



REPORT OF THE  
COMPTROLLER AND AUDITOR GENERAL  
OF INDIA

FOR THE YEAR ENDED 31 MARCH 2005

(REVENUE RECEIPTS)  
GOVERNMENT OF HIMACHAL PRADESH



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## **PREFACE**

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

The Audit of revenue receipts of the State Government is conducted under Section 16 of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971. This Report presents the results of audit of receipts comprising sales tax, state excise, motor vehicles tax, passengers and goods tax, forest receipts and other tax and non tax receipts of the State.

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





## OVERVIEW

This report contains 24 paragraphs including one review relating to non levy/short levy of taxes, duties, fees, interest and penalty etc., involving Rs.54.39 crore. Some of the major findings are mentioned below:

### 1. General

- The total receipts of the Government for the year 2004-2005 were Rs. 4,634.51 crore. The revenue receipts of Rs. 1,862.65 crore consisted of Rs. 1,251.88 crore from tax revenue and Rs. 610.77 crore from non tax revenue. The State received Rs. 537.32 crore as its share of divisible Union taxes and Rs.2,234.54 crore as grants in aid from Government of India. Receipts under sales tax (Rs. 542.37 crore), state excise (Rs.299.90 crore), taxes on vehicles (Rs. 107.82 crore), taxes and duties on electricity (Rs. 88 crore), taxes on goods and passengers (Rs. 38.32 crore) and stamps and registration fee (Rs. 75.34 crore) accounted for major portion of tax receipts. Under non tax revenue, the main receipts were from power (Rs. 284.71 crore), forestry and wild life (Rs. 102.17 crore) and non ferrous, mining and metallurgical industries (Rs. 38.42 crore).

(Paragraph 1.1)

- The arrears of revenue under principal heads of revenue as on 31 March 2005 amounted to Rs. 364.89 crore, of which Rs. 133.25 crore pertained to taxes on sales, trade etc.

(Paragraph 1.6)

- Test check of records of sales tax, state excise, taxes on vehicles, goods and passengers, forest receipts and other tax and non tax receipts conducted during the year 2004-2005, revealed under-assessments/ short levy/ loss of revenue amounting to Rs. 154.56 crore, in 872 cases. During the course of the year 2004-2005, the concerned departments accepted under-assessments etc., of Rs. 67.41 crore in 491 cases which had been pointed out in audit in earlier years.

(Paragraph 1.10)

### 2. Sales Tax

A review on "Assessment and collection of Sales Tax" revealed the following:

- Incorrect grant/ claim of exemption in respect of 18 dealers, resulted in non levy/ non realisation of sales tax of Rs. 23.57 crore.

(Paragraph 2.2.7 & 2.2.8)



- Evasion of tax of Rs.2.16 crore due to suppression of purchases/ sales by the registered dealers, in eight AETCs.

(Paragraph 2.2.9)

- Incorrect classification of 16 industrial units as manufacturing units, resulted in short levy of sales tax of Rs.1.22 crore.

(Paragraph 2.2.10)

- Sales tax of Rs. 6.59 crore was not levied by the assessing authorities on rental charges of electric meters and service line worth Rs.60.51 crore.

(Paragraph 2.2.12)

- Sales tax of Rs.1.10 crore was not levied due to non registration of dealers in five AETCs.

(Paragraph 2.2.13)

- Application of incorrect rate of tax and non levy of tax on the sale of tender papers resulted in evasion of sales tax (including interest) of Rs. 90.37 lakh.

(Paragraph 2.2.11 & 2.2.17)

### **3. State Excise**

- Three licensees of Hamirpur and Mandi districts failed to pay the monthly instalments of license fee in time resulting in short realisation of interest of Rs.30.60 lakh.

(Paragraph 3.2)

- Three licensees paid renewal fee of Rs. 2.25 lakh against payable license fee of Rs. 97.25 lakh resulting in short realisation of Rs. 95.00 lakh.

(Paragraph 3.3)

### **4. Taxes on Vehicles, Goods and Passengers**

- In two Registering and Licensing Offices, penalty amounting to Rs.20.58 lakh was not recovered in 111 cases for non payment of token tax.

(Paragraph 4.2)

- Special registration fee amounting to Rs.16.35 lakh was not recovered in three Registering and Licensing Offices.

(Paragraph 4.3)

### **5. Forest Receipts**

- In 13 forest divisions, export permit fee of Rs. 4.45 crore was not levied on intra State transport of 2,02,540.32 quintals of khair wood.

(Paragraph 5.2)



- Non/short recovery of Net Present Value in four forest divisions, resulted in loss of revenue of Rs. 2.36 crore.

(Paragraph 5.3)

- In 11 forest divisions, non charging of cost of fence posts from the user agencies for compensatory afforestation in 2,388 hectares of land resulted in loss of revenue of Rs. 2.17 crore.

(Paragraph 5.8)

#### **6. Other Tax- Non Tax Receipts**

- Undervaluation of immovable property in 925 cases resulted in short realisation of stamp duty and registration fee of Rs. 2.21 crore.

(Paragraph 6.2.2)

- Incorrect grant of exemption in 882 cases resulted in non realisation of stamp duty and registration fee of Rs. 86.09 lakh.

(Paragraph 6.2.5 & 6.2.6)

- Misclassification of documents in 234 cases resulted in short realisation of stamp duty and registration fee of Rs. 1.24 crore.

(Paragraph 6.2.7, 6.2.8 & 6.2.9)





## CHAPTER-1 : GENERAL

### 1.1 Trend of revenue receipts

The tax and non-tax revenue raised by the Government of Himachal Pradesh during the year 2004-2005, the State's share of divisible Union taxes and grants in aid received from the Government of India during the year and corresponding figures for the preceding four years are given below:

(Rupees in crore)						
Sr. No.	Particulars	2000-2001	2001-2002	2002-2003	2003-2004	2004-2005
I.	Revenue raised by the State Government					
	(a) Tax revenue	728.41	916.50	889.57	984.33	1,251.88
	(b) Non-tax revenue	176.96	198.33	175.49	291.76	610.77
	Total	905.37	1,114.83	1,065.06	1,276.09	1,862.65
II.	Receipts from the Government of India					
	(a) State's share of divisible Union taxes	330.34	324.13	345.60	449.54	537.32 <sup>@</sup>
	(b) Grants in aid	1,809.86	2,276.84	2,248.09	2,255.29	2,234.54
	Total	2,140.20	2,600.97	2,593.69	2,704.83	2,771.86
III.	Total receipts of the State	3,045.57	3,715.80	3,658.75	3,980.92	4,634.51
IV.	Percentage of I to III	30	30	29	32	40

<sup>@</sup> For details, please see "Statement No.11-Detailed Accounts of Revenue by Minor Heads" in the Finance Accounts of the Government of Himachal Pradesh for the year 2004-2005. Figures under the major head "0020-Corporation Tax"; "0021-Taxes on Income other than Corporation Tax"; "0028-Other Taxes on Income and Expenditure"; "0032-Taxes on Wealth"; "0037-Customs"; "0038-Union Excise Duties"; "0044-Service Tax" and "0045-Other Taxes and Duties on Commodities and Services- 901 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 Government and included in State's share of divisible Union Taxes.

**1.1.1** The details of tax revenue raised during the year 2004-2005 alongwith the figures for the preceding four years are given below:

(Rupees in crore)							
Sr. No.	Head of Revenue	2000-2001	2001-2002	2002-2003	2003-2004	2004-2005	Percentage of increase (+) or decrease (-) in 2004-2005 over 2003-2004
1.	Taxes on Sales, Trade etc.	302.05	355.08	383.34	436.75	542.37	(+) 24
2.	State Excise	209.17	236.28	273.42	280.12	299.90	(+) 7
3.	Stamps and Registration Fees	29.22	34.27	37.40	52.37	75.34	(+) 44
4.	Taxes and Duties on Electricity	27.39	8.32	0.25	16.67	88.00	(+)428
5.	Taxes on Vehicles	61.04	132.70	81.98	78.37	107.82	(+) 38
6.	Taxes on Goods and Passengers	43.05	34.27	31.45	33.96	38.32	(+) 13
7.	Other Taxes and Duties on Commodities and Services	52.60	63.73	77.13	86.98 <sup>*</sup>	97.54 <sup>@</sup>	(+) 12
8.	Land Revenue	3.89	51.85	4.60	0.84	2.30	(+)174
	<b>Total</b>	<b>728.41</b>	<b>916.50</b>	<b>889.57</b>	<b>986.06<sup>*</sup></b>	<b>1251.59<sup>@</sup></b>	<b>27</b>

There was significant variation in receipts under the following heads and the reasons therefor as reported by the concerned departments were as under:

Under "Taxes on Sales, Trade etc", the increase was due to hike in the price of diesel, Aviation Turbine Fuel and LPG, payment of sales tax by M/s Gujrat Ambuja Ltd. on completion of exemption period, recovery of more tax and arrears of tax due to frequent checking made by field/barriers staff.

Under "Stamps and Registration Fees", the increase was due to registration of more documents.

Under "Taxes and Duties on Electricity", the increase was due to deposit of electricity duty pertaining to the year 2003-2004 in 2004-2005.

Under "Taxes on Vehicles", the increase was due to payment of special road tax arrear by Himachal Road Transport Corporation, increase in token tax rates, more checking by the departmental officers, increase in composite fee and other taxes due to opening of 10 transport barriers at the entry points of the State.

<sup>\*</sup> Includes Rs. 1.73 crore on account of share of net proceeds assigned to State

<sup>@</sup> Excludes Rs. (-) 0.29 crore on account of share of net proceeds assigned to State



Under "Taxes on Goods and Passengers", the increase was due to increase in number of vehicles, enhancement of rate of goods tax on all type of yarn and fixation of lump sum tax in respect of educational institutions.

Under "Other Taxes and Duties on Commodities and Services", the increase was mainly due to enhancement in rate of tax on cement, receipt of more bid money from auction of toll barriers, recovery of old arrears/ penalty and interest.

Under "Land Revenue", the increase was mainly due to more receipts from sale of Government Estate and miscellaneous receipts.

**1.1.2** The details of major non-tax revenue raised during the year 2004-2005 alongwith the figures for the preceding four years are given below:

(Rupees in crore)

Sr. No.	Head of Revenue	2000-2001	2001-2002	2002-2003	2003-2004	2004-2005	Percentage of increase (+) or decrease (-) in 2004-2005 over 2003-2004
1.	Interest Receipts	15.00	7.67	9.97	11.35	42.77	(+) 277
2.	Other Non-Tax Receipts	93.48	86.51	66.21	101.51	89.59	(-) 12
3.	Forestry and Wild Life	16.54	28.98	31.52	76.93	102.17	(+) 33
4.	Non-ferrous Mining and Metallurgical Industries	12.50	32.97	35.46	36.84	38.42	(+) 4
5.	Miscellaneous General Services (including lottery receipts)	3.54	1.80	2.81	1.81	1.86	(+) 3
6.	Power	9.00	7.13	(-)0.08	35.01	284.71	(+) 713
7.	Major and Medium Irrigation	0.02	11.06	0.06	0.06	0.09	(+) 50
8.	Medical and Public Health	5.04	3.31	3.10	3.36	3.70	(+) 10
9.	Co-operation	2.09	1.26	1.68	1.44	1.64	(+) 14
10.	Public Works	2.16	3.10	6.82	7.54	9.08	(+) 20
11.	Police	8.26	7.57	7.87	8.08	7.74	(-) 4
12.	Other Administrative Services	9.33	6.97	10.07	7.83	29.00	(+) 270
	<b>Total</b>	<b>176.96</b>	<b>198.33</b>	<b>175.49</b>	<b>291.76</b>	<b>610.77</b>	<b>(+) 109</b>

There was significant variation in receipts under the following heads and the reasons therefor as reported by the concerned departments were as under:

Under "Forestry and Wild Life", the increase was due to receipts of more royalty from Himachal Pradesh State Forest Corporation.

Under "Power", the increase was due to adjustment of receipts, deposited at the fag end of 2003-2004 which was credited during the year 2004-2005.

Under "Major and Medium Irrigation", the increase was due to receipts on account of water supplied to the farmers from Ist phase of Shah Nahar Project.



Under "Co-operation", the increase was due to reimbursement of subsidy by National Cooperative Development Council, increase in audit fee and miscellaneous receipts.

Under "Public Works", the increase was due to recovery on account of establishment charges on building works, departmental charges on deposit works, recovery from tender forms, registration of contractors, renewal fees and other miscellaneous receipts.

The reasons for variations, though called for from other departments, were awaited (September 2005).

## **1.2 Variations between budget estimates and actuals**

The variation between the budget estimates and actuals of revenue receipts for the year 2004-2005 in respect of the principal heads of tax and non-tax revenue are given below:

(Rupees in crore)

Sr. No.	Head of Revenue	Budget estimates	Actual receipts	Variations excess(+) or shortfall (-)	Percentage of variation
1.	Taxes on Sales, Trade etc.	497.28	542.37	(+) 45.09	(+) 9
2.	State Excise	311.37	299.90	(-) 11.47	(-) 4
3.	Taxes on Goods and Passengers	34.05	38.32	(+) 4.27	(+) 13
4.	Taxes on Vehicles	94.18	107.82	(+) 13.64	(+) 14
5.	Other Taxes and Duties on Commodities and Services	87.31	97.54	(+) 10.23	(+) 12
6.	Stamps and Registration Fees	40.05	75.34	(+) 35.29	(+) 88
7.	Taxes and Duties on Electricity	33.50	88.00	(+) 54.50	(+) 163
8.	Land Revenue	3.05	2.30	(-) 0.75	(-) 25
9.	Industries	9.03	12.66	(+) 3.63	(+) 40
10.	Forestry and Wild Life	53.23	102.17	(+) 48.94	(+) 92
11.	Interest Receipts	11.16	42.77	(+) 31.61	(+) 283
12.	Education, Sports, Art and Culture	10.19	30.99	(+) 20.80	(+) 204
13.	Crop Husbandry (including Horticulture)	4.40	4.49	(+) 0.09	(+) 2
14.	Non-ferrous, Mining and Metallurgical Industries	30.04	38.42	(+) 8.38	(+) 28
15.	Housing	2.06	1.69	(-) 0.37	(-) 18
16.	Fisheries	0.90	0.81	(-) 0.09	(-) 10
17.	Water supply and Sanitation	8.30	11.79	(+) 3.49	(+) 42
18.	Police	9.24	7.74	(-) 1.50	(-) 16
19.	Medical and Public Health	2.73	3.70	(+) 0.97	(+) 36
20.	Stationery and Printing	3.30	4.10	(+) 0.80	(+) 24
21.	Social Security and Welfare	1.79	3.58	(+) 1.79	(+) 100
22.	Animal Husbandry	0.40	0.45	(+) 0.05	(+) 12
23.	Power	231.55	284.71	(+) 53.16	(+) 23

The reasons for variation between the budget estimates and actuals as reported by the concerned departments were as under:

Under "State Excise", the decrease was due to non completion of auction/tender process in time. Some auctions remained pending for want of satisfactory bid money, security/ surety money was deposited in 2005-2006.

