in 11,991 cases.

**(Paragraph 4.7.7)**

Driving licences to drive a transport/other than transport vehicle were issued for a period beyond permissible period.

**(Paragraph 4.7.11)**

Driving licence to drive motor vehicle with gear or light motor vehicle was issued to applicants who were minors.

**(Paragraph 4.7.12)**

In key fields either data was not entered or invalid data was entered.

**(Paragraph 4.7.15)**

In absence of validation checks duplicate insurance cover notes were used for 1,66,987 vehicles.

**(Paragraph 4.7.19)**

PAN data was not given due importance as it was not entered in the database in respect of 26,07,756 vehicles.

**(Paragraph 4.7.20)**

The locally developed application did not capture information relating to enforcement, insurance updation, applicant's biometrics for learner's licence etc. leaving scope for issue of improper driving licences or other misuses.

**(Paragraph 4.7.21)**

### 4.7.1 Introduction

Road Transport is a concurrent subject under the Indian Constitution. While the legislation and co-ordination of road transport among States is done by the Central Government, implementation of the various provisions of Motor Vehicles (MV) Act is done by the States.

The Central Government had been encouraging the States since January 2001 to work on standardised application formats so that the registration certificates/national permits/driving licences are readable throughout the country. In the year 2002, the Ministry of Road Transport and Highways, Government of India entered into a Memorandum of Understanding with the National Informatics Centre (NIC), New Delhi to develop standardised formats – VAHAN and SARATHI. The VAHAN software for registration of vehicles, collection of taxes, penalty etc. and the SARATHI software for issue of Learner's licence, Driving licence, Motor training school licence etc. were developed by the NIC for the whole country.

However, the State Government executed an agreement with M/s Smart Chip (I) Limited (SCL) in October 2001 for Smart card based registration of vehicles and driving licences on Build Own Operate (BOO) basis for a period of five years. In 2007, the contract {on Build Own Operate and Transfer (BOOT) basis} for issue of smart card based registration and driving licences was renewed upto December 2012 with the condition that the application should be compatible with VAHAN and SARATHI softwares developed by NIC and their database could be integrated with the database of NIC.

The application software of SCL uses Windows as the front-end application programme and IBM DB2 (9.5 version) for the backend database with three tier architecture.

### 4.7.2 Organisational setup

The Transport Department functions under the overall charge of the Principal Secretary (Transport). Issue of driving licences and levy and collection of tax/fee/penalty on vehicles is administered and monitored by the Transport Commissioner (TC). He is assisted by three Deputy Transport Commissioners (DTC) and an internal audit wing at Headquarters level. There are 10 Regional Transport Offices<sup>1</sup> (RTOs), 10 Additional Regional Transport Offices<sup>2</sup> (ARTOs) and 30 District Transport Offices<sup>3</sup> (DTOs) at the field level. The DTC (Enforcement) monitors the computerisation activities in the Department.

<sup>1</sup> Bhopal, Gwalior, Hoshangabad, Indore, Jabalpur, Morena, Rewa, Sagar, Shahdol and Ujjain.

<sup>2</sup> Chhartarpur, Chhindwara, Dhar, Guna, Katni, Khandwa, Khargone, Mandsaur, Satna and Seoni.

<sup>3</sup> Alirajpur, Anuppur, Ashoknagar, Balaghat, Barwani, Betul, Bhind, Burhanpur, Damoh, Datia, Dewas, Dindori, Harda, Jhabua, Mandla, Narsinghpur, Neemuch, Panna, Raisen, Rajgarh, Ratlam, Sehore, Shajapur, Sheopur, Shivpuri, Sidhi, Singrauli, Tikamgarh, Umari and Vidisha.

### **4.7.3 Audit objectives**

The performance audit was conducted to ascertain whether:

- the locally developed software facilitates creation of State and National Registers of vehicles and licences;
- the computerised system ensured correctness, completeness and accuracy of the data;
- mapping of business rules and provisions of Act was ensured; and
- the local applications for vehicle registration and driving licences are in alignment with the structure of VAHAN and SARATHI.

### **4.7.4 Scope and methodology of audit**

A mention was made in Paragraph 4.2 regarding Computerisation Project in the Transport Department in the report of Comptroller and Auditor General of India (Revenue Receipts) of Government of Madhya Pradesh for the year ended 31 March 2007. The review has been discussed in the Public Accounts Committee (PAC) in its meeting held in July 2011. The recommendations of the PAC are awaited.

The data for the period April 2007 to June 2011 for the whole State were provided by the Transport Department in a client server and the same was analysed using the generalised audit software - IDEA (Interactive Data Extraction and Analysis) by audit during the period July 2011 to September 2011. The results of data analysis in respect of five field offices<sup>4</sup> were cross checked with manual records.

### **4.7.5 Acknowledgement**

The Indian Audit and Accounts Department acknowledges the co-operation of the Transport Department for providing necessary information and records to audit. An entry conference was held in June 2011 to discuss the objectives, scope and methodology of audit. The Department was represented by the TC while the Dy. Secretary represented the Government. The exit conference was held in December 2011. The Principal Secretary and Secretary represented the Government while the TC represented the Department and their views have been duly incorporated in this report.

## **Audit Findings**

### **4.7.6 Data capturing for State Register and transmission of data for National Register to NIC**

The customised module developed by M/s SCL captures the data required for the State Register as per the requirement of the MV Act. The data for the National Register for registration of vehicles and data relating to driving

<sup>4</sup> RTO- Bhopal, Gwalior, Jabalpur, Morena and ARTO- Satna.

licences for the State Register is transmitted on a daily basis through the server installed by NIC at the Data Centre situated in the office of the Transport Commissioner at Gwalior.

The Department endorsed (November 2011) the reply of SCL stating that data for National and State Register is maintained by NIC and data from Transport Department is made available to NIC which is ported by NIC automatically for the purpose of maintaining National and State Registers as per the guidelines of Ministry of Road Transport and Highways, Government of India.

The data analysis of the tables used for capturing and transmitting data for State/National Register had shown input, process and validation control deficiencies as discussed in subsequent paragraphs. These deficiencies affect the quality of data being captured for the State/National Register.

## Mapping of business rules and provisions

### 4.7.7 Registration certificate validity beyond permissible period

According to Section 41(7) of the MV Act, a certificate of registration issued under sub-section (3) in respect of a motor vehicle, other than a transport vehicle, shall be valid only for a period of fifteen years from the date of issue of such certificate and shall be renewable for a period of five years at a time thereafter.

Analysis of the data in respect of 48 offices<sup>5</sup> revealed that 11,991 registration certificates issued by the Department between April 2007 and June 2011 were for validity periods beyond the permissible period of 15 years. The results of the data analysis in respect of 23 registration certificates were confirmed through manual test

check of records made available in RTO, Bhopal and Morena.

The Department accepted the audit observation and stated (December 2011) that all the 11,991 registration certificates were issued in conversion and transfer of ownership cases and no such problem has been noticed in the case of new registrations. The reply of the Department is not tenable as the cases pointed out by audit include cases of new registration also.

### 4.7.8 Fitness issued beyond permissible period

According to Section 56 of the MV Act, 1988 and Rule 62 of the Central Motor Vehicles Rules, 1989 (CMVR), a certificate of fitness granted in respect of the transport vehicles shall be in Form 38 and such certificate when renewed shall be valid for a period of one year.

It was noticed in 886 cases pertaining to the period April 2007 to September 2010 in respect of 44 offices<sup>6</sup> that fitness certificates were renewed for more than one year contrary to the provisions which has serious implications on road safety. Further, in 127 cases of non-transport vehicles

<sup>5</sup> Except DTO- Alirajpur and Burhanpur.

<sup>6</sup> Except DTO- Alirajpur, Ashok nagar, Burhanpur, Damoh, Dindori and Sheopur.

fitness certificates were issued/renewed beyond the permissible period. To verify the accuracy of the data, we checked the manual records in 90 cases made available to us and found that in 17 cases (14, two and one case respectively in Bhopal, Gwalior and Morena) the fitness certificates were issued beyond the permissible period. In the remaining 73 cases the starting date of fitness was incorrectly entered in the database though fitness certificate was found to have been correctly issued for the permissible period.

The Department accepted the audit observation relating to fitness certificates for transport vehicles and non-transport vehicles and for transport vehicle stated (December 2011) that the first version of the application was not designed to control the fitness validity as per MV Act. It was further stated that the application in use at present was controlling the fitness period correctly. With respect to non-transport vehicles it was stated that the validity of fitness was being stored with other data only till 2008. Expiry of registration now automatically applies on fitness certificates. With the updated software (October 2010) the repetition of instances pointed out by audit is ruled out.

#### 4.7.9 Lack of continuity of registration numbers

The MV Act provides that a registering authority shall assign a unique mark (Registration number) in a series to every vehicle at the time of registration. Allotment of advance registration number (except reserve numbers which are notified by the Department/Government) for a vehicle is made at the request of a vehicle owner for a specific number chosen by him as per rule 55(a) of *Madhya Pradesh Motoryan Niyam*. In a single series, 9999 number can be allotted to vehicles, in a sequential manner, unless certain numbers are reserved or blocked at the request of the vehicle owner.

Analysis of sample data relating to buses revealed that in 95 cases of 'P' series of DTO, Shivpuri the registration numbers were not allotted in a sequential manner. In addition to this, the registration number of the subsequent series (e.g. PB) was allotted prior to the immediately preceding series (e.g. PA). This shows improper management of registration of vehicles. Besides, possibility of misuse of unallotted numbers cannot be ruled out.

#### 4.7.10 Failure of the Department to levy penalty on delayed payment of vehicle tax

According to Section 13 of the *Madhya Pradesh Motoryan Karadhan Adhiniyam, 1991*, if the tax due has not been paid by the owner of the vehicle within the prescribed period i.e. up to 15<sup>th</sup> of each quarter in respect of goods vehicle, the owner would be liable to pay a penalty at the rate of four *per cent* per month on the unpaid amount of tax subject to a maximum of twice the amount of tax due.

Analysis of the data of goods vehicle in respect of 47 offices<sup>7</sup> revealed that in case of 891 cases {vehicles having Registered Laden Weight (RLW) 16200 Kgs} and 971 cases (vehicle having RLW 25000 Kgs) vehicle tax was paid between April 2010 and March 2011 with a delay of one to 12 months. Penalty was, however, not imposed.

This resulted in non-levy and recovery of penalty amounting to ₹ 8.25 lakh. Results of the data analysis were confirmed by manual test check of records in respect of 33 cases out of 53 cases which were made available in RTO, Gwalior. This reflects that there is no provision in the software to work out penalty for delayed payment of tax.

#### 4.7.11 Driving licence to drive a transport/other than transport vehicle issued beyond permissible period

According to Section 14 of MV Act, a driving licence issued or renewed to drive a transport vehicle/other than transport vehicle be effective for limited period of three years/20 years or the age of 50 years, whichever is earlier, and after the age of 50 years, licence is renewed for a period of five years at a time.

Analysis of the data in respect of 41 offices<sup>8</sup> revealed that in the case of 72 driving licences issued to drive transport vehicles and 1,051 driving licences issued to drive other than transport vehicles, the validity of these driving licences was beyond the permissible period. The

results of the data analysis were confirmed by manual test check in eight records out of 18 records made available in RTOs, Gwalior and Morena.

The Department accepted the audit observation and stated (December 2011) in respect of driving licences issued for transport vehicles that reasons for such lacunae are being analysed to enable incorporation of appropriate checks to prevent such recurrence in future. In respect of driving licences issued for non-transport vehicles, it was stated that the facility of manual feeding of data has been withdrawn now and therefore such instances would not recur in future.

<sup>7</sup> Except DTO- Alirajpur, Burhanpur and Neemuch.

<sup>8</sup> Except ARTO- Dhar, Katni, DTO- Alirajpur, Ashoknagar, Burhanpur, Dewas, Dindori, Jhabua and Sheopur.

#### 4.7.12 Driving licence issued to minor applicants

According to Section 4(1) of the MV Act, no person under the age of eighteen years shall drive a motor vehicle in any public place, provided that a motor cycle with engine capacity not exceeding 50CC may be driven in a public place by a person after attaining the age of sixteen years.

Analysis of the data in respect of five offices<sup>9</sup> revealed that six driving licences were issued to minors to drive a vehicle with gear or non-transport, light motor vehicle.

The Department accepted, the audit observation and stated (December 2011) that necessary updation in the software is in progress to rule out any such recurrence in future.

#### 4.7.13 Driving licence issued to persons having more than one driving licence

According to Section 6(1) of the MV Act, no person shall, while he holds any driving licence for the time being in force, hold any other driving licence except a learner's licence or a driving licence issued in accordance with the provisions of Section 18 or a document authorising, in accordance with the rules made under Section 139, the person specified therein to drive a motor vehicle.

Analysis of the data in respect of 42 offices<sup>10</sup> revealed that 1,165 persons were holding two driving licences. Manual test check of records in RTO, Gwalior revealed that three persons were holding two driving licences.

The system should be designed to check whether any licence in any category has been allotted to the applicant at the time of processing of application for a driving licence.

The Government stated during the exit conference that the possibility of inbuilt biometric verification in the system of the person applying for issue of driving licence would be explored and implemented, if found feasible.

#### Input, process and validation control deficiencies

Input Controls guarantee that (i) the data received for processing are genuine, complete, not previously processed, accurate and properly authorised and (ii) data are entered accurately and without duplication. Input control is extremely important as the most important source of error or fraud in computerised systems is incorrect or fraudulent input. Controls over input are vital to the integrity of the system.

The accuracy of data input to a system can be controlled by imposing a number of computerised validity checks on the data presented to the system. Automated validation checks should be sufficient to ensure that all data

<sup>9</sup> RTO- Bhopal, Indore, Jabalpur and DTO- Barwani and Sehore.

<sup>10</sup> Except DTO- Alirajpur, Anuppur, Ashoknagar, Burhanpur, Dindori, Sheopur, Singrauli and Umari.



accepted into the system is capable of acceptance by all subsequent process, including acceptance into other systems where there is an automatic transfer of data.

We however, noticed that these controls were deficient as discussed in the succeeding paragraphs.

#### 4.7.14 Existence of duplicate entries

Chassis numbers, engine numbers and registration numbers are unique identification marks of a vehicle which are essential for the purpose of its registration under the provisions of the MV Act.

A mention was made in the para no. 4.2.8.2 of the report of the Comptroller and Auditor General of India (Revenue Receipts) of Government of Madhya Pradesh for the year ended March 2007 regarding existence of duplicate entries. The Government had

accepted the audit observation and stated (September 2007) that the software was being modified to include essential application controls for checking the duplicate entries.

With a view to further ascertain the position we analysed the database in respect of 39 offices<sup>11</sup> and still found duplicate entries in the database. Out of 26,43,369 vehicles registered during the period April 2007 to June 2011, 490 vehicles were registered with duplicate chassis numbers and 442 vehicles were registered with duplicate engine numbers. In case of 23 vehicles, registration numbers already issued to other vehicles were allotted.

The Department stated (December 2011) that duplicate entries pointed out in audit occurred due to partial recording of Engine and Chassis numbers in sale letters issued by the auto-mobile dealers. The reply is not tenable as manual verification of records in four<sup>12</sup> offices revealed that the error occurred in 52 cases due to incorrect data entry.

#### 4.7.15 Data not entered/invalid data entered in key fields

According to the MV Act, tax is levied based on parameters like sale amount and unladen weight in respect of private motor cars, motorcycles etc., seating capacity in case of passenger vehicles like stage carriages and contract carriages and laden weight in the case of goods vehicles.

Analysis of the registration database revealed that certain key fields contained the value as zero/invalid values in several records.

The audit findings are summarised below:

- Unladen weight was not entered in 47,842 cases
- Cubic capacity was not entered in 1,03,364 cases

<sup>11</sup> Except RTO- Morena, DTO- Alirajpur, Anuppur, Ashoknagar, Barwani, Bhind, Burhanpur, Dindori, Sheopur, Shivpuri and Singrauli.

<sup>12</sup> RTO- Bhopal, Gwalior, Jabalpur and ARTO- Satna.

- Seating capacity was not entered in 21,828 cases out of which 11 were passenger vehicles.
- Sale amount was not entered in 19,629 cases.
- Sale amount was entered as more than ₹ 1 crore in 1,587 cases.
- Sale amount entered was  $\leq$  ₹ 1,000 in 3,81,541 cases.
- Commencement date of insurance cover was of a date subsequent to registration date in 1,004 cases.
- The date of expiry was before the date of renewal/issue of driving licence in five cases.
- The date of expiry was same as date of issue of driving licence in one case.
- The validity of the driving licence was entered as 31-December-9999 in one case.

Non/invalid entry of data in the above key fields indicated deficiency in input controls and absence of supervision.

The Department remarked (December 2011) as follows :

- Sale amount cases- The cases reported by audit are related to vehicles where the master data did not exist prior to year 2008. However, registration of vehicle is not possible now without pre-determined vehicle price.
- Missing cases- The cases pointed out by audit relate to old data digitised on the basis of manual records. However, the updated software ensures non-recurrence of such cases.
- In respect of cases relating to date of expiry prior to date of renewal/issue of driving licence, it was stated that the problem has now been rectified; and
- In the case where validity was shown as 31-December-9999, it was stated that the data entry error was overlooked during authorisation process. The system has been updated to prevent such recurrence.

The reply of the Department with respect to sale amount cases and missing cases is not tenable as the sale amount cases pointed out by audit include cases subsequent to the year 2008 also. Similarly, the missing cases relate to vehicles registered during the period April 2007 to June 2011. Further, as the sale amount is the amount on which tax liability depends, the system may provide for such checks that wherever value in this field is missing or is 'zero' it should validate such entries with a suitable field in the system.

#### 4.7.16 Lack of data validation

The MV Act and Rules provide certain basic parameters for certain class or categories of vehicles. For example, the laden weight of goods carriage should not exceed 49,000 kg, seating capacity of two wheelers should not exceed three and insurance cover note validity should not exceed one year.

Analysis of the data revealed a large number of unusual and improbable/incorrect data in the database that implies unreliability of data and inadequate supervision over data input.

We observed that:

- The date of expiry of insurance was the same as the date of commencement of insurance in 193 cases.
- Two wheelers were shown as having seating capacity of more than three in 58 cases.
- Laden weight (RLW) exceeded 49,000 kg in 23 cases.
- Validity of insurance cover note exceeded one year in 26,370 cases.
- Date of manufacture and date of registration was the same in 10,975 cases.
- Agency code was entered in place of insurance cover note number in eight cases.
- The validity of renewal licence was for a period of 16 to 1,504 days in 14,299 cases.
- Duplicate PAN number was entered in 56 cases with different names.

The Department in respect of two wheelers having seating capacity of more than three accepted the audit observation and stated (December 2011) that the software has been updated to check such cases. In respect of validity of renewal licences for a period of 16 to 1504 days, the Department accepted the audit observation and assured to take remedial action. With regard to cases relating to laden weight greater than 49,000 Kg, it was stated that the cases pointed out by audit relate to old data digitised on the basis of manual records. However, the updated software ensures non-recurrence of such cases.

The reply of the Department with respect to cases relating to laden weight is not tenable as the vehicles were registered during the period April 2007 to June 2011.

#### 4.7.17 Blank fields in the database

Scrutiny of the database revealed that many crucial fields were left blank. Further, in many records, a number of fields were having 'negative' or 'zero' or 'junk' values or were left blank. The details of the records are as mentioned in the following table:

Field	Field details	Number of records
Owner name	Blank	1
Insurance cover note	blank/junk	9,81,818
Insurance company name	Blank	40,821
PAN number	blank/junk	26,16,186
Owner income	Zero	26,19,062
Father's name	blank/junk	1,05,011
Chassis number	blank/junk	19,939
Engine number	blank/junk	30,855
Insurance cover note number	alfa/0/ one digit	1,89,461
Driving licence testing authority	Blank	14,208

The Department in respect of driving licence testing authority accepted the audit observation and stated (December 2011) that the software has been updated to check such cases. With respect to missing owner name, it was stated that the case pointed out by audit relates to old data digitised on the basis of manual records and that the updated software ensures non-recurrence of such cases.

The reply of the Department with respect to missing owner name is not tenable as the case relates to vehicles registered in the month of March 2010.

#### 4.7.18 Issue of same driving licence number to two persons

22 offices<sup>13</sup> (Driving licence) and eight<sup>14</sup> offices (Learner's licence)

Driving licence number is unique identification mark of driving licence holder which is essential for the purpose of driving a vehicle under the provisions of the MV Act.

Analysis of the database revealed that 661 driving licence numbers were issued to 1,322 persons and 12 learning licence numbers were issued to 24 persons. During manual test check of data in two field

offices at RTOs Bhopal and Gwalior it was found that driving licence having the same number was issued to two persons in five cases. These were data entry errors which remained undetected resulting in existence of faulty entries in the database.

The Department stated (December 2011) that cases related to a single RTO and server of the RTO had crashed, as a result of which the sequences could not be reset for Driving Licence (DL) and Learner's Licence (LL) owing to data loss. It was further stated that there has not been any other incident of this nature before and after the above case. The reply is not tenable as the irregularity pointed out in audit existed in more than one office.

