REPORT OF THE COMPTROLLER AND AUDITOR GENERAL OF INDIA

FOR THE YEAR ENDED 31 MARCH 2009

(REVENUE RECEIPTS)

GOVERNMENT OF MAHARASHTRA

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PREFACE

This report for the year ended 31 March 2009 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, Land Revenue, Taxes on Motor Vehicles, Stamp Duty and Registration Fees, Other Tax and Non-Tax Receipts of the State.

The cases mentioned in this report are among those which came to notice in the course of test audit of records during the year 2008-09 as well as those noticed in earlier years, which could not be included in previous reports.

OVERVIEW

This Report contains 35 paragraphs including four reviews relating to non/ short levy of taxes, duties, interest and penalty, etc., involving Rs. 3,246.16 crore. Some of the major findings are mentioned below:

I. General

- The total receipts of the State during the year 2008-09 amounted to Rs. 81,231.51 crore, of which the revenue raised by the State Government was Rs. 61,780.71 crore and receipts from the Government of India were Rs. 19,450.80 crore. The revenue raised constituted 76 *per cent* of the total net receipts of the State. The receipts from the Government of India included Rs. 8,018.41 crore on account of the State's share of divisible Union taxes and Rs. 11,432.39 crore as grants-in-aid and registered an increase of 5.54 *per cent* and 52.24 *per cent* respectively over 2007-08.

  (Paragraph 1.1)

- At the end of 2008-09 arrears in respect of some taxes administered by the departments of Finance, Home and Energy amounted to Rs. 34,185.26 crore, of which sales tax etc., alone accounted for Rs. 33,971.82 crore.

  (Paragraph 1.5)

- In respect of the taxes administered by the Finance Department, such as sales tax, motor spirit tax, profession tax, purchase tax on sugarcane, entry tax, lease tax, luxury tax and tax on works contracts etc., 1,64,994 assessments were completed during 2008-09, leaving a balance of 11,50,197 assessments as on 31 March 2009.

  (Paragraph 1.6)

- At the end of June 2009, 10,101 paragraphs involving Rs. 1,154.08 crore relating to 4,672 inspection reports issued upto 31 December 2008 remained outstanding.

  (Paragraph 1.10)

- During the years between 2001-02 and 2007-08, the department/ Government accepted audit observations involving Rs. 2,574.31 crore, out of which an amount of Rs. 878.50 crore was recovered till 31 March 2009.

  (Paragraph 1.14)

- Test check of the records of sales tax, State excise, motor vehicles tax, stamp duty and registration fees, land revenue and other departmental offices conducted during the year 2008-09 revealed underassessment, short levy and loss of revenue, etc., amounting to Rs. 3,185.28 crore in 7,205 cases. The concerned departments accepted underassessment, short levy, etc., of Rs. 174.39 crore in 4,321 cases pointed out in 2008-09 and earlier years and recovered Rs. 154.29 crore.

  (Paragraph 1.16)

II. Sales tax

A review on "**Sales Tax incentives under Package Scheme of Incentives**" revealed as under :

- Centralised database of incentives sanctioned, availed of by way of exemption and deferred tax was not available with the department.

  (Paragraph 2.2.6)

- Incentives of Rs. 11.32 crore were not recovered from 45 units which were closed during the operative period of the eligibility certificate.

  (Paragraph 2.2.7.2)

- In four divisions, 6,956 cases were pending for assessment of which 177 assessments were pending for more than 10 years.

  (Paragraph 2.2.9)

- In five divisions, instalments of deferred taxes amounting to Rs. 39.21 crore were not recovered in 74 cases.

  (Paragraph 2.2.10)

- Breach of conditions of production resulted in non-recovery of incentives of Rs. 258.41 crore including the interest.

  (Paragraph 2.2.11)

- Incentives amounting to Rs. 1,034.47 crore were sanctioned to 30 units in excess of the prescribed norms.

  (Paragraphs 2.2.12 and 2.2.13)

- Incorrect allowance of exemption to one unit resulted in underassessment of tax of Rs. 174.10 crore including the interest of Rs. 46.08 crore.

  (Paragraph 2.2.15)

- In respect of four units, taxes of Rs. 13.48 crore on inter-State sale of goods not supported by declarations in form 'C' was incorrectly considered for calculation of cumulative quantum of benefits.

  (Paragraph 2.2.16)

- Incorrect levy of sales tax, surcharge and turnover tax in respect of five units resulted in short levy of tax of Rs. 3.17 crore and consequential short determination of cumulative quantum of benefits.

  (Paragraph 2.2.17)

A review on "**Transition from Sales Tax to VAT**" revealed as under :

- Implementation of the VAT was slow due to delay of 27 months in implementation of all the functional branches under the VAT and non-establishing of border check post resulted in non-utilisation of posts for the purpose for which they were created.

  (Paragraph 2.3.7.2)

- Due to non-preparation of all the basic modules the automation process in the department could not keep pace with the changes for implementation of VAT.

(Paragraph 2.3.7.3)

- Huge number of pending assessments under the repealed Act resulted in non-realisation of amounts blocked in these cases.

(Paragraph 2.3.7.4)

- In the absence of timely validation of the data the correctness of the database maintained by the department could not be ensured. Further, delay in validation of data and consequential delay in issue of RCs and holograms adversely affected the authentication of the dealers.

(Paragraph 2.3.8.3)

- In respect of 43,48,342 returns received during the year 2007-08 and 2008-09 no defect notices were issued.

(Paragraph 2.3.9.1)

- Non-inclusion of refund for computation of cumulative quantum of benefit resulted in short determination of it by Rs. 60.81 lakh.

(Paragraph 2.3.12.1)

- Non-assessment of cases relating to short payment of tax detected by the business audit/refund audit branches resulted in non-levy of penalty in cases relating to willful default.

(Paragraph 2.3.14.1)

- Absence of internal audit under the VAT deprived department of the vital area of internal control.

(Paragraph 2.3.16.1)

- Delay in grant of refund under VAT resulted in claim of less compensation of Rs. 5.72 crore for loss of revenue from the Government of India.

(Paragraph 2.3.17)

- Excess claim of Rs. 277.99 crore for compensation of loss of revenue due to introduction of Value added tax.

(Paragraph 2.5)

- Incorrect exemption from tax, application of incorrect rate of tax, non-levy of tax, incorrect computation of tax and error in computation of tax in 15 cases resulted in underassessment of tax including interest of Rs. 14.15 crore.

(Paragraph 2.6.1)

- Non/short levy of turnover tax and surcharge on turnover of sales aggregating Rs. 19.68 crore in two cases resulted in underassessment of tax including interest of Rs. 45.78 lakh.

(Paragraph 2.6.2)

- Failure to register 289 licenced dealers of sand resulted in non-realisation of Value Added Tax of Rs. 6.66 crore.

(Paragraph 2.6.4)

- Incorrect adjustment of refund in one case resulted in grant of excess credit of tax of Rs. 4.47 crore.

(Paragraph 2.6.5)

- Irregular grant of exemption from tax on sales against form '14 B' valued at Rs. 11.98 crore in five cases resulted in underassessment of tax of Rs. 2.23 crore including the interest.

(Paragraph 2.6.6)

- Incorrect deferment of tax under package scheme of incentives in one case resulted in underassessment of tax of Rs. 64.74 lakh including the interest.

(Paragraph 2.6.9)

III. Stamp duty and registration fees

- Undervaluation of property resulted in short levy of stamp duty of Rs. 2.25 crore.

(Paragraph 3.3.1)

- Incorrect application of rate resulted in short levy of stamp duty of Rs. 63.74 lakh

(Paragraph 3.3.4)

IV. Land revenue

- Incorrect adoption of market rate resulted in short realisation of land revenue of Rs. 138.93 crore.

(Paragraph 4.3)

- Non-recovery of balance auction money from original bidders amounted to Rs. 1.57 crore.

(Paragraph 4.4)

V. Taxes on motor vehicles and State excise

- **Misappropriation of Government revenue of Rs. 43.13 lakh in office of the Deputy Regional Transport Officer, Ambejogai.**

(Paragraph 5.3.1)

- Non-recovery of motor vehicle tax from 747 vehicle owners resulted in non-realistion of Rs. 1.04 crore.

(Paragraph 5.3.2)

VI. Other tax receipts

A review on "**Levy and collection of entertainment duty**" revealed as under:

- Incorrect grant of exemption of Rs. 160.40 crore to Multiplex Theatre Complexes on account of non-fulfillment of prescribed conditions.

  (Paragraph 6.2.7)

- Absence of a provision in the Act led to unjust enrichment of Rs. 1.16 crore.

  (Paragraph 6.2.8)

- Non-raising of demand of Rs. 201.27 crore for recovery of entertainment duty from 1350 cable operators.

  (Paragraph 6.2.9)

- Non-levy of entertainment duty of Rs. 4.99 crore on Indian Premier League Cricket Matches held in Mumbai.

  (Paragraph 6.2.10)

- Non/short levy of surcharge of Rs. 8.13 crore in respect of eight water parks.

  (Paragraph 6.2.17)

- Incorrect exemption of entertainment duty of Rs. 2.26 crore granted to seven films.

  (Paragraph 6.2.18)

- Non-forfeiture of security deposit of Rs. 1.87 crore collected from organisers of special events.

  (Paragraph 6.2.19)

- Non-recovery of entertainment duty from 317 cable operators resulted in non- realisation of Rs. 81.59 lakh.

  (Paragraph 6.4)

- State education and employment guarantee cess of Rs. 180.41 crore collected by Bhiwandi-Nizampur and Brihan Mumbai Municipal Corporations was not remitted into the Government account.

  (Paragraph 6.5)

- Non-prescribing of revised rates of repair cess resulted in foregoing of revenue of Rs. 14.50 crore.

  (Paragraph 6.6)

- Non-remittance of tax on buildings (with larger residential premises) collected by the Mumbai and Pune Municipal Corporations amounted to Rs. 2.14 crore.

  (Paragraph 6.7)

- Incorrect retention of tax on sale of electricity and non-recovery of interest amounted to Rs. 123.44 crore.

(Paragraph 6.8)

- Incorrect retention of electricity duty and non-levy of interest amounted to Rs. 86.77 crore.

(Paragraph 6.9)

- Non-enrolment of 16,381 Medical Practitioners liable for enrolment under the Profession Tax Act resulted in non-realisation of Rs. 14.35 crore.

(Paragraph 6.11)

VII. Non-tax receipts

A review on **"User charges for supply of water from Irrigation Projects"** revealed as under :

- Huge arrears of water charges amounting to Rs. 1,005.21 crore were pending for recovery as on 31 March 2009.

(Paragraph 7.2.8)

- Shortfall in utilisation of irrigation facilities created resulted in loss of Rs. 125.77 crore during the period 2004-05 to 2008-09.

(Paragraph 7.2.9.1)

- Wastage and non-utilisation of water resulted in loss of Rs. 57.01 crore.

(Paragraph 7.2.10)

- Non-recovery of water charges from well owners amounted to Rs. 36.15 crore.

(Paragraph 7.2.13)

- Supply of water to the tune of Rs. 12.80 crore was made without executing agreement.

(Paragraph 7.2.14)

- Non-recovery of interest from Maharashtra State Textile Corporation amounted to Rs. 292.60 crore.

(Paragraph 7.3)

CHAPTER I : GENERAL

1.1 Trend of revenue receipts

1.1.1 The tax and non-tax revenue raised by the Government of Maharashtra during the year 2008-09, the State's share of divisible Union taxes, grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are given below:

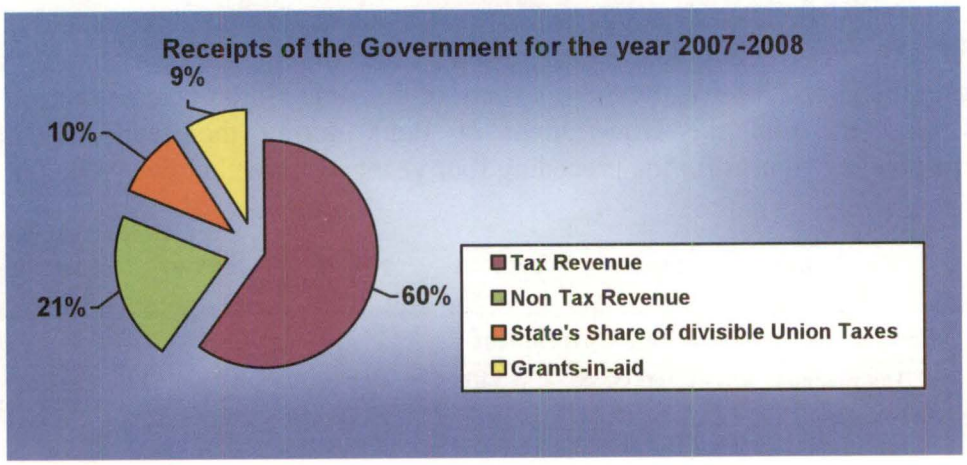
(Rupees in crore)

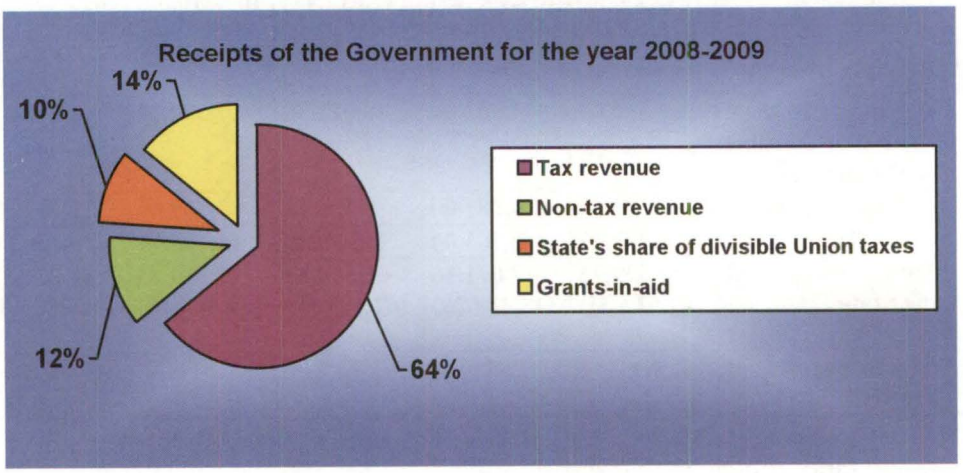
Sl. no.	Particulars	2004-05	2005-06	2006-07	2007-08	2008-09
I.	**Revenue raised by the State Government**					
	• Tax revenue	30,605.75	33,540.24	40,099.24	47,528.41	52,029.94
	• Non-tax revenue[1]	3,505.22 (4,118.83)	5,167.92 (5,935.05)	6,706.50 (7,518.25)	16,935.25 (16,947.97)	9,750.77 (9,789.94)
	Total	**34,110.97 (34,724.58)**	**38,708.16 (39,475.29)**	**46,805.74 (47,617.49)**	**64,463.66 (64,476.38)**	**61,780.71 (61,819.88)**
II.	**Receipts from the Government of India**					
	• State's share of divisible Union taxes	3,595.03	4,982.00	6,022.76	7,597.22	8,018.41
	• Grants-in-aid	2,693.72	3,981.00	8,555.13	7,509.55	11,432.39
	Total	**6,288.75**	**8,963.00**	**14,577.89**	**15,106.77**	**19,450.80**
III.	**Total receipts of the State**	**40,399.72 (41,013.33)**	**47,671.16 (48,438.29)**	**61,383.63 (62,195.38)**	**79,570.43 (79,583.15)**	**81,231.51 (81,270.68)**
IV.	**Percentage of I to III**	**84**	**81**	**76**	**81**	**76**

The above table indicates that during the year 2008-09, the revenue raised by the State Government was 76 *per cent* of the total net revenue receipts (Rs. 81,231.51 crore) against 81 *per cent* in 2007-08. The balance 24 *per cent* of receipts during 2008-09 was received from the Government of India.