Under "Taxes on Vehicles", the increase was due to payment of special road tax arrear by Himachal Road Transport Corporation.

Under "Taxes and Duties on Electricity", the increase was due to payment of electricity duty of previous year in 2004-2005.

Under "Forestry and Wild Life", the increase was due to deposit of cost of trees coming in the project area and receipts on account of compensatory plantation and more receipts under Catchment Area Treatment Plans.

Under "Fisheries", the decrease was due to shortfall in production of fish in Gobindsagar and Pong Dam reservoir and less sale of fish and fish seed.

Under "Water supply and Sanitation", the increase was due to release of new sewerage connections and receipt of old arrear from local bodies, municipal committees and nagar panchayats.

Under "Stationery and Printing", the increase was mainly due to more sale of ordinary paper and receipt of more printing charges (including recoveries of previous years).

Under "Animal Husbandry", the increase was mainly due to income generated from sale of immovable/ moveable property of various offices of the department.

The reasons for variations, though called for from other departments, were awaited (September 2005).

### **1.3 Analysis of collection**

The breakup of the total collections at pre-assessment stage and after regular assessment of state excise, taxes on sales and trade, passengers and goods tax and other taxes and duties on commodities and services during the year 2004-2005 and the corresponding figures for the preceding two years, as



furnished by the Excise and Taxation Department is given below:

(Rupees in crore)							
Head of Revenue	Year	Amount collected at pre-assessment stage	Amount collected after regular assessment (additional demand)	Penalties for delay in payment of taxes and duties	Amount refunded	Net collection	Percentage of column 3 to 7
1	2	3	4	5	6	7	8
State Excise	2002-2003	220.31	52.10	1.65	0.64	273.42	81
	2003-2004	222.35	57.19	1.50	0.92	280.12	79
	2004-2005	299.15	--	1.12	0.37	299.90	100
Taxes on Sales, Trade etc.	2002-2003	364.97	12.60	6.02	0.25	383.34	95
	2003-2004	419.57	13.12	5.86	1.80	436.75	96
	2004-2005	520.14	15.40	8.11	1.28	542.37	96
Taxes on Goods and Passengers	2002-2003	29.58	1.23	0.69	0.05	31.45	94
	2003-2004	31.96	0.85	1.19	0.04	33.96	94
	2004-2005	35.44	1.58	1.30	#	38.32	92
Other Taxes and Duties on Commodities and Services	2002-2003	70.27	6.21	0.65	--	77.13 <sup>s</sup>	91
	2003-2004	81.41	5.53	0.05	0.01	86.98 <sup>ψ</sup>	94
	2004-2005	97.02	0.89	0.08	0.16	97.54 <sup>*</sup>	99

It would be seen from the above that amount collected at pre-assessment stage ranged between 92 per cent to 100 per cent during 2004-05.

#### 1.4 Cost of collection

The gross collection in respect of major revenue receipts, expenditure incurred on collection and the percentage of such expenditure to gross collection during the years 2002-2003, 2003-2004 and 2004-2005 alongwith the relevant all India average percentage of expenditure on collection to gross collection for 2003-2004 were as follows:

(Rupees in crore)						
Sr. No.	Head of Revenue	Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India Average percentage for the year 2003-2004
1.	Taxes on Sales, Trade etc.	2002-2003	383.34	6.21	1.62	1.15
		2003-2004	436.75	6.60	1.51	
		2004-2005	542.37	7.57	1.39	
2.	State Excise	2002-2003	273.42	4.43	1.62	3.81
		2003-2004	280.12	4.23	1.51	
		2004-2005	299.90	4.19	1.39	
3.	Taxes on Vehicles, Goods and Passengers	2002-2003	113.43	1.22	1.07	2.57
		2003-2004	112.33	1.25	1.11	
		2004-2005	146.14	1.27	0.87	
4.	Stamps and Registration Fee	2002-2003	37.40	1.04	2.78	3.56
		2003-2004	52.37	2.05	3.91	
		2004-2005	75.34	2.02	2.68	

# Rs. 13,850 only

<sup>s</sup> Includes Rs. 2.03 crore on account of share of net proceeds assigned to State

<sup>ψ</sup> Includes Rs. 1.73 crore on account of share of net proceeds assigned to State

\* Excludes Rs. (-)0.29 crore on account of share of net proceeds assigned to State



It would be seen from the above that the cost of collection under taxes on sales, trade etc. was higher than the all India average.

### 1.5 Collection of sales tax per assessee

The collection of sales tax per assessee during the period 2000-2001 to 2004-05 is mentioned as under:

(Rupees in lakh)			
Year	No. of assessees	Sales tax revenue <sup>@</sup>	Revenue/assessee
2000-2001	24,161	30,205	1.25
2001-2002	27,323	35,508	1.30
2002-2003	30,903	38,334	1.24
2003-2004	33,840	43,675	1.29
2004-2005	37,226	54,237	1.46

It would be seen that the revenue per assessee increased by 13 per cent during 2004-05.

### 1.6 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2005 in respect of some principal heads of revenue amounted to Rs. 364.89 crore of which Rs. 88.13 crore were outstanding for more than five years, as detailed in the following table:

(Rupees in crore)				
Sr. No.	Head of Revenue	Amount outstanding as on 31 March 2005	Amount outstanding for more than 5 years as on 31 March 2005	Remarks
1.	Taxes on Sales, Trade etc.	133.25	28.87	Arrear pertained to the years 1968-69 and onwards. Out of arrears of Rs.133.25 crore, demands for Rs.49.54 crore had been certified as arrears of land revenue. Recoveries amounting to Rs.35.96 crore were stayed by the High Court and other Judicial Authorities. Demands for Rs.2.53 crore were likely to be written off. Specific action taken in respect of arrears of Rs.45.22 crore called for in April 2005 had not been intimated (September 2005).
2.	Forestry and Wild Life	95.66	35.87	Arrears pertained to the years 1949-50 and onwards. Out of arrears of Rs.95.66 crore, the outstanding amounts relate to Contractor Agency: Rs.3.89 crore; Himachal Pradesh State Forest Corporation: Rs. 91.70 crore and the balance: Rs.0.07 crore relate to other Government departments. Specific action taken to effect the recovery called for in April 2005 had not been intimated (September 2005).
3.	Taxes and Duties on Electricity	11.99	--	Arrears were recoverable from Himachal Pradesh State Electricity Board.
4.	Taxes on Vehicles	65.29	10.60	Arrears pertained to the year 1977 and onwards. Specific action taken to effect the recovery called for in April 2005 had not been intimated (September 2005).
5.	Taxes on Goods and Passengers	15.46	3.87	Arrears pertained to the year 1961-62 and onwards. Out of arrears of Rs.15.46 crore, demands for Rs.2.96 crore had been certified as recovery of land revenue. Recoveries amounting to Rs.0.04 crore were stayed by the High Court and other Judicial Authorities. Specific action taken in respect of arrears of Rs.12.46 crore called for in April 2005 had not been intimated (September 2005).

<sup>@</sup> Information as furnished by the Department



***Audit Report (Revenue Receipts) for the year ended 31 March 2005***

(Rupees in crore)

Sr. No.	Head of Revenue	Amount outstanding as on 31 March 2005	Amount outstanding for more than 5 years as on 31 March 2005	Remarks
6.	Police	12.53	4.87	Arrears pertained to the years 1990-91 and onwards. Out of total arrears of Rs. 12.53 crore, the outstanding amounts relate to Bhakra and Beas Management Board: Rs. 6.34 crore; Nathpa Jhakri Power Corporation: Rs. 1.71 crore; Railway Authorities: Rs. 1.12 crore; Civil Aviation Authority: Rs. 1.01 crore; Yamuna Hydel Project Khodri Majri and Cement Corporation of India, Rajban: Rs. 0.77 crore and National Hydro Electric Power Corporation: Rs. 0.64 crore. The remaining Rs. 0.94 crore relates to other departments/institutions. For recovery of arrears pertaining to the Bhakra Beas Management Board and Yamuna Hydel Project, Khodri Majri, cases had been filed under Land Revenue Act. Further report had not been received (September 2005).
7.	Water Supply, Sanitation and Minor Irrigation	14.83	Awaited	Out of arrears of Rs.14.83 crore, Rs.13.91 crore relates to Municipal Corporation, Shimla, Municipalities and Notified Area Committees. The remaining arrears relating to minor irrigation and housing (Rs. 0.92 crore) were recoverable through Deputy Commissioner of the districts and Superintending Engineers respectively. Period to which the arrears pertained and specific action taken to effect the recovery called for in April 2005 had not been intimated (September 2005).
8.	State Excise	5.50	0.63	Arrears pertained to the year 1972-73 and onwards. Out of arrears of Rs.5.50 crore, demands for Rs.3.99 crore had been certified as recovery of land revenue. Recoveries amounting to Rs.0.01 crore were stayed by the High Court and other Judicial Authorities. Demands for Rs.0.05 crore were likely to be written off. Specific action taken in respect of arrears of Rs.1.45 crore called for in April 2005 had not been intimated (September 2005).
9.	Other Taxes and Duties on Commodities and Services	3.25	0.06	Arrears pertained to the years 1989-90 and onwards. Out of arrears of Rs.3.25 crore, demands for Rs.1.50 crore had been certified as recovery of land revenue. Recoveries amounting to Rs.0.18 crore had been stayed by the High Court and other Judicial Authorities. Specific action taken in respect of arrears of Rs.1.57 crore called for in April 2005 had not been intimated (September 2005).
10.	Industries (including village and small scale industries).	3.21	0.98	Arrears pertained to the years 1977-78 and onwards. Specific action taken to effect the recovery called for in April 2005 had not been intimated (September 2005).
11.	Non-ferrous, Mining and Metallurgical Industries	2.24	1.91	Arrears pertained to the years 1970-71 and onwards. Specific action taken to effect the recovery called for in April 2005 had not been intimated (September 2005).
12.	Land Revenue	0.86	Awaited	Period to which the arrears pertained and specific action taken to effect the recovery called for in April 2005 had not been intimated (September 2005).
13.	Printing and Stationery	0.62	0.47	Arrears pertained to the years 1997-98 to 2002-03 and were recoverable from the Director, Public Relations, Himachal Pradesh, Shimla.
14.	Public Works	0.20	Awaited	Period to which the arrears pertained and specific action taken to effect the recovery called for in April 2005 had not been intimated (September 2005).
	<b>Total</b>	<b>364.89</b>	<b>88.13</b>	

\* All India Radio, Intelligence Bureau, United Commercial Bank Shimla and Rohru, Punjab National Bank, Shimla, Mandi and Kinnaur, Punjab State Electricity Board, Patiala



**1.7 Arrears in assessments**

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

Head of Revenue	Opening balance	New cases due for assessment during 2004-2005	Total assessments due	Cases disposed of during 2004-2005	Balance at the end of the year	Percentage of column 5 to 4
1.	2.	3.	4.	5.	6.	7.
Taxes on Sales, Trade etc.	1,06,169	61,266	1,67,435	55,733	1,11,702	33
Luxury Tax	1,800	1,178	2,978	1,508	1,470	51
Tax on Works Contracts	3,387	1,844	5,231	804	4,427	15
Motor Spirit Tax	13	--	13	5	8	38

**1.8 Evasion of tax**

The details of cases of evasion of tax detected by the Excise and Taxation Department, cases finalised and the demands for additional tax raised as reported by the Department are given below:

Sr. No.	Head of Revenue	Cases pending as on 31 March 2004	Cases detected during 2004-2005	Total	Number of cases in which assessment/ investigation completed and additional demand including penalty etc. raised		Number of cases pending finalisation as on 31 March 2005
					Number of cases	Amount of demand (In lakh of rupees)	
1.	Taxes on Sales, Trade etc.	86	6,861	6,947	6,863	439.57	84
2.	State Excise	9	35	44	22	1.20	22
3.	Passengers and Goods Tax	1,146	5,874	7,020	5,980	72.75	1,040
4.	Other Taxes and Duties on Commodities and Services	232	2,375	2,607	2,597	95.62	10
	<b>Total</b>	<b>1,473</b>	<b>15,145</b>	<b>16,618</b>	<b>15,462</b>	<b>609.14</b>	<b>1,156</b>



### **1.9 Refunds**

The number of refund cases pending at the beginning of the year 2004-2005, claims received during the year, refunds allowed during the year and the cases pending at the close of the year 2004-2005 as reported by the Departments is given below:

Sr. No.	Particulars	(Rupees in crore)			
		Sales Tax		State Excise	
		No. of cases	Amount	No. of cases	Amount
1.	Claims outstanding at the beginning of the year	19	0.94	---	---
2.	Claims received during the year	23	0.61	5	0.37
3.	Refunds made during the year	26 <sup>@</sup>	1.33 <sup>@</sup>	5	0.37
4.	Balance outstanding at the end of year	16	0.22	---	---

### **1.10 Results of audit**

Test check of the records of sales tax, state excise, taxes on vehicles, goods and passengers, forest receipts, other tax and non tax receipts conducted during the year 2004-2005 revealed under-assessments/short levy/loss of revenue amounting to Rs. 154.56 crore in 872 cases. During the course of the year 2004-2005, the concerned departments accepted under assessments etc., of Rs. 67.41 crore involved in 491 cases, which had been pointed out in audit in earlier years.

This report contains 24 paragraphs including one review relating to non-levy, short levy of tax, fees, interest and penalty etc. involving Rs. 54.39 crore. Departments/ Government accepted audit observations involving Rs. 7.11 crore of which Rs. 0.67 crore had been recovered upto August 2005. No replies have been received in the other cases.

### **1.11 Failure of senior officials to enforce accountability and protect the interests of Government**

(i) Accountant General (Audit) (AG) arranges to conduct periodical inspection of the government departments to test check the transactions and verify the maintenance of important accounting and other records as per prescribed rules and procedures. These inspections are followed up with Inspection Reports (IRs). When important irregularities etc., detected during inspection are not settled on the spot, these IRs are issued to the heads of offices inspected with a copy to the next higher authorities. The financial rules/orders of Government provide for prompt response by the executive to the IRs issued by the AG to ensure corrective action in compliance of the prescribed rules and procedures and accountability for the deficiencies, lapses, etc., noticed during inspection. The heads of offices and next higher authorities are required to comply with the observations contained in the IRs

<sup>@</sup> includes one case (Rs.5.28 lakh) filed during the year



and rectify the defects and omissions promptly and report their compliance to the AG. Serious irregularities are also brought to the notice of the Head of the Department by the office of the AG. A half yearly report of pending reports is sent to the Financial Commissioner cum Secretary (Finance) in respect of pending IRs to facilitate monitoring of the audit observations in the pending IRs.