<sup>13</sup> RTO- Bhopal, Gwalior, Indore, Jabalpur, Rewa, Sagar, Ujjain, ARTO- Chhindwara, Dhar, Guna, Khandwa, Khargone, Mandsaur, Satna, DTO- Barwani, Betul, Bind, Dewas, Harda, Jhabua, Sheopur and Tikamgarh.

<sup>14</sup> RTO- Hoshangabad, Indore, Shahdol, ARTO- Dhar, Katni, DTO- Balaghat, Harda and Tikamgarh.

#### 4.7.19 Registration of two or more vehicles under the same insurance cover note

According to Section 146 of the MV Act, no person shall use a motor vehicle in a public place, unless there is in force in relation to the use of the vehicle, a valid insurance.

Analysis of the database in respect of 43 offices<sup>15</sup> revealed that there were 1,66,987 vehicles with repeated insurance cover note number (same cover note for two or more vehicles).

Further analysis and manual test check of records in respect of 64 vehicles made available in RTO,

Gwalior and Morena confirmed that 12 insurance cover notes were used for 34 vehicles. In the remaining 30 vehicles, the insurance cover note number was incorrectly entered in the system. We found that these were because of incorrect data entry in the system as in the manual records the insurance cover notes were different.

#### Other irregularities

#### 4.7.20 PAN data not given due importance

According to the GOI notification\*, mentioning the PAN/GIR number in the application at the time of registration of vehicle is mandatory. The main purpose for obtaining the PAN is availability of data, if required by the Income Tax Department or other authorities.

We found that for 26,07,756 vehicles PAN number was missing. It could not be ascertained whether the PAN number was not filled in the application by the owner at the time of registration of vehicle or though filled in was not

captured while entering the data. In the first place, in case PAN number was not filled in the application then the application should not have been accepted or an undertaking should have been taken from the applicant that PAN number had not been allotted to the applicant.

The Department stated (November 2011) that though under the MV Act, PAN is not a mandatory field, however, the application supports its inclusion. It is true that the application supports inclusion of PAN but as observed by audit, no importance has been given for inclusion of this crucial information in the database.

The Government during the exit conference accepted the view of audit that due importance needs to be given for capturing the PAN data details in accordance with the direction of the Government of India.

<sup>15</sup> Except RTO- Hoshangabad, ARTO- Dhar, DTO- Alirajpur, Burhanpur, Harda, Shajapur and Vidisha.

\* 400(E) dated 31.05.2002.

#### **4.7.21 Locally developed application**

The locally developed system presently captures most of the information required to be incorporated in the VAHAN and SARATHI softwares relating to vehicle registration and driving licence, except for the following sub-modules/fields:

- Enforcement module;
- Insurance updation;
- Capturing applicant's biometrics for learner's licence;
- Application number/date; and
- Test date field for capturing the date of the test for driving licence.

The Department stated (December 2011) that the sub-modules which have not been developed were not part of the scope of work of the concessionaire. The reply is not tenable as the SCL was required to develop the software in a manner so as to make it compatible with the softwares (VAHAN and SARATHI) developed by the NIC. Regarding the test date field for capturing the date of test for driving licence, it was stated that this field is there in the software. We do not agree as the database made available to us did not show that the data on the test date was being captured through the software.

#### **4.7.22 Provisions for online services**

The citizens of Madhya Pradesh have been provided the following online services enabling them to get the work done/receive information from the comfort of their home/office at a time suitable to them:

- (a) **Online Transaction Services**
1. Online Tax/Fee payment
  2. LL/DL Appointment system
  3. Online permit application system
- (b) **Online Informative Services**
1. E-Sewa
  2. MIS Portal
  3. SMS Service

The Department is, however, yet to provide the online facility of providing status of the application so that an applicant may track the progress of his/her application.

In the exit conference the Government and the Department opined that the facility of tracking the status of an application would be made available, if feasible, on the website of the Department.

#### **4.7.23 Non-development of technical expertise within the Department**

Any IT system though initially developed/implemented through outsourcing has to be invariably taken over by the Department, eventually, by developing expertise within the Department. The data captured through the application is

very critical since it involves personal data relating to the vehicle owners and insurance details besides revenue particulars.

We noticed that the employees of the SCL handled the entire data entry at the departmental counters and were also responsible for administration of the database and hardware. We further observed that efforts were not made to develop expertise within the Department to handle the database entry and administration function and the Department is completely dependent on the concessionaire for all its activities. No departmental officer is being trained simultaneously on operation of the system. Thus, in the event of the concessionaire abruptly abandoning the work, the Department will not be in a position to handle the work independently, leading to possible disruption of work in the transport office.

The Department stated that training is being regularly conducted at the individual RTOs based on the need assessment. However, the Department did not furnish details of personnel trained and the area in which training was imparted.

#### 4.7.24 Delay in issue of smart card based Registration Certificate

According to the agreement the vendor was to issue the smart card based registration certificates (RC) within 24 hours of collection of application from the dealing clerk, failing which the Department was required to impose maximum late fine of ₹ 5 per deviation.

Test check of records in four offices<sup>16</sup> revealed delays ranging between two to 29 days for which the Department was required to impose late fine for the delay in issue of smart card

based RC.

These offices accepted the audit observation and stated that they were not aware as to any action which was to be taken. This shows that the Department has not made available the information to its field offices on the basis of which action for recovery of late fine could be initiated against the concessionaire viz SCL.

#### 4.7.25 Non-provision of fire fighting equipment at field offices

Fire can have disastrous consequences and affect operations. The early detection of fire and employing means for extinguishing the fire is important for effective functioning of the project.

According to the agreement (December 2007), fire safety management is to be provided at every centre by the SCL.

We noticed during test check that there were no fire alarms or fire extinguishers in RTO, Jabalpur and ARTO, Satna.

<sup>16</sup>

RTO- Bhopal, Gwalior, Jabalpur and ARTO- Satna.

#### **4.7.26 Conclusion**

The task of computerisation was entrusted to M/s SCL on Build Own Operate and Transfer (BOOT) basis. While data capturing for State Register and National Register is being done, we found that business rules were not correctly mapped in the system. Completeness, accuracy and integrity of data entered and processed was not ensured due to deficient input, validation and supervisory controls.

Cases of duplicate insurance cover note, engine number and chassis numbers were noticed. Besides, many fields in the data contained junk data or the fields were left blank.

The information relating to insurance updation and biometrics for learner licences is not being captured resulting in the Department not being in a position to disseminate this information required by other agencies and by not capturing biometrics the Department is denying itself of vital information. There is lack of technical expertise in the Department to handle the computerised system independently.

#### **4.7.27 Recommendations**

The Government/Department may consider:

- modifying the software to fulfill the requirements of business rules like generation of demand notice, penalty for delayed payment of tax etc. for better enforcement of the Act and rules;
- introducing proper input and validation checks as well as ensuring adequate supervision over data entry to ensure data integrity; and
- training departmental officials in the system management and database operations.



## 4.8 Non-realisation of vehicle tax and penalty on vehicles

Twenty six District/Regional Transport offices

According to provisions 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 shall be liable to pay penalty at the rate of four *per cent* per month on the unpaid amount of tax which shall not be more than twice the amount of tax.

Review of demand and collection register, permit and vehicle surrender register, NOC issuance register and computer systems (wherever made available) between April 2010 and January 2011 revealed that vehicle tax amounting to ₹ 6.04 crore in respect of 2,771 vehicles for the period between April 2006 and March 2010 was not paid by the vehicle owners. Besides, no action

was taken by the Taxation Authorities (TAs) to detect such vehicles and recover the tax according to provisions of *Adhiniyam* and the Rules made thereunder. A penalty of ₹ 2.90 crore though leviable was not levied. This resulted in non-realisation of Government revenue of ₹ 8.94 crore as mentioned below:

(₹ in crore)

Sl. No.	No. of offices	Category of vehicles No. of vehicles	Period involved	Tax not paid	Penalty leviable	Total (5+6)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	26 <sup>17</sup>	Goods vehicles 1,479	1/08 to 3/10	2.24	1.09	3.33
2	25 <sup>18</sup>	Public service vehicles kept as reserve 574	4/06 to 3/10	1.70	0.79	2.49
3	25 <sup>19</sup>	Public service vehicles plying on regular stage carriage permits 283	11/07 to 3/10	1.46	0.68	2.14

<sup>17</sup> Regional Transport Officer (RTO)- Bhopal, Gwalior, Hoshangabad, Indore, Jabalpur, Morena, Rewa, Sagar, Shahdol and Ujjain,  
Additional Regional Transport Officer (ARTO)- Chhatarpur, Chhindwara, Guna, Katni, Khandwa, Khargone, Mandsaur, Satna and Seoni,  
District Transport Officer (DTO)- Betul, Datia, Jhabua, Neemuch, Ratlam, Shivpuri and Sidhi.

<sup>18</sup> RTO- Bhopal, Gwalior, Hoshangabad, Indore, Jabalpur, Morena, Rewa, Sagar and Ujjain, ARTO- Chhatarpur, Chhindwara, Guna, Katni, Khandwa, Khargone, Mandsaur, Satna and Seoni, DTO- Betul, Datia, Jhabua, Neemuch, Ratlam, Shivpuri and Sidhi.

<sup>19</sup> RTO- Bhopal, Gwalior, Hoshangabad, Indore, Jabalpur, Morena, Rewa, Sagar, Shahdol and Ujjain, ARTO- Chhatarpur, Chhindwara, Guna, Katni, Khandwa, Khargone, Mandsaur, Satna, and Seoni, DTO- Betul, Datia, Jhabua, Ratlam, Shivpuri and Sidhi.

(1)	(2)	(3)	(4)	(5)	(6)	(7)
4	22 <sup>20</sup>	Maxicab 435	4/08 to 3/10	0.64	0.34	0.98
	<b>Total</b>	<b>2771</b>		<b>6.04</b>	<b>2.90</b>	<b>8.94</b>

After we pointed out the cases (between April 2010 and January 2011), 15 TAs<sup>21</sup> stated (between July 2010 and August 2011) that ₹ 73.95 lakh had been recovered in 380 cases and demand notices had been issued in the remaining cases. The TAs Morena and Guna stated that an amount of ₹ 1.33 lakh is not recoverable in four cases because NOC was issued in two cases and vehicle was converted into school bus in two cases. Reply is factually not correct because in one case of Guna an amount of ₹ 19,872 was recovered at the time of issuance of NOC which was issued after April 2010 and in one case of Morena, issuance of NOC or deposit of tax was not found. In the remaining two cases non-payment of tax was regularised by deposit of tax at the rate specified for school bus {verified from the website (MP Transport) of the Department}. In other cases the remaining TAs stated that action would be taken/recovery would be made as per rule.

The matter was reported to the Transport Commissioner (TC) and the Government between February and May 2011; their reply has not been received (March 2012).

<sup>20</sup> RTO- Bhopal, Gwalior, Hoshangabad, Morena, Rewa, Sagar, Shahdol and Ujjain, ARTO- Chhatarpur, Chhindwara, Guna, Khandwa, Khargone, Mandsaur, Satna and Seoni, DTO- Betul, Jhabua, Neemuch, Ratlam, Shivpuri and Sidhi.

<sup>21</sup> RTO- Gwalior, Jabalpur, Morena, Rewa, Sagar and Shahdol, ARTO- Chhatarpur, Chhindwara, Guna, Khandwa and Khargone and DTO- Betul, Jhabua, Neemuch and Ratlam.

#### 4.9 Levy of vehicle tax at incorrect rate and non-levy of penalty

RTO, Bhopal

According to the section 2(33) of Motor Vehicles Act, 1988 "private service vehicle" means a motor vehicle constructed or adapted to carry more than six persons excluding the driver and ordinarily used by or on behalf of the owner of such vehicle for the purpose of carrying persons for, or in connection with his trade or business otherwise than for hire or reward but does not include a motor vehicle used for public purposes. The vehicle tax is leviable on private service vehicles at the rate specified under item no. VII of the first schedule to *Adhiniyam*. If the owner of the vehicle defaults in making payment of tax, he shall be liable to pay penalty at the rate of four *per cent* per month. In case of non-payment, the TA is required to issue a demand notice and recover the dues as arrears of land revenue.

Review of demand and collection register and temporary permit issue register (January 2011) revealed that 160 temporary permits were granted by the TA to owners of 68 private service vehicles to carry the staff of factories during the period between April 2009 and March 2010. The TA however, allowed levy of tax thereon at a lower rate specified for vehicles of city

services. This resulted in short levy of tax of ₹ 53.73 lakh and non-levy of penalty of ₹ 34.25 lakh.

We reported the matter to the Transport Commissioner and the Government between March and May 2011; their reply has not been received (March 2012).

#### 4.10 Short realisation of vehicle tax and non-levy of penalty on motor vehicles

Twelve District/Regional Transport offices<sup>22</sup>

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 rate specified in the first schedule. In case of public/ private service vehicle, 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* *ibid*.

Review of demand and collection register, permit deposit register, vehicle surrender register and NOC issue register (between April 2010 and January 2011) revealed that vehicle tax in respect of 71 motor vehicles for the period between September 2007 and March 2010 was paid short by the

<sup>22</sup> RTO- Bhopal, Gwalior, Hoshangabad, Jabalpur, Sagar and Shahdol, ARTO- Guna, Katni, Khargone and Mandsaur and DTO- Datia and Neemuch.

vehicle owners either due to application of incorrect rate of tax or 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 ₹ 17.10 lakh. Besides, a penalty of ₹ 8.64 lakh was also leviable on the unpaid amount of tax, but was not levied.

After we pointed out the cases (between April 2010 and January 2011), five TAs<sup>23</sup> stated (between July 2010 and August 2011) that an amount of ₹ 70,224 had been recovered in four cases and in remaining cases demand notices had been issued to the defaulting vehicle owners.

We reported the matter to the Transport Commissioner and the Government between February and May 2011; their reply has not been received (March 2012).

#### 4.11 Non-realisation of penalty

Twenty four District/Regional Transport offices<sup>24</sup>

According to the provisions of section 13 of *Adhiniyam*, if the tax due in respect of any motor vehicle is not paid on the due date as specified in section 5, the owner shall, in addition to payment of tax due, be liable to pay penalty at the rate of four *per cent* per month on the unpaid amount of tax but not exceeding twice the unpaid amount of tax. Rule 10(1) of *Madhya Pradesh Motoryan Karadhan Niyam (Niyam)*, further specifies that the penalty shall be paid by the owner of the vehicle along with the amount of tax.

A review of the demand and collection register and the computerised systems (wherever made available) (between April 2010 and January 2011) revealed that vehicle tax in respect of 535 motor vehicles was paid by the owners during the period between April 2008 and March 2010 after delays ranging from one to 51 months. However, penalty was neither paid by the owners along with tax, nor was it demanded by the TAs. This resulted in non-realisation of penalty of ₹ 23.56 lakh.

After we pointed out the cases, 14 TAs<sup>25</sup> stated (between July 2010 and August 2011) that an amount of ₹ 4.59 lakh had been recovered in 150 cases and demand notices had been issued in the remaining cases.

We reported the matter to the Transport Commissioner and the Government between February and May 2011; their reply has not been received (March 2012).

<sup>23</sup> RTO- Gwalior and Shahdol, ARTO- Guna and Khargone and DTO- Neemuch.

<sup>24</sup> RTO- Bhopal, Gwalior, Hoshangabad, Indore, Jabalpur, Morena, Rewa, Sagar, Shahdol and Ujjain, ARTO- Chhatarpur, Chhindwara, Guna, Katni, Khandwa, Khargone, Mandsaur, Satna and Seoni and DTO- Betul, Neemuch, Ratlam, Shivpur and Sidhi.

<sup>25</sup> RTO- Gwalior, Jabalpur, Morena, Rewa, Sagar and Shahdol, ARTO- Chhatarpur, Chhindwara, Guna, Khandwa and Khargone and DTO- Betul, Neemuch and Ratlam.

#### 4.12 Incorrect levy of vehicle tax and non-levy of penalty on public service vehicles having all India tourist permits

RTO, Gwalior

According to Section 2(43) of the Motor Vehicles Act, 1988 "tourist vehicle means a contract carriage constructed or adapted and equipped and maintained in accordance with such specifications as may be prescribed in this behalf". Further Section 88(9) specifies that the provisions of Section 73 & 74 shall, as far as may be possible, apply in relation to such contract carriage permit. The vehicle tax, in respect of contract carriage having seating capacity exceeding 12 shall be levied at the rate specified in the first schedule to the *Adhiniyam*. As per *Niyam*, tax at the rate prescribed for reserve vehicle should only be payable, if permit is surrendered by permit holder. If the tax due has not been paid within the prescribed period, penalty is also leviable.

During review of the demand and collection register and permit deposit register (September 2010) we found that 10 operators having 11 all India tourist permits in respect of 11 public service vehicles did not surrender permits during the period between April 2009 and March 2010. The TA, however, allowed levy of tax thereon at the rate specified for reserve vehicles in place of tourist permits or contract carriages. This resulted in short levy of vehicle tax of ₹ 7.10 lakh and non-levy of penalty of ₹ 3.04 lakh.

After we pointed out the cases (September 2010), the

TA stated (December 2010) that demand notices had been issued to the defaulting vehicle owners.

We reported the matter to the Transport Commissioner and the Government between February and May 2011; their reply has not been received (March 2012).

#### 4.13 Non-levy of vehicle tax and penalty on public service vehicles plying on all India tourist permits

RTO, Jabalpur

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 of the *Adhiniyam*, 1991. If the tax due has not been paid within the prescribed period, penalty is also leviable.

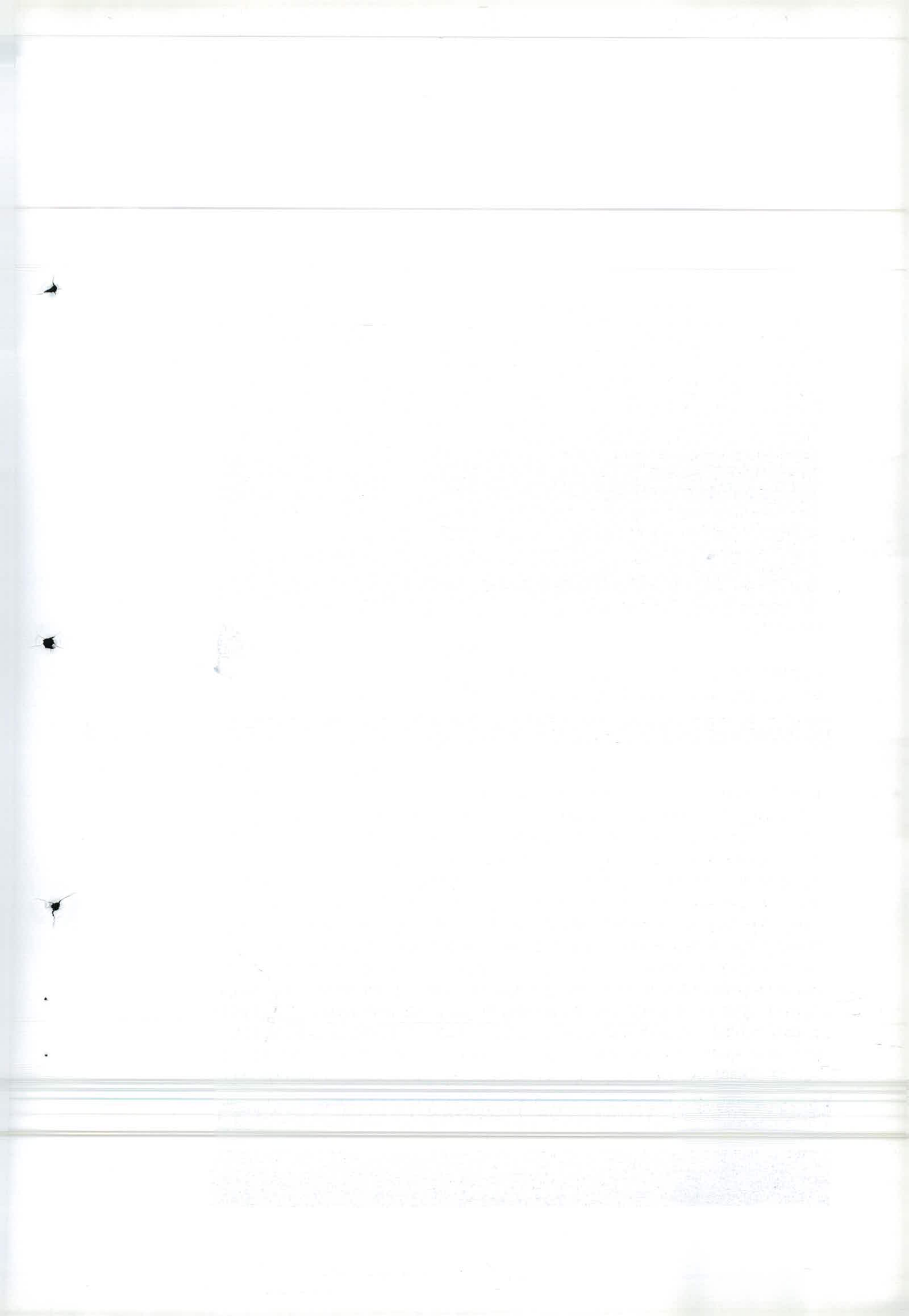
A review of the demand and collection register, permit deposit register, vehicle, surrender register, NOC issue register and check of the computer system (May 2010) revealed that two operators did not pay vehicle tax in respect of three public service vehicles plying on all India

tourist permits for the period between April 2009 and March 2010, nor was it demanded by the TA. This resulted in non realisation of tax of ₹ 5.73 lakh. Besides, a penalty of ₹ 1.53 lakh was also leviable.