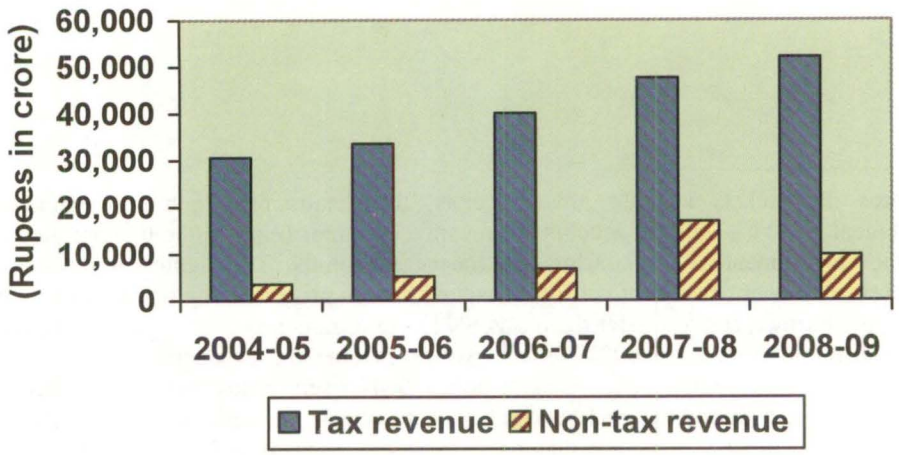
[1] Figures in brackets indicate gross receipts, the details of which are available in Statement No. 11 - Detailed accounts of revenue by minor heads in the Finance Accounts of the Government of Maharashtra for the year 2008-09. The figures above those in brackets are lower because of netting of expenditure on prize winning tickets from Lottery receipts. Further, figures under the heads '0020 - corporation tax, 0021 - taxes on income other than corporation tax, 0028 - other taxes on income and expenditure, 0032 – wealth tax, 0037 -customs, 0038 - Union excise duties, 0044 - service tax and 0045 - other taxes and duties on commodities and services' - share of net proceeds assigned to the State booked in the Finance Accounts under tax revenue have been excluded from the revenue raised by the state and included in the State's share of divisible Union taxes in this statement.

The comparative figures of sources of revenue for 2007-08 and 2008-09 and trend of growth of tax and non-tax revenue during the period 2004-05 to 2008-09 are shown below in the pie charts and the bar chart.





Growth of tax and non-tax revenue from 2004-05 to 2008-09



1.1.2 The following table presents the details of tax revenue raised during the period 2004-05 to 2008-09:

(Rupees in crore)

Sl. no.	Head of revenue	2004-05	2005-06	2006-07	2007-08	2008-09	Percentage of increase (+)/decrease (-) in 2008-09 over 2007-08
1.	Sales tax/VAT						
	• State sales tax, VAT etc.	16,399.62	17,358.56	21,583.06	24,368.22	27,805.30	(+)14.10
	• Central sales tax	2,417.10	2,318.18	2,547.66	2,384.58	2,875.23	(+)20.58
2.	State excise	2,218.87	2,823.85	3,300.70	3,963.05	4,433.76	(+)11.88
3.	Stamp duty and registration fees	4,116.49	5,265.86	6,415.72	8,549.57	8,287.63	(-) 3.06
4.	Taxes and duties on electricity	1,673.76	1,660.87	1,577.19	2,687.87	2,394.86	(-)10.90
5.	Taxes on vehicles	1,177.14	1,309.11	1,841.06	2,143.11	2,220.22	(+)3.60
6.	Taxes on goods and passengers	427.75	504.63	224.48	388.27	891.95	(+)129.72
7.	Other taxes on income and expenditure-taxes on professions, trades, callings and employments	1,076.57	1,157.70	1,246.72	1,488.26	1,561.17	(+)4.90
8.	Other taxes and duties on commodities and services	737.73	712.40	878.31	1,043.17	1,013.58	(-)2.84
9.	Land revenue	360.72	428.97	484.17	512.22	546.22	(+)6.64
10.	Service tax	--	0.11	0.17	0.09	0.02	(-)77.78
	Total	**30,605.75**	**33,540.24**	**40,099.24**	**47,528.41**	**52,029.94**	

The reasons for significant variations in the receipts in 2008-09 from that of 2007-08, in respect of principal heads of revenue as furnished by the concerned departments were as under:

Sales tax: The increase in receipts is mainly due to the lifting of stay granted during the earlier years for levy of tax on sugarcane purchase which was not extended for the year 2008-09 by the department, introduction of filing of e-returns resulting in the increase of compliance level of the dealers, economic growth upto November 2008 and increase in the receipts on sale of motor spirit.

State excise: The increase was mainly due to the increase in the rates of State excise duties on country liquor, medicinal and toilet preparations containing alcohol, opium etc., and licence fees. Further, there was increase in receipts

on account of fines and confiscations, service and service fees and other receipts.

The other departments did not inform (November 2009) the reasons for variation, despite being requested (April 2009).

1.1.3 The following table presents the details of the non-tax revenue raised during the period from 2004-05 to 2008-09:

(Rupees in crore)

Sl. no.	Head of revenue	2004-05	2005-06	2006-07	2007-08	2008-09	Percentage of increase (+)/decrease (-)in 2008-09 over 2007-08
1.	Interest receipts	737.46	1,737.24	2,503.92	1,170.17	1,016.67	(-)13.12
2.	Dairy development	676.10	612.25	611.87	453.60	471.01	(+)3.84
3.	Other non-tax receipts	584.56	614.21	696.03	953.87	1,200.60	(+)25.87
4.	Forestry and wild life	88.62	92.02	121.37	195.73	259.76	(+)32.71
5.	Non-ferrous mining and metallurgical industries	574.80	698.00	819.44	1,091.19	1,215.67	(+)11.41
6.	Miscellaneous general[2] services (including lottery receipts)	117.17	390.69	801.64	11,509.38	3,913.08	(-)66.00
7.	Power	5.16	174.61	133.83	344.07	413.28	(+)20.12
8.	Major and medium irrigation	335.68	372.39	444.93	626.41	631.77	(+)0.86
9.	Medical and public health	107.98	126.92	159.20	170.69	131.22	(-)23.12
10.	Co-operation	48.86	55.76	64.46	67.72	87.78	(+)29.62
11.	Public works	64.29	88.82	154.09	101.91	154.77	(+)51.87
12.	Police	96.63	106.60	101.84	140.20	137.27	(-)2.09
13	Other administrative services	67.91	98.41	93.88	110.31	117.89	(+)6.87
Total		**3,505.22**	**5,167.92**	**6,706.50**	**16,935.25**	**9,750.77**	

The reasons for variations in the receipts for 2008-09 from that of 2007-08, in respect of principal heads of revenue though called for (April 2009) from concerned departments, were not received (November 2009). However, some of the significant variations in the receipts during 2008-09 over those of the previous year, as observed by audit, were as follows:

Other non-tax receipts: The increase was mainly due to increase in receipts under "Urban Development" (375 *per cent*) on account of receipt of fees on the additional Floor Space Index (FSI) granted by the Government during the

[2] Net of expenditure on prize winning lottery tickets.

year 2008-09 and receipts on account of increase in sale of seeds, manures, fertilisers, agricultural implements and machinery under the head "Crop Husbandry" (77 *per cent*).

Miscellaneous General Services: The decrease of Rs. 7,596.30 crore mainly on account of the transfer[3] of Rs. 10,868 crore by the State Government from 18 statutory funds maintained in Public Account to Consolidated Fund of the State as non-tax receipts. Had such transfer not been made, the receipts under this head would have been Rs. 641.38 crore in the year 2007-08 and would have shown an increase of Rs. 3,271.70 crore in 2008-09 mainly due to crediting of Guarantee fees of Rs. 3,432.36 crore by various irrigation corporations.

Power: The increase was mainly due to increase in receipts from "Vaitarna Dam Foot Power House".

Medical and public health: The decrease was mainly due to less receipts under "Employees State Insurance Schemes" which reduced by 88 *per cent.*

Co-operation: The increase was mainly due to increase in "Audit fees" on account of collection of arrears of audit fees and fees received from special audit of Primary Agricultural Societies and other receipts which increased by 33 *per cent* and 28 *per cent* respectively.

1.2 Variations between the budget estimates and actuals

The variations between the budget estimates and the actuals of revenue receipts for the year 2008-09 in respect of the principal heads of tax and non-tax revenue were as follows:

(Rupees in crore)

Sl. no.	Head of revenue	Budget estimates	Actuals	Variations excess (+) or shortfall (-)	Percentage of variation
1.	Sales tax and other taxes[4]	29,039.00	30,680.53	(+)1,641.53	(+)5.65
2.	State excise	4,500.00	4,433.76	(-)66.24	(-)1.47
3.	Stamp duty and registration fees	9,600.00	8,287.63	(-)1,312.37	(-)13.67
4.	Taxes and duties on electricity	2,600.00	2,394.86	(-)205.14	(-)7.89
5.	Taxes on vehicles	2,426.18	2,220.22	(-)205.96	(-)8.49
6.	Taxes on goods and passengers	594.00	891.95	(+)297.95	(+)50.16
7.	Other taxes on income and expenditure - taxes on professions, trades, callings and employments	1,449.88	1,561.17	(+)111.29	(+)7.68

[3] This transfer was effected through Government Resolutions dated 10 and 15 March 2008, issued in pursuance to Maharashtra Ordinance No. II of 2008 dated 22 February 2008 and ratified vide Maharashtra Act No. V of 2008 dated 19 March 2008 and cabinet decision dated 3 May 2007 respectively, on the plea that the same cannot be utilised for any other purposes other than those mentioned in the Acts under which these funds are maintained.

[4] Other taxes totalling Rs. 130.21 crore, included tax on sale of motor spirits and lubricants, surcharge on sales tax and tax on purchase of sugarcane.

8.	Other taxes and duties on commodities and services	984.28	1,013.58	(+)29.30	(+)2.98
9.	Land revenue	700.00	546.22	(-)153.78	(-)21.97
10.	Interest receipts	1,085.36	1,016.67	(-)68.69	(-)6.33
11.	Dairy development	611.93	471.01	(-)140.92	(-)23.03
12.	Other non-tax receipts	824.75	1,200.60	(+)375.85	(+)45.57
13.	Forestry and wild life	254.31	259.76	(+)5.45	(+)2.14
14.	Non-ferrous mining and metallurgical industries	1,146.00	1,215.67	(+)69.67	(+)6.08
15.	Miscellaneous general services				
	• Lottery receipts	48.57	3.79	(-)44.78	(-)92.20
	• Other receipts[5]	281.35	3,909.29	(+)3,627.94	(+)1,289.48
16.	Power	399.58	413.28	(+)13.70	(+)3.43
17.	Major and medium irrigation	718.58	631.77	(-)86.81	(-)12.08
18.	Medical and public health	199.04	131.22	(-)67.82	(-)34.07
19.	Co-operation	103.76	87.78	(-)15.98	(-)15.40
20.	Public works	102.15	154.77	(+)52.62	(+)51.51
21.	Police	139.70	137.27	(-)2.43	(-)1.74
22.	Other administrative services	106.55	117.89	(+)11.34	(+)10.64
23.	Service tax	0.00	0.02	(+)0.02	
Total		**57,914.97**	**61,780.71**		

Taxes on goods and passengers: The increase was mainly due to receipt of passenger tax of Rs. 298.53 crore receivable from Maharashtra State Road Transport Corporation for the year 2007-08 which was adjusted during the year 2008-09.

The reasons for variations, though called for (April 2009) from the concerned departments were not furnished to audit except the Motor vehicle department (November 2009).

1.3 Analysis of collection

The break-up of the total collection at the pre-assessment stage and after regular assessments of sales tax, profession tax, entry tax and luxury tax for the year 2008-09 and the corresponding figures for the preceding two years as furnished by the department is as mentioned in the following table:

[5] Includes Debt Relief of Rs. 339.97 crore given by Department of Expenditure, Ministry of Finance, Government of India on repayment of consolidated loan.

(Rupees in crore)

Head of revenue	Year	Amount collected at pre-assessment stage	Amount collected after regular assess-ment (addi-tional demand)	Penalties for delay in payment of taxes and duties	Amount refunded	Net collection	Percen-tage of column 3 to 7
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Finance Department							
Sales tax/ VAT, etc.	2006-07	25,259.71	389.34	25.67	1,799.49	23,875.23	106
	2007-08	28,903.67	324.84	43.02	2,709.67	26,561.86	109
	2008-09	32,234.87	248.10[6]	--	2,057.84	30,425.13	106
Profession tax	2006-07	1,203.04	38.66	2.40	0.35	1,243.75	97
	2007-08	1,454.49	24.22	5.17	1.28	1,482.60	98
	2008-09	1,489.39	67.23	--	0.46	1,556.16	96
Entry tax	2006-07	3.66	2.25	Nil	Nil	5.91	62
	2007-08	4.43	2.84	0.35	Nil	7.62	58
	2008-09	5.04	0.20	--	Nil	5.24	96
Luxury tax	2006-07	192.96	0.88	0.26	Nil	194.10	99
	2007-08	246.25	42.56	19.45	Nil	308.26	80
	2008-09	261.48	1.18	--	Nil	262.66	100

The above table shows that collection of revenue at the pre-assessment stage ranged between 58 and 109 *per cent* during 2006-07 to 2008-09.Under VAT, the collection of revenue at pre-assessment stage to the net collection ranged between 106 to 109 *per cent* for the period 2006-07 to 2008-09. This indicates that the VAT collection is mainly through voluntary compliance. During this period the amount collected at the pre-assessment stage was more than the amount due to the Government resulting in refunds aggregating Rs. 6,567 crore. The revenue collected after pre-assessment stage was quite low.

1.4 Cost of collection

The gross collection in respect of major revenue receipts, the expenditure incurred on their collection and the percentage of such expenditure to the gross collection during the years 2006-07, 2007-08 and 2008-09 alongwith the relevant all India average percentage of expenditure on collection to gross collection for the year 2007-08 are given in the following table:

[6] Figure includes penalties for delay in payment of sales tax, etc. bifurcation of which was not made available.

(Rupees in crore)

Sl. no.	Head of revenue	Year	Gross collection[7]	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage for the year 2007-08
1.	VAT	2006-07	24,130.72	139.19	0.58	
		2007-08	26,752.80	155.53	0.58	0.83
		2008-09	30,680.53	216.38	0.71	
2.	State excise	2006-07	3,300.70	42.22	1.28	
		2007-08	3,963.05	39.45	1.00	3.27
		2008-09	4,433.76	39.25	0.89	
3.	Taxes on vehicles	2006-07	1,841.06	41.06	2.23	
		2007-08	2,143.11	46.52	2.17	2.58
		2008-09	2,220.22	57.93	2.61	

The overall cost of collection is lower as compared to all India average except for collection of taxes on motor vehicles which is marginally higher than the all India average for the year 2007-08.