(ii) The number of IRs and audit observations relating to revenue receipts issued during the last three years up to 31 December 2004, which were pending settlement by the departments as on 30 June 2003, 30 June 2004 and 30 June 2005 is given below:

Particulars	At the end of June		
	2003	2004	2005
Number of IRs pending settlement	2,995	2,933	2,836
Number of outstanding audit observations	7,714	7,343	6,821
Amount of revenue involved (in crore of rupees)	356.83	341.52	318.50

(iii) Department wise breakup of the IRs and audit observations outstanding as on 30 June 2005 is given below:

Sr. No.	Department	Number of outstanding		Amount of audit observations raised (Rupees in crore)	Year to which observations relate	Number of IRs to which even first replies not received
		IRs	Audit observations			
1.	Revenue	674	1,245	8.23	1977-78 to 2003-04	36
2.	Forest Farming and Conservation	509	1,436	206.97	1970-71 to 2003-04	14
3.	Excise and Taxation	674	1,817	64.91	1973-74 to 2003-04	8
4.	Transport	475	1,379	11.68	1972-73 to 2003-04	39
5.	Other Departments (Irrigation and Public Health, Public Works, Agriculture, Horticulture, Co-operation, Food and Civil Supplies and Mining)	504	944	26.71	1976-77 to 2003-04	44
Total		2,836	6,821	318.50		141

The issue of outstanding IRs was brought to the notice of the Chief Secretary to Government in August 2005. It is recommended that Government should look into the matter and ensure that procedure exists for:

- action against the officials who failed to send replies to IRs/ paragraphs as per the prescribed time schedule;
- action to recover loss in a time bound manner and;
- revamp the system to ensure proper response to the audit observations in the Department.



### **1.12 Departmental Audit Committees Meetings**

In order to expedite the settlement of outstanding audit observations contained in the IRs on revenue receipts of the Government of Himachal Pradesh, Departmental Audit Committees were to be constituted by the Government, on the recommendations of the Finance Department. These Committees were to be chaired by Special Secretary/Additional/Joint Secretary of the concerned Administrative Department and attended by the head of the Department/other concerned officer and the Deputy Accountant General from the office of the Accountant General (Audit), Himachal Pradesh.

For expeditious clearance of the outstanding audit observations, it is necessary that the audit committees meet annually and ensure that final action is taken on all outstanding audit observations. For the year 2004-05, only one (Industries Department) out of 10 Government departments relating to revenue receipts, convened meeting of the Audit Committee, and constitution of committees were not notified by four administrative departments. The matter relating to annual meeting in respect of Forest and Transport departments was under correspondence. Thus the majority of departments had not taken any steps in this regard inspite of clear directions from the Finance Department, which indicated their lack of interest in reducing the pendency of old objections.

### **1.13 Response of the State Government to Draft Audit Paragraphs**

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

Twenty four draft paragraphs (including one review ) included in the Report for the year ended 31 March 2005 were sent to the Principal Secretaries/Secretaries of the respective departments by name between February and June 2005. The Principal Secretaries/Secretaries of the departments did not send replies to the draft paragraphs despite issue of reminders (August 2005). These paragraphs have been included in this Report without the response of the Principal Secretaries/Secretaries of the Departments.

### **1.14 Follow up on Audit Reports- Summarised position**

The internal working system of the Public Accounts Committee, notified in December 2002, laid down that after the presentation of the Report of the Comptroller and Auditor General of India in the Vidhan Sabha, the Department

shall initiate action on the audit paragraphs and the action taken explanatory notes thereon should be submitted by Government within three months of tabling the Report, for the consideration of the Committee. In spite of these provisions, the explanatory notes on audit paragraphs of the Report(s) were being delayed inordinately. Out of 159 paragraphs (including reviews) included in the Reports of the Comptroller and Auditor General of India on revenue receipts of the Government of Himachal Pradesh for the years ended 31 March 2000, 2001, 2002 and 2003 action taken explanatory notes had not been received in respect of 64 paragraphs from three<sup>@</sup> departments.

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<sup>@</sup> 2000-2001: Forest Farming and Soil Conservation, Revenue

2001-2002: Forest Farming and Soil Conservation

2002-2003: Multipurpose Project and Power, Forest Framing and Soil Conservation



## CHAPTER -II: SALES TAX

### 2.1 Results of audit

Test check of records relating to sales tax assessments and other records, conducted in audit during the year 2004-05, revealed short assessment of tax amounting to Rs. 46.99 crore in 172 cases, which broadly fall under the following categories:-

(Rupees in crore)			
		Number of cases	Amount
1.	Evasion of tax due to suppression of sales/purchase	34	2.75
2.	Non levy of tax due to non registration of dealers	4	0.09
3.	Non levy/short levy of penalty/interest	34	1.57
4.	Under assessment of tax	79	3.23
5.	Other irregularities	20	2.91
6.	Review on Assessment and collection of Sales Tax	1	36.44
	<b>Total</b>	<b>172</b>	<b>46.99</b>

During 2004-05, the Department accepted under assessments of Rs. 3.16 crore involved in 88 cases which had been pointed out in audit in earlier years. A few illustrative cases highlighting important observations involving financial effect of Rs. 36.47 crore are given in the following paragraphs.

## **2.2 Review: Assessment and collection of Sales Tax**

### **2.2.1 Highlights**

Incorrect grant/claim of exemption in respect of 18 dealers, resulted in non levy/ non realisation of sales tax of Rs. 23.57 crore.

**(Paragraph 2.2.7 and 2.2.8)**

Evasion of tax of Rs. 2.16 crore due to suppression of purchases/ sales by the registered dealers, in eight AETCs.

**(Paragraph 2.2.9)**

Incorrect classification of 16 industrial units as manufacturing units, resulted in short levy of sales tax of Rs.1.22 crore.

**(Paragraph 2.2.10)**

Sales tax of Rs.6.59 crore was not levied by the assessing authorities on rental charges of electric meters and service line worth Rs. 60.51 crore.

**(Paragraph 2.2.12)**

Sales tax of Rs.1.10 crore was not levied due to non registration of dealers in five AETCs.

**(Paragraph 2.2.13)**

Purchase tax of Rs.43 lakh was evaded on khair wood/ katha allowed as branch transfer to two dealers.

**(Paragraph 2.2.15)**

Incorrect exclusion of purchases from taxable turnover resulted in non levy of tax of Rs. 31 lakh.

**(Paragraph 2.2.16)**

Application of incorrect rate of tax and non levy of tax on the sale of tender papers resulted in evasion of sales tax (including interest) of Rs. 90.37 lakh.

**(Paragraph 2.2.11 and 2.2.17)**



### **2.2.2 Introduction**

Sales Tax is a major source of revenue of the State. The administration of sales tax is governed by the Himachal Pradesh General Sales Tax (HPGST Act) Act, 1968 and Himachal Pradesh General Sales Tax Rules, 1970. The dealers dealing in inter state trade are governed by the Central Sales Tax Act, (CST Act) 1956. Under the HPGST Act, no dealer who is liable to pay tax, can carry on business as a dealer unless he possesses a certificate of registration issued by the assessing authority under whose jurisdiction he conducts business. For this purpose, the HPGST Act and the instructions issued thereunder in April 1978 provide for carrying out survey in the first two months of each year by the departmental authorities. The above instructions also require the assessing authorities to cross check data collected from the Government offices such as income tax, civil supplies, public works and industries etc. to satisfy themselves that all purchases and sales made by the dealers have been properly accounted for. Dealers importing goods from other States are required to furnish a declaration in form ST XXVI-A at the barriers fixed at the entry point of the State. Thereafter, these forms are required to be despatched to the respective assessing authorities to enable them to take cognizance at the time of assessment. However, in case any offence is detected at the barrier, penalty can be imposed by the assessing authority at the barrier.

In accordance with an amendment made to the HPGST Act in 1985, transfer of property in goods by corporation/ Government Department involved in the execution of work contract amounts to sales. The Department making such sales is required to be registered under the HPGST Act. Each dealer is required to furnish a true and correct account of his sale in quarterly returns accompanied by a copy of challan in support of payment of advance tax by him in the treasury. The assessments are finalised by the respective assessing authority in district office and copy of assessment order is forwarded to the Joint Excise and Taxation Commissioner (Inspection) Shimla. From February 1987, annual internal audit of the records relating to sales tax had been introduced. For delay in payment of tax the dealer is liable to pay interest at the rate of one *per cent* per month for a period of one month and at the rate of one and a half *per cent* per month thereafter till the default continues. If a dealer has maintained false or incorrect accounts with a view to suppressing his sales or purchases, he is liable to pay penalty in addition to the tax payable by him.

### **2.2.3 Organisational set up**

Sales tax law and rules are administered at Government level by the Secretary Excise and Taxation. The Excise and Taxation Department is headed by the Excise and Taxation Commissioner who is assisted by one Additional Excise and Taxation Commissioner for the south zone, one Deputy Excise and Taxation Commissioner for the north zone and one Deputy Excise and Taxation Commissioner for the central zone. At the district level, there are 10 Assistant Excise and Taxation Commissioners (AETCs) and 38 Excise and Taxation Officers. They are assisted

by taxation inspectors and other allied staff for administering the relevant tax laws and rules.

#### **2.2.4 Audit objectives**

The review seeks to:

- determine whether adequate provisions and rules exist and are being followed by the Department for assessment and collection of tax revenue;
- examine system for monitoring and collection of tax to safeguard against incorrect exemptions, non levy of tax and levy of incorrect/ concessional rate of tax;
- ascertain whether a suitable internal control mechanism exists in the Department.

#### **2.2.5 Scope of Audit**

Records of all 11 district offices of the state and 18 barriers out of 39 barriers for the period 1999-2000 to 2003-04 were test checked from April 2004 to March 2005.

#### **2.2.6 Trend of revenue**

The revenue realised on account of taxes on sales, trade etc., during 1999-2000 to 2003-2004 was as under:

(Rupees in crore)				
Year	Budget estimates	Actuals	Variation	Percentage of variation
1999-2000	210.00	233.07	(+) 23.07	11
2000-2001	285.00	302.05	(+) 17.05	5
2001-2002	329.93	355.08	(+)25.15	8
2002-2003	397.16	383.34	(-)13.82	(-)3
2003-2004	448.00	436.75	(-)11.25	(-)3

It would be seen from the above that percentage of variation between budget estimates and actuals decreased from 11 *per cent* to (-) 3 *per cent* during 2003-04.

#### **2.2.7 Delay in finalising assessments**

Under HPGST ACT, no time limit for finalisation of assessment has been fixed for the assessing authority.



The position of assessments finalised during the years 1999-2000 to 2003-04 as supplied by the Department was as under :

Year	Opening balance	Cases received for assessment during the year	Total	Cases finalised during the year	Balance at the close of the year	Percentage of cases finalised during the year to total no. of cases.
1999-2000	77,428	48,972	1,26,400	48,162	78,238	38
2000-01	78,238	48,056	1,26,294	43,093	83,201	34
2001-02	83,201	47,007	1,30,208	37,101	93,107	28
2002-03	92,849 <sup>s</sup>	53,562	1,46,411	49,140	97,271	34
2003-04	97,271	58,390	1,55,661	49,492	1,06,169	32

The order in which assessments were finalised during the above period was not made available to audit, as such promptness in disposal of old cases could not be ascertained. No system was developed by the Department to monitor the disposal of old cases. This was evident from huge accumulation of cases pending finalisation as on 31.03.2004. The year wise break up of 1,06,169 cases pending finalisation was as under:

Year	No. of cases
1993-1994	73
1994-1995	396
1995-1996	1,122
1996-1997	2,559
1997-1998	4,350
1998-1999	6,925
1999-2000	10,795
2000-2001	15,279
2001-2002	24,997
2002-2003	39,673
<b>Total</b>	<b>1,06,169*</b>

Age wise pendency of cases as on 31 March 2004 was as under:

Cases pending finalisation for:

• more than seven years	= 1,591
• more than five years but less than seven years	= 6,909
• more than three years but less than five years	= 17,720
<b>Total</b>	<b>= 26,220</b>
• less than three years	= 79,949
	<b>= 1,06,169</b>

<sup>s</sup> Excludes 258 assessment cases which pertained to passengers and goods tax

\* In details of 1,06,169, cases upto 2002-03 have been shown because these were due for assessment in 2003-04. Cases for 2003-04 have not been included as these are due for assessment in 2004-05

It was noticed that there was a delay of one to nine years in issuing first notice for assessment. In nine cases, no notice was served on the assessee. This indicated that the cases were not being pursued vigorously to finalise the assessments.

Thus it would be seen from the above that there is a need for fixation of time limit for finalisation of each assessment.

In Kangra, a dealer was entitled for exemption for a period of seven years i.e. 16 August 1993 to 15 August 2000. His assessment was not finalised and the dealer claimed irregular exemption of Rs. 2.27 crore from 16 August 2000 to 31 March 2004 as revealed from returns. Failure of the Department to finalise assessment resulted in irregular exemptions being claimed by the dealer.

### ***System lapses in assessments***

#### ***2.2.8 Incorrect exemption of sales tax***

As per instructions of April 1978 issued under HPGST Act, the assessing authorities while finalising the assessments are required to ascertain the correctness of the accounts shown in the returns with reference to all records submitted with the returns.

During test check of records of four AETCs it was noticed that assessing authorities failed to verify the correctness of the returns with reference to the declaration forms, trading accounts etc; while finalising the assessments. This resulted in non levy of tax of Rs. 21.30 crore between 2000-01 to 2003-04 as detailed below:

(Rupees in crore)					
Sr. No.	Name of district	No. of cases	Year/ date of assessment	Nature of observation	Amount of tax involved
1.	Solan	3	1998-99, 2000-01 and 2001-02 April 2000 and October 2003	Three electronic units were allowed exemption from tax though value addition in production was not more than 25 per cent of the material consumed as required under item number 66 of schedule 'B' of the HPGST Act. The assessing authorities failed to cross check the entries in the returns with the books of accounts furnished by the dealers and did not exclude profit element and other duties paid to the Government while working out value addition.	19.71
2.	Bilaspur, Shimla, Sirmour and Solan	12	1995-96 to 2002-03 February 2001 to June 2004	The exemption of sales tax on subsequent sales of good valued at Rs.941.35 lakh was allowed without production of STXXV forms, which was incorrect. The assessing authorities were silent about the production of STXXV forms in the assessment orders finalised by them.	1.35



(Rupees in crore)

Sr. No.	Name of district	No. of cases	Year/ date of assessment	Nature of observation	Amount of tax involved
3.	Solan	1	2000-01 November 2003	The exemption of sales tax on SIM Card sale value of Rs. 16.55 lakh was not withdrawn even though STXXV forms produced in support of tax paid at first stage were found bogus by the Department in January 2004.	0.03
4.	Solan	1	2002-03 April 2004	The exemption on inter state sale worth Rs.188.27 lakh was incorrectly allowed even when the mandatory 'C' forms were not produced by the dealers. In the assessment orders there was no mention of forms being verified by the assessing authority <sup>#</sup> .	0.21
Total					21.30

The above facts were pointed out to the Department between October 2004 and March 2005, however, no reply has been received.