We reported the matter to the Transport Commissioner and the Government between February and May 2011; their reply has not been received (March 2012).

## EXECUTIVE SUMMARY

<b>Tax collection</b>	<p>In 2010-11 the collection of taxes from land revenue increased by 100.42 <i>per cent</i> over the previous year, the reasons for which was not informed by the Department, despite our request.</p>
<b>Results of audit conducted by us in 2010-11</b>	<p>In 2010-11 we test checked the records of 45 units relating to taxes on land revenue and found underassessment of premium, ground rent, diversion rent and other irregularities involving ₹ 870.47 crore in 1,72,568 cases.</p> <p>The Department accepted underassessment and other deficiencies of ₹ 272.58 crore in 1,60,044 cases, which were pointed out by us during the year 2010-11. An amount of ₹ 60.95 crore was recovered in 23,029 cases during the year 2010-11.</p>
<b>What we have highlighted in this Chapter</b>	<p>In this Chapter we present illustrative cases of ₹ 3.90 crore selected from observations noticed during our test check of records relating to non/short levy, non/short realisation, incorrect exemption etc. on land revenue in the office of the Tahsildars and Collectors, where we found that the provisions of the Acts/Rules were not observed.</p> <p>It is a matter of concern that similar omissions have been pointed out by us repeatedly in the Audit Reports for the past several years, but the Department has not taken corrective action.</p>
<b>Our conclusion</b>	<p>The Department needs to initiate immediate action to recover the amount on account of under assessment of premium and ground rent, under assessment of diversion rent and <i>upkar</i>, non recovery of process expenses etc. pointed out by us, more so in those cases where it has accepted our contention.</p>





## CHAPTER - V LAND REVENUE

### 5.1 Tax administration

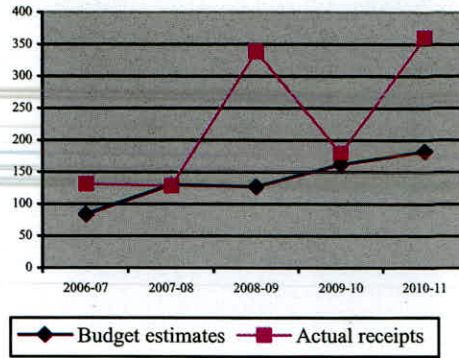
The Revenue Department is headed by the Principal Secretary at the Government level. He is assisted by the Commissioner, Settlement and Land Record (CSLR). Commissioners of divisions exercise administrative and fiscal control over the districts included in the division. In each district, Collectors administer the activities of the Department. It is entrusted upon the Collector of a District to place one or more Assistant Collector or Joint Collector or Deputy Collector in charge of a sub-division of a district. The officers so placed in charge of a sub-division are called SDOs. They have to exercise such powers of the Collector as are directed by the State Government by notification. Superintendents, Assistant Superintendents, Land Record (SLR/ASLR) are posted in the Collectorate for maintenance of revenue records and settlement. Tahsildars/Additional Tahsildars are deployed in the tahsils as representative of the Revenue Department. There are 10 revenue divisions, each headed by a Commissioner, 50 districts, each headed by a Collector and 341 tahsils in the State.

### 5.2 Trend of receipts

Actual receipts from Land Revenue during the period from 2006-07 to 2010-11 along with the total tax receipts during the same period is exhibited in the following table and line graph:

(₹ 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
2006-07	84.21	132.21	(+) 48.00	(+) 57.00	10,473.13	(+) 1.26
2007-08	130.00	129.15	(-) 0.85	(-) 0.65	12,017.64	(+) 1.07
2008-09	127.45	338.84	(+) 211.39	(+) 165.86	13,613.50	(+) 2.49
2009-10	161.81	180.03	(+) 18.22	(+) 11.26	17,272.77	(+) 1.04
2010-11	182.46	360.81	(+) 178.35	(+) 97.75	21,419.38	(+) 1.68



In 2010-11 the collection of taxes from land revenue increased by 100.42 per cent over the previous year, the reasons for which was not informed by the Department despite being requested.

### 5.3 Analysis of budget preparation

No files regarding budget preparation were made available to audit at the Government level. However, we observed from the records available at the office of the Head of the Department that the budget estimates were prepared on an *ad hoc* basis without following any uniform criteria on estimating the receipts to be actually realised during the year. The revised estimate for the year 2010-11 was ₹ 400.24 crore against the budget estimate of ₹ 182.46 crore. The actual receipt (₹ 360.81 crore) was less by 9.85 per cent as compared to the revised estimate though the revised estimate was 119.36 per cent over the budget estimate. The unexpected receipt of ₹ 132.50 crore of *Nazul* premium from the MP Housing Board was stated to be the reason for increase in the revised estimate.

### 5.4 Working of internal audit wing

No separate team has been constituted for performing the work of internal audit wing in the department. From time to time, in case of receipt of any complaint, the work of internal audit is performed by the officers posted in the finance section of the Department.

## 5.5 Results of audit

Test check of the records of 45 units relating to land revenue revealed underassessment of tax and other irregularities involving ₹ 870.47 crore in 1,72,568 cases which fall under the following categories:

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
1.	Loss of revenue due to incorrect application of premium and ground rent	337	4.38
2.	Loss of revenue due to reduction of premium and ground rent without assigning any reason	36	2.77
3.	Non-execution and non registration of lease deeds	05	0.84
4.	Non-levy of stamp duty on partition/gift of the building on <i>nazul</i> land	02	0.005
5.	Non-renewal of lease of <i>nazul</i> land	1,234	4.21
6.	Loss of revenue due to short assessment of premium and ground rent	698	1.75
7.	Non-raising of demand of ground rent/premium and penalty	3,676	4.45
8.	Non-levy/realisation of process expense	3,338	7.62
9.	Non-recovery of collection charges	504	1.35
10.	Non-registration of revenue recovery certificates	9,587	48.53
11.	Other observations	1,53,151	794.57
<b>Total</b>		<b>1,72,568</b>	<b>870.47</b>

During the course of the year, the Department accepted underassessment and other deficiencies of ₹ 272.58 crore in 1,60,044 cases, which were pointed out in audit during the year 2010-11. An amount of ₹ 60.95 crore was realised in 23,029 cases during the year 2010-11.

A few illustrative audit observations involving ₹ 3.90 crore highlighting important audit findings are mentioned in the following paragraphs.

## 5.6 Misclassification of receipts from land revenue and *upkar* in Government account

As per Rule 7(I) of the Madhya Pradesh Treasury Code (MPTC) (volume I) read with Government notification issued in November 2001, land revenue and *Upkar*\* collected by Tahsil offices should be remitted into the treasury in Government account under the major head-0029.

During test check of the Challans in 23 tahsil offices<sup>1</sup> between May 2010 and January 2011, we observed that land revenue and *Upkar* of ₹ 2.22 crore collected between 2005-06 and 2009-10 by Tahsil offices was incorrectly deposited under the major head '0515'-Other Rural Development programmes instead of the proper head i.e. '0029'-Land Revenue. This resulted in misclassification of receipts of ₹ 2.22 crore.

After we pointed out, 13 Tahsildars<sup>2</sup> stated between May 2010 and January 2011 that land revenue and *upkar* would be deposited in the major head-0029. Further reply has not been received (March 2012).

We reported the matter to the Department and the Government between February and May 2011; their reply has not been received (March 2012).

## 5.7 Irregular exchange of land

Revenue Book Circular (RBC) provides that the Collector of the district may permit exchange of agricultural land of any *Bhumiswami*\*\* with Government agricultural land of equal values situated in the same district. There is no provision to exchange *Nazul* land\*\*\* of State Government with the agricultural land of *Bhumiswami*. According to the order issued by the MP Government on 18 May 1965, all Collectors shall declare Government land falling within five miles of the limit of urban area of all towns in their district as *Nazul* land and include it in the *Nazul Khasra* appropriately.

During test check of records of Sub-Registrar, Sardarpur (March 2009), Collector Dhar and Tahsil Sardarpur (April 2010), we observed that *Nazul* land measuring 1.362 hectares was exchanged with 1.672 hectares of agricultural land of a trust situated in

\* It is defined under the term "tax" which includes a tax, cess and rate of fee leviable under the MP Land Revenue Code, 1959.

\*\* The owner of the land.

\*\*\* Government land situated within Nagar Nigam, Nagar Palika and Nagar Panchayat area.

<sup>1</sup> Bada Malhara (Chhatarpur), Bandhavgarh (Umaria), Barghat (Seoni), Batiyagarh (Damoh), Betul, Bichhua (Chhindwara), Chhindwara, Chorai (Chhindwara), Dewas, Dhar, Gaurihar (Chhatarpur), Jabalpur, Jaitpur (Shahdol), Khairlanji (Balaghat), Kirnapur (Balaghat), Mandsaur, Morena, Rampur Nekin (Sidhi), Raipur Karchuliyan (Rewa), Ratlam, Suwasara (Mandsaur), Tendukheda (Narsinghpur) and Ujjain.

<sup>2</sup> Bada Malhara (Chhatarpur), Barghat (Seoni), Betul, Bichhua (Chhindwara), Chorai (Chhindwara), Gaurihar (Chhatarpur), Jabalpur, Jaitpur (Shahdol), Kirnapur (Balaghat), Raipur Karchuliyan (Rewa), Rampur Nekin (Sidhi), Suwasara (Mandsaur), Tendukheda (Narsinghpur).

village Dalpura. The exchange deed was executed and registered in June 2006. As exchange of *Nazul* land with the agricultural land of *bhumiswami* was not permissible under the above rules, the exchange was irregular.

After we pointed out the cases, the Collector stated in April 2010 that the land situated within two kilometers of the limits of *Nagar Panchayat* area is *Nazul* land and such exchange was not permissible under rules. He further stated that it was difficult to ascertain the circumstances under which the incumbent Collector permitted such exchange. The fact remains that the *nazul* land was required to be taken back from the concerned private party. The reply is not specific about it.

We brought the matter to the notice of the Commissioner, Indore and the Government between May 2010 and May 2011; their replies have not been received (March 2012).

### 5.8 Non-recovery of process expenses

The MP *Lokdhan (Shodhya Rashiyon Ki Vasuli) Adhiniyam, 1987* (MPLA) and Madhya Pradesh Land Revenue Code (MPLRC) provides that the recovery officer will register the revenue case in the Revenue Case Register after receipt of the Revenue Recovery Certificate (RRC) and issue the demand notice within 15 days. As per the *Adhiniyam* and rules made thereunder, process expense at the rate of three *per cent* of the principal amount is leviable.

During test check of the statements of recovery of 23 Tahsil offices<sup>3</sup> between June 2010 and December 2010, we observed that though process expenses of ₹ 70.75 lakh was recoverable on the principal amount of ₹ 23.59 crore recovered against RRCs during the period from 2005-06 to 2009-10, the Department did not include the process expenses while issuing notice of demand, as a result of which the same was not recovered from the

defaulters. This resulted in non-realisation of process expenses of ₹ 70.75 lakh.

We reported the matter to the Department and the Government in February and May 2011; their reply has not been received (March 2012).

<sup>3</sup> Bada Malhara (Chhatarpur), Barghat (Seoni), Batiyagarh (Damoh), Betul, Bichhua (Chhindwara), Bohariband (Katni), Chhindwara, Chorai (Chhindwara), Gadakota (Sagar), Gaurihar (Chhatarpur), Gwalior, Jaitpur (Shahdol), Khairlanji (Balaghat), Mandsaur, Morena, Mudwara (Katni), Patera (Damoh), Rampur Nekin (Sidhi), Raipur Karchuliyan (Rewa), Rewa, Sohagpur, Tendukheda (Narsinghpur) and Ujjain.

## 5.9 Non-recovery of premium and ground rent in case of advance possession

Paragraph 29 of the RBC-IV-I prescribes that prior to granting advance possession of Government land, the applicant in anticipation of the final sanction, shall necessarily deposit the anticipated premium and ground rent on the basis of estimated premium and ground rent. In the meantime, the applicant should provide an undertaking that he will pay premium and ground rent, which the Government finally decides. This was reiterated by the Government direction of February 1985, which provided that the amount of anticipated premium and ground rent should be compulsorily deposited in case of advance possession. No time limit for submission of the case for final allotment has, however, been prescribed.

During test check of records (Files of allotment of *Nazul* land) of Collectorate (*Nazul*) Umaria in September 2010 we observed that in two cases, advance possession of land measuring 1843.20 Sq. mt. and 4230 Sq. mt. respectively was given to *Nagar Palika Parishad*, Umaria in July 2006 without payment of premium and ground rent. This resulted in non-recovery of revenue of ₹ 70.50 lakh as per details given in the following table:-

Sl. No.	Area of land	Premium (in ₹)	Annual rent (in ₹)	Rent up to 2009-10 (in ₹)
1.	1843.20 sq.mt.	8,11,008	1,21,651	4,86,604
2.	4230 sq.mt.	35,95,500	5,39,325	21,57,300
<b>Total</b>		<b>44,06,508</b>		<b>26,43,904</b>

Further, the Collectorate (*Nazul*) did not send these cases to the Government for final allotment of the land even after a lapse of five years.

After we pointed this out, the *Nazul* officer stated (September 2010) that demand notices had been issued from time to time. The situation of issuance of demand notices could have been avoided, had the rules been followed. Further, the Additional Collector Umaria stated (July 2011) that an amount of ₹ 12 lakh had been recovered.

We reported the matter to the Department and the Government in May 2011; their reply has not been received (March 2012).

### 5.10 Under assessment of diversion rent, premium and *upkar*

Under the provision of the MPLRC where land assessed for one purpose is diverted for any other purpose, 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 by the Government. Further, *Panchayat Upkar* at the rate of 50 paise per one rupee of diversion rent is also leviable in *Gram Panchayat* area.

During test check of diversion cases of four Collectorates<sup>4</sup>, and *Tahsil Dewas* between August 2010 and December 2010, we observed that there was under assessment of diversion rent, premium and *upkar* in 30 cases of diversion decided between March 2008 and December 2010. We noticed that diversion for commercial purposes was treated as

residential purpose or assessment was done on reduced area or rates were incorrectly applied for diversion rent and premium. This resulted in short realisation of premium, diversion rent and *upkar* of ₹ 20.84 lakh.

We reported the matter to the Department and the Government in May 2011; their reply has not been received (March 2012).

### 5.11 Non-assessment and levy of *Panchayat* cess on diversion rent

*Panchayati Raj Adhiniyam*, 1993 provides that *panchayat* cess is leviable for each revenue year on every land holder and the Government lessee in respect of land held by him in the '*Gram Panchayat*' area at the rate of 50 *paise* per rupee of land revenue or rent assessed for each piece of land. The cess is leviable in addition to the land revenue or rent. Under section 58 (2) of MPLRC, diversion rent is included in the definition of land revenue, hence *Panchayat* cess is leviable on diversion rent also.

During test check of diversion cases in Collectorate (diversion), Umaria and Tahsil, Devari (Sagar) between July and September 2010 we observed that in 32 cases, *Panchayat* cess amounting to ₹ 5.44 lakh was not levied on diversion rent of ₹ 10.88 lakh in respect of land pertaining to *Gram Panchayat* areas. This resulted in non-levy of *Panchayat* cess

of ₹ 5.44 lakh.

<sup>4</sup> Betul, Dhar, Mandasaur and Ratlam.

After we pointed this out, SLR (diversion) Umaria stated (September 2010) that cases would be sent to SDOs. *Tahsildar*, Devari stated (July 2010) that no order had been received to realise *Panchayat* cess on diversion rent. The reply is not acceptable as under Section 58 (2) of MPLRC, diversion rent is included in the definition of land revenue; hence *Panchayat* cess is leviable on diversion rent also.

We reported the matter to the Department and the Government in May 2011; their reply has not been received (March 2012).



## EXECUTIVE SUMMARY

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**Tax collection**

In 2010-11, the collection from stamp duty & registration fee increased by 41 *per cent* over the previous year, due to abnormal increase in number of registered documents.

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**Results of audit conducted by us in 2010-11**

In 2010-11, we test checked records of 64 units relating to stamp duty & registration fee and found underassessment of tax and other irregularities involving ₹ 52.28 crore in 2,188 cases.

The Department accepted underassessment and other deficiencies of ₹ 27.61 crore in 1,474 cases, which were pointed out by us during the year 2010-11. An amount of ₹ 4.91 crore was recovered in 3,236 cases during the year 2010-11.

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**What we have highlighted in this Chapter**

In this Chapter, we present illustrative cases of ₹ 34.22 crore selected from observations noticed during our test check of records relating to non/short levy, non/short realisation etc. on stamp duty & registration fee in the office of the Sub Registrars (SRs) where we found that the provisions of the Acts/Rules were not observed.

It is a matter of concern that similar omissions have been pointed out by us repeatedly in the Audit Reports for the past several years, but the Department has not taken corrective action.

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**Our conclusion**

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

It also needs to initiate immediate action to recover the amount on account of non/short levy of stamp duty & registration fee pointed out by us, more so in those cases where it has accepted our contention.



## CHAPTER - VI STAMP DUTY & REGISTRATION FEE

### 6.1 Tax administration

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 48 Registration Districts notified in the State. There is a SDR in each Registration district (15) and a DR in each of the remaining districts (33). There are 226 Sub Registrar (SR) offices in the State. Instruments are registered in SR offices. Collector is the head of registration administration at district level.

### 6.2 Trend of receipts

Actual receipts from Stamp Duty & Registration Fee during the period 2006-07 to 2010-11 along with the total tax receipts during the same period are exhibited in the following table:

(₹ 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
2006-07	1,000	1,251.10	(+) 251.10	(+) 25.11	10,473.13	11.95
2007-08	1,400	1,531.54	(+) 131.54	(+) 9.40	12,017.64	12.74
2008-09	1,700	1,479.29	(-) 220.71	(-) 12.98	13,613.50	10.87
2009-10	1,560	1,783.15	(+) 223.15	(+) 14.30	17,272.77	10.32
2010-11	1,900	2,514.27	(+) 614.27	(+) 32.33	21,419.33	11.74

In 2010-11, the collection from stamp duty & registration fee increased by 41 *per cent* over the previous year, due to abnormal increase in number of registered documents.

### 6.3 Analysis of budget preparation

No files regarding budget preparation were made available to the audit at Government level. However, we observed from the records available at the office of the Head of the Department that the budget estimates were prepared on an *ad hoc* basis without following any uniform criteria on estimating the receipts to be actually realised during the year. The revised estimate for the year 2010-11 was ₹ 2,200 crore against budget estimate of ₹ 1,900 crore. The actual receipts (₹ 2,514.27 crore) showed an increase of 14.29 *per cent* over the revised estimate due to abnormal increase in number of registered documents.

#### 6.4 Cost of collection

The gross collection in respect of revenue receipts, expenditure incurred on collection as furnished by the Department and the percentage of expenditure to gross collection during the years 2008-09, 2009-10 and 2010-11 along with the relevant all India average percentage of expenditure on collection to gross collection for the relevant previous year are mentioned below:

(₹ in crore)

Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage for the previous year
2008-09	1,479.29	41.72	2.82	2.09
2009-10	1,783.15	51.69	2.90	2.77
2010-11	2,514.27	90.65	3.61	2.47

Thus, the percentage of expenditure on the collection was considerably higher than the all India average and needs to be looked into by the Government.

#### 6.5 Working of internal audit wing

Four posts of Internal Audit Officer and one post of Accounts officer have been sanctioned for the internal audit wing (IAW) of the Department. At present three Internal Audit Officers and one Accounts Officer are working in the IAW.

Out of 226 units of the Department, 18 units were planned for internal audit out of which 16 units were inspected by the IAW. An amount of ₹ 166.16 lakh was involved in 93 observations made by the IAW.

#### 6.6 Results of audit

Test check of the records of 64 units relating to Stamp Duty and Registration Fee revealed underassessment of tax and other irregularities involving ₹ 52.28 crore in 2,188 cases which fall under the following categories:

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
1.	Loss of revenue in instruments executed by/in favour of co-operative housing societies	3	0.05
2.	Loss of revenue due to inordinate delay in finalisation of cases	433	10.03
3.	Short realisation of stamp duty and registration fee due to undervaluation of properties	757	9.08
4.	Incorrect remission of stamp duty and registration fee	87	0.47
5.	Loss of revenue due to misclassification of documents	26	1.19
6.	Other observations	882	31.46
<b>Total</b>		<b>2,188</b>	<b>52.28</b>

During the course of the year, the Department accepted underassessment and other deficiencies of ₹ 27.61 crore in 1,474 cases, which were pointed out in audit during the year 2010-11. An amount of ₹ 4.91 crore was realised in 3,236 cases during the year 2010-11.