1.5 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2009 in respect of some principal heads of revenue as furnished by the department amounted to Rs. 34,185.26 crore, of which Rs. 6,904.71 crore had been outstanding for more than five years, as mentioned in the following table:

(Rupees in crore)

Sl. no.	Head of revenue	Amount outstanding as on 31 March 2009	Amount outstanding for more than five years as on 31 March 2009	Remarks
1.	Sales tax, etc.	33,971.82	6,824.87	Stay orders were granted by the appellate authorities for Rs. 11,439.68 crore; recovery proceedings for Rs. 9,382.70 crore were not initiated as the time limit was not over and the remaining amount was in different stages of recovery.
2.	State excise	8.52	7.71	Recoveries amounting to Rs. 2.05 crore were pending in the courts. Out of the balance amount of Rs. 6.47 crore, recovery of Rs. 1.71 crore was in progress as arrears of land revenue and Rs. 4.76 crore was in the process of recovery.
3.	Sale of jail articles	10.44	6.27	Suitable instructions regarding recovery of arrears of revenue have already been issued to subordinate offices. Efforts were being made for speedy recovery.
4.	Electricity duty/ Inspection fees	194.48	65.86	The Government had instructed the concerned district collectors to recover the arrears of electricity duty as arrears of land revenue.
Total		**34,185.26**	**6,904.71**	

[7] Figures as per the Finance Accounts.

1.6 Arrears in assessment

The following table shows the details of pending assessment cases for the years 2006-07, 2007-08 and 2008-09 as furnished by the departments :

Year	Opening balance	New cases due for assess-ment	Total assess-ments due	Disposal			Balance at the end of the year	Percentage of column 8 to 4
				Cases not to be assessed[8]	Cases disposed	Total		
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
Sales tax, VAT, etc.								
2006-07	35,15,907	Nil[9]	35,15,907	16,74,602	9,21,801	25,96,403	9,19,504	26
2007-08	9,19,504	Nil[9]	9,19,504	2,86,634	95,755	3,82,389	5,37,115	58
2008-09	5,37,115	91,024	6,28,139	3,04,881	1,39,266	4,44,147	1,83,992	29
Motor spirit tax								
2006-07	8,333	Nil[9]	8,333	223	500	723	7,610	91
2007-08	7,610	Nil[9]	7,610	531	303	834	6,776	89
2008-09	6,776	102	6,878	2,384	152	2,536	4,342	63
Profession tax								
2006-07	7,07,093	2,28,437	9,35,530	--	3,08,041	3,08,041	6,27,489	67
2007-08	6,27,489	1,07,363	7,34,852	--	1,09,044	1,09,044	6,25,808	85
2008-09	6,25,808	2,46,934	8,72,742	28,155	16,609	44,764	8,27,978	95
Purchase tax on sugarcane								
2006-07	1,104	93	1,197	--	488	488	709	59
2007-08	709	3	712	--	68	68	644	90
2008-09	644	313	957	9	67	76	881	92
Entry tax								
2006-07	39	528	567	--	201	201	366	65
2007-08	366	496	862	--	809	809	53	6
2008-09	53	96	149	34	50	84	65	44
Lease tax								
2006-07	6,460	Nil[9]	6,460	189	720	909	5,551	86
2007-08	5,551	Nil[9]	5,551	475	322	797	4,754	86
2008-09	4,754	407	5,161	477	448	925	4,236	82
Luxury tax								
2006-07	7,483	1,019	8,502	--	1,212	1,212	7,290	86
2007-08	7,290	388	7,678	--	1,535	1,535	6,143	80
2008-09	6,143	3,547	9,690	1,455	2,040	3,495	6,195	64
Tax on works contracts								
2006-07	1,72,972	Nil[9]	1,72,972	3,570	13,540	17,110	1,55,862	90
2007-08	1,55,862	Nil[9]	1,55,862	9,501	5,146	14,647	1,41,215	91
2008-09	1,41,215	4,814	1,46,029	17,159	6,362	23,521	1,22,508	84
Total								
2006-07	**44,19,391**	**2,30,077**	**46,49,468**	**16,78,584**	**12,46,503**	**29,25,087**	**17,24,381**	**37**
2007-08	**17,24,381**	**1,08,250**	**18,32,631**	**2,97,141**	**2,12,982**	**5,10,123**	**13,22,508**	**72**
2008-09	**13,22,508**	**3,47,237**	**16,69,745**	**3,54,554**	**1,64,994**	**5,19,548**	**11,50,197**	**69**

[8] These cases were not to be assessed according to the Government Resolution dated 5 January 2007.

[9] No cases were identified for assessment by the department after the implementation of VAT.

Immediate action needs to be taken to finalise the remaining cases in sales tax as VAT has been introduced in the state from 2005-06. However, the number of pending cases in profession tax and tax on works contracts is large. The department should initiate steps to complete the assessments within a definite time frame.

1.7 Evasion of tax

The details of cases of evasion of tax detected, assessed/finalised and the demands for additional tax raised as reported by the Sales Tax, State Excise and Transport Department are mentioned in the following table:

Name of tax	Cases pending as on 31 March 2008	Cases detected during 2008-09	Total	No. of cases in which assessments/investigations completed and additional demand including penalty etc., raised		No. of cases pending finalisation as on 31 March 2009
				No. of cases	Amount of demand (Rupees in crore)	
Sales Tax	2,425[10]	855	3,280	471	128.10	2,809
State Excise	Nil	1	1	1	0.11	Nil
Taxes on vehicles	3,223	745	3,968	2,037	2.75	1,931

As against a total of 3,280 cases detected upto 2008-09, the Sales Tax Department could finalise only 471 cases (14.36 *per cent*).

1.8 Write-off and waiver of revenue

During the year 2008-09, demands for Rs. 3.33 crore in 6,510 cases and Rs. 12.83 lakh in 17 cases, relating to Sales Tax and State Excise respectively were written off by the respective departments as irrecoverable due to the following reasons:

(Rupees in lakh)

Sl. no.	Reasons	Sales tax, etc		State excise	
		No. of cases	Amount	No. of cases	Amount
1.	Whereabouts of defaulters not known	217	280.06	07	4.74
2.	Defaulters no longer alive	--	--	03	0.24
3.	Defaulters not having any property	6,292	52.83	01	0.50
4.	Defaulters adjudged insolvent	--	--	02	0.30
5.	Other reasons	1	0.38	04	7.05
6.	Remission of penalty	--	--	--	--
Total		**6,510**	**333.27**	**17**	**12.83**

[10] Reconciled position furnished by the Department

1.9 Refunds

The number of refund cases pending at the beginning of the year 2008-09, claims received during the year, refunds allowed during the year and cases pending at the close of the year 2008-09, as reported by the departments are mentioned in the following table:

(Rupees in crore)

Category	Taxes on vehicles		Taxes and duties on electricity		State excise		Sales Tax, VAT, etc	
	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
Claims outstanding at the beginning of the year	1,105	0.87	93	5.77	78	1.65[11]	4,577	502.94
Claims received during the year	656	0.47	308	24.39	23	0.20	25,573	4,382.34
Refunds made during the year	680	0.96	256	28.26	20	0.17	14,311	3,018.79
Balance outstanding at the end of the year	1,081	0.38	145	1.90	81	1.68	15,839	1,866.49

It was noticed that while there was marginal improvement in processing of refunds in case of taxes on vehicles. In all other taxes/duty the pending refund cases have increased at the close of the year.

1.10 Response of the Government to audit observations

The offices of the Principal Accountant General (Audit)-I, Mumbai (AsG) and the Accountant General (Audit)-II, Nagpur (AsG) arrange to conduct periodical inspections of the various offices of the Government departments to test check transactions of the tax and non-tax receipts and verify the maintenance of important accounting and other records as per the prescribed rules and procedures. These inspections are followed by inspection reports (IRs) issued to the heads of offices, with copies to the next higher authorities. The Government of Maharashtra, Finance Department's circular dated 10 July 1967 provides for response by the executive to the IRs issued by the offices of the AsG, within one month, after ensuring action in compliance to the observations made during audit inspections. Serious irregularities are also brought to the notice of the heads of departments by the offices of the AsG. Half yearly reports are sent to the secretaries of the concerned departments in respect of the pending IRs to facilitate the monitoring of audit observations.

Inspection reports issued upto 31 December 2008, disclosed that 10,101 observations relating to 4,672 IRs involving Rs. 1,154.08 crore, remained outstanding at the end of June 2009. Of these, 1,741 IRs containing 3,314 observations involving Rs. 383.59 crore had not been settled for more than four years. The year-wise position of the outstanding IRs and paragraphs is detailed in the **Annexure-I**.

In respect of 1,824 paragraphs relating to 658 IRs involving Rs. 237.15 crore, issued upto December 2008, even the first replies, which were required to be received from the heads of offices within one month, had not been received.

[11] Reconciled position furnished by the Department.

A review of the IRs which were pending due to non-receipt of replies from various departments, revealed that the heads of the offices and the heads of the departments (Secretaries) had failed to send replies to a large number of IRs/paragraphs, indicating that proper action was not being taken to rectify the defects, omissions and irregularities pointed out in the IRs issued by the AsG. The Secretaries of the departments, who were informed of the position through half yearly reports, did not ensure prompt and timely action. Such inaction could result in the perpetuation of serious financial irregularities and loss of revenue to the Government, despite these having been pointed out in audit.

The details of outstanding IRs were reported to the Government in August 2009; their reply had not been received (October 2009).

1.11 Departmental audit committee meetings

In order to expedite the settlement of the outstanding audit observations contained in the IRs, departmental audit committees are constituted by the Government. These committees are chaired by the joint secretary/deputy secretary of the administrative department concerned and attended, among others, by the concerned officers of the State Government and offices of the AsG.

In order to expedite clearance of the outstanding audit observations, it is necessary that the audit committees meet regularly and ensure that final action is taken in respect of all the audit observations outstanding for more than a year, leading to their settlement. During the year 2008-09, 12 meetings by the Finance Department, three meetings by the Revenue and Forest Department, one meeting by the Urban Development Department and one meeting by the Industry, Energy and Labour Department were convened. During the meetings 878 paragraphs involving Rs. 41.40 crore of money value were settled. Meetings were not held by Home, Housing, Public Works, Irrigation and Agriculture and Co-operation departments. The Government departments may make effective use of the machinery created for settling outstanding audit observations.

1.12 Response of the departments to draft audit paragraphs

The Finance Department had issued directions to all the departments in July 1967 to send their responses to the draft audit paragraphs proposed for inclusion in the Report of the Comptroller and Auditor General of India within six weeks. The draft paragraphs were forwarded by Audit to the secretaries of the concerned departments through demi-official letters, drawing their attention to the audit findings and requesting them to send their response within the prescribed time. The fact of non-receipt of replies from the Government was invariably indicated at the end of each paragraph included in the Audit Report.

Draft paragraphs (clubbed into 35 paragraphs) included in the Report of the Comptroller and Auditor General of India (Revenue Receipts) for the year ended 31 March 2009 were forwarded to the secretaries of the respective departments between April and August 2009 through demi-official letters.

Replies to most of the paragraphs (clubbed into 35 paragraphs) have not been received. Such paragraphs have been included in this report.

1.13 Follow-up on Audit Reports - summarised position

According to the instructions issued by the Finance Department, all the departments were required to furnish explanatory memoranda, vetted by Audit, to the Maharashtra Legislative Secretariat, in respect of paragraphs included in the Audit Reports, within one month of their being laid on the table of the House.

A review of the outstanding explanatory memoranda on paragraphs included in the Reports of the Comptroller and Auditor General of India (Revenue Receipts) which were still to be discussed by the Public Accounts Committee (PAC), disclosed that as on 30 September 2009, the departments had not submitted remedial explanatory memoranda on 55 paragraphs for the years from 1997-98 to 2006-07 (excluding 1999-2000)[12] as detailed below:

Sl. no.	Name of the department	1997-98	1998-99	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	Total
1.	Revenue and forests	4	2	--	5	1	5	3	--	11	31
2.	Finance	--	--	--	--	--	1	--	--	3	4
3.	Home	1	--	--	1	--	--	--	2	--	4
4.	Urban development	--	--	1	2	1	--	--	--	--	4
5.	Industries, energy and labour	--	--	--	1	--	--	--	--	1	2
6.	Relief and rehabilitation	--	3	--	1	1	--	--	1	1	7
7	Co-operation	--	--	--	--	--	1	--	--	1	2
8	Publc Works Department	--	1	--	--	--	--	--	--	--	1
Total		**5**	**6**	**1**	**10**	**3**	**7**	**3**	**3**	**17**	**55**

With a view to ensure accountability of the executive in respect of all the issues dealt with in the Audit Reports, the PAC lays down in each case, the period within which action taken notes (ATNs) on its recommendations should be sent.

The PAC discussed 204 selected paragraphs pertaining to the Audit Reports for the years from 1986-87 to 2002-03 and its recommendations on 82 paragraphs were incorporated in their 27th Report (1994-95), 9th Report (1995-96), 12th, 13th, 14th and 18th Reports (1996-97), 21st Report (1997-98), 5th Report (2000-01), 12th Report (2002-03), 5th Report (2006-07) and 6th Report (2007-08). However, ATNs had not been received in respect of 46 recommendations of the PAC from the departments concerned as mentioned in the following table:

[12] 1999-2000 – Explanatory memoranda were received and the Audit Report discussed

Year	Name of the department					Total
	Home	Finance	Revenue and Forest	Industries, Energy and Labour	Relief and Rehabilitation	
1986-87	--	--	1	--	--	1
1987-88	--	1	--	--	--	1
1988-89	--	1	--	--	--	1
1989-90	1	2	4	--	--	7
1990-91	7	4	2	--	--	13
1991-92	1	--	--	1	1	3
1992-93	1	--	1	1	--	3
1993-94	3	1	2	--	--	6
1995-96	--	--	1	--	--	1
1996-97	--	--	--	--	1	1
1997-98	--	1	3	--	--	4
1998-99	--	1	4	--	--	5
Total	**13**	**11**	**18**	**2**	**2**	**46**

1.14 Compliance with the earlier Audit Reports

During the period from 2001-02 to 2007-08, the departments/Government accepted audit observations involving Rs. 2,574.31 crore, out of which an amount of Rs. 878.50 crore had been recovered till 31 March 2009 as mentioned below:

(Rupees in crore)

Year of Audit Report	Total money value	Accepted money value	Recovery made
2001-02	493.85	206.13	99.01
2002-03	1,999.22	553.98	95.17
2003-04	1,246.50	693.77	590.75
2004-05	555.47	333.92	31.15
2005-06	1,332.03	123.15	19.73
2006-07	854.63	495.92	8.62
2007-08	818.90	167.44	34.07
Total	**7,300.60**	**2,574.31**	**878.50**

Despite the matter being taken up with the concerned secretaries a number of times, the position relating to recovery of dues as pointed out by audit, remains highly unsatisfactory. The Government may institute a mechanism to monitor the position of recoveries pointed out in the audit reports and take effective steps to recover the amounts early.