It would be seen from the above that the assessing authorities need to strengthen their scrutiny/ checks while finalising the assessments.

#### 2.2.9 Incorrect assessment due to non-linking of connected records

Under the HPGST Act, "turnover" includes aggregate of amounts of sales and purchases actually made by a dealer during the given period. The assessing authority at the time of finalising the assessment is required to check the accounts of the dealer to satisfy himself that all purchases and sales made by him have been properly accounted for. Further according to departmental instructions of April 1978, the assessing authorities while examining accounts of the dealers are required to cross check purchases on barrier chits (ST XXVI A), on the strength of "C" forms and any data collected from Government offices.

Cross verification of records of eight AETCs with information collected from Himachal Pradesh State Forest Corporation, Shimla, accounts filed with the Income Tax Department, barrier chits and "C" forms available on record revealed underassessment of Rs. 2.16 crore as detailed below:

(Rupees in crore)

Name of Circle(s)	Nature of observation	Amount
AETC, Kangra 1996-97	Assessing authority finalised assessment of Divisional Forest Officer, Dharamsala in August 2000 on a turnover of Rs. 2 lakh as disclosed by him. However, cross verification of records with those of Himachal Pradesh State Forest Corporation, Shimla revealed that he had sold taxable goods (timber and resin) valued at Rs. 2.28 crore during the year 1996-97 to a dealer. This resulted in suppression of turnover of Rs. 2.26 crore and consequent evasion of tax of Rs. 1.28 crore including interest and minimum penalty.	1.28

<sup>#</sup> Furnishing of 'C' forms was mandatory from 2002 even when rate of tax is less than four per cent



(Rupees in crore)		
Name of Circle(s)	Nature of observation	Amount
AETC, Solan	Assessing authority registered a dealer in October 1996 with liability to pay tax from January 1996. Cross check of accounts filed with the Income Tax Department, however, revealed that he had disclosed net sales of Rs. 4 lakh and Rs. 24 lakh during 1993-94 and 1994-95 respectively. However, while assessing the dealer in March 2002, the assessing authority ignored the sales made by the dealer during 1993-94 and 1994-95 resulting in evasion of tax of Rs. 6 lakh.	0.06
<b>Remarks:</b> After this was pointed out in audit, the Department assessed the dealer in March 2002 by raising an additional demand of Rs. 6 lakh.		
AETCs Eight <sup>s</sup>	Assessing authorities finalised assessments for the years 1999-2000 to 2002-2003 in 32 cases between April 2002 and March 2004. Cross check of barrier chits (ST XXVI A forms) and details of "C" forms, placed on record, however, revealed that during these years the dealers actually purchased goods valued at Rs. 21.13 crore against Rs. 14.96 crore shown in their returns. Thus, the dealers suppressed the purchases and consequent sales valued at Rs. 6.51 crore after adding incidentals towards profit, freight etc. from the turnover. The Department's failure to cross check the barrier chits and "C" forms which was available on record resulted in non levy of tax of Rs. 82.02 lakh including minimum penalty and interest.	0.82
<b>Total</b>		<b>2.16</b>

The cases were reported to the Department between August 2004 and October 2004; however, no reply has been received (September 2005).

#### 2.2.10 Short levy of tax on manufacturing units

According to notification issued in January 1997, the Himachal Pradesh Government levied sales tax at the rate of one *per cent* in respect of goods manufactured and sold by the existing industrial units and new industrial units. Under the HPGST Act, the word manufacture has not been defined. The Hon'ble Supreme Court of India; has held that retreading\* of tyres, crushing\*\* of stones into grits and sand and cutting\*\*\* of marble blocks into slab and tiles does not amount to manufacture as no new and distinct article is formed.

Test check of records of six AETCs<sup>s</sup>, revealed that nine industrial units engaged in the business of crushing of stones, six units engaged in tyre retreading and one unit engaged in cutting of marble were incorrectly allowed concessional rate of tax during the years 1997-98 to 2002-03 by treating these units as manufacturing units. Allowance of concessional rate of tax resulted in short levy of sales tax of Rs.1.22 crore including interest.

<sup>s</sup> Hamirpur, Kangra, Kullu, Mandi, Shimla, Sirmour, Solan and Una

\* Tamil Nadu State Transport Corporation Ltd. V/s Commissioner of Income Tax (1999) 239 ITR 375

\*\* Commissioner of Sales Tax, Uttar Pradesh V/s Lal Kunwa Stone Crusher Pvt. Ltd STR No.656 of 1993

\*\*\* M/s Aman Marble Industries V/s CCE Jaipur

<sup>s</sup> Kangra, Kullu, Mandi, Shimla, Solan and Una



### 2.2.11 Levy of incorrect /concessional rate of tax

Under the HPGST Act, rate of tax leviable on different kinds of goods has been prescribed. Goods on which higher rate of tax is leviable have been prescribed in Schedule 'A' whereas goods on which no tax is leviable have been prescribed in Schedule 'B' of the Act *ibid*. However, goods not prescribed specifically in any schedule are leviable at the general rate of eight *per cent*. If a dealer fails to pay the tax due by the prescribed date, he becomes liable to pay interest on tax due at the prescribed rates.

Test check of records of 10 \*AETCs, revealed that the assessing authorities while finalising assessments between June 2001 and April 2004 of 41 dealers for the year 1995-96 to 2002-03 applied incorrect rate of tax on their taxable turnovers. Application of incorrect rate of tax resulted in short levy of sales tax of Rs. 53 lakh. A few instances are given below:

(Rupees in lakh)

Sr. No.	Name of District	Period involved and date of assessment	Number of dealers	Description of goods sold	Value of goods	Rate applied	Rate applicable	Tax effect
1.	Solan	2001-02 and 2002-03 April and August 2003	2	Boroplus and soap	196.64	8%	12%	10.43
2.	Sirmour	1996-97 and 1997-98 December 2003	1	Cement	70.88	1%	4.5%	5.70
3.	Bilaspur, Chamba, Kangra, Kullu, Shimla and Una	1998-99 to 2002-03 between August 2002 and March 2004	17	Plastic goods, crockery, soap, sunmica, sanitary goods, PVC fittings, cosmetics, T.V. trolley, fire works	59.91	8%	12%	3.87

### Evasion of revenue due to non observance of procedure

#### 2.2.12 Non payment of tax on rental charges of electric meters and service lines

Himachal Pradesh State Electricity Board (HPSEB) supplies meters and service lines to consumers for supplying electric energy for which it collects rental charges, which constitute sales and the Board is a dealer under section 2(c) of the HPGST Act. Supplying of electric meters and service lines is transfer of right to use the goods within the meaning of sale under section 2(j)(iv) of the Act *ibid*.

Information collected from HPSEB relating to 12 circles\* revealed that rental charges of Rs.60.51 crore were collected by the Board for electric meters and service lines during the years 2000-2001 to 2003-04 for supply of electric energy to consumers. However, neither the dealer paid sales tax on rental charges nor the

\* Bilaspur, Chamba, Hamirpur, Kangra, Kullu, Mandi, Shimla, Sirmour, Solan and Una

\* Bilaspur, Dalhousie, Hamirpur, Kangra, Kullu, Mandi, Nahan, Rampur, Rohru, Shimla, Solan and Una



Sales Tax Department made any efforts to levy/collect the same. As rental charges on account of electric meters and service lines collected from consumers for supply of electrical energy is sale within the meaning of the HPGST Act, non payment of tax on this account resulted in evasion of sales tax of Rs.6.59 crore (including interest) as detailed below:

(Rupees in lakh)				
Year	Meter and service line charges	Sales tax at general rate of eight per cent	Interest leviable	Total Amount
2000-01	778.22	62.26	43.58	105.84
2001-02	1,194.44	95.56	49.69	145.25
2002-03	2,041.95	163.36	55.54	218.90
2003-04	2,036.03	162.88	26.06	188.94
<b>Total</b>	<b>6,050.64</b>	<b>484.06</b>	<b>174.87</b>	<b>658.93</b>

### **2.2.13 Non levy of tax due to non registration of dealers**

Under the HPGST Act, a dealer includes any Department, or subordinate office of the Government, which, in the course of business buys, sells, supplies or distributes goods for commission, remuneration or other valuable consideration. A dealer liable to pay tax can carry on business only after he has been registered under the Act. Registration is compulsory for dealers whose gross turnover exceeds the prescribed taxable quantum of Rs. 4 lakh. Departmental instruction dated April 1978 provides that circle inspectors are required to carry out every year, a comprehensive survey in first two months of the financial year. The assessing authority is required to check 30 *per cent* entries of survey register and the district incharge of the office is required to ensure that survey is completed by the end of June.

During test check of records of 11 district offices, it was noticed that in two district offices of Shimla and Solan, no survey for detection of unregistered dealers was carried out by the inspectors inspite of the directions issued by the respective AETCs. Besides, in other three districts viz. Bilaspur, Kangra and Kinnaur though survey was conducted by the offices of AETC, yet eight dealers escaped registration. This resulted in non registration of 23 dealers who were contractors and received payment of Rs. 7.93 crore from Governments departments. No tax at source was deducted by the departments. Consequently, there was escapement of tax of Rs. 1.10 crore as detailed below:



(Rupees in lakh)

Sr. No.	Name of district AETCs	No. of dealers involved	Period involved Date of assessment	Nature of observation	Amount of tax involved
1.	Shimla	13	1995-96 to 2002-03 Between October 2000 and June 2003	Thirteen divisions of Public Works, Irrigation cum Public Health and Housing Board supplied material valued at Rs. 650.52 lakh to contractors on which tax was not charged	89.71
2.	Kinnaur	6	1998-99 to 2003-04 Between May 2002 to August 2004	Six divisions of Public Works and Irrigation cum Public Health departments supplied material valued at Rs. 42.16 lakh to contractors on which tax was not charged.	4.77
3.	Solan	2	1997-98 to 2002-03 Between September 2003 to March 2004	No tax was charged on material valued at Rs. 51.03 lakh supplied by PWD to the contractors.	8.27
4.	Bilaspur	1	1995-96 to 2002-03 September 2003	A Public Works division supplied material valued at Rs. 46.16 lakh to a contractor on which tax was not charged	6.53
5.	Kangra	1	2000-01 to 2001-02 July 2003	No tax was charged on first stage on material worth Rs. 1.93 lakh supplied to contractors by Irrigation cum Public Health Division.	0.22
<b>Total</b>					<b>109.50</b>

There was nothing on record to suggest that the process of conducting survey was monitored at apex level at any stage.

#### **2.2.14 Non verification of declaration form**

The officers incharge of multipurpose barriers are required to collect declaration forms (ST XXVI-A) in respect of imports/exports made by unregistered dealers and send the same to the concerned assessing authorities to register such dealers. The Department has neither fixed a time limit for verification of such cases nor does there exist any system to monitor their timely verification in order to register the unregistered dealers.

Information supplied by the AETCs Chamba, Kangra, Kullu and Solan revealed that during the years 2001-02 and 2002-03, 2,104 barrier chits (form ST XXVI-A) valued at Rs. 8.41 crore, relating to unregistered dealers received from barriers were handed over to inspectorate staff for verification. The inspectorate staff verified only 249 chits valued at Rs. 22 lakh, and the remaining 1,855 chits valued at Rs. 8.19 crore were not verified till March 2005. As a result the dealers could not be registered.

In addition, barrier chits for the year 2003-04 received were not kept in the store and were not sorted out by seven\* AETCs. Consequently, the assessments for the year 2003-04 were finalised without verification of purchases from barrier chits. The barrier chits of unregistered dealers could also not be forwarded to the inspectors to enable the Department to register the dealers under the Act. Such

\* Chamba, Hamirpur, Kangra, Kullu, Mandi, Solan and Una



information was, however, awaited from the District Office of Shimla, Sirmour and Kinnaur.

Information supplied by the AETC Chamba, Kangra, Kullu and Una revealed that 5,823 barrier chits (ST XXVI-A) for the period 2001-02 to 2003-04 relating to other districts were lying unattended as these were not sent to the concerned districts for verification. Out of these, 1,596 barrier chits were valued at Rs. 8.87 crore. Value of remaining chits was not made available. Assessments in these cases, if finalised, were finalised in absence of verification of barrier chits and chances of evasion of tax cannot be ruled out. No returns have been prescribed by the Department for informing Head of the Department that barrier chits received have been sorted out and sent to the quarter concerned for necessary verification.

#### **2.2.15 Defects noticed in purchase tax**

Under the HPGST Act, if a dealer liable to pay tax under the Act, purchases any taxable goods from any source on purchase of which no tax has been paid and despatches such good or goods, manufactured therefrom for consumption or sale to his branch or commission agent outside the State, he is liable to pay tax on the purchase value of such goods at the rate at which tax is payable on the sale thereof in the State. With effect from 19 April 2002, tax on khair is leviable at the rate of eight *per cent*. However, prior to this, tax on khair timber and converted khair timber was leviable at the rate of 30 *per cent* and 11/12<sup>\*\*</sup> *per cent* respectively. If a dealer fails to pay the tax due by the prescribed date, he becomes liable to pay interest on the tax due at the prescribed rates.

During audit of AETC, Una, it was noticed that the assessment of a dealer dealing in khair wood and katha for the year 1995-96, was finalised in February 2002 after allowing branch transfer of goods worth Rs. 24 lakh. Audit scrutiny of assessment records/ trading account revealed that the dealer had purchased khair wood valued at Rs.1.32 crore from local dealers, without payment of any tax. The assessing authority while framing the assessment, levied tax on the purchase of only Rs. 28 lakh against the actual purchase of Rs. 1.32 crore. Thus, purchase tax of Rs. 11 lakh, on remaining material valued at Rs.1.04 crore was not levied. Besides, interest of Rs. 14 lakh was also leviable.

After this was pointed out in audit, the Department accepted audit observations and recovered a sum of Rs. 13.62 lakh by raising additional demand of Rs. 13.84 lakh. However, tax was levied at lower rate of eight *per cent* instead of 11/12 *per cent* on the purchase of khair wood. Besides, interest was also leviable on tax due at the prescribed rates on reassessment. The fact that tax has been levied at lower rates has been intimated to the Department. However, final action taken has not been received.