A few illustrative audit observations involving ₹ 34.22 crore highlighting important audit findings are mentioned in the following paragraphs.

## 6.7 Short levy of stamp duty and registration fees on agreement to lease

Under Section 33 and 35 read with Section 38 of Indian Stamp (IS) Act, 1899, every public officer before whom, any instrument chargeable to duty is produced, shall, if it appears to him that such instrument is not duly stamped, impound the same. He shall admit the instrument in evidence upon payment of duty or send it to the Collector for determination of proper duty leviable thereon. Further, the instruments having lease period of more than 12 months are to be compulsorily registered under Section 17 of the Registration Act, 1908. Stamp duty is charged on such instruments at the rate prescribed in schedule 1-A to the IS Act. Registration fee is leviable at three-fourths of the stamp duty.

6.7.1 We observed in the District Mining (DM) offices Hoshangabad, Khargone and Tikamgarh between May and December 2010 that the Madhya Pradesh State Mining Corporation (MPSMC) sub-leased the right of extraction and sale of sand for 12 months to one contractor and for 24 months to four contractors between July 2009 and April 2010 for ₹ 104.87 crore on which stamp duty of ₹ 7.86 crore and registration fee of ₹ 5.83 crore was payable. However, we noticed that agreements to this effect

were executed on stamp papers of ₹ 100 in each case and no registration fees was paid. The District Mining Officer (DMO) did not initiate any action for proper levy of stamp duty and registration fees. This resulted in short realisation of revenue of ₹ 13.69 crore.

After we pointed out the cases, the District Registrar (DR), Khargone directed the Mining Officer in March 2011 in respect of three instruments to refer the cases to him to register the cases for recovery. DMO, Hoshangabad stated in December 2010 that action would be taken as per rule after scrutiny while DMO, Tikamgarh stated in May 2010 that necessary action would be taken. Report on further developments has not been received (March 2012).

6.7.2 We observed in nine Sub-Registrar (SR) Offices<sup>1</sup> between May 2009 and January 2011 that in case of 20 documents of lease deeds registered between April 2008 and March 2010 stamp duty and registration fee of ₹ 1.67 crore was leviable but the registering authorities levied ₹ 78.73 lakh only by treating lesser period of lease in three cases<sup>2</sup> while there was mistake

<sup>1</sup> Ambah (Morena), Bhind, Bhopal, Dhar, Indore, Jabalpur, Morena, Raghogain (Guna) and Shujalpur (Shajapur).

<sup>2</sup> In case of Indore the period of lease was not mentioned in the document and rent after five years was to be decided by the Central Government. In case of Ambah (Morena) the lease period was specified as five years but there was a clause in the instrument according to which the lease would be continued till the loan is cleared, leaving scope for an indefinite period of lease. In Jabalpur there was an undertaking from lessor that after expiry of five years the lease would be extended for a period of four years. Rent was also reserved for that period and as such the lease period was nine years and not five years as taken by the SR.

in computation in 17 cases. This resulted in short realisation of stamp duty and registration fee of ₹ 88.10 lakh.

After we pointed out the cases, the DR, Morena and Guna stated (February-March 2011) in respect of 10 instruments that cases against the executants had been registered and action was in progress. DR Dhar stated (June 2011) that ₹ 1.26 lakh had been recovered in one case (January 2011). The SR, Jabalpur stated (September 2010) in respect of one instrument that the lease period was for five years. We do not agree with the reply because it was contrary to the facts on record. The SR, Indore stated (December 2010) in respect of one instrument that duty was charged as per recitals of the document. We do not agree with the reply because the reply was silent as to why the premium/cost of land was not considered in computation of registration fee. In respect of another instrument he stated that lease deed was for five years and it was a license on which duty of ₹ 500 only was chargeable. We do not agree with the reply because as per section 2 (16) of the IS Act, 1899 and article 33 (a) of Schedule 1-A the instruments should either have been treated as a lease in perpetuity or not purporting to be for a definite period. The SR Bhind, Bhopal and Shujalpur (Shajapur) stated in respect of six cases between May 2009 and January 2011 that the documents would be referred to the Collector of Stamps for recovery. Further, progress has not been received (March 2012).

**6.7.3** We observed in DM Office, Khargone in June 2009 that all the quarries of sand mineral of the district were sanctioned to MPSMC Ltd. in the year 2002 for an unlimited period (until further orders) but no quarry lease agreement was executed and got registered even after eight years of the sanction. This resulted in non-realisation of stamp duty and registration fee of ₹ 22.09 lakh<sup>3</sup>.

After we pointed this out, the DMO, Khargone stated (June 2011) that an agreement to lease would be executed and got registered. Further progress has not been received (March 2012).

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<sup>3</sup> Extracted quantity of sand 14,06,080 cubic meter upto 2008-09 and treating the lease period of 10 years.

The instructions issued by the Government of Madhya Pradesh, Mineral Resource Department (March 1993) provides that royalty payable on quantity of minerals shown in the application or mining plan or dead rent or average of royalty paid by the lessee during the last three years, whichever is higher, shall be considered for levy of stamp duty on mining/quarry leases at the rates prescribed under article 33 of Schedule 1-A to the IS Act. In case of trade quarry, the stamp duty is leviable on auction amount at the rate prescribed therein. Further, registration fee at three-fourths of the stamp duty is leviable on lease deeds under article II of the table of registration fee of the Registration Act.

**6.7.4** We observed in six DM Offices<sup>4</sup>, between October 2008 and September 2010 that stamp duty and registration fee of ₹ 27.77 lakh was leviable on two mining, three quarry and 16 trade quarry leases granted for different lease periods falling between April 2006 and September 2038. However, we noticed that stamp duty and registration fee of ₹ 19.59 lakh only was levied due to computation mistake.

This resulted in short levy of stamp duty and registration fee of ₹ 8.18 lakh.

After we pointed out the cases, DMO, Chhatarpur stated in September 2009 that action would be taken after scrutiny, while the remaining five DMOs stated between October 2008 and September 2010 that the amount would be recovered from the contractors/cases would be referred to the SR/DR for recovery. Further progress has not been received (March 2012).

We reported the matter to the Director, Geology & Mining (DGM), Inspector General, Registration (IGR) and the Government between February and May 2011; their replies have not been received (March 2012).

<sup>4</sup> Chhatarpur, Mandla, Morena, Panna, Sidhi and Sheopur.



## 6.8 Incorrect determination of market value/non-finalisation of cases

Under Section 47-A of the IS Act, 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, as per departmental instructions of July 2004, a maximum period of three months has been prescribed for disposal of cases referred to the Collector by the SR offices for determination of correct market value of properties and duty leviable thereon.

**6.8.1** We observed in eight SR offices<sup>5</sup> between July 2010 and February 2011 that 329 cases referred by the registering authorities between March 2007 and March 2010 for determination of market value of property had not been finalised though the period of three months had already elapsed. In these cases, the difference of stamp duty and registration fee as worked out by the SRs was ₹ 9.24 crore.

After we pointed out the cases, five SRs<sup>6</sup> stated between September 2010

and February 2011 in respect of 269 instruments that Collector of stamps would be requested for early disposal. The DR, Sagar stated in March 2011 in respect of 21 instruments that four out of 21 cases had been disposed, in which ₹ 3.37 lakh was recovered in two cases and for remaining two cases action for recovery was being taken. DR, Morena stated in February 2011 in respect of seven instruments of Ambah that cases had been disposed and action for recovery was in progress. DR, Bhopal stated in January 2011 in respect of 32 instruments that pending cases would be disposed early. Further progress has not been received (March 2012).

**6.8.2** We observed in 16 SR offices<sup>7</sup>, between June 2009 and January 2011 that in 292 instruments registered between May 2007 and March 2010, the market value as per guidelines was ₹ 129.21 crore against the registered value of ₹ 85.95 crore. The SR did not refer these instruments to the Collector for determination of correct value of properties and duty leviable thereon. This resulted in short levy of stamp duty and registration fee of ₹ 3.74 crore.

After we pointed out the cases, seven SRs<sup>8</sup> stated between May 2010 and January 2011 in respect of 83 instruments that the market value determined was correct. The reply is contrary to the facts on record and provisions of the market value guidelines. SR Indore accepted the audit observation in respect of five instruments and an amount of ₹ 1.95 lakh was recovered

<sup>5</sup> Ambah (Morena), Bhopal, Dabra (Gwalior), Dhar, Gadawara (Narsinghpur), Indore, Jabalpur and Sagar.

<sup>6</sup> Dabra (Gwalior), Dhar, Gadawara (Narsinghpur), Indore and Jabalpur.

<sup>7</sup> Ambah (Morena), Badnawar (Dhar), Bhind, Bhopal, Dewas, Gohad (Bhind), Indore, Jabalpur, Kasrawad (Khargone), Morena, Nagda (Ujjain), Obedullaganj (Raisen), Sehore, Sonkatch (Dewas), Sidhi and Ujjain.

<sup>8</sup> Bhopal, Dewas, Indore, Jabalpur, Nagda (Ujjain), Sehore and Sidhi.

(December 2010) in two cases at the instance of audit. 11 SRs<sup>9</sup> stated between May 2010 and January 2011 in respect of 118 instruments that cases would be referred to the Collector of stamps/necessary action would be taken, while in respect of the remaining 86 instruments the DR, Dhar, Khargone and Morena stated between December 2009 and March 2011 that cases have been registered against the executants and action was in progress. Further progress has not been received (March 2012).

We reported the matter to the IGR and the Government between February and May 2011; their replies have not been received (March 2012).

### 6.9 Loss of revenue due to lack of provision in the schedule of duty

Article 33 of Schedule 1-A to the IS Act, provides for levy of duty on a lease deed at prescribed rate on the amount of average rent reserved and premium as specified therein. Further, where the lease purports to be for a term exceeding thirty years or in perpetuity the duty on such lease shall be chargeable as a conveyance on the market value of the property leased. Thus, in such instruments, rent and premium are disregarded whereas they are taken into account in assessment of duty on lease deeds where the lease purports to be for a term exceeding twenty years but not exceeding thirty years. As such in the cases of properties leased for a period exceeding 30 years where market value is less than the amount of premium plus five times the annual rent, the leviable duty as per the existing provisions in such cases would be a lesser amount whereas in a similar situation for a property leased for a period exceeding 20 years but not exceeding 30 years the leviable duty would be a higher amount because duty would be levied on the amount of premium plus five times the annual rent and not on market value which was less than the amount of premium plus five times the annual rent. **There is no provision in the schedule to avoid loss of the duty in such cases.**

We observed in SR office, Indore in December 2010 that two instruments of lease were registered in June 2008. The lease was granted for premium in addition to rent fixed for a term exceeding thirty years/ in perpetuity. The duty and fee of ₹ 1.38 crore was levied by the SR on these instruments on the basis of the market value. Had there been a similar provision in the Schedule 1-A for the properties leased out for a period exceeding 30 years the duty of an amount of ₹ 5.34 crore would have been levied instead of ₹ 1.38 crore. Thus, the Government was put to a loss of revenue of ₹ 3.96 crore due to lack of provision in the schedule 1-A.

<sup>9</sup> Bhind, Bhopal, Dewas, Gohad (Bhind), Indore, Jabalpur, Nagda (Ujjain), Obedullahganj (Raisen), Sehore, Sonkatch (Dewas) and Ujjain.

The Government may consider amending Schedule 1-A to the IS Act to avoid loss of stamp duty due to adopting different criteria for determining the duty in case of leases between 20 to 30 years and leases exceeding 30 years. A uniform standard may be adopted in such cases as has been done in other states like Chhattisgarh and Andhra Pradesh.

We reported the matter to the IGR and Government in April and May 2011; their replies have not been received (March 2012).

### 6.10 Short levy of stamp duty and registration fee due to misclassification

Under the IS Act, stamp duty is leviable on instruments as per their recital at the rates specified in schedule 1-A or prescribed by the Government through notifications. Departmental instructions (September 2005) provide that duty on the instruments styled as agreement to sell, 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.

We observed in seven SR Offices<sup>10</sup> between June 2009 and January 2011 that there was misclassification of documents in 32 cases which resulted in short levy of stamp duty and registration fee of ₹ 2.69 crore as mentioned below:

(₹ in lakh)				
Sl. No.	No. of cases Registered between	Nature of irregularity	Stamp duty and registration fee leviable	Stamp duty and registration fee short levied
(1)	(2)	(3)	(4)	(5)
1.	19 April 2008 and March 2010	Agreement to sell without mention about status of possession treated as agreement to sell without possession	242.99 17.29	225.70
2.	4 July 2008 and August 2009	Gift treated as release deed	22.87 7.96	14.91
3.	2 October 2007 and August 2009	Conveyance treated as release deed	16.79 6.81	9.98
4.	2 July 2009 and February 2010	Instruments relating to several distinct matters treated as instrument of single matter	9.87 0.002	9.87
5.	2 September 2008 and November 2008	Gift treated as Settlement deed	6.89 3.07	3.82

<sup>10</sup> Bhind, Bhopal, Dhar, Gohad (Bhind), Indore, Jabalpur and Morena.

(1)	(2)	(3)	(4)	(5)
6.	<u>1</u> December 2009	Conveyance treated as agreement to sell without possession	<u>1.84</u> 0.15	1.69
7.	<u>1</u> March 2010	Gift treated as Co-ownership deed	<u>1.61</u> 0.29	1.32
8.	<u>1</u> July 2009	Simple mortgage treated as equitable mortgage	<u>1.80</u> 0.51	1.29
<b>Total</b>	<b>32</b>		<b><u>304.66</u></b> <b>36.08</b>	<b>268.58</b>

After we pointed out the cases, the DR, Jabalpur and Morena stated between February 2010 and February 2011 in respect of four instruments that cases had been registered against the executants and action was in progress. DR Dhar stated (June 2011) in respect of one case that ₹ 6.83 lakh had been recovered (January 2011). SR Bhind, Bhopal, Gohad and Indore stated between August 2010 and January 2011 in respect of eight instruments that cases would be referred to the Collector of stamps/necessary action would be taken after investigation while no reply was given in respect of two instruments by the SR Indore. SR, Morena (September 2009) did not agree with the audit observation in respect of six instruments without assigning any reason. SR Bhopal and Indore stated between November 2010 and January 2011 in respect of 11 instruments that the classification of the instruments and duty levied thereon was correct. We do not agree with the reply because it was contrary to the facts on record and the departmental instructions issued in September 2005 in respect of the classification of instruments and duty leviable thereon. Further progress in the matter has not been received (March 2012).

We reported the matter to the IGR and the Government between December 2010 and May 2011; their replies have not been received (March 2012).

## 6.11 Non-registration of instruments

Article 5(d) of schedule 1-A to the IS Act, provides for levy of stamp duty at the rate of two *per cent* of the market value of the land on an agreement if it is related to the construction of a building on the land by a person other than the owner or lessee of such land and having the condition that after construction, such building shall be held jointly or severally by the other person and the owner or that it shall be jointly or severally sold by them. Further, such instruments are to be compulsorily registered under the Registration Act, 1908.

**6.11.1** We observed in SR offices, Indore and Jabalpur between June 2009 and December 2010 that in 10 sale deeds registered between July 2008 and August 2009, the constructed properties were sold jointly by the builders and the landowners. During scrutiny of the recitals of these documents, we noticed that in each case, there was agreement between the builder and the landholder that the constructed property would be held and sold jointly by them. However, we noticed that these agreements

involving land measuring 4.10 acres, valued at ₹ 22.43 crore in accordance with market value guidelines, were not got registered. This resulted in non-realisation of stamp duty and registration fee of ₹ 62.79 lakh.

After we pointed out the cases, the DR, Jabalpur and Indore stated (February 2010 and July 2011) in respect of 10 cases that the cases against the executants had been registered and action was in progress. Further progress in the matter has not been received (March 2012).

Registration of documents of conveyance/lease of immovable property from year to year or for any term exceeding one year or reserving a yearly rent is compulsory under the Registration Act, 1908. For the registration of conveyance/lease deed, registration fee is leviable at the rates prescribed in the table of registration fee under the Registration Act. Further, article 33 of schedule 1-A to the IS Act provides for levy of stamp duty on lease deeds at the rates prescribed therein.

**6.11.2** We observed in SR office, Kukshi (Dhar) and information furnished by the Chief Municipal Officer, *Nagar Panchayat*, Kukshi (Dhar) in September 2010 that 90 shops were allotted to individuals on lease on premium of ₹ 3.33 crore and monthly rent of ₹ 67,550 for the period of 35 months between October 2006 and November 2009. We however, noticed that lease deeds were not got registered which resulted in non-realisation of stamp duty and registration fee of ₹ 44.01 lakh.

After we pointed out the cases, the DR, Dhar stated in July 2011 that SR had been directed to get the lease deed registered. Further progress has not been received (March 2012).

**6.11.3** We observed in SR office, Jabalpur in October 2010 that a lease deed of a shop registered in November 2009 was executed by Pandit Shiv Prasad Trust and Ashirvad construction (Company) where the trust was the owner of the land. The recitals of the lease deed revealed that '*Ashirvad Swarn Market*' was to be constructed on the land of the trust by the company under an agreement. As per the agreement, the land was leased out to the company for 35 years for which rent was reserved by the trust. This agreement of lease was a compulsorily registerable document on which stamp duty and registration fee of ₹ 30.05 lakh was leviable. However, we noticed that this agreement was executed on stamp paper of ₹ 50 only which was also not got registered. The Department did not take any action to get it registered. This resulted in short levy of stamp duty and non-levy of registration fee of ₹ 30.05 lakh.

After we pointed out the cases, the SR stated in October 2010 that the case would be referred to the Collector of Stamps. Further progress has not been received (March 2012).

In another case the recitals of a document [No. 860 (4)] dated 5 December 2009 revealed that land measuring 12,000 Sq. ft. was sold by '*Sanmati Graha Nirman Samiti* (Society)'. It was also mentioned in the document that the said land was in possession of three members (4000 Sq.Ft. each) as a result of allotment of plots in the past. It was further mentioned that since they had

surrendered the plots in favour of the society, it was sold to another purchaser. In support of this the photocopies of surrender deed were also attached. These surrender deeds were to be treated as conveyance deed and required to be registered. Accordingly, stamp duty and registration fee of ₹ 3.34 lakh was leviable on these deeds. However, we noticed that these deeds were executed on stamp paper of ₹ 50 only and the Department did not initiate any action for registration of these deeds. This resulted in loss of stamp duty and registration, fee of ₹ 3.34 lakh.

After we pointed out the cases, the SR stated in October 2010 that levy of duty on documents not produced was not in accordance with law. We do not agree with the reply because the photocopies of the surrender deed were attached with the sale deed. Further, the reply is silent as to why action to get the deed registered was not taken.

We reported the matter to the IGR and the Government between February and May 2011; their replies have not been received (March 2012).

## 6.12 Illegal sale of Government land

Section 34 of the Registration Act, 1908, provides that the registering officer shall register the duly stamped instruments after identification of the executants. Section 112 of Madhya Pradesh Land Revenue Code, 1959 provides that when any document purporting to create, assign or extinguish any title to or any charge on land used for agricultural purposes is registered under the Registration Act, 1908, the registering officer shall send intimation to the *Tahsildar* having jurisdiction over the area in which the land is situated. Further, departmental instructions (November 2005) provide that a copy of the latest *khassra* of the agricultural land which is the subject matter of the instrument presented for registration shall be produced by the executants.

We observed in SR office, Sheopur (October- November 2009) that copies of latest *khassra*<sup>11</sup> duly verified by the respective revenue officers/*patwaris* were submitted by the executants with 11 sale deeds of agricultural land measuring 575 *bigha* 14 *biswa* valued at ₹ 1.13 crore. We noticed that the sale deeds were registered in the SR office during May and June 2009 but the intimation about these transactions was not sent by the registering officer to the concerned *Tahsildar*. In the absence of any verification regarding the titles of the executants from the records of the *Tahsil* office, the SR was not in a position to ascertain the veracity of the documents

submitted by the executants. **On cross verification with the records of *Tahsil* relating to *Panchsala Khasra* (Records of Rights) and Collectorate, Sheopur, we noticed that the titles of the executants were fake and the land in question was Government land. This resulted in illegal sale of Government land valued at ₹ 1.13 crore.**

<sup>11</sup> A record containing the information about survey number, title, land use and status etc. of the land.

We brought the matter to the notice of Principal Secretary of Revenue Department through a demi official letter and copy to the Principal Secretary of Commercial Tax Department, the IGR and the Commissioner, Settlement and Land Records in December 2009. We also reported the matter to the IGR and the Government in January 2010 through the Audit Inspection Report of SR office, Sheopur. After we pointed out the cases, the IGR and Under Secretary to the Commercial Tax Department stated (August-October 2010) that the matter was investigated by the Collector Sheopur and cases were lodged in five cases by December 2009 against the defaulters and the concerned SR. We have not received any information about the status of possession of land and action taken in respect of the remaining six cases (March 2012).