1.15 Amendment to Act/Rules

During the year 2008-09, the Government had amended Act/Rules addressing the concerns raised by audit through audit reports. These changes are briefly mentioned in the following table :

Reference of Audit Report (AR) paragraph	Issue raised in audit	Amendment to Act/Rules etc.
Paragraph 3.2.3 of AR 2005-06 (RR)	Scrutiny of instruments of Sub-Registrar offices revealed that though the vendors/owners paid/received consideration authorising them to develop/construct and sell the immovable property, these instruments were misclassified as development agreements instead of power of attorney with consideration. In reply the department stated that they were correctly classified. The replies are not tenable as it is evident from the recitals of the instruments that the owners on receipt of consideration from the developers/promoters authorised the developer to enter into agreement to sell the constructed property to the prospective buyers and therefore, instrument should have been construed as power of attorney with consideration and stamped accordingly.	The Government vide gazette notification dated 2 May 2008 amended in article 5, in clause (g-a). (i) in sub-clause (i), in column 2, for the portion beginning with the words "Five rupees" and ending with the words "value of the property", the following portion shall be substituted, namely : "The same duty as is leviable on a Conveyance under clause (b), (c) or (d), as the case may be, of Article 25, on the market value of the property."

1.16 Results of audit

Test check of the records relating to sales tax, stamp duty and registration fees, land revenue, motor vehicles tax, state excise, other tax receipts, forest receipts and other non-tax receipts conducted during 2008-09 revealed under assessments/short levy/loss of revenue amounting to Rs. 3,185.28 crore in 7,205 cases. During the course of the year, the departments accepted under assessments of Rs. 174.39 crore in 4,321 cases of which 699 cases involving Rs. 128.27 crore were pointed out in 2008-09 and rest in earlier years and recovered Rs. 154.29 crore. No replies have been received in respect of the remaining cases (November 2009).

This report contains 35 paragraphs including four reviews relating to non/ short levy of taxes, duties, interest and penalty etc., involving Rs. 3,246.16 crore. The departments/Government accepted audit observations involving Rs. 857.72 crore, of which Rs. 83.61 crore alongwith an interest of Rs. 2.87 lakh had been recovered upto November 2009. No replies have been received in the other cases (November 2009). These are discussed in succeeding chapters II to VII.

CHAPTER II : SALES TAX

2.1 Results of audit

Test check of the records of the Sales Tax Department conducted during the year 2008-09, revealed underassessment/short levy/loss of revenue amounting to Rs. 1,862.78 crore in 734 cases as shown below :

(Rupees in crore)

Sl. no.	Category	No. of cases	Amount
1.	**Sales Tax incentives under Package Scheme of Incentives (A Review)**	1	1,501.04
2.	**Transition from Sales Tax to VAT (A Review)**	1	5.72
3.	Excess claim of compensation under VAT	31	277.99
4.	Non/short levy of tax	461	16.15
5.	Incorrect grant of set off/Input Tax Credit	85	9.11
6.	Non/short levy of Interest/Penalty	34	13.39
7.	Other Irregularities	121	39.38
Total		**734**	**1,862.78**

In response to the observations made in the local audit reports during the year 2008-09 as well as during earlier years, the department accepted underassessments/other deficiencies involving Rs. 20.62 crore in 242 cases. Out of this, 10 cases involving Rs. 6.04 lakh were pointed out during 2008-09 and the rest during earlier years. During the year 2008-09, the department recovered Rs. 52.33 lakh in 122 cases out of which Rs. 4.19 lakh in four cases were pointed out during 2008-09 and the rest in earlier years.

Two reviews, viz. "**Sales Tax incentives under Package Scheme of Incentives**" and "**Transition from Sales Tax to VAT**" involving a total financial effect of Rs. 1,506.76 crore and a few audit observations involving Rs. 307.46 crore are mentioned in the following paragraphs, against which an amount of Rs. 4.02 lakh had been recovered upto November 2009.

2.2 Review on Sales Tax incentives under "Package Scheme of Incentives"

Highlights

Centralised database of incentives sanctioned, availed of by way of exemption and deferred tax was not available with the department.

(Paragraph 2.2.6)

Incentives of Rs. 11.32 crore were not recovered from 45 units which were closed during the operative period of the Eligibility Certificate.

(Paragraph 2.2.7.2)

In three of the five test checked divisions, the Sales Tax Department did not have the information of 66 closed units; in two of these divisions 20 units had availed incentives of Rs. 3.93 crore.

(Paragraphs 2.2.7.3)

In four divisions, 6,956 cases were pending for assessment of which 177 assessments were pending for more than 10 years.

(Paragraph 2.2.9)

In five divisions, instalments of deferred taxes amounting to Rs. 39.21 crore were not recovered in 74 cases.

(Paragraph 2.2.10)

Breach of conditions of production in one case resulted in non-recovery of incentives of Rs. 258.41 crore.

(Paragraph 2.2.11)

Incentives amounting to Rs. 1,034.47 crore were sanctioned to 30 units in excess of the prescribed norms.

(Paragraphs 2.2.12 and 2.2.13)

Incorrect allowance of exemption to one unit resulted in underassessment of tax of Rs. 174.10 crore including the interest of Rs. 46.08 crore.

(Paragraph 2.2.15)

In respect of four units, taxes of Rs. 13.48 crore on inter-State sale of goods not supported by declarations in form "C" was incorrectly considered for calculation of Cumulative Quantum of Benefits (CQB).

(Paragraph 2.2.16)

Incorrect levy of sales tax, surcharge and turnover tax in respect of five units resulted in short levy of tax of Rs. 3.17 crore and consequential short determination of CQB.

(Paragraph 2.2.17)

2.2.1 Introduction

A Package Scheme of Incentives (PSI) was introduced in 1964 to encourage dispersal of industries outside Bombay-Thane-Pune belt and attract industries to the developing and undeveloped areas of the State. The scheme was amended from time to time, the last amendment being in 2007. Under the scheme, sales tax incentives by way of exemption/deferral/interest free

unsecured loan, special capital incentives for Small Scale Industries units, refund of octroi/entry tax/electricity duty, concession in the capital cost of power supply and contribution towards the cost of feasibility study were given to new/pioneer/prestigious units as well as to the existing units undertaking expansion/diversification.

The Industries Department issues Eligibility Certificates (ECs) to the PSI units for sales tax incentives indicating quantum of benefits to be availed of, period of eligibility, finished products to be manufactured and other terms and conditions. On the basis of ECs, the Sales Tax Department issues Certificates of Entitlement (COEs) and monitors the quantum of benefits availed by the PSI units. The review mainly focused on the PSI schemes of 1988 and 1993. The salient features of the 1988 and 1993 Schemes relating to sales tax incentives are mentioned in the following table:

Table: PSI Schemes 1988 and 1993

Scheme	Sales Tax incentives	Monetary ceiling	Period of eligibility	Remarks
PSI 1988	Exemption or deferring of sales tax, turnover tax and additional tax on sale of finished products, purchase tax/additional tax on purchases of raw materials under BST[1] Act and tax payable under Central Sales Tax Act.	i) For original unit. 60 *per cent* to 100 *per cent* of Fixed Capital Investment. ii) For expansion/ diversification. 50 *per cent* to 90 *per cent* of Fixed Capital Investment.	Five to 10 years or earlier if the ceilings are reached. Four to nine years or earlier if the ceilings are reached.	i) Quantum of incentives and period linked with category of unit and location. ii) Finished product includes scrap and byproducts. iii) Deferring of tax for 10 years and the deferred amount thereafter payable in five equal annual instalments.
PSI 1993	Same as above	i) For original unit 60 *per cent* to 160 *per cent* of Fixed Capital Investment. ii) For expansion /diversification undertaken by the SSI/LSI/MSI[2] the percentage restricted to 75 *per cent* of amount admissible to new unit.	Five to 15 years or earlier if the ceilings are reached.	Same as above.

2.2.2 Organisational set-up

The Industries Department is responsible for implementation of the PSI through the Development Commissioner (DC) (Industries), Mumbai, its Regional Offices and District Industries Centres (DIC).

[1] Bombay Sales Tax
[2] Small Scale Industry, Large Scale Industry and Medium Scale Industry

The Finance Department through the Commissioner of Sales Tax monitors the sales tax incentives availed of by the PSI units and effects the recovery in the deferral cases. Commissioner of Sales Tax is assisted by the Additional Commissioners, Joint Commissioners, Senior Deputy Commissioners, Deputy Commissioners, Assistant Commissioners and Sales Tax Officers. At functional level the sales tax divisions are headed by the Joint Commissioners.

2.2.3 Scope of audit

This review was limited to the PSI schemes of 1988 and 1993. The assessments finalised during the period 2003-04 to 2007-08 under the BST Act along with the records of the Development Commissioner and the DICs were test checked between December 2008 and June 2009 for the purpose of the review. Out of nine divisions[3] in which the schemes were implemented, five divisions[4] which covered 93 *per cent* of the incentives sanctioned were selected by adopting statistical sampling technique (Probability Proportional to Size method). The details of the statistical sampling technique is explained at **Annexure II.**

2.2.4 Audit objectives

The review was conducted with a view to ascertain whether:

- incentives sanctioned by the implementing agencies were as per norms;
- assessment of the units was taken up on priority to detect excess/ incorrect availing of incentives;
- repayment of instalments of incentives due from the deferral units were effected within the prescribed time period;
- prompt action was taken to recover the incentives from the units which were closed prematurely;
- quantum of incentives claimed by the eligible units were properly assessed;
- a system existed for sharing of information between implementing agencies and sales tax authorities; and
- an internal control mechanism existed to prevent the loss of revenue and misuse of the provisions of the schemes.

2.2.5 Acknowledgement

The Indian Audit and Accounts Department acknowledges the co-operation of Sales Tax Department and Offices of the Development Commissioner and DICs for providing necessary information and records for audit. An entry conference was held (February 2009) and the executives were informed about the selection of divisions and scope and methodology of audit. The Joint Commissioner of Sales Tax (Incentives), Deputy Commissioner of Sales Tax (Incentives) and other officers of the Sales Tax Department explained the

[3] Amravati, Aurangabad, Kolhapur, Nagpur, Nanded, Nashik, Pune, Solapur and Thane.
[4] Aurangabad, Nagpur, Nashik, Pune and Thane.

various aspects of the scheme viz. maintenance of records, determination of sales tax incentives, procedure for assessments and recovery. The draft review report was forwarded to the Government and to the department in July 2009 and the audit conclusions and recommendations were discussed in the exit conference held in October 2009. Principal Secretary, Finance Department and Under Secretary, Industries Department represented the Government while Commissioner of Sales Tax and Joint Director, Director of Industries represented the department. The replies given during the discussion and at other times have been appropriately included in the relevant paragraphs.

Audit findings

System deficiencies

2.2.6 Absence of database on incentives availed

Under the Package Scheme of Incentives, the Government of Maharashtra (GoM) allowed the manufacturing units to either defer or exempt the payment of Sales Tax, Central Sales Tax, Turnover Tax (TOT), Surcharge (SC) and the Purchase Tax (PT) including the SC on the purchase of raw materials. The details of incentives[5] for which ECs have been issued to large scale industries/medium scale industries under 1988 and 1993 schemes are as under:

(Rupees in crore)

1988 Scheme				1993 Scheme			
Deferral		Exemption		Deferral		Exemption	
No of ECs	Amount	No of ECs	Amount	No of ECs	Amount	No of ECs	Amount
556	3,992	752	7,531	697	12,954	628	21,683
Incentive periods from 1992 to 2012		Incentive periods from 1992 to 2014		Incentive periods from 1996 to 2022		Incentive periods from 1999 to 2013	

In order to keep a proper watch on the implementation of the PSI schemes it is essential to have a database of unit-wise incentives sanctioned, progressive incentives availed of by the units, units closed prematurely, incentives availed of by the closed units, recoveries effected from these closed units and recoveries made from the deferral units after the moratorium period provided under the schemes.

Audit scrutiny indicated that neither the implementing agencies nor the Sales Tax Department had maintained a database in this regard. In the absence of any database, the departments could not monitor the performance of the PSI units effectively as brought out in the succeeding paragraphs.

After this was pointed out, the Development Commissioner stated (June 2009) that the information would be available with the Sales Tax Department. However, the Sales Tax Department also did not have the database of the above information. This revealed the lack of coordination between the Sales Tax Department and the Implementing Agency.

[5] Details of incentives in respect of small scale industries (SSI) are awaited from the department.

The Government may consider maintaining a centralised database of incentives sanctioned, availed of etc., for proper evaluation and implementation of the PSI.

2.2.7 Absence of recovery and monitoring mechanisms

As per the Package Scheme of Incentives and the eligibility certificates issued by the implementing agencies, if a unit is closed or continues to remain at below normal production during the operative period of the agreement or the eligibility certificate is cancelled, the amount of sales tax incentives availed of by the unit is recoverable forthwith with interest/penalty at the prescribed rates. Further, in respect of the exemption and deferral mode of incentives, the Sales Tax Department is required to intimate the date of closure as well as the quantum of incentives availed of by the unit upto the date of closure to the implementing agency for cancellation of the eligibility certificate. Under the deferral mode, Commissioner of Sales Tax may be moved by the implementing agency to recover the amount of sales tax liability deferred alongwith penal interest (at the rate of 22.5 *per cent*). In respect of the units under the exemption mode the implementing agency has to initiate recovery proceedings alongwith interest at the rate of 16.5 *per cent,* if not paid on demand, the Government shall be entitled to recover the same as arrears of land revenue.

2.2.7.1 Audit scrutiny revealed that neither the Implementing Agency nor the Sales Tax Department has taken appropriate measures to ensure timely recovery of the incentives from closed units. The information furnished by the Development Commissioner (Industries) revealed that incentives aggregating Rs. 680 crore were recoverable from 85 closed units which had availed of incentives under 1993 scheme, but Revenue Recovery Certificates (RRCs) had been issued in seven cases only. This necessitates the creation of a suitable mechanism to ensure recovery of the Government revenue.

2.2.7.2 Information obtained from five divisions[6] indicated that 45 eligible units which had availed incentives of Rs. 11.49 crore between March 1985 and April 2007 were closed during various periods between March 2004 and April 2007 as shown below:

(Rupees in crore)

Division	Exemption			Deferral			Total	
	Period of scheme closure	No. of units	Amount	Period of scheme closure	No. of units	Amount	No. of units	Amount
Nashik	10/00 to 9/06 9/06	1	0.13	1/96 to 12/06 10/05	1	0.15	2	0.28
Thane	1/90 to 4/06 4/04 to 4/06	8	3.01	3/85 to 4/07 9/04 to 4/07	6	1.35	14	4.36
Pune	12/91 to 4/05 4/04 to 4/05	13	1.95	10/97 to 4/06 4/04 to 4/06	2	0.68	15	2.63
Nagpur	5/95 to 7/06 4/04 to 7/06	10	0.37	-	0	0	10	0.37
Auran-gabad	4/94 to 3/04 3/04	1	1.23	11/88 to 6/05 3/04 to 6/05	3	2.62	4	3.85
Total	**1/90 to 9/06**	**33**	**6.69**	**3/85 to 4/07**	**12**	**4.80**	**45**	**11.49**

[6] Aurangabad, Nagpur, Nashik, Pune and Thane.