<sup>\*\*</sup> The rate of 11 *per cent* was enhanced to 12 *per cent* w.e.f. 04.08.1998



Audit scrutiny of assessment records revealed that a dealer purchased khair wood valued at Rs.1.71 crore and Rs.1.89 crore during the year 1999-2000 and 2000-2001 respectively, from local dealers, without payment of tax and used it in the manufacture of *katha* which was consigned to other states without payment of tax. The dealer was liable to pay purchase tax. The assessing authority while framing assessments in April 2003, did not levy the tax which resulted in non realisation of tax of Rs.18 lakh (including interest).

**2.2.16 Short realisation of tax due to non inclusion of purchases**

Under the HPGST Rules, certain deductions have been allowed from the gross turnover of the dealer. In case, the material is consumed in construction of colony, hospital, guest house, club or school, no deduction is allowed.

During test check of records of the AETC, Shimla, it was noticed in July 2004 that during the year 1998-99, a Corporation, purchased goods valued at Rs. 2.02 crore from outside the State for construction/ maintenance of the colony of corporation. While finalising the assessment in March 2004, the assessing authority incorrectly excluded the above purchases from levy of tax, which resulted in short realisation of tax of Rs 31 lakh (including interest).

**2.2.17 Non levy of tax on sale of tender papers**

Under the HPGST Act, sale means any transfer of property in goods for cash or for deferred payment or for any other valuable consideration. Accordingly, sale of tender papers made by Department to the contractors etc. constitutes sale.

It was noticed from information collected from the HPSEB, Public Works divisions, Irrigation cum Public Health divisions and Corporations, that they had sold tender papers worth Rs.3.09 crore, during the years 1999-2000 to 2003-04, but the sales were not subjected to sales tax. The Department also failed to detect these sales. Non levy of tax on sale of tender papers resulted in evasion of sales tax of Rs. 24.71 lakh. Besides interest of Rs. 12.66 lakh was also leviable as detailed below:

(Rupees in lakh)

Sale of tender paper by the departments								
Year	State Electricity Board	Companies/ Corporation	Irrigation cum Public Health Department	Public Works Department	Total	Sales Tax at the rate of eight per cent	Interest	Grand Total
1999-2000	36.02	6.36	9.02	10.89	62.29	4.98	4.16	9.14
2000-01	28.74	6.79	13.53	13.75	62.81	5.03	3.29	8.32
2001-02	26.19	6.72	18.51	26.96	78.38	6.27	2.98	9.25
2002-03	24.02	10.84	25.32	27.74	87.92	7.03	2.07	9.10
2003-04	--	--	9.80	7.69	17.49	1.40	0.16	1.56
<b>Total</b>	<b>114.97</b>	<b>30.71</b>	<b>76.18</b>	<b>87.03</b>	<b>308.89</b>	<b>24.71</b>	<b>12.66</b>	<b>37.37</b>

The matter was brought to the notice of the Department/Government in August 2003. In the case of HPSEB, the Sales Tax Department stated in January 2004 that sale of electric energy by the Board is outside the ambit of the HPGST Act, and selling of tender papers is an ancillary activity of the same. The reply is not tenable



because had the sale of electric energy been outside the ambit of Act *ibid*, the Government would not have declared it a tax free item by including it in Schedule "B" of the Act.

### **2.2.18 Non enforcement of provision of declaration form**

Under the HPGST Act and the Rules framed thereunder, tax is also leviable on taxable goods imported from outside the State. For this purpose, the owner or a person in charge of a goods carriage entering the limit of the State is required to give declaration form (ST XXVI-A) at the barrier, a copy of which is sent to the officer incharge of the district concerned for cross verification from the books of the dealer, at the time of finalisation of assessment.

Review of records of five<sup>s</sup> multipurpose barriers, for the years 2001-02 to 2003-04 revealed that 1,92,588 vehicles carrying 19.11 lakh metric tonne of sand/ bajri valued at Rs.1.91 crore crossed the barriers. The vehicle owners were allowed to cross the barriers without filling declaration forms. Consequently, the Department failed to verify purchases of registered dealers at the time of assessment. It also failed to register the dealers liable for registration on the basis of scrutiny of declaration forms. Sales tax amounting to Rs. 15.31 lakh (at general rate of eight *per cent*) was leviable on the import of sand and bajri as detailed below:

Sr. No.	Name of barriers	No. of vehicles which crossed the barrier	Quantity of sand/ bajri lifted in metric tons.	Value of sand/ bajri lifted	(Rupees in lakh)	
					Sales tax at the general rate of eight <i>per cent</i>	
1.	Kandwal	28,421	3,19,368	19.90	1.59	
2.	Toki	1,43,401	14,34,007	100.38	8.03	
3.	Sansarpur Terrace	51	470	0.57	0.04	
4.	Tunnu Hatti	20,445	1,53,295	69.07	5.53	
5.	Marwari	270	3,596	1.53	0.12	
	Total	1,92,588	19,10,736	191.45	15.31	

### **Existence of adequate provisions/ sufficient controls**

### **2.2.19 Loss due to non deposit of Government money in treasury**

Himachal Pradesh Financial Rules provide that all money received by or tendered to Government offices on account of revenues or receipts or dues of the Government shall, without any delay, be paid in full in Government accounts. Money received as above shall not be utilised to meet departmental expenditure.

The State Government vide letter of January 2001 increased the price of STXXVI-A form from Re. 1 (in triplicate) to Rs. 5/- (in duplicate) from the date of switching over to computerised STXXVI-A forms. As per instructions issued by the Excise and Taxation Commissioner in February 2001, Re. 1 per form was to be credited to the Government account under the head "0040 Sales Tax" and remaining amount of Rs.4 was to be retained by the Department and deposited in bank account on day to

<sup>s</sup> Kandwal, Marwari, Sansarpur Terrace, Toki and Tunu Hatti



day basis. From this amount, the surplus after meeting the expenses for computerisation and electricity charges, was to be deposited in the receipt head "0040 Sales Tax" on monthly basis

During the period from February 2001 to March 2004, a sum of Rs.135.09 lakh collected by eight<sup>#</sup> multipurpose barriers on account of sale price of STXXVI-A forms was not deposited in the Government account and kept outside the consolidated fund of the State. In addition, the department's instructions for depositing Government receipts in bank account and utilising it for day to day expenses were against the provisions of financial rules.

#### ***2.2.20 Internal Control Mechanism***

##### ***Ineffective working of Internal audit wing***

The Excise and Taxation Department introduced internal audit system for checking records related to sales tax. For this purpose, the Commissioner issued instructions in February 1987 which provide for annual audit of all units, conveying of audit finding to concerned units within 20 days from completion of audit and furnishing of first annotated replies by concerned units within two months from issuance of audit findings.

Information collected from the Internal Audit Wing of the Department revealed that during the years 2001-02 to 2003-04, all the 11 district offices were not audited annually. Out of 30 units audited during these years, only 13 inspection reports were issued on due date and remaining 17 inspection reports were issued late. Out of these 30 inspection reports issued, annotated replies were not received in any case by the due date, reply to 14 inspection reports were received late and in respect of remaining 16 inspection reports, no reply at all was received. Regarding internal audit of 39 sales tax barriers, information was not supplied. A test check of records further revealed that audit of these barriers was not conducted on regular basis.

Above facts revealed that the findings of internal audit wing were not being attended to by the officers of the Department. This defeated the very objective for which the wing was created.

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<sup>#</sup> Baddi, Barotiwala, Behral, Kala Amb, Mehtpur, Parwanoo, Swarghat and Tunnu Hatti

**2.2.21 Non utilisation of computerised information**

To check the evasion of sales tax by dealers in the course of inter-state trade, the State Government established barriers at entry points in the State. The Department has computerised the working of its major sales tax barriers from the year 2000-01 where computerised ST XXVI-A forms were generated. The information filled in these forms is available dealer wise and can be put to use at a subsequent stage, if required.

During test check of records of 10\* AETCs, it was noticed that this information was not being used at the time of assessments of dealers. The assessing authorities did not verify the available information in the form ST XXVI-A received with the computerised data, as a result of which chances of suppression of purchases and consequent evasion of tax cannot be ruled out.

**2.2.22 Non reconciliation with treasury**

Under the HPGST Rules, every district office shall maintain a daily collection register in form ST XIV where particulars of every challan received in proof of payment of tax or penalty etc. is required to be noted/ recorded. Every month the departmental figures are required to be reconciled with those booked in the treasury.

During test check of records of eight@ AETCs/ETO, it was noticed that departmental receipts worth Rs. 377.76 crore for the year 2003-04 were not reconciled with the figures booked in the treasury. In the absence of reconciliation, the authenticity of departmental figures cannot be relied upon and chances of embezzlement cannot be ruled out.

**2.2.23 Recommendations**

The State Government may consider taking the following steps to improve the effectiveness of the system

- ◆ a time limit for finalisation of assessments may be fixed.
- ◆ the system of conducting annual survey for registration of dealers may be strengthened and monitored at apex level to safeguard Government revenue.
- ◆ Checks may be devised to ensure that purchases available in barrier chits (STXXVI-A) and details of 'C' forms are properly linked at the time of finalising assessment. Besides, information should also be collected from other Government departments i.e. Public Works, Irrigation cum Public Health, Income Tax etc. for purpose of cross checking at the time of assessment.

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\* Bilaspur, Chamba, Hamirpur, Kangra, Kullu, Mandi, Shimla, Sirmour, Solan and Una

@ Bilaspur, Hamirpur, Kangra, Kinnaur, Shimla, Sirmour, Solan and Una



The above findings were reported to the Department between April 2004 and March 2005 and to the Government in April 2005; their replies had not been received (September 2005).

### **2.3 Short levy of penalty for late filing of returns**

Under the HPGST Act, as amended (vide Act No. 13 of 2000), if a dealer fails to furnish the returns by the prescribed date as required, he shall be liable to pay, by way of penalty, a sum equal to Rs. 25 per day for delay upto 10 days and thereafter Rs. 50 per day till the default continues.

During audit of AETC, Solan, it was noticed in October 2004 that a dealer's assessment for the year 1998-99 was finalised in December 2003 by the assessing authority by imposing a penalty of Rs. 6,000, for late filing of returns. Scrutiny of dealer's case files, however, revealed that he had submitted his returns only at the time of assessment. For late filing of returns, penalty of Rs. 3.56 lakh was short levied by the assessing authority resulting in short realisation of Government revenue to that extent.

After this was pointed out in audit, the Department reassessed the dealer in March 2005 and raised an additional demand of Rs.3.56 lakh. Report of recovery had not been received (September 2005).

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

## CHAPTER-III: STATE EXCISE

### 3.1 Results of audit

Test check of records relating to State Excise, conducted in audit during the year 2004-2005, revealed non realisation of license fee/excise duty and other irregularities involving revenue amounting to Rs. 4.76 crore in 37 cases, which broadly fall under the following categories:-

(Rupees in crore)			
		Number of cases	Amount
1.	Non-realisation of license fee	9	2.12
2.	Non/short realisation of excise duty/ interest	9	0.29
3.	Other irregularities	19	2.35
	<b>Total</b>	<b>37</b>	<b>4.76</b>

During 2004-05, the Department accepted under assessments of Rs. 3.26 crore involved in 13 cases which had been pointed out in audit in earlier years. A few illustrative cases highlighting important observations involving financial effect of Rs. 1.26 crore are given in the following paragraphs.



### **3.2 Non raising of demand of interest**

The excise auction announcements for the year 2003-2004, provide for payment of license fee in 10 equal instalments by the licensee holding license for vending country made liquor or Indian made foreign liquor. The licensee is required to pay the instalments by the 25<sup>th</sup> of each month. Failure to do so, renders him liable to pay interest at the rate of 12 *per cent* per annum for a delay of upto one month from the date of default on the unpaid amount and at the rate of 18 *per cent* per annum thereafter till the default continues.

During audit of Assistant Excise and Taxation Commissioners (AETCs), Hamirpur and Mandi, it was noticed from Interest Receipt Register that three\* licensees failed to pay monthly instalments of license fee in time during 2003-04. Though the assessing authority had worked out the amount of interest in the registers, no demand was raised. As a result, the Department failed to recover interest of Rs. 30.60 lakh<sup>§</sup> even after the close of financial year.

After this was pointed out in audit, the Department accepted the audit observations and intimated in May 2005 that out of Rs. 30.60 lakh, a sum of Rs. 15.80 lakh had been recovered and efforts were being made to recover the balance amount. Further report of recovery had not been received (September 2005).

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

### **3.3 Non recovery of fee in respect of D-2A license**

Rule 5AA read with rule 5 of the Punjab Distillery Rules, 1932, as applicable to Himachal Pradesh, provide that license fee for a license in form D-2A\* shall be payable on production of country liquor at the rate of Rs. 0.70 paise per unit of 750 mls, subject to a minimum of Rs. 75,000 per annum, recoverable at the time of grant/renewal of license.

During audit of AETC, Solan, it was noticed in July 2004 that three firms having D-2A license, produced 138.92 lakh quarts during 2003-04 and therefore were liable to pay license fee of Rs. 97.25 lakh. Against this, the licensees paid only Rs. 2.25 lakh as renewal fee, resulting in short realisation of Rs. 95 lakh.

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\* Hamirpur:1 and Mandi: 2

§ Hamirpur: (Rs.16.89 lakh: 1 assessee), Mandi: (Rs.13.71 lakh: 2 assesseees)

\* Bottling Plant of Country liquor

After this was pointed out, the Department stated in May 2005 that only Rs. 0.75 lakh was chargeable from D-2A licensee. The contention of the Department is not tenable as Rs. 0.75 lakh is the minimum license fee recoverable as per rule 5AA.

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



## CHAPTER-IV: TAXES ON VEHICLES, GOODS AND PASSENGERS

### 4.1 Results of audit

Test check of records of the departmental offices, conducted during the year 2004-2005, revealed non/short realisation of tax and other irregularities amounting to Rs. 24.13 crore in 272 cases, which broadly fall under the following categories:-

(Rupees in crore)			
		Number of cases	Amount
1.	<b>Non/ short realisation of</b>		
	(i) Token tax	54	0.29
	(ii) Passengers and Goods Tax	2	0.36
2.	<b>Evasion of</b>		
	(i) Token Tax	76	1.41
	(ii) Passengers and Goods Tax	14	0.23
3.	<b>Other irregularities</b>		
	(i) Vehicles Tax	101	21.03
	(ii) Passengers and Goods Tax	25	0.81
	<b>Total</b>	<b>272</b>	<b>24.13</b>

During 2004-05, the Department accepted under assessments of Rs. 1.29 crore involved in 24 cases which had been pointed out in audit in earlier years. A few illustrative cases highlighting important observations involving financial effect of Rs. 0.77 crore are given in the following paragraphs.