We reported the matter to the IGR and Government between December 2010 and May 2011; their replies have not been received (March 2012).

### 6.13 Irregular remission of stamp duty and registration fee

Article 29 of Schedule 1-A to the IS Act, provides that the same duty as a conveyance on the market value of the property of greater value which is the subject matter of exchange is chargeable on exchange deeds. The Government in its notification No. (51) B-4-12-96-CTD-V dated 8 November 1996 remitted the stamp duty chargeable in respect of deeds of exchange of agricultural land upto five acres provided that the land under exchange is approximately of equal market value. Further, as per article I of the table of registration fees, registration fee at *ad-valorem* rates is chargeable on such instruments.

**6.13.1** We observed in SR offices, Bhopal, Dewas and Indore between December 2010 and January 2011 that stamp duty and registration fee of ₹ 19.51 lakh was remitted in respect of 12 deeds (registered between April and October 2009) for exchange of agricultural land upto five acres. We further noticed that in seven out of the 12 cases the agricultural land valued at ₹ 2.37 crore was exchanged with agricultural land of ₹ 1.28 crore. (There was difference from 12.55 *per cent* to 187.44 *per cent* between the market values

of the properties exchanged). As the market value of the properties exchanged were not equal, the remission of duty was not admissible in these seven cases and remission of registration fee was not admissible in all the cases. Thus, the Government was deprived of stamp duty and registration fee of ₹ 19.51 lakh.

After we pointed out the cases, the SR, Bhopal accepted (January 2011) the audit observation in respect of irregular remission of registration fee while in respect of remission of stamp duty, he stated that remission was granted correctly. The reply is not acceptable because no specific reason was stated by him. The SR Dewas and Indore stated in December 2010 that market value of properties exchanged were approximately equal as mentioned by the executants. We do not agree with the replies because market value of the properties worked out in accordance with the guidelines were not approximately equal, therefore the remission was not admissible.

Article 22 (g) of schedule 1-A of IS Act, provides that "Where by an instrument, the property is conveyed fully or partially to a female transferee or transferees, the rate of stamp duty applicable shall be two per cent less than the rate of stamp duty payable under this article on the share of property transferred and described clearly in the instrument in favour of the transferee or the transferees, as the case may be." But there is no mention in these provisions that such exemption is also admissible to a buyer institution/company where a female executes the deed or a gift deed in favour of a female transferee.

**6.13.2** We observed in five SR offices<sup>12</sup>, between June 2009 and January 2011 that two per cent exemption from payment of stamp duty as applicable in case of female transferees was granted to companies/societies on 13 sale deeds and 13 gift deeds registered between June 2008 and March 2010. This resulted in short levy of stamp duty of ₹ 16.89 lakh.

After we pointed out the cases, the DR, Sagar stated (March 2011) in respect of three instruments that ₹ 47,415 has been

recovered in two cases and action was in progress in one case. The SR, Morena stated in respect of one instrument in September 2009 that the owner of the company is a female, therefore exemption was granted. We do not agree with the reply because there is no mention in the Act/notification about such exemption. The DR, Jabalpur stated (February 2010) in respect of three instruments that cases had been registered against the executants and action was in progress. The SR, Bhind, Bhopal and Jabalpur stated (between August 2010 and January 2011) in respect of 19 instruments that cases would be referred to the Collector of stamps for necessary action. Further report in the matter has not been received (March 2012).

As per notification of June 2005 issued by the Commercial Tax Department, instruments of sale of sick or closed industrial units are exempted from payment of duty provided that exemption shall be granted only once and unit is started by the purchaser within 18 months of the execution of the instrument, failing which the exempted amount along with interest at the rate of 0.75 per cent per month is to be recovered.

**6.13.3** We observed in SR office, Obedullahganj (Raisen) in May 2010 that a lease deed registered in August 2009 was executed between *Audhyogik Kendra Vikas Nigam* and *Sanwariya Agro Oil Limited*. The registration fee of ₹ 4.34 lakh was charged on the document while chargeable stamp duty of ₹ 5.79 lakh was remitted on the basis of certificate granted by the Commissioner of Bhopal

division in August 2005. During further scrutiny of the case we noticed that exemption from payment of duty of ₹ 45.50 lakh had already been granted by the Department in September 2005 on sale deed of sick unit to the purchaser

<sup>12</sup>

Bhind, Bhopal, Jabalpur, Morena and Sagar.



on the basis of this certificate. As such, exemption from payment of duty was not admissible on the lease deed registered in August 2009 and consequently the Government was deprived of duty of ₹ 5.79 lakh.

After we pointed out the case, the SR stated in May 2010 that the case would be referred to the Collector of Stamps after scrutiny. Further progress has not been received (March 2012).

As per Government notification No. 773-1155-VI-R of 24 October 1980, instruments executed by or in favour of primary cooperative housing societies (Societies) for acquisition of land for housing purpose of its members were exempted from payment of stamp duty and registration fee. Department directed in August 2001 to review all such cases where the societies were granted exemption from payment of duty on conveyance deeds and later on the land was used for a purpose other than housing for its members. In all such cases, stamp duty and registration fees which were exempted at the time of purchase of such land were to be recovered.

**6.13.4** We observed in SR Office, Gwalior in March 2010 that land valued at ₹ 30.59 lakh purchased between June 1997 and July 2004 for housing purpose through six instruments by three societies was not utilised for housing purpose of the members of the societies. The land was disposed of between May and November 2008 to persons other than members of the societies such as builders, individuals etc. Thus, stamp duty and registration fee of ₹ 3.61 lakh exempted at the time of acquisition of land became recoverable. However, no action was taken by the Sub Registrar to recover the amount. This resulted in non

realisation of revenue of ₹ 3.61 lakh.

After we pointed out the cases, the SR stated in March 2010 that the cases would be referred to the Collector of Stamps for recovery. Further progress has not been received (March 2012).

We reported the matter to the IGR and Government between February and May 2011; their replies have not been received (March 2012).

#### 6.14 Short levy of stamp duty and registration fee due to non-mentioning of facts affecting duty in instruments

Section 27 of the IS Act provides that the consideration and all other facts and circumstances affecting the chargeability of any instrument with duty or the amount of the duty with which it is chargeable, shall be fully and truly set forth therein. The procedure for valuation of land situated in Municipal Corporation area of Bhopal, Gwalior, Indore and Jabalpur is laid down in the market value guidelines. The developed land/undeveloped land where land use in master plan is residential/commercial or other than residential/commercial is to be valued in accordance with different slab systems prescribed for each category. It is further provided in the guidelines that when sellers are more than one and not joint holders of the property or purchasers are not family members, the valuation of property shall be done by treating them as sellers or purchasers separately in accordance with the above provisions.

We observed in SR office, Bhopal in January 2011 that in 10 documents registered between August 2009 and March 2010, there was no mention in the documents about the land use in the master plan of the plots and this was shown as agricultural land in the instruments. During further scrutiny of the records and cross verification from Joint Director, Town and Country Planning, Bhopal we noticed that the land use of the sold land was residential/commercial in the master plan and the market value of properties as per market value guidelines was ₹ 12.66 crore. However, we noticed that the market value of the properties was determined by the Department at ₹ 8.31 crore treating the land use as 'other than residential or commercial.' The certificates in respect of land use were

also not obtained from the Director, Town and Country Planning by the executants and submitted to the Registration Department. This resulted in short levy of stamp duty and registration fee of ₹ 45.79 lakh.

After we pointed out, the SR stated in January 2011 that land use was for agricultural purposes and the land cannot be valued at plot rate on the basis of land use in the master plan. He also referred to a High Court decision of the year 1996 (*Chhapru Panchayat Samaj v/s Kailash Agrawal*) in support of his reply. We do not agree with the reply because the decision of the High Court is of the year 1996 whereas Madhya Pradesh Preparation and Revision of Market Value Guidelines Rules, 2000 came in force from 31 July 2000. The Guideline for the year 2009-10 provides that undeveloped land of which land use is commercial/residential in the master plan is to be valued at the slab rates given in the guidelines. The land use was mentioned as residential/commercial in the master plan and therefore the slab rates prescribed were to be applied which was not followed by the Department. Further, the market value of land was worked out by audit in accordance with the provisions of the guidelines and not at flat rates treating the land as developed residential land.

We reported the matter to the IGR and the Government in April and May 2011; their replies have not been received (March 2012).

### 6.15 Short levy of stamp duty/incorrect exemption from payment of stamp duty on agreement/memorandum relating to deposit of title deed

The stamp duty on an agreement relating to deposit of title deed is levied at the rate prescribed from time to time under article 6(a) of schedule-I A to the IS Act. *Panchayat* duty equal to stamp duty is also leviable on such deeds. Further, as per explanation below article 6(a), any letter, note, memorandum or writing relating to deposit of title deed whether it is in respect of first or any additional loan, is deemed to be an instrument evidencing an agreement relating to the deposit of title deed. Further, duty is chargeable on additional amount only, if the duty was paid on previous loan. The Government in its notification dated 20 October 2004 remits/reduces the stamp duty chargeable on instruments of mortgage without possession executed by the industrialists in connection with obtaining term loan for the purpose of setting up a new industry or for the expansion of an industry.

We observed in eight SR offices<sup>13</sup> between September 2009 and February 2011 that in 25 cases, memorandum or writings related to deposit of title deeds, securing an amount of ₹ 147.97 crore were registered between March 2006 and March 2010 on which stamp duty of ₹ 60.15 lakh was leviable. However, we noticed that stamp duty of ₹ 19.60 lakh only was levied on 22 instruments by applying incorrect rates/by charging duty only on additional amount of agreement though there was no mention in the instruments that duty was paid on the previous loan, while one instrument in SR office Morena and

two instruments in SR office Gohad were incorrectly exempted from payment of duty under the notification dated 20 October 2004 though the documents of deposit of title deeds were not covered in the notification. Thus, the Government was deprived of revenue of ₹ 40.55 lakh due to short levy of duty/incorrect exemption from payment of duty.

After we pointed out the cases, the DR, Morena stated (February 2011) in respect of six instruments that cases had been registered against the executants and action was in progress. The SR, Bhind and Jabalpur stated (August-October 2010) in respect of four instruments that cases would be referred to the Collector of stamps. SR, Gohad (Bhind) stated (August 2010) in respect of three instruments that action would be taken after scrutiny. Four SRs<sup>14</sup> stated between September 2009 and February 2011 in respect of 11 instruments that action would be taken after seeking information from banks, while SR Gadawara stated (February 2011) in respect of one case that the Government

<sup>13</sup> Ambah (Morena), Bhind, Bhopal, Gadawara (Narsinghpur), Gohad (Bhind), Indore, Jabalpur and Morena.

<sup>14</sup> Bhopal, Indore, Gadawara (Narsinghpur) and Morena.

notification was received late hence old rates were applied. No reply was furnished by the SR as to why action was not taken to recover the deficit duty after receipt of the notification. Further progress in the matter has not been received (March 2012).

We reported the matter to the IGR and the Government between February and May 2011; their replies have not been received (March 2012).

#### **6.16 Non-reimbursement of stamp duty and registration fees**

Government notification dated 20 November 2007 (as amended) provides exemption from stamp duty and registration fee chargeable on sale deeds executed in favour of persons displaced on account of Auto Testing Track Project, Pithampur (District Dhar). The notification further stipulates that the amount of stamp duty and registration fee so chargeable shall be reimbursed by the Commerce, Industry and Employment Department to the Commercial Tax Department within one month of registration of such instruments.

We observed in SR office, Dhar and Indore between October and December 2010 that 12 documents of sale deeds were registered between July 2008 and November 2009 in favour of persons displaced due to Auto Testing Track Project, Pithampur (Dhar). It was further observed that stamp duty and registration fee of ₹ 30.12 lakh involved in the above documents was reimbursable to the Commercial Tax Department but the same was not reimbursed. Demand was also

not raised by the Registration Department. This resulted in non-realisation of revenue of ₹ 30.12 lakh.

After we pointed out the cases, SR, Dhar stated (October 2010) in respect of one case that the document remained unattended due to mistake and the letter for reimbursement was issued (October 2010) at the instance of audit. The DR, Indore stated in July 2011 that appropriate action for recovery was being taken. Report on further developments has not been received (March 2012).

We reported the matter to the IGR and Government in April and May 2011; their replies have not been received (March 2012).

### 6.17 Short levy of stamp duty and registration fee on instruments of power of attorney (POA)

Article 45 (d) of Schedule 1-A to the IS Act provides that when POA is given without consideration authorising the agent to sell, gift, exchange or permanently alienate any immovable property situated in Madhya Pradesh for a period not exceeding one year, duty of ₹ 100 is chargeable on such instruments. Further, when such rights are given with 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.

**6.17.1** We observed in 10 SR offices<sup>15</sup> between December 2008 and August 2010 that out of 29 instruments registered between April 2006 and December 2009, in 19 instruments though the power to sell, gift, exchange or permanent alienation of immovable property was given, there was no mention in the documents to show whether the POA was without consideration for a period not exceeding one year. In 10 instruments the POA was irrevocable. In these

cases, stamp duty and registration fee of ₹ 22.69 lakh was leviable in accordance with the above provisions. We, however, noticed that all the instruments were treated as POA to sell without consideration for a period not exceeding one year and duty and fee was levied at the rate of ₹ 100 in each case. This resulted in short levy of duty and registration fee of ₹ 22.63 lakh.

After we pointed out the cases, four DRs<sup>16</sup> stated between June 2009 and October 2011 in respect of 24 instruments that cases against the executants had been registered and action was in progress. SR, Sendhwa stated in November 2009 in respect of one instrument that power of attorney was given by a wife to her husband. The reply is not acceptable because no exemption from payment of duty has been provided on such instruments under article 45(d) of Schedule 1-A. The remaining SRs<sup>17</sup> stated between February 2009 and August 2010 in respect of four instruments that the cases would be referred to the Collector of Stamps. Further report in the matter has not been received (March 2012).

**6.17.2** We observed in SR office, Bhopal in January 2011 that a correction deed of instrument of POA was registered in February 2010. According to the recitals of the instrument, the attorney was authorised to sell the land situated in village Bhanpur under ward No. 66 of *Nagar Nigam*, Bhopal in place of village *Karod* mentioned in the original deed (January 1996). There was no mention in the document to show whether the POA was for a period not exceeding one year. As such, stamp duty of ₹ 6.94 lakh and registration fee of ₹ 74,000 was leviable on the instrument in accordance with the above

<sup>15</sup> Ambah (Morena), Bhind, Gohad (Bhind), Gwalior, Katangi (Balaghat), Khargone, Maihar (Satna), Mehgaon (Bhind), Morena and Sendhwa (Badwani).

<sup>16</sup> Bhind, Khargone, Morena and Satna.

<sup>17</sup> Gohad (Bhind), Gwalior and Katangi (Balaghat).

provisions. However, it was noticed that duty and registration fee of ₹ 100 each was levied. This resulted in short levy of duty and registration fee of ₹ 7.68 lakh.

After we pointed out the case, SR, Bhopal stated in January 2011 that there was no conveyance on sale, neither was any consideration paid. The reply is not acceptable because as per article 45 (d) of Schedule 1-A, when POA is given without consideration to sell, gift, and exchange or permanently, alienate any immovable property for indefinite period, the same duty as a conveyance on the market value of property is chargeable. In the instant cases power to sell was given for an indefinite period, hence duty at the rate of conveyance is chargeable.

We reported the matter to the IGR and Government between December 2010 and May 2011; their replies have not been received (March 2012).

### 6.18 Short levy of stamp duty on instrument of assignment of debt

Article 22 (b) of Schedule 1-A to the IS Act read with Government notification dated 7 March 2005 provides for levy of duty on instruments of securitisation of loan or assignment of debt with underlying securities executed in favour of a securitisation company or a Reconstruction Company registered under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 at the rate of 0.1 per cent of the loan securitised or debt assigned with underlying securities, if the securities are immovable properties. Further, *Panchayat* duty and municipal duty at the rate of one per cent each is also leviable on such instruments under section 133 (d) of the M.P. Municipal Corporation Act, 1956 and section 75 of the M.P. *Panchayat Raj Adhiniyam*, 1993 respectively.

We observed in SR office, Ratlam in December 2010 that an instrument of assignment of debt of ₹ 11.93 crore executed in favour of an asset reconstruction company was registered in May 2008 on which stamp duty of ₹ 25.05 lakh was leviable as per above provisions. However, we noticed that duty of ₹ 1.19 lakh only was levied by applying incorrect rates. This resulted in short levy/realisation of duty of ₹ 23.86 lakh.

After we pointed out the case, the DR, Ratlam stated in April 2011 that *Panchayat* and

municipal duties were not chargeable on instruments of assignment of debt. We do not agree with the reply because as per section 2 (10) of the Act, assignment of debt is a transfer of property and comes under the definition of conveyance on sale, hence *Panchayat* duty and municipal duties were leviable in the instant case. Moreover, the Departmental instructions issued to all the DRs/SRs in October 2008 providing that municipal and *Panchayat* duty shall be recovered on such instruments confirms the stand taken by the audit.

We reported the matter to the IGR and Government in April and May 2011; their replies have not been received (March 2012).

## 6.19 Short levy of registration fee and non-levy of penalty

Under Article 1 of the Registration table of the Registration Act, 1908, registration fee is chargeable at *ad valorem* rates for registration of documents other than leases.

**6.19.1** We observed in SR office, Bhopal and Nagda (Ujjain) between August 2010 and January 2011 that three instruments of re-conveyance of mortgage against the secured amount of ₹ 10.07 crore were registered between November 2009 and March 2010. As per rule, registration fee of ₹ 8.05 lakh was chargeable on these instruments. However, we noticed that fee of ₹ 1000 only was charged in one instrument while in the remaining two instruments, registration fee of ₹ 100 only in each case was recovered. This resulted in short levy of registration fee of ₹ 8.04 lakh.

After we pointed out the cases, SR, Bhopal stated in respect of two instruments in January 2011 that the documents of re-conveyance were related to deposit of title deed and not with the mortgage of property, hence the fee was recovered correctly. The reply is not in consonance with article-1 of the registration table according to which registration fees was chargeable as per the value mentioned in the documents. Moreover, no specific provision was quoted by the SR in his reply. The SR, Nagda stated in respect of one instrument in August 2010 that the case would be referred to the Collector of stamps. Further progress has not been received (March 2012).

According to Section 23 of the Registration Act, 1908, no document except will deed, shall be accepted for registration unless presented for that purpose to the appropriate officer within four months from the date of its execution. If the delay in presentation is less than one month of the initial grace period of four months, penalty equal to two times of the registration fee shall be chargeable according to article XV (a) of the table of registration fee.

**6.19.2** We observed in SR office, Obedullahganj (Raisen) in May 2010 that though an instrument was executed on 15 September 2009, it was presented before the Sub Registrar for registration on 3 February 2010. As the instrument was presented for registration after lapse of 20 days beyond the initial grace period, penalty of

₹ 2.94 lakh at twice the amount of the proper registration fee of ₹ 1.47 lakh was leviable. However, it was noticed that the registering authority did not levy any penalty. As such, Government was deprived of revenue of ₹ 2.94 lakh.

After we pointed out the case, the SR stated in May 2010 that the case would be referred to the Collector of Stamps after scrutiny. Further progress has not been received (March 2012).

We reported the matter to the IGR and the Government between April and May 2011; their replies have not been received (March 2012).