The Sales Tax Department intimated closure in respect of 34 units to the implementing agencies after delays ranging from five to 58 months. An amount aggregating Rs. 17.16 lakh only, out of Rs. 9.66 crore recoverable from these units had been recovered upto March 2009. In the remaining 11 cases, no information was furnished by the department to the implementing agency to cancel the EC and to recover the amount. Sales tax incentives availed of by these units aggregated Rs. 1.83 crore till the date of closure. Non/delayed intimation on the part of the Sales Tax Department thus resulted in non-recovery of Rs. 11.32 crore and possibility of loss of this revenue due to passage of time.

2.2.7.3 In order to ascertain the correctness of the information of closed units furnished by the department, audit called for information from the test checked divisions for carrying out independent cross-check of the data furnished by the Sales Tax Department in respect of the units covered under the 'Package Scheme of Incentives'. Information was received from three out of the five test checked divisions only which were cross-checked with the data obtained from the Industries Department and the Central Excise Department.

- Cross-check of the information received in respect of Nagpur and Pune divisions of the Sales Tax Department with the information furnished by the concerned DICs revealed that 41 units of Nagpur division and 10 units of Pune division which were closed during the operative period of the agreement did not feature in the list furnished by the Sales Tax Department. In respect of the 10 units of Pune division, the incentives availed of by the units was Rs. 2.43 crore. Details of incentives availed of by the closed units under Nagpur division have not been received so far.

- Cross-check of information pertaining to live units collected from the Sales Tax Department (Thane Division) with the data of live units furnished by the concerned Central Excise Department (CED) revealed that of the 94 units considered as live by the Sales Tax Department, 15 units did not feature in the list of live units furnished by the CED. On further verification with the records of Sales Tax Department it was noticed that actually six of these units were closed, three were filing 'nil' returns with effect from 1 April 2005 and one unit had not renewed its registration after the introduction of Value Added Tax. These 10 units had availed of incentives totalling Rs. 1.50 crore. The Sales Tax Department had not taken any action to get the ECs of these defaulting 10 units cancelled. Information in respect of the remaining five units was not available with the department.

This indicated lack of coordination between the Sales Tax Department and the implementing agencies and also absence of monitoring of the status of units for timely recovery of incentives from the closed units.

The Government may institute an effective system in the implementing agencies for initiating action for prompt recovery and a system may be put in place by the Government for effective coordination between the implementing agencies and the Sales Tax Department for monitoring of recoveries in respect of closed units.

Compliance deficiencies

2.2.8 Absence of monitoring of the units through prescribed returns

The Government resolution (GR) relating to PSIs stipulates that the PSI units have to submit the certified true copy of annual sales tax returns within one month from the date of its submission to the Sales Tax Department and audited annual statement of accounts and balance sheet within nine months from close of the year to the implementing agency. The PSI units are also required to furnish information regarding production and sales indicating the period of stoppage of production and /or closure, if any, with reasons thereof. Failure on the part of the eligible unit to submit any of the above information/ document within the specified time period shall tantamount to breach of the provision entailing cancellation of EC and recovery of incentives.

Test check of the records of the Development Commissioner, Mumbai indicated that 284 out of 1,325 units, were sanctioned sales tax incentives of Rs. 8,893.44 crore under 1993 scheme, did not submit the annual sales tax returns, report comprising details of production and sales, stoppage of production, closure of unit, addition to fixed capital investment, disposal of fixed assets, change in the constitution of the unit and certified true copies of audited annual accounts. Though there was breach of conditions prescribed in the G.R. by these units, the implementing agency did not initiate action to cancel the EC as per the provisions of the GR (July 2009).

2.2.9 Delay in assessment

As per the provisions of the BST Act, 1959 and the rules made thereunder, where a dealer files all the returns within six months of the end of the assessment year, the assessments are to be completed within three years and in other cases the assessments are to be completed within eight years. In respect of units covered under the PSI the Sales Tax Department is required to assess the returns of the eligible units on priority and take appropriate and timely steps to prevent availing of incentives in excess of admissible monetary ceiling.

Test check of the records in Aurangabad, Nagpur, Pune and Thane divisions indicated that 6,956 assessments of dealers covered by the PSI schemes (both under deferral and exemption modes) were pending as of March 2008, of which 177 assessments were pending for more than 10 years. Out of 30 units in Thane division assessments in 22 units were pending, returns in respect of seven dealers were not available with the department and one dealer had not filed any return. In the case of 22 units where assessments were pending, the sales tax incentives availed as per returns were Rs. 2.71 crore. Since in the case of deferral units, the maximum period upto which tax was allowed to be deferred was 4 to 15 years depending upon the schemes, non-assessment of these units not only resulted in non-fixation of instalments for recovery but there was also the possibility of the amount not being recovered due to closure of such units. Similarly, in respect of cases covered by the exemption mode, due to non-finalisation of assessment on time, the cumulative quantum of benefit availed by these units in excess of monitory ceiling was not available

with the department. Though the status of pending assessments with the assessing authority is watched by the department no effective steps were taken to liquidate the huge arrears in assessment. Thus, Sales Tax Department was not following its own directions to assess the eligible units on priority basis. Audit observed that no mechanism was evolved in the Sales Tax Department to monitor completion of assessments of exempted/deferred units on priority basis.

2.2.10 Non-payment of instalments

Under the PSI the tax allowed to be deferred is payable after 10 years in five equal annual instalments. After completion of the deferral period Sales Tax Department fixes the instalments after assessment of the dealer to recover the deferred taxes. As per the circular dated 4 December 1991 issued by the Commissioner of Sales Tax, the respective assessing officers are required to maintain a register in Form 78 and note the details of instalments fixed and the due date of payment of instalment.

Scrutiny of the register in Form 78 in five test checked divisions indicated that deferred instalments aggregating Rs. 39.21 crore were not recovered in 74 cases as shown below:

(Rupees in crore)

Sl. no.	Division	No. of assessing officers	No. of dealers	Amount
1.	Aurangabad	2	9	7.03
2.	Nagpur	4	7	1.53
3.	Nashik	1	5	7.13
4.	Pune	6	21	8.85
5.	Thane	8	32	14.67
Total		**21**	**74**	**39.21**

After the cases were pointed out by audit, between December 2008 and April 2009, the department stated that recovery of Rs. 6.34 crore was under progress in respect of 16 units. Incentives aggregating Rs. 6.10 crore recoverable from five units were referred to the Board of Industrial and Financial Reconstruction (BIFR) and Rs. 5.31 crore recoverable from six units were already closed. Reply is still awaited for remaining 47 units (October 2009).

This indicated that recovery from the dealers was not being monitored by the department effectively.

2.2.11 Non-recovery of incentives for breach of conditions of production

As per procedural rules of 1988, a pioneer unit was required to maintain normal level of production for a period of 25 years from the date of grant of EC. The incentives availed were liable to be recovered on breach of condition to maintain the normal level of production.

In Thane Division, M/s. Reliance Industries Limited (manufacturer) was granted three separate ECs under 1983, 1988 and 1993 schemes for expansion. The EC period under 1983 scheme was between 1988 and 1997 and the operative period was upto 2012 as the unit was a pioneer unit. Test check of the assessment records of the manufacturer, for the year 1999-2000 and

2000-01, finalised in September and October 2004 respectively, indicated that the manufacturer had bifurcated his entire production under the ECs granted for expansion of 1988 and 1993 Schemes. The manufacturer did not show production from expansion made under EC of 1983, though the operative period under that scheme was not over. Hence, the manufacturer had breached the condition of maintaining normal production as far as it relates to 1983 Scheme. Thus incentive of Rs. 258.41 crore availed of by the manufacturer in the form of exemption during October 1993 to June 1997 was liable to be recovered. No action was taken by the department to recover the amount (November 2009).

2.2.12 Excess sanction of incentives under PSI 1988

As per the provisions contained in paragraph 5.2(i) and 5.2(ii) of the GR dated 30 September 1988, the quantum of sales tax incentives admissible to a new unit/pioneer unit was 95 *per cent* of the fixed capital investment (FCI) and a pioneer unit undertaking expansion/diversification was 80 *per cent* of FCI under PSI 1988 scheme irrespective of the area in which the unit was located. Further, as per clause 5.9(d) of the said GR the implementing agency and the sales tax authorities shall independently examine the position to ensure that the sales tax incentives availed of are well within the ceilings specified, relates to the eligible product manufactured by the unit and the production capacity specified therein.

Test check of the records in Thane Division indicated that the erstwhile implementing agency namely State Industries and Investment Corporation of Maharashtra Limited (SICOM Ltd.) sanctioned (October 1995) sales tax incentives of Rs. 555.85 crore at 95 *per cent* of the fixed capital investment of Rs. 585.11 crore. However, being a pioneer unit seeking expansion/ diversification, the sales tax incentives were admissible at 80 *per cent* of Rs. 585.11 crore which worked out to Rs. 468.09 crore. This resulted in excess sanction of incentives of Rs. 87.76 crore.

After the case was pointed out, the Department stated (January 2009) that the EC for the said amount had been issued by the implementing agency and the case would be reported to them. The fact remains that Sales Tax Department was required to independently verify the correctness of the sales tax incentives sanctioned for granting certificate of entitlement. The reply from the Development Commissioner is awaited (November 2009).

2.2.13 Excess sanction of incentives under PSI 1993

As per the provisions contained in paragraph 5.1 (ii) of the GR dated 7 May 1993, regulating the PSI 1993, the quantum of sales tax incentives sanctioned to a new unit/pioneer unit in 'B' and 'C' area was 80 and 95 *per cent* of fixed capital investment respectively. The eligibility period was for a period of seven years or on reaching the ceiling, whichever was earlier. The resolution was amended (July 1994) whereby the period was extended upto 14 years if the investment made was Rs. 300 crore and above. Further, the quantum of incentives admissible to any unit seeking expansion was restricted to 75 *per cent* of that admissible to a new unit. As per clause 6.1(iv) of the said GR the implementing agency and the sales tax authorities shall independently

examine the position to ensure that the sales tax incentives drawn/availed of are well within the ceilings specified and relates to the eligible product and capacity.

2.2.13.1 Test check of the records in Thane Division revealed that the erstwhile implementing agency SICOM Ltd. had sanctioned (December 1994) sales tax incentives of Rs. 651.83 crore at 95 *per cent* of the fixed capital investment of Rs. 686.13 crore to one unit. However, being a new pioneer unit in 'B' area, the sales tax incentive was admissible at 80 *per cent* of FCI (Rs. 683.13 crore) which worked out to Rs. 548.90 crore. This resulted in excess sanction of incentives of Rs. 102.93 crore.

After the case was pointed out, the Development Commissioner stated (June 2009) that the case was being examined in the light of the audit observation.

2.2.13.2 Test check of the records of Development Commissioner, Mumbai revealed that in respect of 28 units seeking expansion, ECs were issued sanctioning sales tax incentives aggregating Rs. 3,375.10 crore. However, in these cases the dealers had sought sales tax incentives for expansion of existing pioneer units, hence the incentives admissible was aggregating Rs. 2,531.32 crore only. This resulted in excess sanction of incentives of Rs. 843.78 crore.

After these cases were pointed out, the Development Commissioner stated (June 2009) that the issue of granting incentives to pioneer units at the rate of 75 *per cent* was pending in the High Court at Mumbai in respect of the petition filed by M/s. ACC Ltd. and M/s. Jain Irrigation Ltd.

2.2.14 Non-maintenance of normal level of production

As per paragraph 11.16 of the procedural rules for regulating PSI, if the eligible unit to which an EC has been issued fails to maintain normal level of production during a year, the unit shall be liable to repay the sales tax incentives availed of upto the date of stoppage of the normal production in the manner and the extent prescribed in the rules.

Test check of the records in Pune division indicated that two units failed to maintain normal production during the operative period of the agreement after availing of incentives aggregating Rs. 52 lakh on which interest of Rs. 14 lakh was leviable as shown below:

(Rupees in crore)

Sl. no.	Division No. of dealers	EC Period Operative period	Period of availment	Tax/ Interest Total	Amount paid	Balance
1.	Pune 2	March 1996 - December 2000 upto February 2011	1998-2001	0.38/Nil 0.38	Nil	0.38
		December 1997 - October 2004 upto November 2012	1998-2001	0.14/0.14 0.28	Nil	0.28
Total				**0.52/0.14 0.66**		**0.66**

After the cases were pointed out, the department stated (March 2009) that implementing agency would be intimated to cancel the EC and recover the incentive availed.

2.2.15 Incorrect allowance of CQB resulting in underassessment of tax

As per the PSI, a manufacturer in an eligible unit is entitled to avail of incentives under the exemption mode in respect of sales tax, purchase tax, Central Sales Tax and sales of finished goods, which are mentioned in the EC during the period covered in the eligibility and entitlement certificates within the admissible monetary ceiling. Further, as per the determination order[7] passed by the Commissioner of Sales Tax in September 2006 in the case of M/s.Bharat Petroleum Corporation Ltd. (BPCL), it was held that the return of kerosene purchased from BPCL after extraction of "N-Paraffin" therefrom is a 'goods return' as the physical and chemical characteristics of the returned kerosene remains the same. Thus, kerosene after extraction of "N-Paraffin" would not be a different product.

Test check of the records of Thane division revealed that M/s. Reliance Industries Limited, a dealer who was granted EC by the implementing agency for manufacturing purified teraphthalic acid (PTA), linear alkyl benzene (LAB), polyster filament yarn (PFY) and polyster staple fibre (PSF) had imported kerosene valued at Rs. 828.87 crore and also purchased kerosene for Rs. 826.57 crore from the BPCL during the years 1999-2000 and 2000-01. After extraction of "N-Paraffin" from the kerosene, the balance quantity valued at Rs. 697.27 crore was returned to BPCL without levy of tax as per the determination order passed by the Commissioner of Sales Tax, Mumbai. The remaining kerosene valued at Rs. 816.11 crore out of the imported purchases was sold locally as well as inter-State. Since the sales were first point sales in the State of Maharashtra, tax of Rs. 128.02 crore was levied on these sales in the assessment orders passed in September and October 2004 and was considered for calculating the CQB for exemption from payment of the tax. Since kerosene was not manufactured in the eligible unit and was not covered by EC, exemption of payment of tax on kerosene was incorrect and was liable to be recovered. Grant of incorrect exemption resulted in underassessment of tax of Rs. 174.10 crore including interest of Rs. 46.08 crore.

After this was pointed out, the department stated (April 2009) that the case was under revision.

2.2.16 Incorrect allowance of CQB on inter-State sales

Under the provisions of the Central Sales Tax Act, tax on sales in the course of inter-State trade or commerce, supported by valid declarations in form 'C', is leviable at the rate of four *per cent* of the sale price. In respect of declared goods, tax is leviable at twice the rate applicable on sales inside the State and in respect of goods other than declared goods, at 10 *per cent* or at the rate of tax applicable to the sale or purchase of such goods inside the State, whichever is higher. Further, the Commissioner of Sales Tax by a trade circular dated

[7] Determination Order No. DDQ-11/2005/Adm-5/Remand/86-87/B-2 dated: 11 September 2006 in the case of M/s. Bharat Petroleum Corporation Ltd. and Reliance Industries Ltd.

20 July 2002 clarified that inter-State sales by a registered dealer, which are supported with declarations in form 'C', of an eligible unit, will alone qualify for benefit of exemption from Central Sales Tax under the PSI with effect from June 2002. Due to this, inter-State sales which are not supported with declarations in form 'C' cannot be considered for calculation of CQB under PSI.