#### **4.2 Non recovery of token tax**

Under the Himachal Pradesh Motor Vehicles Taxation Act, 1972 and Rules made thereunder, token tax is payable in advance and is collected quarterly or annually in the prescribed manner. If an owner of a registered vehicle defaults in making payment of token tax, the taxation authority may direct him to deposit in addition to the arrears of token tax, penalty not exceeding the annual tax payable or twice the amount of tax due, whichever is higher.

During test check of the records of State Transport Authority, Shimla and Registering and Licensing Authority (RLA), Shimla (Urban) it was noticed in November 2004 that in 111 cases, token tax amounting to Rs.10.29 lakh for the years 2002-2003 and 2003-2004 was neither deposited by the vehicle owners nor had the taxation authorities taken any action to recover the same. There was nothing on record to show that vehicles were off the road or had paid tax in any other RLA. This resulted in non recovery of token tax of Rs.10.29 lakh. For non payment of token tax, penalty of Rs.20.58 lakh was leviable.

After this was pointed out in audit, the concerned taxation authorities stated that notices were being issued to the owners of the vehicles. Further report had not been received (September 2005).

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

#### **4.3 Non levy of special registration fee**

Under the Himachal Pradesh Motor Vehicles (Amendment) Rules, 2001, for the allotment of registration marks of choice, special registration fee was leviable with effect from 10 August 2001, at the prescribed rates in addition to registration fee prescribed under Central Motor Vehicles Rules, 1989. Special registration fee for allotment of registration numbers between 0101 to 9999 was Rs. 2,500 per vehicle with effect from June 2002. In September 2003, Principal Secretary, Transport, Government of Himachal Pradesh bifurcated the numbers of choice for registration of vehicles. Registration numbers from 001 to 0200 were to be allotted to personal vehicles while from 0201 to 7500 to goods vehicles.

**4.3.1** During audit of the records of RLAs, Manali and Una, it was noticed between December 2004 and February 2005 that special registration fee amounting to Rs.3.15 lakh was not realised from personal vehicle owners for the period September 2003 to August 2004 on allotment of special registration marks between 0101 to 200 in 126 cases. This resulted in non realisation of revenue to that extent.



**4.3.2** In RLAs Manali and Kangra, it was noticed between December 2004 and January 2005 that in 528 cases, serial numbers earmarked for goods carriage vehicles between serial nos. 0201 to 0748 were allotted to personal vehicles between September 2003 and November 2004 without recovery of special registration fee. Consequently, the Government was deprived of revenue of Rs.13.20 lakh. This was also in contravention of the instructions of Principal Secretary, Transport.

After these cases were pointed out in audit, RLA Una stated that due to late receipt of instructions, compliance in the matter could not be made in time. The RLAs Manali and Kangra stated that notices would be issued to the vehicle owners for recovery of special registration fee. However, further action taken to recover the amount had not been received.

The cases were reported to the Department/ Government between January and March 2005; their replies had not been received (September 2005).

#### **4.4 Short recovery of fee**

Under the Central Motor Vehicle Rules, 1989, driving license is renewable at specified rates which was revised by the Government of India from Rs. 30 to Rs. 100 with effect from 10 September 2003.

During audit of the records of RLA Kangra and Manali, it was noticed between December 2004 and January 2005 that the Director, Transport, Himachal Pradesh circulated the revised rates for renewal of driving license fee in December 2003 i.e. after three months of receipt of notification from Government of India. Driving license fee was, however, levied at pre revised rate between December 2003 and March 2004 in 2,868 cases which resulted in short recovery of Rs.2.01 lakh.

After this was pointed out in audit, the concerned taxation authorities stated that notices would be issued to the vehicle owners to effect the recovery.

The matter was reported to the Department/Government in January-February 2005; their replies had not been received (September 2005).

#### **4.5 Vehicles not registered with the Excise and Taxation Department**

Under Himachal Pradesh Passengers and Goods Taxation Act, (HPPGT Act) 1955 and Rules made thereunder, owners of stage/contract carriages and goods carriers are required to register their vehicles with the concerned Excise and Taxation Officers and pay passenger tax and goods tax at the prescribed rates. Administrative instructions (December 1984) also provide that Excise and Taxation Department shall take suitable measures to ensure registration of all vehicles under the HPPGT Act and for that purpose maintain close co-ordination with RLAs. For failure to apply for registration, penalty not exceeding five times the amount of tax so assessed, subject to a minimum of Rs. 500 is also leviable.

During test check of the records of eight\* AETCs, it was noticed between July 2004 and March 2005 that 992 vehicles registered with concerned RLAs and Regional Transport Officers (RTOs) were not registered with the Excise and Taxation Department under the HPPGT Act. As a result, tax amounting to Rs. 22.36 lakh for the period between March 2003 to March 2004, was not paid by the owners of the vehicles. A minimum penalty of Rs. 4.96 lakh was also leviable.

After this was pointed out in audit, the AETCs stated between July 2004 and March 2005 that action would be taken to register the vehicles. However, the reply was silent about the realisation of tax and penalty. Further reply was awaited (September 2005).

The matter was reported to the Department and to the Government between August 2004 and April 2005; their replies had not been received (September 2005).

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\* Hamirpur, Kangra, Kullu,, Mandi, Nahan, Shimla, Solan and Una



## CHAPTER-V: FOREST RECEIPTS

### 5.1 Results of audit

Test check of records of forest receipts, conducted in audit during the year 2004-05, revealed non recoveries, short recoveries and other losses of revenue amounting to Rs. 71.92 crore, in 227 cases, which broadly fall under the following categories:-

(Rupees in crore)			
		Number of cases	Amount
1.	Non-recovery of royalty	4	2.77
2.	Short recovery of royalty	4	0.09
3.	Non levy of extension fee	13	0.56
4.	Non-levy of interest	24	2.86
5.	Other irregularities	182	65.64
	<b>Total</b>	<b>227</b>	<b>71.92</b>

During 2004-05, the Department accepted under assessments of Rs. 57.89 crore involved in 209 cases which had been pointed out in audit in earlier years. A few illustrative cases highlighting important observations involving financial effect of Rs. 10.87 crore are given in the following paragraphs.

## 5.2 Non levy of permit fee

As per notification dated 20 August 2001 issued under the Indian Forest Act, 1927, as applicable to Himachal Pradesh and published in Rajpatra, Himachal Pradesh (Extra-ordinary), on 3 September 2001, dealers of khair heartwood/chips and khair billets (with bark), having medicinal value were liable to pay export permit<sup>&</sup> fee of Rs. 250 per quintal and Rs. 175 per quintal respectively. However, through a notification dated 19 October 2004, the Government of Himachal Pradesh restricted the levy of export permit fee on inter-state transportation of khair wood. Accordingly, export permit fee was leviable on intra state transportation of khair wood upto 18 October 2004.

During the course of audit of 13\* forest divisions, it was noticed between July 2003 and March 2005 that Divisional Forest Officers (DFOs) issued 850 passes for intra state export of 2,02,540.32<sup>#</sup> quintals of khair wood between April 2002 and September 2004, without levy of export permit fee. This resulted in non realisation of Government revenue of Rs. 4.45 crore.

After this was pointed out in audit, the Principal Chief Conservator of Forests (PCCF) stated between November 2004 and March 2005 that export permit fee on intra state transportation was not leviable. Accordingly, the export permit fee was not levied by the DFOs. The contention of the Department was not correct as export permit fee on transportation of khair wood within the State was leviable upto 18 October 2004 and should have been recovered by the concerned DFOs. The fact was brought to the notice of the Department in April 2005.

The cases were reported to the Government between August 2003 and April 2005; reply had not been received (September 2005).

## 5.3 Non/short recovery of Net Present Value

The Government of Himachal Pradesh in their notification dated 9 January 2004 levied a charge of Net Present Value (NPV) earlier called environmental value for forest land diverted for non forestry use under Forest (Conservation) Act, 1980. The rates of Rs. 5.80 lakh per hectare was fixed for forest having less than 10 per cent forest cover, Rs. 7.50 lakh per hectare was for forest cover between 10-40 per cent and Rs. 9.20 lakh per hectare was for forest cover above 40 per cent. The rates specified in the notification were applicable retrospectively from 30 October 2002.

<sup>&</sup> Export permit : It is a pass from an officer duly authorised to issue the same to regulate import or export or moving of timber or other forest produce

\* Bilaspur, Dehra, Dalhousie, Dharamsala, Hamirpur, Nurpur, Nalagarh, Nahan, Palampur, Paonta Sahib, Renukaji, Solan and Una

<sup>#</sup> Khair heart wood/Chips: 1,21,037.63 quintals, Khair billets (with bark): 81,502.69 quintals



**5.3.1** During audit of three\* DFOs, it was noticed between August 2004 and January 2005, that permission for diversion of 37.7818 hectare of forest land for non forestry use was accorded by the Government of India between December 2002 and November 2004 in favour of four user agencies. However, the DFOs did not levy NPV of Rs. 2.21 crore against the user agencies, resulting in non recovery of Government revenue to that extent. Non imposition was not monitored by the higher authorities though a periodical report in this regard was being sent to the Conservator of Forests and PCCF by the DFOs.

After this was pointed out in audit, DFO Shimla intimated in November 2004 that user agencies had been requested to deposit the NPV of Rs. 8.43 lakh. Report of recovery and reply from Ani and Palampur divisions were, however, not received (September 2005).

The matter was reported to the Department/Government in September 2004 and February 2005; their replies had not been received (September 2005).

**5.3.2** During audit of DFO Kinnaur, it was noticed in June 2004 that NPV in respect of 18.7142 hectare of forest land diverted during 2003-04 for construction of Kashang Hydro Electric Project was levied at pre revised rate of Rs. 5 lakh per hectare instead of Rs. 5.80 lakh per hectare. This resulted in short levy of NPV of Rs. 14.97 lakh.

After this was pointed out in audit, the Department accepted the audit observation and stated in February 2005 that the user agency had been directed in September 2004 to deposit the differential amount of Rs. 14.97 lakh. Report of recovery had not been received (September 2005).

The matter was reported to the Government in July and followed by a reminder in December 2004; reply had not been received (September 2005).

#### **5.4 Loss of revenue due to administrative failure**

Any act causing damage by negligence or act of deliberate felling of a tree or clearing of land for cultivation or any other purpose in any protected forest etc., is an offence under the Indian Forest Act, 1927 and is punishable with imprisonment for a term of upto six months or with fine of upto Rs.500. It is the duty of every beat forest guard to immediately take cognizance of a forest offence, to issue the damage report for the offence committed and get the damage accepted by the offender. The forest produce and the implements used in committing the offence are to be seized. In case, the offender escapes arrest on the spot, an immediate report is required to be made and got signed by the nearest influential person (*Lambardar*). The forest offence cases can be compounded by the Forest Officer

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\* Ani (1 case: 20.88 hectare), Palampur (1 case: 15.75 hectare) and Shimla (2 cases: 1.1518 hectares)



himself and in cases, where he is not competent to compound or the offender does not come forward for compounding, it is registered with the police to be taken to court of law.

**5.4.1** During audit of the records of DFO, Churah, it was noticed in July 2004 that 16 *deodar* trees having 21.99 cu.m. standing volume valued at Rs. 5.85 lakh were found illicitly felled by the Range Officer Tissa in May 2003 in Shakti RF/DPF\*. The offenders went unnoticed and no timber was found at the spot. Neither any FIR was lodged by the Department nor any damage report was issued. Failure of the Department to take cognizance of offence in time resulted in loss of revenue of Rs. 5.85 lakh including sales tax.

The case was reported to the Department/Government in August and December 2004; their replies had not been received (September 2005).

**5.4.2** During audit of the records of DFO, Rohru and Kinnaur, it was noticed between August 2003 and June 2004 that six damage reports were issued by the beat forest guards between March 2000 and October 2002, for illicit felling of trees. Out of these, 15.45 cu.m. timber valued at Rs.3.70 lakh in the case of four damage reports was seized by the Department between March 2000 and October 2002. The offenders remained untraced in these four cases but no FIR was lodged. In addition, the seized timber has not yet been disposed of. In another damage report, 11 trees valued at Rs. 4.59 lakh illicitly felled by a private company could not be seized though the illicit felling was stated to have been admitted by one of the employees of the company. No further action was taken to compound the offence or challan in a court of law. In the remaining case, though the offender had accepted the offence on 10 March 2000, the case was not compounded by the Department within one year. Consequently, the case was neither compounded nor challaned in the court of law. This resulted in non realisation of Government revenue of Rs. 8.29 lakh.

The cases were reported to the Department/ Government between November 2003 and July 2004 followed by reminders in March/ December 2004; their replies had not been received (September 2005).

### **5.5 Loss of revenue due to delay in handing over of lot**

The royalty rates for the year 2002-03 in respect of *deodar*, *kail* and *rai* were Rs. 3,950, Rs. 2,430 and Rs. 770 per cu.m. respectively. These rates were reduced to Rs. 3,940, Rs. 2,190 and Rs. 740 during 2003-04. The marking lists are required to be sent to the Himachal Pradesh State Forest Corporation (Corporation) before 15 December of the year following the year of exploitation.

\* RF: Reserved Forest, DPF: Demarcated Protected Forest



During audit of the records of DFO Mandi, it was noticed in January 2005 that a lot of 896 trees containing 1,485.84 cu.m. standing volume due for exploitation during 2002-03 was handed over to the Corporation in July 2002 and the Corporation had started the exploitation work in November 2002. The lot was required to be handed over before 15 December 2001. As the DFO failed to hand over the lot by scheduled date, it was considered for the subsequent year i.e. 2003-04 by the Corporation. This resulted in short recovery of royalty of Rs.3.52 lakh including sales tax due to reduction in royalty rates in subsequent year.

The case was reported to the Department/Government in March 2005; their replies had not been received (September 2005).

#### **5.6 Exemption/ deduction of royalty without joint inspection**

The Government of Himachal Pradesh, on the recommendations of the Pricing Committee decided in January 2002, that royalty for entire volume of unfit trees be charged at full rates and that for hollow/rotten trees, *pro rata* deduction in royalty would be given if unfit trees are found rotten during joint inspection, to be conducted by Sub Divisional Manager (SDM) of Corporation/Assistant Conservator of Forests (ACF) of Forest Department, within a period of two months after felling. Hollow and rotten trees which have 25 *per cent* or more rot will be classified as unfit. No royalty will be payable for hollow or rotten trees which have 25 *per cent* or more rot or hollowness at stump cross section.

During audit of the records of DFO Parbati and Kullu, it was noticed between September and December 2004 that 13 lots containing trees of *deodar*, *kail*, *fir* species etc, were handed over to the Corporation for exploitation during 2000-01 to 2003-04. Of these, trees having 4,838.908 cu.m. standing volume valued at Rs.61.46 lakh were declared unfit without joint inspection of the Department and of the Corporation and no royalty was paid. The declaration of loss without joint inspection was incorrect and resulted in non recovery of royalty of Rs.61.46 lakh.