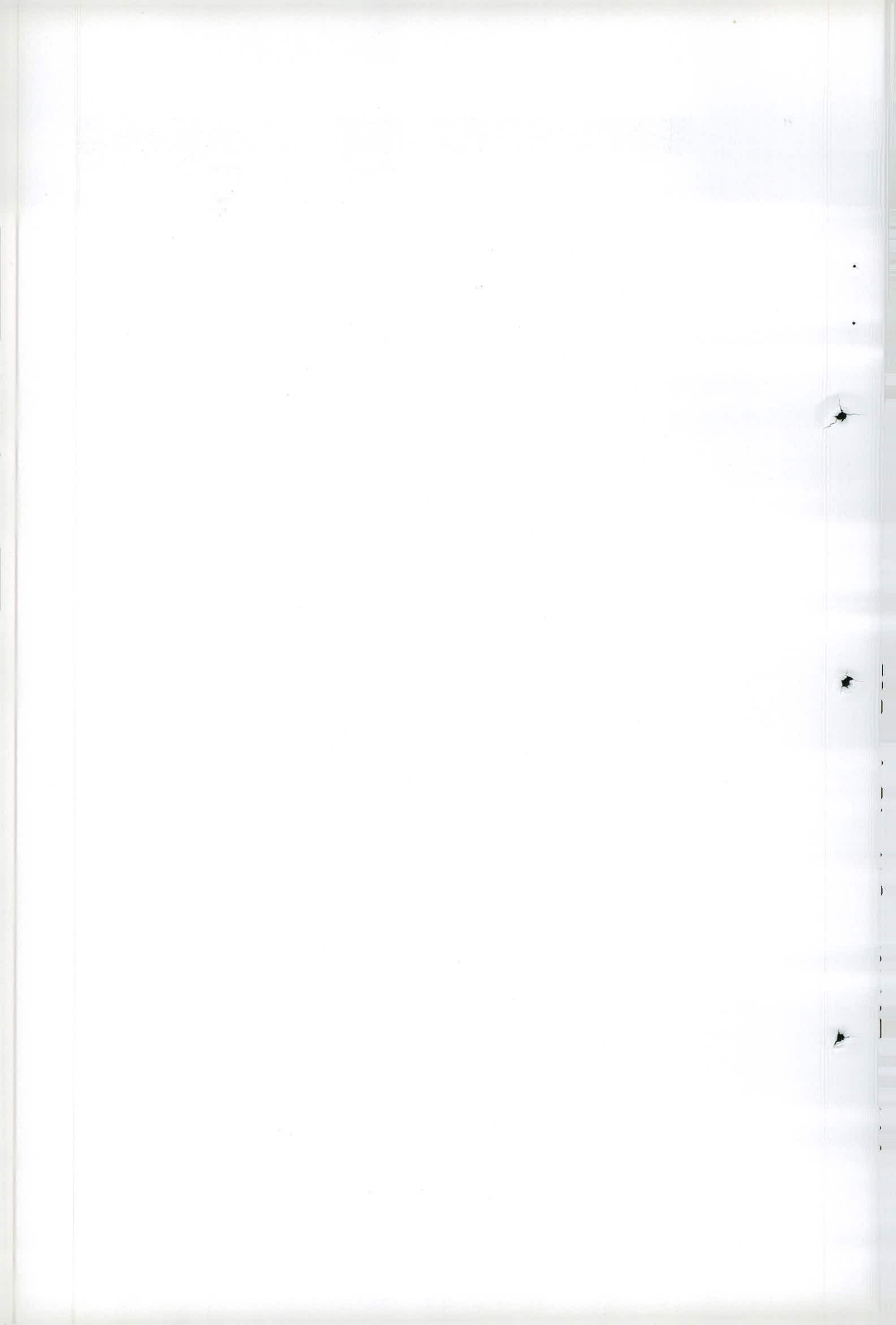




## EXECUTIVE SUMMARY

<b>Tax collection</b>	In 2010-11 the collection from entertainment duty increased by 53.15 <i>per cent</i> over the previous year, which was attributed to realisation of entertainment duty from DTH services by the Government.
<b>Results of audit conducted by us in 2010-11</b>	<p>In 2010-11 we test checked the records of 20 units* relating to entertainment duty and found loss of revenue and other irregularities involving ₹ 1.92 crore in 2,949 cases.</p> <p>The Department accepted underassessment and other deficiencies of ₹ 70 lakh in 700 cases, which were pointed out by us during the year 2010-11. An amount of ₹ 10 lakh was recovered in 398 cases during the year 2010-11.</p>
<b>What we have highlighted in this Chapter</b>	<p>In this Chapter we present illustrative cases of ₹ 41.33 lakh selected from observations noticed during our test check of records relating to assessment and collection of entertainment duty in the office of the District Excise Officers (DEOs)/ Assistant Excise Commissioners (AECs), where we found that the provisions of the Acts/Rules were not observed.</p> <p>It is a matter of concern that similar omissions have been pointed out by us repeatedly in the Audit Reports for the past several years, but the Department has not taken corrective action.</p>
<b>Our conclusion</b>	The Department needs to initiate immediate action to recover the amount on account of non levy of entertainment tax, non levy of advertisement tax etc. pointed out by us, more so in those cases where it has accepted our contention.

\* The audit of entertainment duty is conducted in the District Excise Offices. The number of units audited has also been shown in chapter - III (State Excise).



## CHAPTER - VII ENTERTAINMENT DUTY

### 7.1 Results of audit

Test check of the records of 20 units<sup>1</sup> relating to entertainment duty revealed loss of revenue and other irregularities involving ₹ 1.92 crore in 2,949 cases which fall under the following categories:

(₹ in crore)

Sl. No.	Category	Number of cases	Amount
1.	Non/short deposit of entertainment duty by the proprietors of VCRs/Cable operators	441	0.13
2.	Non-realisation of entertainment duty	186	0.12
3.	Incorrect exemption from payment of entertainment duty	123	0.37
4.	Evasion of entertainment duty due to non-accountal of tickets	6	0.01
5	Other observations	2,193	1.29
<b>Total</b>		<b>2,949</b>	<b>1.92</b>

During the course of the year 2010-11, the Department accepted underassessment and other deficiencies of ₹ 70 lakh in 700 cases, which were pointed out in audit during the year 2010-11. An amount of ₹ 10 lakh was realised in 398 cases.

A few illustrative cases involving ₹ 41.33 lakh are mentioned in the following paragraphs.

<sup>1</sup> The audit of entertainment duty is conducted in the District Excise Offices. The number of units audited has also been shown in chapter - III (State Excise).

## 7.2 Non-levy of penalty for breach of rules

The Madhya Pradesh Cable Television Network (Exhibition) Rules, 1999 lay down that a proprietor of Cable Television Network (cable operator) shall submit every month (in the last three days of the month) a statement in Form (CT-5) on the basis of a prescribed register maintained by him along with the treasury challans for verification to the Assistant Excise Commissioner (AEC)/District Excise Officer (DEO). It further stipulates that a cable operator committing breach of rules shall be punishable with fine up to ₹ 5,000.

During test check of the records of cable operators of three DEOs<sup>2</sup> between June 2009 and July 2010 we observed that 129 cable operators did not submit the monthly statements between April 2008 and June 2010. Consequently, account of the entertainment duty (ED) payable by the cable operators remained unverified/unreconciled with the challans. However, the Department did not take

any action to call for the monthly statements and levy maximum penalty of ₹ 96.55 lakh on the cable operators responsible for non-submission of the monthly statements. This resulted in non-realisation of revenue of ₹ 96.55 lakh.

After we pointed this out, the Excise Commissioner stated (September 2011) that action to impose the penalty against the cable operators in Balaghat district had been taken. Penalty of ₹ 9,730 had been imposed on all the 102 cable operators in Chhindwara district. In regard to Sehore district, it was stated that the monthly returns (CT-5) of the objected period had been submitted by all the cable operators. They had deposited the amount of entertainment duty in due time and as such there was no loss to Government and penalty was not leviable. The reply in regard to Sehore district is not acceptable as the reply does not explain why action to levy penalty was not taken for non submission of returns (CT-5) in time.

We reported the matter to the Government between November 2010 and May 2011; their reply has not been received (March 2012).

<sup>2</sup> District Excise Officer - Balaghat, Chhindwara and Sehore.

### 7.3 Non-levy of entertainment duty on cinema houses

The Madhya Pradesh Entertainment Duty and Advertisement Tax Act, 1936 provides that no entertainment duty shall be levied on prescribed amount\* collected by the proprietor from spectators provided that the adequate facilities are provided to spectators in cinema hall. The details of facilities provided and the amount spent thereon, certified by a Chartered Accountant (CA) shall be submitted by the proprietor of the cinema hall to the Collector of the district through the AEC/DEO latest by 30th June of the following financial year. If the Collector is not satisfied with the facilities provided, he may recover the duty in respect of the amount allowed for facilities from the proprietor of the cinema hall. As per orders of EC dated 30 June 2008, in case of non-submission of details of facilities and amount spent thereon certified by CA, the entertainment duty on full amount of ticket will be recovered from the proprietor of cinema hall.

During test check of the returns submitted by cinema houses of four AECs<sup>3</sup> and nine DEOs<sup>4</sup> between March 2009 and December 2010, we observed that 58 proprietors of cinema houses collected ₹ 85.80 lakh for providing facilities to the spectators between April 2007 and March 2010 on sale of tickets. Though the details of facilities provided in the cinema halls and accounts of expenditure thereof certified by the CA were not submitted by the proprietors to the AEC/ DEO for forwarding to the Collectors, no action was taken by the Department for levy of entertainment duty of ₹ 20.24 lakh. Further, we observed from the records of AEC, Sagar that a proprietor of a cinema house collected ₹ 12.19 lakh for providing facilities to the spectators which included the amount of previous years brought

forward in 2009-10 (₹ 11.01 lakh) and during the year (₹ 1.18 lakh). Of this, he spent ₹ 79,000 in the year 2009-10 and the balance amount of ₹ 11.40 lakh could not be spent as the cinema house was closed from 1 July 2009. As such the entertainment duty of ₹ 3.80 lakh on this amount was recoverable from the proprietor of the cinema house but no action was taken by the Department to recover the same. This resulted in non-realisation of entertainment duty of ₹ 24.04 lakh.

After we pointed this out to the Department and the Government between December 2010 and March 2011, the EC stated (between March and May 2011) that AEC, Sagar had recovered ₹ 3.80 lakh. Further, 21 operators of cinema houses of five districts<sup>5</sup> had submitted the details of facilities provided and the amount spent thereon duly certified by the CA for the year 2008-09 and 2009-10. DEO, Vidisha stated (August 2010) that action would be taken as per rule by receiving the statement, and other AECs and DEOs

\* Not exceeding ₹ 2 per ticket.

<sup>3</sup> Gwalior, Jabalpur, Indore and Ujjain.

<sup>4</sup> Chhindwara, Dhar, Hoshangabad, Khandwa, Khargone, Morena, Narsinghpur, Satna, and Vidisha.

<sup>5</sup> Chhindwara, Gwalior, Khargone, Narsinghpur and Ujjain.

stated between February and December 2010 that returns were being received from the proprietors of the cinema halls. The replies do not explain why action was not taken to recover the entertainment duty in case of non-receipt of duly audited details within the prescribed period. Further reports have not been received (March 2012).

#### 7.4 Non-recovery of entertainment duty from cable operators

The Madhya Pradesh Entertainment Duty and Advertisement Tax Act, 1936 and Madhya Pradesh Cable Television network (Exhibition) Rules, 1999 provide that every proprietor of cable television network and hotel or lodging houses providing entertainment through cable service shall pay entertainment duty within seven days from the last day of the month.

During test check of the demand and collection register of cable operators of six AECs<sup>6</sup> and eight DEOs<sup>7</sup> between March 2010 and February 2011 we observed that entertainment duty of ₹ 17.29 lakh was not deposited by 574 cable operators and 11 proprietors of hotels or lodging houses providing entertainment through cable service

between April 2009 and January 2011. The Department also did not take any action for recovery of the dues. This resulted in non-realisation of duty of ₹ 17.29 lakh.

After we pointed this out, the EC stated (between March and May 2011) that ₹ 8.74 lakh had been recovered from 270 cable operators of eight districts<sup>8</sup>. Other AECs and DEOs stated between March 2010 and February 2011 that action for recovery was being taken. Further replies have not been received (March 2012).

We reported the matter to the EC and Government between December 2010 and May 2011; their replies except that of EC in respect of eight districts have not been received (March 2012).

<sup>6</sup> Assistant Excise Commissioner - Bhopal, Gwalior, Indore, Jabalpur, Sagar and Ujjain.

<sup>7</sup> District Excise Officer - Chhindwara, Hoshangabad, Katni, Khandwa, Khargone, Neemuch, Satna and Vidisha.

<sup>8</sup> Bhopal, Chhindwara, Gwalior, Katni, Neemuch, Sagar, Ujjain and Vidisha.

## 7.5 Non-levy of advertisement tax

The Madhya Pradesh Entertainment Duty and Advertisement Tax Act, 1936 provides that every proprietor of an entertainment shall pay advertisement tax on every advertisement exhibited at a rate not exceeding ₹ 50 per month.

During test check of the records of five AECs<sup>9</sup> and nine DEOs<sup>10</sup> between March 2010 and February 2011, we observed that advertisement tax of ₹ 9.99 lakh from 1,740 cable operators and four proprietors of video operators for the period from April 2008 to

November 2010 was neither paid by them, nor was it assessed and recovered by the Department. This resulted in non-levy and realisation of advertisement tax of ₹ 9.99 lakh.

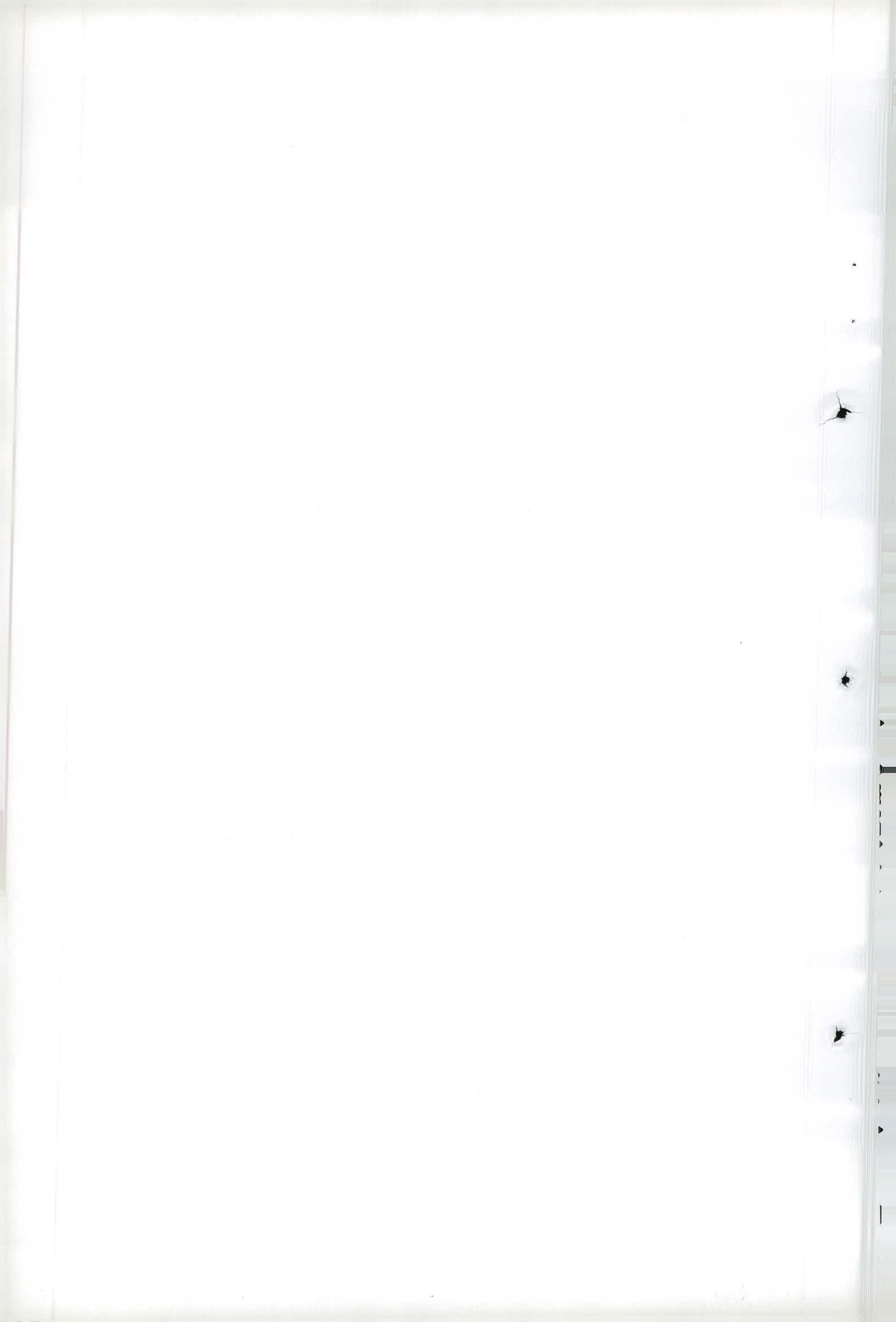
After we pointed out the cases, the EC stated in May 2011 that although advertisement tax on cable operators was not leviable under the provisions of the Act, a letter had been issued (between August 2009 and April 2011) to the Administration Department to apprise of the comments of the Law Department and on the receipt of their comments necessary action would be taken. The reply is not acceptable as the provisions under the Act do not preclude cable operators/video operators exhibiting advertisements from liability of paying tax. Moreover, the Department is recovering the advertisement tax in six districts<sup>11</sup>. Further reply has not been received (March 2012).

We reported the matter to the Government between December 2010 and May 2011; their reply has not been received (March 2012).

<sup>9</sup> Assistant Excise Commissioners - Bhopal, Indore, Jabalpur, Raisen and Sagar.

<sup>10</sup> District Excise Officer - Chhindwara, Hoshangabad, Katni, Khandwa, Khargone, Morena, Neemuch, Satna and Vidisha.

<sup>11</sup> Anuppur, Dhar, Mandla, Shahdol, Shajapur and Shivpuri.





## EXECUTIVE SUMMARY

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<b>Tax collection</b>	<p>In 2010-11 the collection from taxes and duties on electricity decreased by 31.22 <i>per cent</i> over the previous year. Revenue for the year 2008-09 was credited in the year 2009-10. As a result, revenue for the year 2009-10 stood inflated and thus the revenue for the year 2010-11 shows a declining trend in comparison to the previous year.</p>
<b>Results of audit conducted by us in 2010-11</b>	<p>In 2010-11 we test checked the records of five units relating to electricity duty and found underassessment of tax, other irregularities involving ₹ 252.68 crore in 2,38,865 cases.</p> <p>The Department accepted underassessment and other deficiencies in 229 cases of ₹ 2.95 crore out of ₹ 252.68 crore in 2,38,865 cases pointed out in audit during the year 2010-11.</p>
<b>What we have highlighted in this Chapter</b>	<p>In this Chapter we present illustrative cases involving ₹ 3.48 crore selected from observations noticed during our test check of records relating to short/non recovery of electricity duty/penalty in the office of the Chief Electrical Inspectors (CEIs), Deputy Chief Electrical Inspectors (DCEIs) and Divisional Electrical Inspectors (DEIs), where we found that the provisions of the Acts/Rules were not observed.</p> <p>It is a matter of concern that similar omissions have been pointed out by us repeatedly in the Audit Reports for the past several years, but the Department has not taken corrective action.</p>
<b>Our conclusion</b>	<p>The Department needs to initiate immediate action to recover the amount on account of non-realisation of inspection fee, short/non recovery of duty and penalty etc. pointed out by us, more so in those cases where it has accepted our contention.</p>



## CHAPTER - VIII ELECTRICITY DUTY

### 8.1 Tax administration

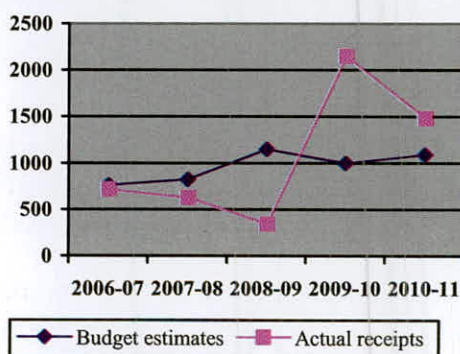
The organisation is headed by the Chief Electrical Inspector (CEI) while the Secretary of the Energy Department is the head at the Government level. The CEI is assisted by two Superintending Engineers (SE Electrical/Safety), seven Divisional Electrical Inspectors (DEI, E/S) at the district level and 34 Assistant Electrical Inspectors at the sub divisional level for conducting inspection of electrical installations. They are responsible for ensuring correctness of the levy and collection of duty, cess and inspection fees in respect of captive and non-captive consumers of electricity and electrical installations respectively.

### 8.2 Trend of receipts

Actual receipts from electricity duty during the last five years 2006-07 to 2010-11 along with the total tax receipts during the same period are exhibited in the following table and line graph:

(₹ 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
2006-07	763.36	714.55	(-) 48.81	(-) 6.39	10,473.13	6.82
2007-08	832.00	626.08	(-) 205.92	(-) 24.75	12,017.64	5.21
2008-09	900.00	343.06	(-) 556.94	(-) 61.88	13,613.50	2.52
2009-10	1,000.00	2,146.49	(+) 1146.49	(+) 114.65	17,272.77	12.43
2010-11	1,090.00	1,476.32	(+) 386.32	(+) 35.44	21,419.33	6.89



In 2010-11 the collection from taxes and duties on electricity decreased by 31.22 per cent over the previous year. Revenue for the year 2008-09 was credited in the year 2009-10. As a result revenue for the year 2009-10 stood

inflated and thus the revenue for the year 2010-11 shows a declining trend in comparison to the previous year.

### 8.3 Analysis of budget preparation

No files regarding budget preparation were made available to the audit at Government level. However, we observed from the records available at the office of the Head of the Department that the budget estimates were prepared on an *ad hoc* basis without following any uniform criteria on estimating the receipts to be actually realised during the year. The revised estimate for the year 2010-11 was ₹ 1,102.59 crore against budget estimate of ₹ 1,090 crore. The actual receipt (₹ 1,476.32 crore) was 33.90 per cent more than the revised estimate due to the receipt of arrears of ₹ 300.62 crore for the year 2009-10. Taxes and duties on electricity were realised by book adjustment from the loan released for working capital to Madhya Pradesh Electricity Board; therefore actual receipt did not depict receipt realised for the current year.

### 8.4 Working of internal audit wing

Though an internal audit wing was in operation in the Department, information on the organisational structure of the wing, existence of audit plan, whether any follow up action is taken on internal audit findings etc. was not furnished by the Department, though called for. We are therefore unable to comment on the efficacy of the internal audit wing.