Test check of records in Thane and Pune divisions indicated that in the assessments of four cases, finalised between January 2006 and October 2007, inter-State sales of Rs. 106.69 crore effected during the periods 2002-03 and 2004-05 were incorrectly exempted from levy of tax though these sales were not supported by declarations in form 'C'. As a result, Central Sales Tax aggregating Rs. 13.48 crore was incorrectly considered for determining the CQB. Thus, Central Sales Tax aggregating Rs. 14.73 crore including interest of Rs. 1.25 crore was recoverable from these units.

After this was pointed out, the department intimated (January 2009), that action to revise the assessment in one case involving Rs. 10.87 crore of Thane division had been initiated. Replies in the remaining three cases are awaited (November 2009).

2.2.17 Short determination of CQB

Under the PSI an eligible unit is entitled for exemption from sales tax, TOT and SC payable on sales and PT and SC on tax payable on purchase of raw material used in the manufacture of finished goods mentioned in the EC. Rule 31AA(2)(e) of BST Rules, 1959 contains provision for the calculation of the quantum of incentives admissible to the unit. The rate of tax leviable on any commodity is determined with reference to the relevant entry in schedule B or C of the BST Act, 1959.

Test check of the records in Nashik, Nagpur and Thane divisions indicated that in the assessments of five dealers finalised between January 2006 and June 2007, for various periods between 2000-01 and 2004-05, there was underassessment of tax aggregating Rs. 3.17 crore due to non/short levy of sales tax, TOT, SC and PT, resulting in short determination of CQB.

After the cases were pointed out between December 2008 and April 2009, the department accepted the observations and stated (October 2009) that corrective action had been initiated.

2.2.18 Short deferment of tax

As per the BST Rules, an eligible industrial unit registered under the BST Act was allowed to defer the payment of sales tax and PT on the purchase of raw materials. Besides, TOT and SC leviable was also allowed to be deferred. Further, if a dealer purchased goods specified in Part-I of Schedule 'C' of the Act and used such goods in the manufacture of taxable goods and had dispatched the manufactured goods to his own place of business or to his agent's place of business situated outside the state but within India, then such a dealer was liable to pay PT at the rate of two *per cent* on the turnover of such purchases.

Test check of the records in Nagpur and Nashik divisions indicated that in the assessment of three dealers for various periods between 1999-00 and 2002-03 there was underassessment and consequential short deferring of taxes of Rs. 24.92 lakh due to incorrect levy of sales tax, PT, SC and TOT as mentioned below:

(Rupees in lakh)

Sl. no.	Division No. of dealers	Period	Name of Commodity	Nature of irregularity	Turnover of sales/ purchases	Tax leviable levied (*per cent*)	Under assessment Tax/ TOT/ SC	Total
1.	Nashik 1	1999-2000	Paints	PT u/s 14(1) was not levied on purchases against Form 15EC, used in the manufacture of goods and sent to branches outside Maharashtra within India	671.38	2 Nil	13.43 4.03	17.46
2.	Nagpur 2	2002-2003	Grinding wheels	- do -	140.41	2 Nil	2.80 0.84	3.64
		2001-2003	Chemicals	Sales of chemicals was incorrectly subjected to tax rate of 8 *per cent* instead of 13 *per cent*	69.48	13 8	3.47 0.35	3.82
Total							**19.70 5.22**	**24.92**

After the cases were pointed out between January 2009 and April 2009, the department accepted the observation in two cases involving Rs. 7.46 lakh and initiated corrective action. Reply has not been received in the remaining case (November 2009).

2.2.19 Conclusion

The review revealed that no centralised database of incentives sanctioned, availed etc., was maintained either by the implementing agencies or by the Sales Tax Department for evaluation and proper implementation of the scheme. Action was not initiated for effecting timely recovery of the incentives availed. Co-ordination between the implementing agencies and Sales Tax Department was lacking. There was no mechanism in the implementing agencies to ascertain whether periodic returns were submitted regularly by the units. Due to large number of pending assessments in the Sales Tax Department it could not be ascertained whether monetary ceilings prescribed for incentives availed by the eligible units had been exceeded. The Sales Tax Department has failed to implement its own directives to assess the returns of eligible units on priority.

2.2.20 Summary of recommendations

The Government may consider:

- **maintaining a centralised database of incentives sanctioned, availed of etc., for proper evaluation and implementation of the PSI; and**

- **instituting an effective system in the implementing agencies for initiating action for prompt recovery and a system may be put in place by the Government for effective co-ordination between the implementing agencies and the Sales Tax Department for monitoring of recoveries in respect of closed units.**

2.3 Review on "Transition from Sales Tax to VAT"

Highlights

Implementation of the Value Added Tax (VAT) was slow due to delay of 27 months in implementation of all the functional branches under the VAT and non-establishing of Border Check Post resulted in non-utilisation of posts for the purpose for which they were created.

(Paragraph 2.3.7.2)

Due to non-preparation of all the basic modules the automation process in the department could not keep pace with the changes for implementation of VAT.

(Paragraph 2.3.7.3)

Huge number of pending assessments under the repealed Acts resulted in non-realisation of amounts blocked in these cases.

(Paragraph 2.3.7.4)

In the absence of timely validation of the data the correctness of the database maintained by the department could not be ensured. Further, delay in validation of data and consequential delay in issue of RCs and holograms adversely affected the authentication of the dealers.

(Paragraph 2.3.8.3)

In respect of 43,48,342 returns received during the year 2007-08 and 2008-09 no defect notices were issued.

(Paragraph 2.3.9.1)

Non-inclusion of refund for computation of cumulative quantum of benefit (CQB) resulted in short determination of CQB of Rs. 60.81 lakh.

(Paragraph 2.3.12.1)

Non-assessment of cases relating to short payment of tax detected by the Business Audit/Refund Audit branches resulted in non-levy of penalty in cases relating to willful default.

(Paragraph 2.3.14.1)

Absence of internal audit under the VAT deprived department of the vital area of internal control.

(Paragraph 2.3.16.1)

Delay in grant of refund under VAT resulted in claim of less compensation of Rs. 5.72 crore for loss of revenue from the Government of India.

(Paragraph 2.3.17)

2.3.1 Introduction

The Empowered Committee of State Finance Ministers had in its meeting held on 23 January 2002 resolved to implement VAT in India. Accordingly, the President of India accorded approval to the Maharashtra VAT (MVAT) Act, 2002 in March 2005. Further, the Empowered Committee in its meeting held on 7 March 2005 decided to implement VAT from 1 April 2005 in various States. The Government of Maharashtra (GoM) repealed the Bombay Sales

Tax (BST) Act, 1959 and enacted the MVAT Act, 2002 with effect from 1 April 2005.

VAT in Maharashtra is levied as per MVAT Act, and the MVAT Rules, 2002 made thereunder. VAT is levied on sale of goods including intangible goods. VAT is a taxation system that avoids double taxation. In addition to granting set-off of tax paid on purchases to the dealers, VAT has various other advantages for both business and Government, such as, eliminating cascading effect of double taxation and promoting economic efficiency. It is primarily a self-assessment system with more trust put on the dealers. It also has the potential for a stronger manufacturing base and more competitive export pricing. It has an improved control mechanism resulting in better compliance.

Difference between MVAT and BST

- VAT is a multipoint taxation system unlike BST which was a single/double point taxation system.
- The independent Acts which were in existence upto 31 March 2005 such as Works Contract Tax (WCT) Act, Motor Spirit Taxation Act and Lease Act have been merged with VAT.
- VAT system relies more on self compliance of tax by the dealers. Assessment is not compulsory in all the cases unlike in the repealed Acts where returns filed by the dealers were subjected to cent *per cent* assessment.
- In VAT, supporting documents like statement of sales and purchases, copy of annual accounts, etc., are not required to be submitted by the dealers along with the returns. In the repealed BST Act, however all such documents were required to be produced at the time of assessment.
- VAT provides for selection of dealers on scientific basis for audit of records. Under the repealed Acts there was assessment in all the cases.

Salient features of VAT

In Maharashtra, registration of dealers is compulsory for importers whose gross turnover of sales or purchases exceeds rupees one lakh and for others whose turnover of sales or purchases exceeds rupees five lakh in a financial year. A new dealer has to get himself registered under the Act within 30 days from the date on which he is liable to get registered. There is also a provision for voluntary registration by the dealers. Under the VAT Act there are mainly two rates for levying tax on various goods viz. four *per cent* and 12.5 *per cent*. Under schedule 'A' certain goods are tax free. There is a special rate of one *per cent* on precious metals, stones and jewellery, and on liquor, petrol, diesel, etc. the rate is 20 *per cent*. Multiple rates as was in existence under the repealed BST Act has been significantly brought down under VAT. There is also a composition scheme for manufacturers and retailers whose turnover of sales/tax liability is within the limit specified in the concerned notification. Dealers opting for composition scheme are not entitled for grant of set-off.

2.3.2 Organisational set up

VAT is administered by the Sales Tax Department. The Commissioner of Sales Tax (CST) heads the Sales Tax Department and he is assisted by the Additional Commissioners/Joint Commissioners (JCs)/Deputy Commissioners (DCs)/Assistant Commissioners (ACs) and Sales Tax Officers (STOs) at various levels. There are nine sanctioned posts of Additional Commissioners as shown in **Annexure III**. Of this, eight posts are sanctioned for VAT and one post for administration of remaining items of work under the repealed Acts. Of the eight posts of Additional Commissioners under VAT, five are in Mumbai and remaining three are in the Zonal offices at Nagpur, Pune and Thane. VAT is being implemented in Maharashtra with functional jurisdiction unlike the repealed Act which was administered with territorial jurisdiction. In Mumbai, each functional branch is headed by a JC whereas in the divisions outside Mumbai the JC heads all the functional branches. The functional branches/units in the divisions are headed by DCs. The GoM has established 70 Large Taxpayer Units (LTUs) in the State in January 2007 with the objective that these units will function as single window system. These LTUs are headed by DCs. The dealers whose tax liability is rupees one crore and above are assigned to these LTUs.

2.3.3 Audit objectives

The review was conducted to ascertain whether:

- the planning for transition from BST to VAT as well as implementation of VAT was done in time and efficiently;
- the organisational structure was adequate and effective;
- the provisions of the VAT Act and Rules made thereunder were adequate and were enforced properly to safeguard the revenue of the State;
- an internal control mechanism is in place to ensure timely collection of revenue; and
- the system after being put in place was working efficiently.

2.3.4 Scope and methodology of audit

The review was conducted between April and August 2009 in four[8] out of 13 selected divisions[9]. Records pertaining to the period 2005-06 to 2008-09 were test checked during the review. The divisions were selected by applying statistical sampling technique (Simple Random Sampling Without Replacement). The details of the technique adopted is explained in **Annexure IV**.

[8] Mumbai, Nashik, Pune and Thane (Rural).

[9] Amravati, Aurangabad, Dhule, Kolhapur, Mumbai, Nagpur, Nanded, Nashik, Pune, Raigad, Solapur, Thane (City) and Thane (Rural).

2.3.5 Acknowledgement

The Indian Audit and Accounts Department acknowledges the cooperation of the Sales Tax Department for providing necessary information and records for the audit. An entry conference for the review was held on 23 July 2009 and the executive was informed about selection of divisions and scope and methodology of audit. The Additional Commissioner of Sales Tax (Headquarters), Officer on Special Duty (Finance Department), Joint Commissioners of the respective branches and Deputy Commissioners explained the various aspects of VAT administration and its implementation. The draft review report was forwarded to the Government and to the department in October 2009. No reply to the Review Report has been received. The exit conference to discuss the audit conclusions and recommendations could not be held despite request from audit (October 2009).

Audit findings

Audit scrutiny revealed a number of deficiencies in the process of transition from sales tax to VAT which are discussed in the following paragraphs.

2.3.6 Pre-VAT and post-VAT revenue collection

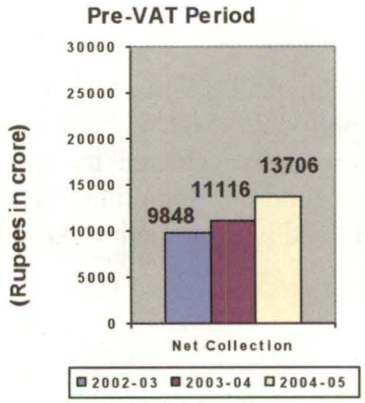
The Whitepaper by the empowered committee of State Finance Ministers while justifying the introduction of VAT envisaged that after introduction of VAT there will be growth in the revenue of the State.

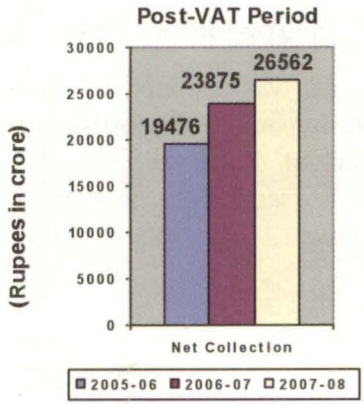
The revenue collections in the State during various periods between 2002-03 to 2007-08 are as under:

Revenue collection

(Rupees in crore)

Pre-VAT			Post-VAT		
Year	**Net Collection**	**Percentage of growth**	**Year**	**Net Collection**	**Percentage of growth**
2002-03	9,847.61	6.60[10]	2005-06	19,476.06	42.10
2003-04	11,116.18	12.88	2006-07	23,875.23	22.59
2004-05	13,705.93	23.30	2007-08	26,561.86	11.25





[10] Actual collection for the year 2001-02 was Rs. 9,237.59 crore.

As seen from the table, there was an increase in the growth of net revenue collection of 42.10 *per cent* after introduction of VAT during the year 2005-06.

2.3.7 Preparedness and transitional process

2.3.7.1 Planning for implementation of VAT in the State

Empowered Committee through several rounds of discussions held between November 1999 and March 2005 finalised the design of State level MVAT Act, where various issues concerning the implementation of the VAT and common points of convergence among the states like returns, issue of tax invoice, grant of set-off, composition scheme for payment of tax, treatment of the exports, carrying forward of tax credit, procedure of self assessment under VAT liability, provision of the audit, grant of the incentives, abolition of taxes like turnover tax and surcharge, position of declaration forms, etc. were discussed.

In Maharashtra, the necessary draft bill styled as Maharashtra Value Added Sales Tax Act, 2002 L.A. Bill No. LX of 2002 was introduced in the state legislature in the year 2002 and was passed in the year 2003. The MVAT Act is implemented by the Sales Tax Department from April 2005.

Consequent upon the presentation of the draft bill on VAT in 2002, the department arranged a seminar in February 2003 to clear doubts of the departmental officers in respect of implementation of VAT. A Taxpayer's guide was also issued in July 2006 for the benefit of the dealers.

The department has prepared manuals for all the functional branches except for the LTU branch. All the departmental officers and staff were trained before introduction of VAT.

2.3.7.2 Analysis of staff requirement and re-organisation of the Sales Tax department

The GoM issued a resolution in January 2007 for re-organisation of VAT administration on functional basis. However, all the branches were established in the year 2005. Out of this, the registration, refund, return and refund audit branches had become operational from the year 2005 itself. The remaining branches namely; business audit, survey, investigation, LTUs and recovery became operational from July 2007.