The cases were reported to the Department/Government between October 2004 and January 2005; their replies had not been received (September 2005).

#### **5.7 Loss of revenue due to delay in exploitation**

As per instructions issued in October 1980 under Indian Forest Act, 1927 as applicable to the State of Himachal Pradesh, all trees marked for exploitation and listed in lots would be handed over to Corporation for working. As per decision of the Pricing Committee of August 2001, a joint inspection is required to be conducted on the request of the Corporation within a period of two months after felling, if the volume of rotten/hollow trees is more than five *per cent* of the total marked volume. However, no royalty was payable on rotten trees, if the rot/hollowness at stump cross section is 25 *per cent* or more.



During audit of the records of DFO, Shimla, it was noticed in November 2004 that a salvage lot containing 1,623 trees of *deodar*, *kail*, *chil* and *rai* having 1,940.114 cu.m. of standing volume of timber was marked in 2001-02 and the marking list which was required to be sent before 15 December 2001, was, however, sent to the Corporation in January 2003 for exploitation during 2003-04 i.e. after a lapse of one year. On the request of the Corporation, a joint inspection of rotten /hollow trees was conducted between July- September 2003 and 383 trees containing 591.487 cu.m. of timber were found rotten having 25 *per cent* or more rot and were classified as unfit for exploitation. Thus, delay in handing over the lot and continuous exposure of marked trees to the vagaries of weather resulted in 25 *per cent* or more rot at stump cross section of 383 trees for which no royalty was paid. This led to loss of revenue of Rs.16.39 lakh to the Government.

After this was pointed out in audit, DFO stated in February 2005 that the trees were marked and handed over to the Corporation during 2002-03 and the year 2001-02 was mentioned inadvertently on general abstract of salvage marking and there was no delay in handing over the marking lists. The contention of the Department was not tenable as the marking list was prepared by the Range Officer Mashobra in 2001-02 and same list was sent by the DFO to the Corporation in January 2003. Even if the lot was prepared for exploitation during 2003-04, the marking list should have been sent before 15 December 2002. However, the stage at which the delay had occurred was not made available.

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

### **5.8 Non charging of cost of fence posts**

The Forest Department executes afforestation work in double the area, transferred to user agency under Forest (Conservation) Act, 1980, for non forestry purpose. The cost of fence posts required for compensatory afforestation is to be realised from the user agency as per departmental instructions. The PCCF, Himachal Pradesh, Shimla fixed (August 1995) the norm of 70 fence posts to be used for fencing of one hectare of plantation area.

During audit of the records of 11\* DFOs, it was noticed between May 2003 and January 2005 that cost@ of 1.67 lakh fence posts, required for compensatory afforestation in 2,388 hectare had not been charged from the user agencies during the period between April 2002 and March 2004. This resulted in loss of revenue of Rs.2.17 crore (including sales tax) to the Government.

\* Bharmaur, Churah, Chamba, Kullu, Kunihar, Palampur, Parbati, Rampur, Suket, Theog and Una  
 @ Cost of fence posts worked out at the rate of Rs. 100 per fence post on the basis of bills raised by the Department



After this was pointed out in audit, the Department stated between December 2003 and January 2005 that in the case of Theog, Parbati and Kunihar divisions, bills on account of cost of fence posts amounting to Rs. 35.21 lakh had been raised between December 2003 and September 2004 against the user agencies and that DFO Suket had been directed in March 2005 to realise the cost of fence posts. Reply from remaining divisions was, however, awaited (September 2005).

The cases were reported to the Department/Government between June 2003 and February 2005; their replies had not been received (September 2005).

#### **5.9 Loss of revenue due to non tapping of resin blazes**

As per instructions dated 24 September 2001, the PCCF increased the minimum diameter for resin tapping as 35 cm from 30 cm applicable from the 2002 resin tapping season, in respect of trees to be tapped for the first time. Further, according to instructions issued in May 2000, for deletion of blazes, prior approval of the Conservator of Forests was to be obtained well before commencement of tapping season.

During audit of the records of 11<sup>s</sup> DFOs, it was noticed between June 2004 and January 2005, that 89,934 *chil* trees having diameter of 30 cm to 35 cm and above were not handed over to the Corporation for resin tapping for the tapping seasons between 2000 and 2004, due to non enumeration of blazes/ deletion of blazes from the marking lists. This resulted in depriving the Government of revenue of Rs.20.61 lakh on account of royalty.

After this was pointed out in audit, the Department stated in December 2004 that approval for deletion of 4,306 blazes for the year 2003 in Solan division had been accorded in July 2004. The reply is not tenable as prior approval was required for deletion of blazes and in this case the approval was obtained after the commencement of tapping season 2003. Reply from other divisions was awaited.

The cases were reported to the Department/Government between July 2004 and January 2005; their replies had not been received (September 2005).

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<sup>s</sup> Ani, Churah, Dalhousie, Dehra, Hamirpur, Mandi, Nachan, Parbati, Rohroo, Solan and Theog

#### 5.10 Non levy of extension fee

Clause 3 of the standard agreement deed for lease provides that if a lessee fails to fell, convert and carry trees outside the leased area within the contract period, he may seek extension in the working period, failing which he shall have no right on the standing/felled trees and scattered/stacked timber lying in the leased forest. If extension applied for is granted, the lessee is required to pay extension fee at the prescribed rates. A register named "Periodical Dues Register" is maintained in each division which acts as a monitoring register for grant of extension period and recovery thereof.

During audit of the records of four @ DFOs, it was noticed that 49 lots with lease periods between 31 March 2001 and 31 March 2004, were handed over to the Corporation for exploitation. The exploitation work of these lots could not be completed within the lease period. The Corporation was permitted to continue exploitation work in two divisions involving nine lots. However, extension fee of Rs. 7.83 lakh was not levied. This resulted in non realisation of revenue of Rs. 7.83 lakh. Extension in working periods of 40 other lots of the divisions though sought for between March 2003 and April 2004 was not granted. There was nothing on records to show that Corporation had stopped exploitation work. As a result, extension fee of Rs. 8.89 lakh could not be levied. This resulted in non realisation of revenue of Rs. 16.72 lakh.

After this was pointed out in audit between March 2002 and March 2004, DFO Chopal stated in November 2004 that extension fee would be demanded while DFO, Bharmour intimated that bill had been raised. Reply from other divisions was awaited.

The cases were reported to the Government in September 2004, their replies had not been received (September 2005).

#### 5.11 Non levy of penalty

As per clause 18 (G) of the standard agreement deed of lease executed under Indian Forest Act, 1927, Corporation (the sole lessee of the State Government), is required to pay sales tax on royalties to the concerned DFO. In case of non payment/belated payment of the amount of sales tax, the lessee is required to pay penalty at the rate of 18 *per cent* per annum to the concerned DFO.

During audit of the records of DFO, Kotgarh and Seraj, it was noticed between July 2004 and February 2005 that sales tax amounting to Rs. 78.32 lakh payable on royalty instalments in respect of 11 forest lots, handed over to the Corporation for exploitation between April 2002 and March 2004, was paid after a delay ranging

@ Bharmour, Chopal, Dalhousie and Rohroo



between 40 days and 516 days. However, penalty amounting to Rs. 2.84\* lakh though leviable was not levied by the concerned DFO.

After this was pointed out in audit, the Department stated in November 2004 that in the case of Kotgarh division, bill for Rs. 1.50 lakh had been raised in September 2004. Report of recovery had not been received (September 2005). Reply from Seraj division was awaited (September 2005).

The cases were reported to the Department/ Government between August 2004 and March 2005; their replies had not been received (September 2005).

#### **5.12 Non levy of interest**

The Corporation which is entrusted with the responsibility of exploitation of all forest lots, is required to deposit instalments of royalty in respect of forest lots by due dates as fixed by the State Government. In case the royalty is not paid within 90 days after the due date, interest at the rate of 11.5 *per cent* per annum is chargeable with effect from 1 April 2001.

During audit of the records of four<sup>#</sup> DFOs, it was noticed between July 2004 and February 2005 that 27 forest lots were handed over to the Corporation for exploitation during the years 2002-03 and 2003-04, for which royalty amounting to Rs. 6.10 crore payable between 15 September 2002 and 30 November 2003 was paid between January 2003 and June 2004. The delay in payment of royalty ranged between 108 days to 483 days. Interest of Rs. 53.82 lakh though leviable was not demanded by the Department for belated deposit of royalty.

After this was pointed out in audit, the Department stated in November 2004 that in the case of Kotgarh division, bill on account of interest had been raised in September 2004. Reply from remaining divisions was awaited.

The cases were reported to the Department/ Government between August 2004 and March 2005; their replies had not been received (September 2005).

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\* Kotgarh: Rs. 1.50 lakh and Seraj: Rs. 1.34 lakh

<sup>#</sup> Chopal, Kotgarh, Karsog and Seraj at Banjar

## CHAPTER-VI: OTHER TAX – NON TAX RECEIPTS

### 6.1 Results of audit

Test check of records relating to land revenue, stamp duty and registration fee, Public Works divisions etc. conducted in audit during the year 2004-2005, revealed non recovery of money, non/short levy of stamp duty and registration fee, short recovery of cost of tender documents and other irregularities amounting to Rs. 6.76 crore in 164 cases, which fall under the following categories:-

		(Rupees in crore)	
		Number of cases	Amount
1.	Non recovery of lease money	4	0.35
2.	Non/short levy of stamp duty and registration fee	53	0.16
3.	Long para on <b>Receipts from Stamp Duty and Registration Fee</b>	1	4.73
4.	Short recovery of cost of tender documents	3	0.05
5.	Other irregularities	103	1.47
	<b>Total</b>	<b>164</b>	<b>6.76</b>

During 2004-05, the departments accepted under assessments of Rs. 1.81 crore involved in 157 cases which had been pointed out in audit in earlier years.

A few illustrative cases highlighting important observations involving financial effect of Rs. 5.02 crore are given in the following paragraphs.



## **A STAMP DUTY AND REGISTRATION FEE**

### **6.2 Receipts from Stamp Duty and Registration Fee**

#### **Introductory**

**6.2.1** Registration of a document attracts levy of stamp duty and registration fee. The levy and collection of stamp duty in Himachal Pradesh on various types of instruments such as conveyance, exchange, mortgage, lease, gift, settlement, partition, power of attorney, agreement etc. is governed by the Indian Stamp Act, 1899, as amended by Indian Stamp (Himachal Pradesh Amendment) Act, 1976. The duty is paid by the executor of instruments either by using impressed stamps of the proper denomination or by affixing stamps (non judicial) of the proper denomination.

Rates of stamps duty leviable in Himachal Pradesh on different types of instruments are given in Schedule I-A to the Indian Stamp (Himachal Pradesh Amendment) Act, 1976. The rate of stamp duty chargeable on sale, gift and mortgage with possession is 12 *per cent* and on mortgage deeds without possession the rate is one and a half *per cent*. Stamp duty falls under two categories viz. judicial and non judicial. Judicial stamp duty represents fee payable in connection with legal proceedings, while non judicial stamp duty is levied on instruments executed for legal validity of the transactions carried out. The levy of registration fee on the instruments, presented for registration, is governed by the Indian Registration Act, 1908 and Rules framed thereunder. Registration fee is levied at the prescribed rates subject to a minimum of Rs. 5 and maximum of Rs. 25,000.

A test check of records of 60 Sub-registrar (SR) offices, relating to levy, collection, exemption and remission of stamp duty and registration fee for the years 1999 to 2003 was conducted between July 2004 and March 2005. The results are discussed in the following paragraphs.

#### **Undervaluation of Immovable Property**

**6.2.2** The Indian Stamp Act, 1899, as applicable to Himachal Pradesh, provides that the consideration and all other facts and circumstances affecting the chargeability of any instrument with duty with which it is chargeable, shall be fully and truly set forth therein. If the registering officer, has reasons to believe that the value of the property or the consideration has not been truly set forth in the instrument, he may, after registering such instrument, refer the same to the Collector for determination of the value of consideration and the proper duty

payable. The registering officer is required to verify the consideration shown in the conveyance deeds with parta<sup>s</sup> prepared by the Patwari of the Halqua.

Test check of records of 43\* SRs revealed that 925 conveyance deeds were registered between 1999 and 2003 for Rs.13.20 crore. A comparison of the consideration set forth, in the deeds with partas prepared by the Patwaris revealed that the actual market value of the properties was Rs. 29.69 crore. Thus undervaluation of the property resulted in short realisation of stamp duty and registration fee to the tune of Rs.2.21 crore. A few instances are detailed below:

Name of unit/ deed no.	Area sold	Consideration as per Govt. orders on parta	Consideration as per deed executed	Stamp Duty leviable/levied	R/Fee leviable/levied	(Rupees in lakh)		
						Deficient amount		
						Stamp Duty	Regn. Fee	Total
Dalhousie 191/02, 138/02, 21/03, 156/03, 197/03	0-16-43 hectare	131.04	34.30	15.73 4.12	1.16 0.62	11.61	0.54	12.15
Dehra 978/2K, 979/2K, 980/2K, 1011/2K	872 Square meters	61.84	11.00	7.42 1.32	0.96 0.22	6.10	0.74	6.84
Hamirpur 503/99, 702/99, 926/99, 881/99, 868/99, 15/03, 306/03, 734/03, 1177/03, 1347/03	1352.19 Square meters	86.31	15.91	10.36 1.96	1.36 0.31	8.40	1.05	9.45
Nahan 309/03, 336/03, 459/03, 476/03, 478/03, 403/03, 41/03, 420/03-	114-6-0 bigha	164.03	94.45	19.68 11.33	1.80 1.49	8.35	0.31	8.66
Nalagarh 493/03, 538/03, 1004/03, 1661/03, 87/03, 155/03, 437/03	22-11-0 bigha	105.65	44.12	12.68 5.29	1.07 0.63	7.39	0.44	7.83

There was nothing on records to show that correctness of levy of stamp duty and registration fee had been monitored at any stage by the Registrars. Besides, no internal audit system existed in the Department to monitor levy of registration fee and stamp duty.

After this was pointed out in audit, the Department stated that an amount of Rs. 14.44 lakh in 140 cases had been recovered. While in other cases, final reply had not been received (September 2005).