### 8.5 Results of audit

Test check of the records of five units relating to electricity duty revealed underassessment of tax and other irregularities involving ₹ 252.68 crore in 2,38,865 cases which fall under the following categories:

(₹ in crore)

Sl.No.	Categories	No. of cases	Amount
1.	Loss of revenue due to non-inspection of electrical installation	1,39,440	1.64
2.	Other observations	99,425	251.04
<b>Total</b>		<b>2,38,865</b>	<b>252.68</b>

During the course of the year, the Department accepted underassessment and other deficiencies in 229 cases of ₹ 2.95 crore out of ₹ 252.68 crore in 2,38,865 cases pointed out in audit during the year 2010-11.

A few illustrative audit observations involving ₹ 3.48 crore highlighting important audit findings are mentioned in the following paragraphs.

## 8.6 Non-imposition of penalty

Under Rule 141 of the Indian Electricity (IE) Rules, 1956, if the owner of an electrical installation commits breach of any provision of the rule, he shall be liable to pay penalty upto ₹ 300 for each breach and if the breach continues, he shall be further liable to a penalty up to ₹ 50 per day till the breach persists. Further, as per instructions of the Energy Department, February 1987, (issued on the basis of advice of the Legal Department) only after instituting the case in the court, penalty can be imposed by the court. Penalty cannot be levied by any officer of the Electricity Department.

During test check of records relating to inspections conducted of six units<sup>1</sup> between October 2010 and January 2011, we observed that while carrying out inspection of medium and high voltage electrical installations during 2008-09 and 2009-10, though the inspectors detected breach of various provisions of the rules in 74,541 cases, the Department did not institute the cases in the court for imposition of penalty. This resulted in non-levy of maximum penalty of ₹ 2.24 crore.

After we pointed out the cases, the officers in charge of the respective offices stated between October 2010 and January 2011 that penalty was to be imposed by the courts and the Department had no right to impose penalty. Further, the expenditure on processing of penalty would be more than the revenue earned through penalty. The reply is not tenable because the Department did not institute the cases in the court for imposition of penalty. Further replies have not been received (March 2012).

We referred the matter to the Chief Electrical Inspector, Electrical Safety (CEI, ES) and the Government between December 2010 and May 2011; their replies have not been received (March 2012).

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<sup>1</sup> CEI, ES, Bhopal, DCEI, ES, Indore, DCEI, ES, Jabalpur, DEI, ES, Chhindwara, Rewa and Ujjain.

## 8.7 Loss of revenue due to non-realisation of inspection fee

According to Rule 46 of the IE Rules, 1956 and Government of Madhya Pradesh notification of 3 April 2007, fee at the prescribed rate is leviable for inspection of electrical installations according to their categories. Fee for inspection of electrical installation should be paid before 1<sup>st</sup> May each year. In case the inspection is not carried out, the fee paid shall be adjusted towards that payable for the subsequent year. Every such installation shall be periodically inspected and tested at an interval not exceeding five years in respect of medium voltage installations. In other cases, the inspection is to be conducted annually.

During scrutiny of information relating to inspections conducted collected from the CEI, ES and two Deputy Chief Electrical Inspectors, Electrical Safety (DCEI, ES), Indore and Jabalpur and three Divisional Electrical Inspectors, Electrical Safety (DEI, ES), Rewa, Ujjain and Chhindwara between October 2010 and January 2011, we observed that inspection of 79,946 high voltage electrical installations and 52,515 medium voltage electrical installations out of 1,68,570 high voltage installations and 3,05,455 medium voltage installations, respectively, was not carried out for the period 2008-09 and 2009-10. This poses a risk to human or animal life due to

uninspected installations. Further, there was loss of ₹ 1.25 crore in terms of unrealised inspection fee.

After we pointed out the cases, the Officer in charge of the respective offices stated between October 2010 and January 2011 that inspections were being conducted after fixing the target taking into consideration the available staff. The fact remains that the inspection fee was to be realised before 1<sup>st</sup> May each year as per the Government notification and in case the inspections were not carried out, these were to be carried forward to the subsequent year. Non-conducting the inspections compromised public safety.

We brought the matter to notice of the CEI, ES and the Government between December 2010 and May 2011; their replies have not been received (March 2012).

**8.8 Loss of revenue due to short recovery of electricity duty**

As defined in the Electricity Duty (ED) Act, 1949 "Mines" include the premises or machinery situated in or adjacent to a mine and used for crushing, processing, treating or transportation of materials. The Act provides for 40 *per cent* rate of duty applicable for mines, other than captive mines of cement industry.

During test check of the ledger of electricity duty in the offices of the DCEI, ES, Jabalpur and DEI, ES Rewa in November 2010 and January 2011, we observed that 47 consumers were engaged in mining activities between April 2009 and August 2010, but duty was incorrectly levied at the rate

of 3.5 *per cent* to eight *per cent* applicable for industrial purposes in place of 40 *per cent* for mining activities. This resulted in short realisation of duty of ₹ 2.23 crore.

After we pointed out the cases, the CEI stated (May 2011) that demand of ₹ 46.60 lakh had been raised in March 2011 in case of DEI, ES Rewa. Further development and reply in respect of the balance amount has not been received (March 2012).

We brought the matter to the notice of the Government in May 2011; their replies have not been received (March 2012).

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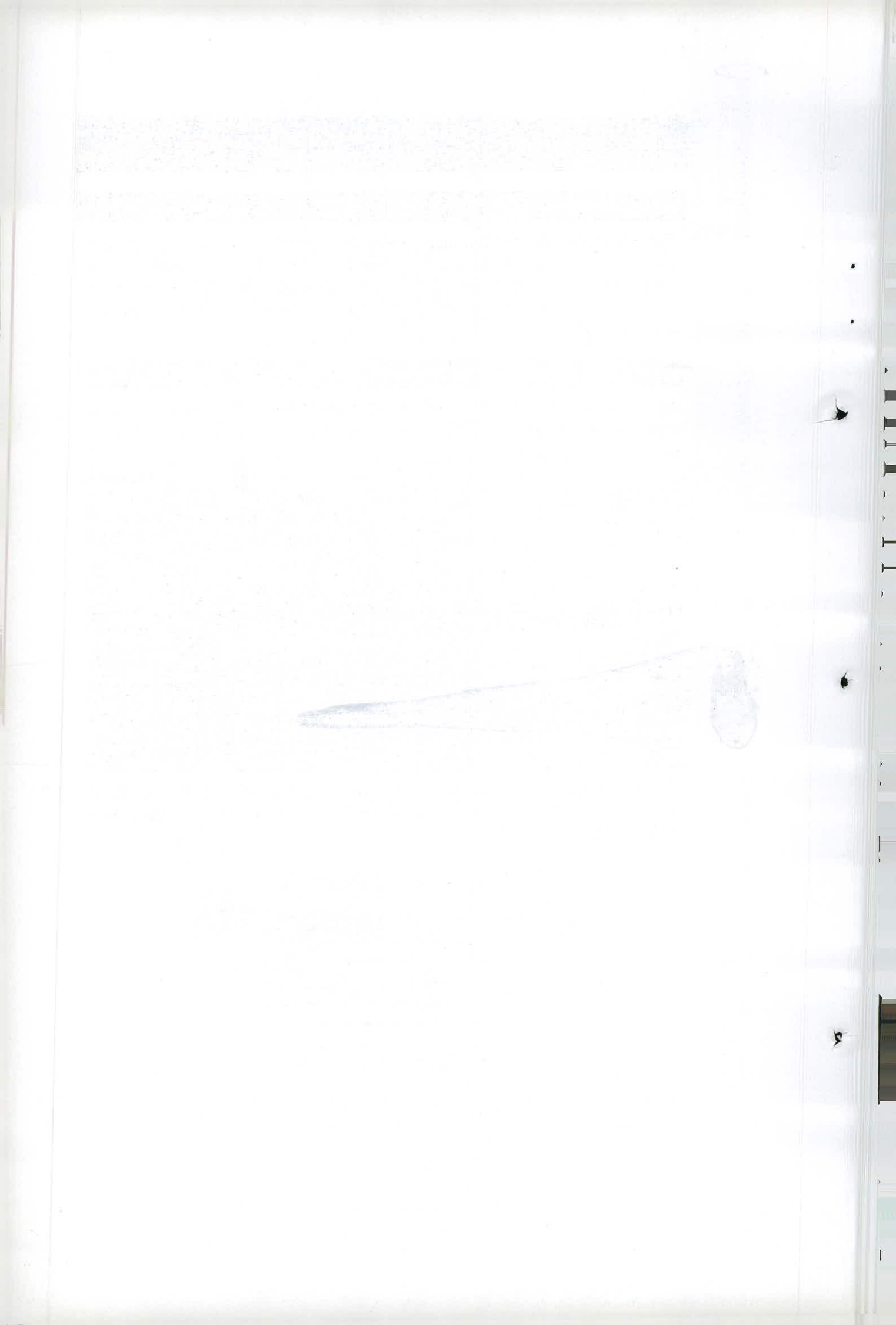
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## EXECUTIVE SUMMARY

<b>Tax collection</b>	In 2010-11 the collection from forest receipts increased by 4.32 <i>per cent</i> over the previous year.
<b>Results of audit conducted by us in 2010-11</b>	<p>In 2010-11 we test checked the records of 101 units relating to forest receipts and found underassessment, non/short realisation of revenue and other irregularities involving ₹ 61.57 crore in 159 cases.</p> <p>The Department accepted under assessment and other deficiencies of ₹ 7.27 lakh in four cases, which were pointed out by us during the year 2010-11.</p>
<b>What we have highlighted in this Chapter</b>	<p>In this Chapter we present illustrative cases selected from observations noticed during our test check of records relating to irregular felling in excess of marked trees and irregular sale of timber in the office of the District Forest Officers (DFOs) where we found that the provisions of the Acts/Rules were not observed.</p> <p>It is a matter of concern that similar omissions have been pointed out by us repeatedly in the Audit Reports for the past several years, but the Department has not taken corrective action.</p>
<b>Our conclusion</b>	The Department needs to initiate immediate action to recover the amounts pointed out by us, more so in those cases where it has accepted our contention.



## CHAPTER - IX FOREST RECEIPTS

### 9.1 Tax administration

The Forest Department functions under the overall control of the Principal Secretary at the Government level while the Principal Chief Conservator of Forest (PCCF) is responsible for the overall administration of the Department. Out of 92 divisional forest offices, 75 offices deal with revenue generating activities in the state.

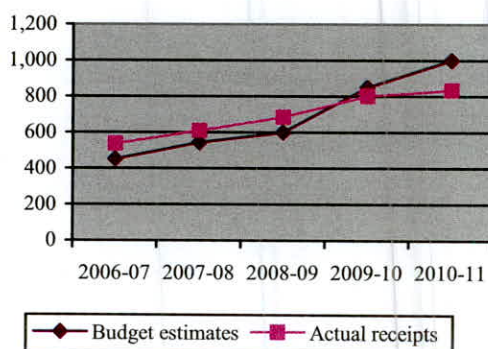
### 9.2 Trend of receipts

Actual forest receipts during the period 2006-07 to 2010-11 along with the total non-tax receipts during the same period are exhibited in the following table and line graph:

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation Excess (+)/shortfall (-)	Percentage of variation	Total non-tax receipts of the State	Percentage of actual forest receipts vis-à-vis total non-tax receipts
2006-07	450.00	536.50	(+) 86.50	(+) 19.22	2,658.46	20.18
2007-08	543.00	608.89	(+) 65.89	(+) 12.13	2,738.18	22.24
2008-09	600.00	685.60	(+) 85.60	(+) 14.27	3,342.86	20.51
2009-10	850.00	802.00	(-) 48.00	(-) 5.65	6,382.04	12.57
2010-11	1,000.00	836.61	(-) 163.39	(-) 16.34	5,719.77	14.63

The percentage of contribution of forest receipts to the total non-tax receipts of the State after declining during the years 2008-09 and 2009-10 registered a marginal increase in 2010-11.



In 2010-11 the collection from forest receipts increased by 4.32 per cent over the previous year.

### 9.3 Analysis of budget preparation

No files regarding budget preparation were made available to audit at Government level. However, we observed from the records available at the office of the PCCF that the budget estimates were prepared on an *ad hoc* basis without following any uniform criteria on estimating the receipts to be actually realised during the year. The revised estimate for the year 2010-11 was ₹ 1,002.25 crore against budget estimate of ₹ 1,000 crore. The actual receipt (₹ 836.61 crore) showed decrease of 16.53 *per cent* compared to the revised estimates which was mainly due to the abnormal decrease of revenue from the sale of wood and other forest produce.

### 9.4 Working of internal audit wing

Nine posts (Director Finance/Budget and Financial Advisor-1, Dy. Director, Assistant Director-1, Assistant Internal Audit Officer-6 of which 1 post is vacant) have been sanctioned by the Finance Department for internal audit in the Forest Department. As per departmental orders dated 28 October 1992, an audit manual for internal audit in the Department has been prepared. Internal audit is conducted in accordance with the roster prepared for each year.

As per the roster prepared for the year 2010-11, internal audit of 57 unit offices was planned against which audit was conducted in 54 unit offices.

### 9.5 Results of audit

Test check of the records of 101 units relating to forest receipts revealed underassessment, non/short realisation of revenue and other irregularities involving ₹ 61.57 crore in 159 cases which fall under the following categories:

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
1.	Non-realisation due to non-exploitation of bamboo/timber coupes	2	0.22
2.	Short realisation due to sale below the upset price	6	0.62
3.	Non-realisation due to deterioration/shortage of forest produce	26	1.75
4.	Short realisation due to non-accountal of forest produce	6	0.65
5.	Short realisation due to low yield of timber/bamboo against estimated yield	9	0.95
6.	Other observations	110	57.38
	<b>Total</b>	<b>159</b>	<b>61.57</b>

During the course of the year, the Department accepted underassessment and other deficiencies of ₹ 7.27 lakh in four cases which were pointed out in audit during the year 2010-11.

A few illustrative audit observations highlighting important audit findings are mentioned in the following paragraphs.

## 9.6 Irregular felling in excess of marked trees

As per provision of para 16 of chapter 12 of the working plan any exploitation outside the prescription of working plan will be treated as irregular and a violation of the Forest Conservation Act, 1980.

We observed from the records of DFO (P) Dindori (August 2009 and July 2010) that 33 coupes of No. VII and 3 coupes of No. XI, with a total of 37,416 marked trees were handed over to the

Production division, Dindori for exploitation by the DFO (G) Dindori in July 2009. The DFO (P) Dindori submitted exploitation scheme in respect of the taken over coupes to the Chief Conservator of Forest, Central Circle, Jabalpur in February 2010. No further coupes of marked trees were found handed over to Production division, Dindori. Out of these coupes, 74,166 trees were found exploited against 28,928 marked trees in 31 coupes (in the remaining five coupes trees were felled in accordance with marking) and 22,826.50 cum of timber was extracted and 12,390 fuel stacks were obtained against estimated yield of 12,958.82 cum of timber and 4,126 fuel stacks. Thus 45,238 trees were found exploited in excess of marked trees and an additional yield of 9,867.68 cum of timber and 8,264 fuel stacks was produced.

We reported the matter to the PCCF and the Government (March 2011). The Government stated (May 2011) that during the period of exploitation, revision for marking of trees was required as per existing working plan and as a result of revision in marking of trees the estimated yield changed and the same was handed over to Production division. The reply is not tenable as exploitation of 45,238 additional unmarked trees was done outside the prescription of the working plan and adversely affected forest density and environment which is a clear violation of the Forest Conservation Act, 1980. Besides, revising the marking of the trees after their felling undermines the system of marking of trees and is therefore irregular.

## 9.7 Irregular sale of timber

As per Rule 3 of *Sthapit depot se Imarti Lakdi ke vikray ki sharton ka viniyman karne wale Niyam*, any person shall not be allowed to bid on behalf of any person/firm unless he produces before the Divisional Forest Officer (DFO), a Power of Attorney (POA) duly certified by the competent court of law and executed by the person or firm empowering him so to act. Further, the Indian Stamp Act, 1899, prescribes that the amount of stamp for POA shall be ₹ 50 for authorising one person or more to act in a single transaction and ₹ 100 for more than one transaction.

We observed from the records of DFO(P) Khandwa relating to sale of timber in Ashapur depot between February 2009 and February 2010 that a timber broker purchased 25 lots of timber on behalf of eight firms. In violation of the rule *ibid*, the POAs presented for this purpose were certified by the Notary on stamp papers amounting to ₹ 10 and 20 in respect of six firms and the broker was also allowed to bid on behalf of two other firms on presentation of affidavits. The sales were not supported by valid POAs which resulted in irregular sale of timber amounting to ₹ 56.48 lakh.

We reported the matter to the PCCF and the Government (April 2010). The Government stated (September 2010) that the related purchasers had been blacklisted for not fulfilling the conditions of rule (3) and the erring officials had been warned. It was further stated that as an immediate measure stamp duty of ₹ 230 short realised had been recovered and action was being taken to prevent recurrence of such mistakes.

## EXECUTIVE SUMMARY

<b>Tax collection</b>	<p>In 2010-11 the collection from mining receipts increased by 33.39 <i>per cent</i> over the previous year, which was attributed to recovery of outstanding amounts under MP Rural and Road Development Act from companies, constant vigil and monitoring by the Department and increase in royalty of minor minerals.</p>
<b>Internal audit not conducted</b>	<p>The Department reported that due to shortage of staff, an internal audit wing has not been established.</p>
<b>Results of audit conducted by us in 2010-11</b>	<p>In 2010-11 we test checked the records of 37 units relating to mining receipts and found underassessment, non/short realisation of revenue and other irregularities involving ₹ 283.98 crore in 1,087 cases.</p> <p>The Department accepted under assessment and other deficiencies of ₹ 269.66 crore in 1,072 cases, which were pointed out by us during the year 2010-11. An amount of ₹ 7.01 lakh was recovered in 18 cases during the year 2010-11.</p>
<b>What we have highlighted in this Chapter</b>	<p>In this Chapter we present illustrative cases of ₹ 115.46 crore selected from observations noticed during our test check of records relating to non/short levy, non/short realisation, non imposition of penalty etc. on mining receipts in the office of the District Mining Officers (DMOs) where we found that the provisions of the Acts/Rules were not observed. It is a matter of concern that similar omissions have been pointed out by us repeatedly in the Audit Reports for the past several years, but the Department has not taken corrective action.</p>
<b>Our conclusion</b>	<p>The Department needs to establish the internal audit wing and improve the internal control system so that weaknesses in the system are addressed and omissions of the nature detected by us are avoided in future.</p> <p>It also needs to initiate immediate action to recover the amount on account of non/short realisation, non-imposition of penalty, non levy of interest etc. pointed out by us, more so in those cases where it has accepted our contention.</p>

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## CHAPTER - X MINING RECEIPTS

### 10.1 Tax administration

The Mining 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 (DMO) at the district level. The latter 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.

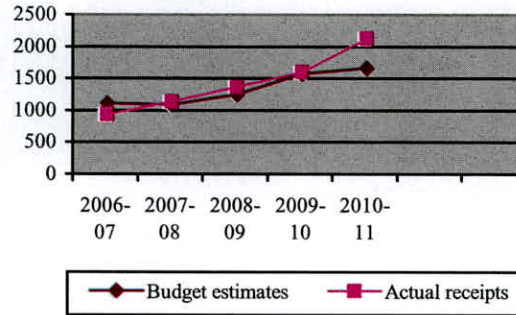
### 10.2 Trend of receipts

Actual mining receipts during the period 2006-07 to 2010-11 along with the total non-tax receipts during the same period are exhibited in the following table and line graph:

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total non-tax receipts of the State	Percentage of actual mining receipts vis-a-vis total non-tax receipts
2006-07	1,100.00	923.91	(-) 176.09	(-) 16.01	2,658.46	34.75
2007-08	1,080.00	1,125.39	(+) 45.39	(+) 4.20	2,738.18	41.10
2008-09	1,235.00	1,361.08	(+) 126.08	(+) 10.21	3,342.86	40.72
2009-10	1,566.00	1,590.47	(+) 24.47	(+) 1.56	6,382.04	24.92
2010-11	1,650.00	2,121.49	(+) 471.49	(+) 28.58	5,719.77	37.09

The percentage contribution of receipts from non-ferrous mining and metallurgical industries to the non-tax revenue of the State registered a growth in 2010-11 compared to the previous year.



In 2010-11 the collection from mining receipts increased by 33.39 per cent over the previous year, which was attributed to recovery of outstanding amounts under MP Rural and Road Development Act from companies, constant vigil and monitoring by the Department and increase in royalty of minor minerals.

### 10.3 Analysis of budget preparation

No files regarding budget preparation were made available to the audit at Government level. However, we observed from the records available at the office of the Head of the Department that the budget estimates were prepared on an *ad hoc* basis without following any uniform criteria on estimating the receipts to be actually realised during the year. The revised estimate for the year 2010-11 was ₹ 2,250 crore against budget estimate of ₹ 1,650 crore. The revised estimates were higher by 36.36 per cent as compared to the budget estimate due to probable increase in receipt from Road Development Tax during the year.