(i) GoM through Government Resolution dated 5 January 2007 created additional posts of 704 officers and 1,812 class-III posts for a period upto 31 March 2010 purely on temporary basis. These temporary posts were to be filled in by way of promotion, deputation, hiring retired employees or appointing new employees on contract basis only. However, the department had filled 1,195 posts only by promoting employees from lower posts as on 31 July 2009.

Hence, though the Act was drafted in 2002 and enacted in 2005, the department started the operation of all its functions 27 months after the date of its implementation.

After this was pointed out, the department stated (July 2009) that though VAT was implemented with effect from 1 April 2005, the department was not immediately ready with the functional branches/units and the total re-organisation has been completed only in April 2007.

(ii) Under Section 67 of the Act, if the state considers it necessary it may establish Border Check Posts (BCPs) and barriers to prevent or check the evasion of tax. The Government while issuing the order in January 2007 for reorganisation of the VAT administration also sanctioned various posts for establishing 30 BCPs in the state under the VAT as given below:

Sl. no.	Designation	Sanctioned staff	Total filled	Used for BCP	Used in other branches	Shortfall
1.	DC	10	1	1	0	9
2.	AC	50	3	0	3	47
3.	STO	60	1	1	0	59
4.	STI	30	0	0	0	30
5.	Clerk	850	192	16	176	658
	Total	**1,000**	**197**	**18**	**179**	**803**

Information received from the department (July 2009) indicated that the BCPs were not established in the State even after a lapse of 30 months from the date of sanction of the posts. Due to this, out of the 197 posts filled by the department for this purpose, 179 posts were diverted to other branches on deputation basis and 18 posts were utilised for establishing of work relating to drawing and disbursement of pay and allowances of the staff on deputation work.

Non-establishing the BCPs resulted not only in non-utilisation of the posts for the purpose for which it was created but also in non-implementation of the process of collection of tax in respect of interstate movement of goods.

2.3.7.3 Computerisation of the Taxation Department and the check gates

The project of automation of Sales Tax Department is identified as Maharashtra Vikrikar Automation System (MAHAVIKAS). The contract for software development was awarded in 2001 to an agency M/s. Mastek Ltd. for Rs. 1.80 crore. Another agency M/s. Electronic Corporation of India Ltd. (ECIL) was awarded contract to provide hardware support.

Information received (July 2009) from the department revealed that in all, 22 software modules was developed (20 of which were ready by 2003 and two thereafter). Out of this, one module (Registration) is being used fully, three modules (Returns, Refund and Investigation) are being used partly and the remaining 18 modules have not been put to use till date.

Thus, the objective of automation of the VAT functions which has a vital role in effective implementation of the VAT remained largely unfulfilled.

The department stated (July 2009) that the business processes had not been crystallised. Therefore, some of the basic MODULES like the Audit MODULE were yet to be completed.

This indicated that the automation process did not keep pace with the changes taking place in the department for implementation of the VAT even after a lapse of six years from the commencement of the automation process.

The Government may consider preparing modules in tune with the VAT functions for effective implementation of VAT.

2.3.7.4 Completion of BST/Central Sales Tax assessments under the repealed Acts

As per the provisions of the repealed BST Act, each return filed by the dealer was to be assessed. As of 31 March 2005, 24,46,280 assessments of dealers under the BST and allied Acts were pending and the pendency during the period 2005-06 to 2007-08 was as under:

Year	Opening Balance	Additions	Total assess-ment due	Disposal			Balance at the end of the year
				Cases not to be assessed	Cases Assessed	Total	
1	2	3	4	5	6	7	8
2005-06	24,46,280	15,24,278	39,70,558	0	2,58,260	2,58,260	37,12,298
2006-07	37,12,298	1,640	37,13,938	16,78,584	9,38,462	26,17,046	10,96,892
2007-08	10,96,892	887	10,97,779	2,97,141	1,03,938	4,01,079	6,96,700
Total		**15,26,805**		**19,75,725**	**13,00,660**	**32,76,385**	

Out of the 24,46,280 pending assessments as on 1 April 2005, only 2,58,260, 9,38,462 and 1,03,938 assessments were completed during the periods 2005-06, 2006-07 and 2007-08, respectively. Considering the fact that VAT functional branches had become fully operational from July 2007 the staff could have been effectively deployed for clearing the pending assessments under the old acts.

The Government may consider evolving a mechanism to complete the assessments early to realise any dues blocked in such pending assessments.

2.3.7.5 Collection of arrears of taxes due under the repealed Acts

As on 31 March 2005, total arrears of revenue in the test checked divisions under the repealed Acts i.e. BST, Central Sales Tax, WCT Act, etc., was Rs. 8,446.89 crore in respect of 2,43,789 cases. The arrears had increased to Rs. 29,457.48 crore in respect of 2,90,798 cases as on 31 March 2009. These outstanding dues comprised recoverable dues of Rs. 8,995.62 crore, dues of Rs. 6,515.39 crore recoverable but in difficult zone, dues of Rs. 10,986.77 crore locked up in stay orders and Rs. 2,959.70 crore not really pursuable but need to be kept under watch.

Analysis of outstanding dues revealed that, though the recoverable dues were Rs. 2,296.23 crore as of 31 March 2005, same had increased to Rs. 8,995.62 crore. This indicated that efforts made by the Department to liquidate the arrears were not adequate.

2.3.8 Registration and database of dealers

2.3.8.1 Creation of database of dealers

The database of Registered Dealers (RDs) maintained in the MAHAVIKAS system gets periodically updated by the registration branch in respect of new registration, cancellation, amendment of registration certificates (RCs) etc.

2.3.8.2 Carrying forward of the database of dealers under the repealed Acts and confirmation of the securities provided by them

After implementation of VAT, a dealer, who was already registered under the repealed BST Act, was not required to apply for registration immediately. However, such dealers were required to apply by 31 December 2005 for registration in form 108 for obtaining a new RC, failing which the RC, issued under the repealed act was liable to be cancelled.

2.3.8.3 Registration and monitoring process of dealers

Under the provisions of the MVAT Act dealers holding RCs under the other repealed Acts[11] as well as new dealers were required to apply for grant of registration and were liable to pay taxes. A 12 digit Tax payers Identification Number (TIN) was to be allotted first, followed by issue of RCs for this purpose. After allotment of TIN, the TIN forms were to be scanned and forwarded to an agency[12] appointed by the department for data entry, printing of TIN certificates and issuing of RCs. The data entry made by the agency was also required to be validated by the department. As per Rule 10(2) of the said act every registered dealer under VAT has to be issued a hologram for each place of their business for displaying in a prominent place of their business. The issue of RC to the dealer completes the process of registration.

- The details of dealers who had applied for TIN, number of TINs allotted and RCs issued, number of cases validated, shortfall in issue of RCs and number of cases not validated in the three test checked divisions, as of 31 March 2009 were as shown in the table under:

Sl. no.	Year	Appli-cations received	Number of TIN allotted[13]	Number of RCs issued	Number of RCs not issued	Number of vali-dations done	Number of validations not done
1.	2005-06	42,247	39,409	28,391	11,018	3,907	35,502
2.	2006-07	30,774	29,580	4,727	24,853	24,099	5,481
3.	2007-08	22,315	20,816	11,142	9,674	19,240	1,576
4.	2008-09	23,752	22,916	15,245	7,671	15,276	7,640
	Total	**1,19,088**	**1,12,721**	**59,505**	**53,216**	**62,522**	**50,199**

[11] Works Contract Tax Act, Motor Spirit Taxation Act and Lease Act.

[12] M/s. ECIL Ltd.

[13] Net of the TINs/RCs issued and cancelled subsequently during the period 2005-06 to 2008-09

From the above table it can be seen that as against 1,12,721 TINs allotted, 62,522 (55.47 *per cent*) cases were validated and in 59,505 (52.79 *per cent*) cases RCs were issued to the dealers upto 31 March 2009. Also holograms were not issued to the dealers in the test checked divisions, as was required.

- As per Section 16(6) of the Act, if any dealer discontinues the business or shifts the place of his business to a different area, then he has to apply to the concerned authority for cancellation or transfer of the registration within the prescribed period. After cancellation, the RC issued to the dealer had to be returned to the department. Further, if the turnover of sales/purchases of the dealer had gone below the prescribed limit in the preceding year, the dealer could apply for cancellation of registration.

In Mumbai division 1,028 applications were received upto March 2008 for cancellation of RCs for the years 2005-06, 2006-07 and 2007-08, out of which 894 RCs were cancelled. The remaining 134 RCs could not be cancelled either due to non-availability of signature of the applicants on the application form or due to shortage of staff in the department. Of the 894 cancelled RCs, 119 dealers had returned their RCs. The remaining 775 dealers had not returned the cancelled RCs as they had not received the RCs from the department at the time of registration. Similarly, in Nashik division out of 1,114 cancelled RCs, 887 dealers had not returned their RCs.

Audit also observed that in Mumbai division though 894 RCs were cancelled, neither the position of goods in stock nor the tax liability of the dealer was ascertained by the concerned officers as was required under Section 16(6) of the Act.

After this was pointed out, the department stated (August 2009) that the RCs were cancelled on receipt of application from the dealers. It was also stated that the stock of goods available with the dealer at the time of cancellation was not verified as this work was not assigned to the registration branch.

In the absence of timely validation of the data the correctness of the database maintained by the department could not be ensured. Further, delay in validation of data and consequential delay in issue of RCs and holograms adversely affected the authentication of the dealers.

The Government may consider instituting a suitable mechanism for validating the work outsourced to the agency responsible for data entry, printing of TIN certificates and issuing of RCs. Further, a system should also be laid down for timely cancellation of RCs, only after completion of verification process as required under the Act/Rules and for timely return of the cancelled RCs to avoid its misuse.

2.3.8.4 Periodic analysis of dealers below threshold limit

As per departmental instructions, the officials in the survey branch are required to visit selected dealers in respect of cases reported by the survey team as "not liable for registration". One *per cent* of such dealers who are randomly selected are to be revisited after a gap of three to six months.

Test check of the records indicated that in the Mumbai division though a list of the dealers was maintained in the Day Book Register, except the names of the

dealers no other details such as place of business, activity, etc., were available. In the Thane (Rural) division no such data was maintained.

After this was pointed out, the DC Survey, Thane (Rural) division stated (June 2009) that the branch does not keep track of dealers whose turnover of sales/purchases are less than rupees five lakh.

The fact remains that in the absence of this vital information, the effectiveness of the Survey Branch for conducting surveys of such dealers could not be ascertained.

2.3.8.5 Detection of unregistered dealers

As per the provisions of Section 66 of the Act, the department was required to conduct surveys to identify the dealers who are liable to pay tax but have remained unregistered.

The survey work however commenced in January 2008. Information collected from the Survey branches of four test checked divisions revealed that as against 19,237 dealers (5,365 in 2007-08 and 13,872 in 2008-09) only 223 dealers (4.16 *per cent*) for the year 2007-08 and 6,518 dealers (46.99 *per cent*) for the year 2008-09 were registered upto 31 March 2009 leaving a balance of 12,496 (64.96 *per cent*) dealers unregistered.

After this was pointed out, the department stated (July 2009) that the dealers had failed to respond to the notices issued to them.

The fact remains that these unregistered dealers were to be assessed as per Section 23(4) of the Act. However, assessments of these dealers were pending. This not only resulted in delay of registration of dealers but also potential tax payers remaining outside the tax net.

The Government may consider making it mandatory to conduct periodic survey to unearth unregistered dealers in the interest of revenue.

2.3.9 Returns

2.3.9.1 Scrutiny and verification of returns

As per Section 20 of the MVAT Act every RD has to file correct, complete and self-consistent returns. These returns are required to be examined by the return branch. In respect of incomplete and inconsistent returns, the department may serve a defect notice to the dealer within four months of the date of filing of the return. The dealer has to correct the defects as pointed out in the defect notice and submit a fresh, complete and self consistent return within one month.

Information received from the four test checked divisions revealed that out of 32,98,103 returns received during the years 2005-06 and 2006-07, 63,368 defect notices were issued. During the years 2007-08 and 2008-09, 43,48,342 returns were received but no defect notices were issued.

Since the time frame fixed for issue of defect notices is four months from receipt of returns, no action was possible in respect of returns received before November 2008.

In addition to issuing of defect notices to the erring dealers, the department has to conduct detailed scrutiny of all the returns to ascertain the date and amount of tax due, tax paid, interest payable, etc.

Test check of the records in two units of the Return branch in Mumbai division revealed that after scrutiny of returns, the department had raised demands for payment of interest of Rs. 5.47 crore in 33,867 cases during 2005-06. However, no such scrutiny of returns was conducted during the years 2006-07 to 2008-09 indicating that the returns filed by the dealers were accepted as complete and self consistent without ascertaining whether the dealers had paid taxes and interest correctly.

After this was pointed out, the department stated (June 2009) that from 2006-07 onwards the task of data entry of returns has been entrusted to a private agency and the defect notices were to be generated on MAHAVIKAS. Since the agency has not completed the data entry so far, the department could not generate and issue defect notices in the remaining cases.

The fact remains that the work entrusted to the agency was required to be periodically monitored by the Department to ensure that the data entry of returns is complete.

The Government may consider evolving a system for monitoring the issue of defect notices and for scrutiny of returns in the interest of revenue.

2.3.9.2 Inadequacy of the documentation to be given along with the returns

The Act does not provide for submission of any statement of sales/purchases along with the return. Further, there is no provision in the act for filing of annual return as was required under the repealed acts. However, the dealers whose turnover of sales/purchases are Rs. 40 lakh and above are required to furnish form 704 prepared by the chartered accountant (CA). Due to this, the details of sales/purchases, opening and closing stock is not available in respect of dealers whose turnover of sales/purchases is below Rs. 40 lakh. Hence, the scrutiny of returns cannot be said to have been complete without this vital information.

Pending work towards scrutiny of chartered accountant's certificate in Form 704:

Section 61 of the act provides for audit of accounts by the CAs of the dealers whose turnover of sales or purchases exceeds Rs. 40 lakh in a year or of the dealers who are dealing in country/foreign liquors or beer, etc. An audit report in form 704 prepared by CA has to be furnished by the dealer to the department within eight months (10 months with effect from 01 April 2007) as per Rule 66 of MVAT Rules. The Sales Tax Practitioners Association had challenged the validity of Section 61 of the Act in the Bombay High Court. On the basis of the decision of the High Court the period of submission of report in form 704, for the periods 2005-06 and 2006-07, was extended upto 31 July 2008. As per Section 61(2) of the Act, non-submission of audit report in the prescribed form attracts penalty equal to 0.1 *per cent* of the total sales. The exact number of dealers from whom form 704 is receivable was not available in the test checked divisions. In the absence of this information it

was not possible to ascertain in audit as to how many dealers were actually liable for penalty under Section 61(2) of the Act.

After this was pointed out, the department stated (July 2009) that the database in this regard is maintained by MAHAVIKAS. But the information called for by audit has not been furnished so far.

- Information furnished in form 704 is required to be checked in the Business Audit branch. This scrutiny is devised to see whether the dealer had paid the taxes and interest correctly. In Mumbai, Nashik and Thane (Rural) divisions, in respect of 2,22,383 (88.63 *per cent*) out of 2,75,795 forms (704) submitted by the dealers, scrutiny had not been conducted by the department till 31 March 2009. In Pune division after scrutiny of 53,412 forms (704) for the period 2005-06 to 2007-08, 284 cases were identified for levy of penalty under Section 61(2), of which, action was taken to levy penalty only in 46 cases.