\* It is valuation report of the land prepared by the Patwari. The market value is calculated on the consideration amount shown in the deed of the land sold for the preceeding years

\* Amb, Arki, Aut, Baijnath, Balichoki, Barsar, Bhoranj, Bijhari, Bilaspur, Chamba, Dehra, Dalhousie, Dharampur, Dharamsala, Ghumarwin, Hamirpur, Jhandutta, Joginder Nagar, Kandaghat, Kangra, Kasauli, Keylong, Kullu, Kumarsain, Lad Bharol, Manali, Mandi, Nadaun, Nahan, Nalagarh, Nurpur, Pachhad, Palampur, Paonta Sahib, Rajgarh, Sainj, Sarkaghat, Shimla®, Shimla(U), Solan, Sundernagar, Theog and Una



### **Incorrect fixation of average price**

**6.2.3** As per notification dated August 1994, patwaris are responsible for preparation of the partas. The average price is based on mutation done on sale deeds registered during the preceeding 12 months.

Test check of records of SR Baldwra, Nahan, Paonta Sahib and Solan revealed that in 17 cases registered during 1999 and 2003, the average market value was incorrectly worked out by changing the kind of land or due to inclusion of periods other than that specified in the notification dated August 1994. This resulted in loss of revenue amounting to Rs. 17.09 lakh.

After this was pointed out in audit, the Department accepted the audit observations. Further reply had not been received (September 2005).

**6.2.4** Test check of the records of seven\*\* SRs revealed that in 51 cases registered during 1999-2003, the consideration of the properties set forth in the deeds of conveyance, was shown as Rs. 9.72 lakh while those shown in the agreements to sell executed earlier by the executants and recorded with the document writers was Rs. 99.94 lakh. The SRs failed to correlate the records with the records of document writers. This resulted in short realisation of stamp duty and registration fee of Rs. 14.05 lakh.

After this was pointed out in audit, the Department stated that an amount of Rs. 2.26 lakh in three cases had been recovered. Report of recovery in the remaining cases had not been received (September 2005).

### **Incorrect exemption**

The Himachal Pradesh Cooperative Agriculture and Rural Development Bank Act, 1979, provides that loans other than short terms may be advanced by the bank for different agriculture purposes as mentioned in it and no fee is to be charged in respect of registration of any instrument executed in favour of the Agriculture and Rural Development Bank. The Government also clarified in November 1997 that stamp duty and registration fee was leviable in all cases where loans had been secured for purposes other than agriculture purpose.

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\*\* Dharamsala, Joginder Nagar, Kangra, Sujampur, Sunder Nagar, Uadipur and Una

**6.2.5** Test check of the records of 48<sup>2</sup> SRs revealed that in 813 instruments executed between 1999 and 2003 in the name of individuals for obtaining loan from the Agricultural and Rural Development Bank, the loans were for non agricultural purposes viz. purchase of trucks/mini trucks/ buses/mini buses/Jeeps/ construction of hotels /guest houses/opening of dhabas/ jewellery shop etc. The SRs, however, while registering these documents did not levy stamp duty and registration fee thereon resulting in non levy of stamp duty and registration fee of Rs. 80.31 lakh.

After this was pointed out in audit, an amount of Rs. 8.66 lakh had been recovered in 103 cases. Report of recovery in remaining cases had not been received (September 2005).

**6.2.6** Mortgage deeds executed by the employees of Central Government, Himachal Pradesh Government, public sector undertakings and autonomous bodies for seeking loan for repayment of house building advances, received by them from their employers for the purpose of construction, purchase or repair of a dwelling house for their own use, were exempted from payment of stamp duty. The exemption was, however, not admissible to the employees of other states and their public sector undertakings and autonomous bodies. Central Government employees taking advance from banks were also not exempted from the payment of stamp duty and registration fee.

During test check it was noticed that 14<sup>3</sup> SRs had allowed exemption from payment of stamp duty and registration fee in the cases of 69 employees of Central Government/ Central Government autonomous bodies/Union Territory/ other states, who had secured house building advances from nationalised banks during the period 1999 to 2003. The exemption granted was incorrect and resulted in non realisation of stamp duty and registration fee of Rs. 5.78 lakh.

After this was pointed out in audit, an amount of Rs. 0.54 lakh in nine cases was recovered; final reply in other cases had not been furnished (September 2005).

<sup>2</sup> Amb, Arki, Aut, Baijnath, Balichowki, Bangana, Banjar, Barsar, Bhoranj, Bijhali, Bilaspur, Chamba, Dehra, Dharampur, Dharmasala, Ghumarwain, Harmirpur, Jandutta, Joginder Nagar, Junga, Kandaghat, Kangra, Kasuali, Keylong, Kotli, Kullu, Ladbharol, Mandi, Manali, Nadaun, Nahan, Nalagarh, Nurpur, Pachhad, Palampur, Paonta Sahib, Rajgarh, Sainj, Sarkaghat, Shahpur, Shimla(R), Shimla (U), Solan, Sujanpur, Sunni, Theog, Udaipur and Una

<sup>3</sup> Baijnath, Barsar, Bhoranj, Chamba, Dehra, Jaisinghpur, Kangra, Kotli, Kullu, Mandi, Nadaun, Nalagarh, Sarkaghat and Shimla (R)



### Misclassification of documents

6.2.7 Under the Indian Stamp (Himachal Pradesh Amendment) Act, 1976, read with the Himachal Pradesh Land Record Manual, "Release" is an instrument whereby a person renounces a claim in favour of another person or against any specified property. When one co-owner of a property, by a deed, relinquishes his right to possession and his title in favour of another co-owner, such a deed is a release deed. The person in whose favour there can be a release, must possess a pre existing right or interest in the property. In October 2001, the Financial Commissioner cum Secretary (Revenue) to the Government of Himachal Pradesh, clarified that "release" can only be made in favour of brothers and sisters who are off springs of the same mother. It was also clarified that a widow cannot release her share in favour of her son. She can only gift her share of the property.

Test check of the records of 39<sup>1</sup> SRs, revealed that in 224 cases, release deeds were executed between 1999 and 2003. A comparison of the deeds with jamabandi<sup>#</sup> revealed that the deeds were executed in favour of the persons who had no pre existing right in the property. No cross verification was done by the registering officer at the time of registration though jamabandis were enclosed with the deeds. These were liable to be classified as gift deeds. This resulted in short levy of stamp duty and registration fee of Rs. 100.35 lakh. A few illustrative cases are given below:

(Rupees in lakh)						
Name of unit	Year	Deed No.	Value of the property	Stamp Duty leviable	Registration Fee leviable	Total
Dalhousie	2003	38/03, 39/03, 82/03	51.42	6.17	0.30	6.47
Ghumarwin	1999	9/99, 30/99, 124/99, 44/99, 178/99, 316/99, 466/99, 410/99	79.38	9.52	0.43	9.95
Kullu	2003	999/03, 1086/03, 1211/03, 1250/03	10.47	1.26	0.21	1.47
Mandi	2003	308/03, 313/03, 1892/03	34.42	4.13	0.37	4.50
Nalagarh	2003	1866/03, 427/03, 138/03, 1783/03, 880/03	31.60	3.79	0.44	4.23

<sup>1</sup> Amb, Arki, Aut, Baijnath, Baldwara, Banjar, Barsar, Bijhari, Chamba, Dalhousie, Dehra, Dharmpur, Dheera, Ghumarwain, Hamirpur, Jaisinghpur, Kandaghat, Kangra, Kasuali, Keylong, Kotli, Kullu, Kumarsain, Ladbharol, Mandi, Manali, Nadaun, Nalagarh, Pachhad, Palampur, Paonta Sahib, Rajgarh, Sainj, Sarkaghat, Shimla (R), Shimla (U), Solan, Thural and Una

<sup>#</sup> Is a patwari record and contains khewat no., khatuni, name of the patti, name of the lambardar, owner of the land, cultivation, kind of irrigation, field numbers, area, rent paid by cultivator, measure of right and cesses

After this was pointed out in audit, an amount of Rs. 6.26 lakh in 31 cases had been recovered. Report of recovery in remaining cases had not been received (September 2005). The Department accepted audit observation in 118 cases. Reply in other cases had not been received.

**6.2.8** Test check of the records of SRs, Dallhousie, Kumarsain and Paonta Sahib, revealed that in eight cases, widows (mothers) released their shares in favour of their sons during 2001 and 2003 through release deeds. These deeds were to be treated as gift deeds instead of release deeds. This resulted in loss of revenue of Rs. 14.85 lakh to the Government.

**6.2.9** Test check of the records of SR, Paonta Sahib, revealed that in two cases registered during 2001 and 2003, the executants had previously sold a small portion of their land to the intended purchasers with the intention to make them cosharers in the property proposed to be sold. Later on, when the names of vendees were incorporated in the revenue records, the owners of the land subsequently transferred their remaining portion of land to the concerned vendees through a deed of release. This was incorrect as the executants had no pre-existing right or interest in the transferred property. These deeds were liable to be charged stamp duty as sale/gift which resulted in loss of revenue of Rs. 8.67 lakh to the Government.

After this was pointed out in audit, the Department accepted the audit observations and stated that efforts were being made to recover the amount.

#### **Short/ non realisation of stamp duty and registration fee**

**6.2.10** Under the Indian Stamp (Himachal Pradesh Amendment) Act, 1976, on an instrument of lease, stamp duty is chargeable on the basis of period of lease and the amount of annual rent reserved. The Act further provides that where the lease is granted for a fine or premium or for money advanced in addition to rent reserved, the duty is also charged on the value of such fine or premium or money advanced set forth in the lease deed. Besides, registration fee at the prescribed rates is also chargeable.

Test check of the records of 14<sup>2</sup> SRs revealed that in 131 cases, stamp duty and registration fee of Rs. 7.70 lakh on the lease deeds, executed during 1999 and 2003 was short realised.

<sup>2</sup> Baldwara, Barasar, Bhoranj, Chamba, Dharampur, Hamirpur, Jaisinghpur, Kangra, Kullu, Manali, Mandi, Nahan, Sarkaghat and Shimla (R)



After this was pointed out in audit, the Department accepted audit observation in all cases. An amount of Rs. 1.43 lakh in 23 cases had been recovered, while report of recovery in the remaining cases was not received (September 2005).

**Short levy of stamp duty and registration fee on the units sold by Himachal Pradesh State Financial Corporation**

**6.2.11** Under the Indian Stamp Act, 1899, "Conveyance" includes a conveyance on sale and every instrument by which property whether movable or immovable is transferred. Further, the Registration Act, 1908, provides that immovable property includes land, building and things attached to the earth.

Test check of the records of SRs, Nahan and Nalagarh revealed that in four instruments executed during 2003, land, building, plant & machinery were sold for Rs. 48.23 lakh through auction by the Himachal Pradesh State Financial Corporation. However, stamp duty and registration fee was realised only on the consideration of cost of land and building of Rs. 24.91 lakh. The reasons for exclusion of plant & machinery were not on record. Consequently, this resulted in short levy of stamp duty and registration fee of Rs. 3.06 lakh.

## **B LAND REVENUE**

### **6.3 Non fixation of lease money**

Government of Himachal Pradesh leased out in February 1986 land measuring 631 square yards in Shimla for a period of 30 years to Hindustan Petroleum Corporation, for establishing LPG retail depot/godown. According to the terms and conditions of the lease, lease money was renewable after every five years. Government decided in October 1993 that rate for renewals would be 18 per cent of the latest highest market value of the land leased.

During audit of records of Collector, Shimla, it was noticed in May 2004 that lease money for the above land was required to be renewed in February 2001. On the basis of annual market value of the land, lease money worked out to Rs. 92,355<sup>@</sup> per year. However, the lease money was not renewed resulting in non realisation of Rs. 2.77 lakh for the period February 2001 to January 2004.

After this was pointed out in audit, the Department renewed the lease money in June 2004 and further directed the lessee to pay lease money of Rs.3.68 lakh upto March 2005. Report of recovery had not been received (September 2005).

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

## **C MULTIPURPOSE PROJECTS AND POWER DEPARTMENT**

### **6.4 Non recovery of electricity duty**

According to the Himachal Pradesh Electricity (Duty) Act, 1975, and the Rules made thereunder, electricity duty was leviable on electrical energy supplied by the Himachal Pradesh State Electricity Board (HPSEB) to consumers. Under the rules *ibid*, the duty collected by the Board in monthly bills for the energy supplied shall be deposited into Government account half yearly i.e. in April and October every year.

Information collected from the office of Chief Electrical Inspector, Himachal Pradesh revealed that electricity duty amounting to Rs.12.80 crore during the period April 2004 to September 2004, required to be deposited in October 2004, was deposited by the HPSEB in January 2005.

<sup>@</sup> 18 percent of the market value of Rs. 5,13,082



Besides, information regarding electricity duty due to Government during subsequent period October 2004 to March 2005 was not available with the Chief Electrical Inspector as no return was submitted by HPSEB to Chief Electrical Inspector. Based on the figures for the previous half-yearly return, minimum revenue of Rs.12.80 crore remained unrealised.

The matter was reported to the Department/Government in June 2005; their replies have not been received.

## **D PUBLIC WORKS DEPARTMENT**

### **6.5 Non recovery of damages from unauthorised occupants**

The Himachal Pradesh Allotment of Government Residences (General Pool) Rules, 1994, provide that whereafter an allotment of residence has been cancelled or is deemed to be cancelled and if the residence remains in the occupation of the allottee or a person claiming through him, such allottee shall be liable to pay damages for use and occupation of the residence at the rate of Rs. 4 per sqft. upto 31 August 2001 and Rs. 12 per sqft. thereafter.

During test check of records of three Public Works Divisions (PWD)<sup>s</sup>, it was noticed between December 2002 and February 2005 that five allotments were retained by the allottees or their heirs even after these were deemed to have been cancelled. Neither action was taken to evict the occupants nor to recover the damages of Rs. 20.46<sup>s</sup> lakh which the occupants were liable to pay for unauthorised retention from April 2000 to January 2005.

The matter was reported to the Department/Government between February 2003 and February 2005; their replies had not been received (September 2005).

### **6.6 Short recovery of cost of tender documents**

As per Engineer in Chief, HPPWD, Shimla letter dated August 2001, the cost of tender documents to be charged from contractors for works costing up to Rs. 6 lakh was Rs. 150 per document.

During audit of the records of PWD Rohru, it was noticed in September 2004 that cost of 4,432<sup>@</sup> tender documents sold to various contractors between December 2001 to August 2004 was not correctly charged. Against the admissible rate of Rs. 150 per document, the division incorrectly charged Rs. 25 per document, which resulted in short recovery of revenue of Rs. 5.53 lakh.

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<sup>s</sup> Chamba, Kullu and Mandi

<sup>@</sup> Rohru: 1824, Tikkar: 1299 and Chirgaon: 1309

After this was pointed out in audit, the Divisional Officer stated in May 2005 that out of Rs. 5.53 lakh, Rs. 3.30 lakh had been recovered from the securities of contractors and balance amount would be recovered from remaining contractors. Further report of recovery had not been received (September 2005).

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

Shimla  
The

11 8 NOV 2005




(Suman Saxena)  
Accountant General (Audit)  
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Countersigned

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