### 10.4 Working of internal audit wing

The Department reported that due to shortage of staff, an internal audit wing has not been established.

### 10.5 Results of audit

Test check of the records of 37 units relating to mining receipts revealed underassessment, non/short realisation of revenue and other irregularities involving ₹ 283.98 crore in 1,087 cases which fall under the following categories:

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
1.	Non/short levy of interest on belated payments	110	0.62
2.	Non/short levy of dead rent/royalty	363	29.81
3.	Non-assessment of rural infrastructure and road development tax	199	125.83
4.	Short realisation of contract money in trade quarries	364	4.40
5.	Other observations	51	123.32
	<b>Total</b>	<b>1,087</b>	<b>283.98</b>

During the course of the year, the Department accepted underassessment and other deficiencies of ₹ 269.66 crore in 1,072 cases, which were pointed out in audit during the year 2010-11 and recovered ₹ 7.01 lakh in 18 cases.

A few illustrative audit observations involving ₹ 115.46 crore highlighting important audit findings are mentioned in the following paragraphs.

## 10.6 Non/short realisation of contract money

As per condition no 5(i) and 9 of the contract agreement for trade quarry, every contractor has to pay contract money on the scheduled dates. If it remains unpaid for more than three months, the contract will be cancelled and the quarry will be re-auctioned. Consequent upon re-auction of the quarry, if the Government sustains any loss, it will be recovered from the defaulting contractor as arrears of land revenue. As per condition No. 23 of the agreement, premature surrender of the contract shall be accepted only when there are no arrears against the contractor. Further, Rule 40 of the Madhya Pradesh Minor Minerals (MPMM) Rules, 1996 provides for maintenance of accounts of income from the auction of trade quarry in form XXIII by the DMO.

We observed during scrutiny of the case files of trade quarries of 32 District Mining Offices<sup>1</sup> (DMOs) between February 2009 and January 2011 that 198 contractors had paid contract money of ₹ 85.06 lakh against the payable amount of ₹ 2.40 crore for the period April 2007 to March 2010. Though the contract money of ₹ 1.55 crore remained unpaid for durations ranging from three months to 46 months, there was nothing on record to show that the Department initiated any action against the defaulting contractors

under the terms of the contract to cancel the contracts and re-auction the quarries. Thus, the DMOs allowed the contractors to quarry despite their default in payment of contract money on due dates. Further, non-maintenance of accounts of income from trade quarries also affected the monitoring of outstanding recovery from the contractors. This resulted in short realisation of contract money of ₹ 1.55 crore.

After we pointed out the cases, all the DMOs, except Mandsaur, Guna, Ratlam, Morena, Ujjain and Dewas stated (February 2009 to May 2011) that action for recovery would be taken as per rule and intimated to audit. DMOs Ujjain, Guna, Ratlam and Dewas stated (April 2011 to July 2011) that an amount of ₹ 10.78 lakh had been recovered. DMO Morena stated (May 2011) that Revenue Recovery Certificate (RRC) had been issued against the concerning contractors for recovery of the remaining amount of contract money. DMO Mandsaur stated (March 2011) that an amount of ₹ 1.50 lakh had been recovered and ₹ 1.82 lakh was not recoverable due to acceptance of surrender of quarries. The reply is not acceptable because dues were required to be cleared before acceptance of surrender. Further replies have not been received (March 2012).

We reported the matter to the Director, Geology and Mining (DGM) and the Government between December 2010 and May 2011; their replies have not been received (March 2012).

<sup>1</sup> Anuppur, Badwani, Balaghat, Bhopal, Chhatarpur, Chhindwara, Damoh, Dewas, Dhar, Guna, Hoshangabad, Indore, Jabalpur, Jhabua, Khandwa, Mandsaur, Morena, Narsinghpur, Neemuch, Panna, Raisen, Ratlam, Rewa, Satna, Sagar, Sehore, Sheopur, Shivpuri, Sidhi, Tikamgarh, Ujjain and Umaria.

### 10.7 Short realisation of royalty on major minerals

According to section 9-A (i) and (ii) of the Mines and Minerals (Development and Regulation) Act (MMDR), 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 rates specified in the second schedule of the Act, which may be amended through a Gazette notification by the Central Government and would be effective from the date specified in the notification.

We observed during scrutiny of returns furnished by six lessees in five DMOs<sup>2</sup> between June 2009 and December 2010 that royalty of ₹ 30.65 crore was payable for the major minerals removed from the leased area between April 2007 and March 2010. However, we noticed that the lessees had paid royalty of ₹ 25.70 crore only. The DMOs concerned did not notice the short payment/

payment at incorrect rates, which resulted in short realisation of royalty of ₹ 4.95 crore.

After we pointed out the cases, DMO, Rewa stated (May 2011) that an amount of ₹ 15.41 lakh had been recovered and remaining amount of ₹ 71,773 would be recovered soon while DMO, Betul stated (July 2011) that demand of ₹ 1.42 lakh had been raised.

We reported the cases to the DGM and the Government between December 2009 and May 2011; their replies have not been received (March 2012).

### 10.8 Short realisation of revenue due to non-revision of contract money

As per condition No. 6 of the contract agreement for trade quarry under the MPMM Rules, if during the currency of the contract the rates of royalty are revised then the contract money shall also be revised proportionately. Government of MP through its notification dated 5 March 2010 enhanced the rates of royalty for minor minerals.

We observed during scrutiny of the case files of trade quarries of 11 DMOs<sup>3</sup> between June 2010 and January 2011 that the Department, in violation of the condition of the contract agreement, did not revise the contract money proportionately in case of 277 trade quarry contractors for 27 days of March 2010 (5 March to 31 March 2010). This resulted in short realisation of contract

money of ₹ 33.28 lakh.

<sup>2</sup> Balaghat, Betul, Katni, Rewa and Satna.

<sup>3</sup> Anuppur, Balaghat, Damoh, Hoshangabad, Jabalpur, Narsinghpur, Seoni, Shahdol, Shivpuri, Raisen and Umariya.

After we pointed out the cases, DMOs Shivpuri, Narsinghpur, Seoni, Jabalpur and Anuppur stated (between November 2010 and January 2011) that action would be taken after guidance from Government while DMOs Umariya, Damoh and Hoshangabad stated (between June 2010 and December 2010) that recovery would be made as per rules. DMO, Shahdol stated (October 2010) that revision of contract money was not possible and DMO, Balaghat stated (December 2010) that revised rate of contract money would be applicable for excess extraction. The replies are not acceptable as condition No. 6 of the contract agreement clearly provides for revision of contract money proportionately on revision of the rates of royalty for the quantity permitted in clause 5 (2) of the agreement in lieu of the auction amount. It further provides that for every additional extraction as mentioned in condition 5 (2), the revised rate shall be payable. DMO, Raisen stated (May 2011) that demand notices had been issued.

We reported the cases to the DGM and the Government between April and May 2011; their replies have not been received (March 2012).

### 10.9 Loss of revenue due to non-realisation of dues in trade quarries

According to the conditions of the contract agreement for trade quarry under the MPMM Rules, on re-auction of the quarry as a result of cancellation of a contract, the loss, if any, shall be recovered from the contractor as arrears of land revenue. Further, in the case of premature surrender all dues against the contractor must be realised before accepting the surrender.

We observed during scrutiny of the case files of trade quarries in two DMOs<sup>4</sup> in October 2008 and April 2009, that two trade quarries of sand were sanctioned in June 2007 and February 2008 for a period of two years. We further noticed that the quarry of Sidhi was cancelled due to non-deposit of contract money in which the Government sustained a loss

of ₹ 1.54 lakh due to non-recovery of installments and differential amount on re-auction from the previous contractor. In the other trade quarry (Shivpuri), the Department did not ensure recovery of the outstanding amount of ₹ 4.08 lakh, recoverable from the contractor on account of premature surrender of the quarry. Thus, Government sustained a loss of ₹ 5.62 lakh in these two cases.

We reported the case to the DGM and the Government between December 2009 and May 2011; their replies have not been received (March 2012).

<sup>4</sup> Shivpuri and Sidhi.

## 10.10 Short realisation of royalty on minor minerals

According to Rule 30 (1) (b) of the MPMM Rules, 1996, every lessee of a quarry lease shall pay royalty in respect of the mineral removed/consumed from the leased area at the rates specified in schedule III. As per instructions issued by the Government of Madhya Pradesh (GOMP), Mineral Resources Department dated 31 January 2006, the District Collector shall demarcate and reserve the quarries of minor minerals after these are proposed by the General Manager (GM), Madhya Pradesh Rural Road Development Authority (MPRRDA) for construction of roads. Further as per rule 68 (2) of the MPMM Rules, GM, MPRRDA shall submit the quarterly statement of extracted/consumed minor minerals to the Collector (Mining). DMO will maintain the account of the transit passes and reconcile it with the Department from time to time.

**10.10.1** We observed during scrutiny of the returns and other records of 13 DMOs<sup>5</sup> between October 2008 and December 2010 that though royalty of ₹ 5.43 crore was payable for the minor minerals removed from the leased area by 33 lessees between April 2007 and March 2010, the lessees had paid royalty of ₹ 3.70 crore only. The DMOs did not scrutinise the returns and raise the demand to realise the remaining amount of royalty. This resulted in short realisation of royalty of ₹ 1.73 crore.

After we pointed out the cases, all the DMOs, except Mandsaur, Raisen and Ujjain stated (between October 2008 and December 2010) that action would be taken after scrutiny. DMO Mandsaur, Raisen and Ujjain stated (between March and July 2011) that an amount of ₹ 8.04 lakh had been recovered.

**10.10.2** We observed during scrutiny of the records of 11 DMOs<sup>6</sup> between December 2008 and February 2011 that quarries of minor minerals were reserved for MPRRDA for construction of roads in 55 packages. We observed from the information collected from MPRRDA that royalty of ₹ 4.03 crore was payable for the minerals consumed in the works. However, MPRRDA paid royalty of ₹ 1.89 crore only against the payable amount of ₹ 4.03 crore. We also observed that the quarterly returns were neither submitted by the GM, MPRRDA nor was it demanded by the DMOs. In the absence of this vital control, the DMOs were unable to assess the royalty leviable and paid by the lessees. This resulted in short realisation of royalty of ₹ 2.14 crore.

We reported the cases to the DGM and the Government between December 2010 and May 2011; their replies have not been received (March 2012).

<sup>5</sup> Chhattarpur, Gwalior, Hoshangabad, Katni, Khandwa, Mandsaur, Narsinghpur, Panna, Raisen, Sagar, Satna, Ujjain and Umaria.

<sup>6</sup> Anuppur, Balaghat, Jabalpur, Indore, Narsinghpur, Seoni, Shahdol, Sheopur, Tikamgarh, Umaria and Vidisha.

### 10.11 Unauthorised retention of Government money by the lessees

According to Rule 29 of the Madhya Pradesh Financial Code, all Government receipts should be collected and deposited regularly and promptly in the Consolidated Fund. Further, as per Rule 7 of the Madhya Pradesh Treasury Code, all receipts payable to Government account should be deposited without any delay. Further, as per Section 4(2) of the MP *Gramin Avasanrachna Tatha Sadak Vikas Adhiniyam, 2005* (MPGATSV) every holder of a mineral bearing land shall be liable to pay by way of penalty in default of payment of tax payable by him for any period by the prescribed date, an amount not exceeding three times of tax so payable by him for that period.

We observed during scrutiny of the records of DMOs, Singrauli and Betul in October and December 2010 respectively that two lessees of coal [M/s Northern Coalfields Limited (NCL) Singrauli and Western Coalfields Limited (WCL), Betul] collected ₹ 81.78 crore as *Gramin Avasanrachna Tatha Sadak Vikas Kar* (tax) from their customers between September 2005 and March 2010 but the amount was unauthorisedly retained by them and not deposited in Government account. The Department did not take any action to

get the amount of ₹ 81.78 crore deposited in Government account and levy the penalty prescribed under the Act.

After we pointed out the cases, DMO, Singrauli stated (October 2010) that demand notices had been issued to NCL and action was being taken to realise the whole amount, while DMO, Betul stated (December 2010) that demand notices for recovery had been issued and audit would be intimated after recovery.

We reported the cases to the DGM and the Government between March and May 2011; their replies have not been received (March 2012).



## 10.12 Non-realisation of rural infrastructure and road development tax

According to the provisions of MPGATSVA, 2005 and notification of September 2005, rural infrastructure and road development tax shall be levied 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. 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.

We observed during scrutiny of the returns and case files of 14 DMOs<sup>7</sup> between September 2009 and December 2010 that the assessment of road development tax in respect of 271 mining leases for the period April 2007 to March 2010 had not been done. This resulted in non-realisation of tax of ₹ 18.96 crore.

After we pointed out the cases, all the DMOs except Jabalpur,

Neemuch, Tikamgarh and Sagar stated (between September 2009 and December 2010) that action would be taken as per rule after scrutiny. DMOs Jabalpur and Neemuch stated (September 2009 and January 2010) that the matter was sub-judice and action would be taken after decision of the court. The reply is not acceptable because as per Government order dated 23 March 2010 the Supreme Court had not given any stay and Government is free to recover the tax as per demand. DMOs Sagar and Tikamgarh stated (between May 2011 and August 2011) that amount of ₹ 3.93 lakh had been recovered.

We reported the cases to the DGM and the Government between February and May 2011; their replies have not been received (March 2012).

<sup>7</sup> Anuppur, Badwani, Chhattarpur, Damoh, Jabalpur, Jhabua, Katni, Mandsaur, Neemuch, Sagar, Satna, Shahdol, Tikamgarh and Umaria.

### 10.13 Loss of revenue due to irregularities in issuing temporary permits

According to Rule 68 of the MPMM Rules, the Collector shall grant permission for extraction, removal and transportation of any minor mineral from any specific quarry or land which may be required for the works of any Department and undertaking of the Central Government or the State Government subject to payment of royalty in advance calculated at the rates specified in Schedule III.

We observed during scrutiny of temporary permits issued and other records of DMOs, Satna and Chhatarpur in December 2009 and May 2010 respectively that three temporary permits for various minerals were issued to a contractor for construction of two roads between May 2008 and December 2009 which

attracted advance payment of royalty of ₹ 78.54 lakh. However, we noticed that the contractors paid ₹ 3.34 lakh only. This resulted in short realisation of revenue of ₹ 75.20 lakh.

After we pointed out the cases, DMOs, Satna and Chhatarpur stated (December 2009 and May 2010) that the transit passes for transportation of mineral were issued to the contractor against the deposited amount. The reply is not acceptable because temporary permit had to be issued only after deposit of the entire amount of royalty in advance.

We reported the cases to the DGM and the Government between February and May 2011; their replies have not been received (March 2012).

### 10.14 Non-imposition of penalty on non-submission of returns

According to rule 30 (20) (a) (b) (c) of the MPMM Rules, 1996, every lessee shall furnish monthly, six monthly and annual returns to the DMO in the prescribed forms on the specified dates, failing which the lease sanctioning authority may impose a penalty not exceeding double the amount of annual dead rent.

We observed during scrutiny of the case files of quarry lease of DMO, Ratlam and Chhatarpur between March 2009 and May 2010 that 17 lessees had not submitted monthly, six monthly and annual returns due for the period between April 2006 and March 2010. Submission of

returns is a vital mechanism for monitoring the working of the lessees. In the absence of these basic records, the DMOs are unable to assess the correct amount of royalty. Though the lessees did not submit the requisite returns, neither did the DMOs call for the returns nor did they impose maximum penalty of ₹ 17.40 lakh calculated at double the amount of annual dead rent.

After we pointed out the cases, DMO, Ratlam stated (July 2011) that an amount of ₹ 30,000 had been recovered while DMO, Chhatarpur stated (May 2010) that action would be taken after scrutiny of the cases.

We reported the cases to the DGM and the Government between February and May 2011; their replies have not been received (March 2012).

### 10.15 Non-levy of interest on belated payment

According to Rule 64 (a) of the Mineral Concession Rules, 1960, a lessee is liable to pay royalty by the prescribed date, failing which he is liable to pay simple interest at the rate of 24 *per cent* per annum from the sixtieth day of the expiry of the stipulated date till the date of payment of such royalty. Further, as per Rule 30 (d) of MPMM Rules, and conditions of contract agreement for trade quarries, every lessee of the quarry lease and contractor of trade quarry are required to pay dead rent and contract money, respectively, on or before the prescribed date failing which the lessee or contractor is liable to pay interest at the rate of 24 *per cent* per annum till the default continues.

**10.15.1** We observed during scrutiny of the case files of lessees of major minerals of three DMOs<sup>8</sup> between December 2009 and October 2010 that four lessees had delayed payment of royalty ranging from five days to 18 months during the year 2008-09 and 2009-10 which attracted penal interest of ₹ 43.85 lakh. However, we noticed that no action was taken by the Department to assess and recover the same. This resulted in non levy

of interest of ₹ 43.85 lakh.

**10.15.2** We observed during scrutiny of case files of lessees and contractors of minor minerals of nine DMOs<sup>9</sup>, between December 2009 and October 2010, that 49 lessees and 32 contractors had delayed payment of dead rent/contract money ranging from three to 1,095 days during the years 2007-08 to 2009-10 which attracted penal interest of ₹ 9.10 lakh. However, we noticed that no action was taken by the Department to assess and recover the interest. This resulted in non-levy of interest of ₹ 9.10 lakh.

After we pointed out the cases, all the DMOs stated (between December 2009 and October 2010) that action would be taken after scrutiny.

We reported the cases to the DGM and the Government between December 2010 and May 2011; their replies have not been received (March 2012).

<sup>8</sup> Rewa, Singrauli and Tikamgarh.

<sup>9</sup> Bhopal, Chhattarpur, Gwalior, Harda, Khandwa, Morena, Panna, Ratlam and Singrauli.

## 10.16 Non/short realisation of dead rent

According to section 9A (i) of the MMDR Act, every lessee of a mining lease has to pay, every year, dead rent in advance for the whole year at the rates prescribed in schedule III at the prescribed date for all the areas included in the lease. Further, according to Rule 30 (1) (a) of the MPMM Rules, 1996, every lessee shall pay 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. It is further provided in the Act and Rules that if the dues are not paid within due time, the lease may be determined and security deposit forfeited. The amount remaining unpaid can be recovered as arrears of land revenue.

**10.16.1** We observed during scrutiny of the case files of lessees of major minerals in eight DMOs<sup>10</sup> between December 2008 and December 2010 that 67 lessees had paid dead rent of ₹ 70,000 against the payable amount of ₹ 68.25 lakh for the period January 2008 to December 2010. However, the Department did not initiate action to recover the balance amount as arrears of land revenue. This resulted in non/short realisation of dead rent of ₹ 68.18 lakh.

After we pointed out the cases, DMO, Neemuch stated (November 2010)

that demand notices for the recovery of dead rent had been issued from time to time but being sick units, recovery was not possible. DMOs, Dhar and Tikamgarh stated (between May 2011 and August 2011) that an amount of ₹ 63,000 had been recovered. The reply of DMO, Neemuch is not acceptable as lease could have been determined and security deposit forfeited in terms of condition No. 2 of part IX of General Provision of Mining lease deed. Further reply has not been received (March 2012).

**10.16.2** We observed during scrutiny of the case files of lessees of minor minerals in 33 DMOs<sup>11</sup> between January 2009 and January 2011 that 321 lessees of minor minerals had paid dead rent of ₹ 58.88 lakh against the payable amount of ₹ 2.58 crore for the period January 2006 to December 2010. However, we noticed that no action was taken by the Department to recover the balance amount. This resulted in non/short realisation of dead rent of ₹ 1.99 crore.

<sup>10</sup> Anuppur, Chhattarpur, Chhindwara, Dhar, Neemuch, Satna, Shahdol and Tikamgarh.  
<sup>11</sup> Anuppur, Ashoknagar, Badwani, Balaghat, Betul, Bhopal, Chhattarpur, Chhindwara, Damoh, Dewas, Dhar, Gwalior, Hoshangabad, Indore, Jabalpur, Jhabua, Katni, Khandwa, Khargone, Mandsaur, Morena, Neemuch, Panna, Raisen, Ratlam, Rewa, Sagar, Satna, Sehore, Sidhi, Shivpuri, Tikamgarh and Ujjain.

After we pointed out the cases, DMOs Ujjain, Dhar, Sagar, Khargone, Indore, Dewas, Gwalior, Raisen, Mandasaur, Betul, Ratlam and Tikamgarh stated (between March 2011 and August 2011) that recovery of an amount of ₹ 40.37 lakh had been made. Further replies have not been received (March 2012).

We reported the cases to the DGM and the Government between February and May 2011; their replies have not been received (March 2012).



**(D. K. SEKAR)**  
**Accountant General**  
**(Economic & Revenue Sector Audit)**  
**Madhya Pradesh**

Bhopal,  
The 04 JUN 2012

*Countersigned*



**(VINOD RAI)**  
**Comptroller and Auditor General of India**

New Delhi,  
The 19 JUN 2012