- As per Rule 65 of MVAT Rules, 2002, the CA after conducting audit has to advise the dealer in form 704 with regards to any payment of additional tax liability, pay back of excess refund received, reduction in claim of refund, etc. However, as the role of the CA was advisory, it was not binding on the dealer to pay the differential dues or to file revised returns. Hence, such 704 forms should have been scrutinized on a priority basis.

2.3.10 Tax audit

2.3.10.1 Process of selection of dealers for tax audit

As per Section 22 of the Act, the CST may arrange for audit of the business of any RD. Selection of dealers is done by MAHAVIKAS for this purpose by applying the following criteria:

- Dealers who have not filed the return;
- Who have claimed refund of tax;
- Who are selected by CST on the basis of application of any criteria or on a random selection basis;
- Where the CST is not prima facie satisfied with the correctness of any return of the dealer; and
- Where the CST has reason to believe that detailed scrutiny of the case is necessary.

The Additional Commissioners of the respective zones send the list of dealers as selected by MAHAVIKAS to the JCs of the divisions who in turn allot these cases to the branches/units headed by DCs for audit.

As scrutiny of transactions made by the dealer is predominantly return based, no records like statement of stock, declaration forms etc., are being kept in the audit file after completion of business/refund audit. However, as per the circular instructions issued by the Commissioner of Sales Tax in August 2008 documents relating to statement of sales and purchases and a list containing number and date of declaration forms issued in respect of interstate

transactions are to be kept and preserved in the audit files of cases selected for business/refund audit.

2.3.10.2 Time frame for completion of tax audit

As per the departmental instructions, business audit should be completed within three months from its commencement. Information received from the four test checked divisions revealed that during 2005-06 no audit was conducted in any of these divisions. During 2006-07 in the Mumbai division audit was completed in 118 out of 395 cases. In Nashik, Pune, and Thane (Rural) divisions no audit was conducted during 2006-07. In the four test checked divisions, in 7,626 out of 12,006 cases audit was completed in stipulated time during the periods 2007-08 and 2008-09.

After this was pointed out, the department stated (July 2009) that business audit was delayed due to want of documents from the dealers.

2.3.10.3 Percentage of dealers to be taken up for tax audit

- **Business Audit**

The Act does not prescribe any percentage or number of cases to be selected for business audit. However, as per the departmental instructions the dealers are to be selected for business audit in such a way that each dealer gets selected for audit once in five years.

In the four test checked divisions, the information regarding the year-wise registration granted to the dealers registered under the act was not made available to Audit, but number of fresh dealers registered after introduction of VAT was furnished by the department. Analysis of the data furnished by the department revealed that out of 83,571 dealers due for audit, during the period 2005-06 to 2008-09, only 12,124 (14.51 *per cent*) were audited and an additional demand of Rs. 127.58 crore including interest of Rs. 24.13 crore was raised. Thus there was a shortfall of 85.49 *per cent* in the number of cases to be audited by business audit branch. This indicated that the monitoring mechanism prescribed was not proper.

- **Refund Audit**

Section 51 of the MVAT Act deals with the grant of refund to the dealers. As per the amended provision of Section 51 of the Act and the Trade circulars issued by the CST from time to time, refunds were granted to the dealers during 2005-06 to 2007-08 without pre-audit or without obtaining bank guarantee. In all such cases, however, post-audit was to be taken up after March 2008.

Information received from the four test checked divisions revealed that post-audit in 798 cases involving Rs. 81.14 crore where the refunds were granted during 2005-06 to 2007-08 was still pending as on 31 March 2009.

The GoI in December 2006 had issued instructions to the GoM to complete internal audit of all cases where refunds were granted before submitting their claim for compensation for loss of revenue due to introduction of VAT.

Information received (July 2009) from the JC of Sales Tax, internal audit revealed that the audit of refunds by this wing had not been conducted upto March 2009. However, the department had issued circular instructions for commencement of refund audit in March 2008 only. This indicated that the instructions issued by the GoI for claiming compensation for loss of revenue due to introduction of VAT was not followed.

The Government may consider devising a time bound programme for completion of refund audit to ensure that excess refunds were not granted.

- **Scrutiny of returns and audit in LTU Branch**

In January 2007, the Government decided to establish 70 LTUs. Each unit consists of dealers with tax liability of rupees one crore and above. All the functions under VAT including audit in respect of each dealer are performed in this unit as a single window system. However, these units were established only in July 2007, except in Thane (Rural) division where it was established in the year 2008-09. As per departmental instructions, audit of each dealer of LTU is to be conducted every year. Information received from the department revealed that out of 2,695 cases due for the years 2007-08 and 2008-09, only 865 cases were scrutinised and additional demand of Rs. 87.72 crore was raised. Since bulk of the tax collection in the State is from LTU dealers, shortfall in audit of such dealers negated the very purpose of creating these units.

Reasons for shortfall are awaited from the department (November 2009).

2.3.11 Input Tax Credit

2.3.11.1 Deficiencies in the provisions for set-off (Input Tax Credit)

Under the provisions of Rule 52 of MVAT Rules, 2002, a dealer is eligible for set-off of the taxes paid by him on purchases made from another registered dealer in respect of capital goods as well as in respect of purchases which are debited to the profit and loss account. Due to this provision in the Rules, dealers who are resellers or manufactures are eligible for set-off on any capital goods purchased irrespective of whether these goods are used in manufacture. Similarly, set-off is also admissible in respect of gift items, stationery goods, canteen expenses, office expenses if these purchases were debited to the profit and loss account.

As VAT envisages levy of tax on value addition along the supply chain and grant of set-off at each stage on the tax paid on purchases at the previous stage, the grant of set-off under the said rule was not consistent with the concepts under VAT. The White Paper prepared by the Empowered Committee of State Finance Ministries on 17 January 2005 finds mention in paragraph 2.2 as "The input tax credit in relation to any period means setting off the amount of input tax credit (set-off) by a RD against the amount of output tax". However, because of the provisions in the rule, dealers are eligible for set-off on purchases of both capital goods or otherwise. It leads to misuse of the provision of grant of set-off as in respect of purchases of

personal nature, gifts, helicopters, aeroplanes etc., the dealer could be eligible for set-off.

- As per Rule 51 of MVAT Rules, 2002 a dealer was eligible for set-off of taxes paid by him on the closing stock as on 31 March 2005, provided the dealer had produced a certificate in the prescribed form.

Scrutiny of records in the four test checked divisions, revealed that in respect of 12 dealers refund was allowed during the year 2005-06 on account of set-off of Rs. 30.15 lakh on the closing stock as on 31 March 2005, even though, the requisite certificates in the prescribed form were not furnished by them. In the absence of the prescribed certificate refunds of Rs. 30.15 lakh granted to the dealers was irregular.

After this was pointed out the department stated (July 2008 and June 2009) that the requisite certificates would be obtained from the dealers and kept on record.

The fact remains that furnishing of certificates by the dealers was a pre-requisite for grant of set-off. Moreover, the target date for furnishing the certificate was 28 February 2007.

- As per Section 48(2) of the MVAT Act no set-off or refund shall be granted to any dealer in respect of any purchase made from a RD unless the claimant dealer produces a tax invoice.

Test check of records of BA, LTU, Refund and Refund Audit branches in three test checked divisions viz. Mumbai, Pune and Thane (Rural) revealed that in five cases set-off of Rs. 2.46 crore was allowed during 2005-06 and 2006-07, even though the tax invoices were not furnished by the dealers.

After this was pointed out the department stated (between July 2008 and June 2009) that, the position varied from unit to unit such as i) the correctness of ITC claimed had been checked at the time of audit, ii) the claim was allowed as such after issue of cross check memos in pursuance of the departmental circular, etc..

The fact remains that set-off claimed by the dealer can be allowed only when it is supported with tax invoice.

2.3.11.2 Provisions for declaring details of the selling dealers in the returns

As per Rule 17 of the MVAT Rules, a dealer has to file returns in the prescribed form within the stipulated period. In the return column, number seven to nine are earmarked for computation of turnover of purchases eligible for set-off, breakup of purchases tax-rate wise and computation of set-off claimed in the return. The provisions in the act do not require the dealer to furnish details of the purchases such as, date of purchase, name and TIN of the dealer from whom the purchases were made and value of purchases in the return. In the absence of these details it was not possible for audit to verify correctness of set-off claimed by the dealer.

The Government may consider making it mandatory to provide details of the selling dealers in the return alongwith the details of treasury challans.

2.3.11.3 System of cross verification of the records of the selling dealers

As per the departmental instructions for grant of set-off to a dealer, the returns of the selling dealer who has issued tax invoice needs to be cross checked with the data maintained in MAHAVIKAS for the corresponding month. Further, while granting refunds, which has resulted due to claim of set-off in the returns filed by the dealer, a copy of the return for the succeeding month is to be invariably checked and kept on the record in order to ensure that the dealer has not carried forward the set-off claimed in the preceding month.

Test check of records of the Thane (Rural) division revealed that in respect of 11 dealers, for various periods between 2005-06 and 2008-09, set-off aggregating Rs. 70.73 lakh was allowed without cross-check of returns with MAHAVIKAS for the corresponding month. Set-off aggregating Rs. 2.22 crore was allowed in respect of 15 other dealers, for various periods between 2005-06 and 2006-07, without ensuring that the set-off was not carried forward in the returns for the succeeding month. Thus, the grant of set-off vis-a-vis refunds aggregating Rs. 2.93 crore was irregular.

2.3.12 Provisions for grant of exemption to certain class of dealers

2.3.12.1 Control mechanism to monitor the amount of revenue foregone due to grant of exemption to industrial units

A Package Scheme of Incentives (PSI) was introduced in 1964 to encourage dispersal of industries outside Bombay-Thane-Pune belt and to attract industries to the developing and undeveloped areas of the State. The Scheme was amended from time to time, the last amendment being in 2007. Under the scheme, sales tax incentives by way of exemption/deferral/interest-free unsecured loan, special capital incentives for SSI units, refund of octroi/entry tax/electricity duty, concession in the capital cost of power supply and contribution towards the cost of feasibility study were given to new/pioneer/ prestigious units as well as to the existing units undertaking expansion/ diversification.

Short calculation of Cumulative Quantum of Benefits

As per the PSI under the VAT Act and the rules made thereunder, a manufacturer in an eligible unit is entitled to avail tax incentives under the exemption mode in respect of sales tax, Central Sales Tax on sale of finished goods. The details are mentioned in the eligibility certificate issued by the department. After scrutiny of the returns, the Cumulative Quantum of Benefits (CQB) availed by the dealer during a year, is determined as per the provisions of the relevant MVAT Rules, 2002. The CQB is then reduced from the available monetary ceiling at the beginning of each year. Further, as per Rule 78 and 79 of the MVAT Rules, a dealer is entitled to claim refund of tax equal in amount to four *per cent* of purchase price of fuel, taxable goods used in manufacture of tax free goods and purchase price of goods used for manufacture which is dispatched to his own place of business or to his agent provided such amount is added to the CQB availed by the dealer during the said period.

During test check of the records of Pune division it was noticed that a dealer to whom eligibility certificate was granted under the exemption mode was allowed refund of Rs. 2.11 crore in January 2007, for the period April 2005 to December 2005, which was inclusive of refund of tax of Rs. 60.81 lakh. The refund claimed was equal in amount to four *per cent* of the purchase price. However, while computing the CQB availed by the dealer for this period, refund of Rs. 60.81 lakh was not considered as required under the rule. This resulted in short calculation of CQB to the extent of Rs. 60.81 lakh.

After the case was pointed out, the DC (Refund), Pune stated (February 2009) that the observation will be verified. Further reply is awaited (November 2009).

2.3.13 Acceptance and disposal of appeal cases

No time frame is prescribed in the repealed BST Act as well as in the MVAT Act for disposal of appeals filed by a dealer. Under the VAT regime however, the appellate authority has to give preference to the dealers whose age is more than 75 years.

Information received from four test checked divisions revealed that, 7,046 appeal cases involving revenue of Rs. 1,264.62 crore were pending as on 31 March 2009. Analysis of pending cases is given below:

(Rupees in crore)

Division	Number of cases pending							
	upto 3 years		> 3 years		> 4 years		> 5 years	
	No of cases	Amount involved	No of cases	Amount involved	No of cases	Amount involved	No of cases	Amount involved
Mumbai	2,174	551.32	489	103.32	218	27.45	566	51.92
Nashik	333	55.69	5	0.70	9	0.13	40	0.33
Pune	1,805	397.56	503	39.28	225	14.81	240	16.00
Thane (Rural)	193	1.97	12	0.29	24	0.96	210	2.89
Total	**4,505**	**1,006.54**	**1,009**	**143.59**	**476**	**43.35**	**1,056**	**71.14**

As no time frame was prescribed in the repealed BST Act as well as in the MVAT Act for disposal of appeal filed by a dealer, the department takes its own time to clear the cases.

After this was pointed out, the department stated that priority is given to cases involving tax dispute of more than rupees one lakh. The department further stated that, one of the reasons for large number of cases pending in appeal was due to vacancy in the post of appellate authorities.

The fact remains that inordinate delay in clearing of pending cases may lead to non-realisation of Government revenue due to passage of time.

2.3.14 Deterrent Measures

2.3.14.1 Absence of minimum penalty for offences

Non-levy of Penalty under Section 29 (3) of the Act

As per Section 23(6) of the Act, if a dealer is found to have not disclosed the turnover of sales or of purchases in the return for any period or if tax had been paid at a lesser rate or set-off/deduction has been wrongly claimed, then the dealer may be assessed after serving a notice. Further, as per Section 29(3) of the act while passing an assessment order, the assessing officer can impose penalty equivalent to tax evaded or excess set-off claimed. However, as per departmental instructions, during the business audit, if any irregularity as specified in Section 23(6) of the act is noticed and the dealer agrees to pay the amount due with interest, no assessment order is required to be passed and the business audit is treated as complete.

During scrutiny of the records of the four test checked divisions, it was noticed that during various periods between 2005-06 and 2008-09, the business audit wing had noticed short payment of tax of Rs. 1.97 crore due to excess claim of set-off, application of incorrect rate of tax etc., and consequential levy of interest of Rs. 34 lakh in respect of 116 cases. However, in none of these cases notices were served by the department for carrying out assessment of these dealers. As a result, the department could not examine the aspect of levy of penalty in these cases.

After these cases were pointed out, the department stated that as per the departmental instructions assessment orders were required to be passed only if the dealer disagrees with the findings of the business audit.

Thus, the departmental instructions are not in conformity with the provisions of Section 29(3) of the act which was introduced with the intention of having a deterrent effect on the tax evaders.

The Government may consider evolving a mechanism for carrying out assessment of dealers on a selective basis in cases where evasion of tax is noticed during the Business Audit/Refund Audit, so that the penalty could be levied where willful default have been noticed.

2.3.15 Internal controls

2.3.15.1 Maintenance of registers in unit offices

- **Register of cross check memos**

As per the departmental instructions, before closure of audit, the concerned officer has to issue cross check memos to the dealer for ascertaining the correctness of ITC claimed by the dealer in his return. A register showing the names of the purchasing and selling dealer, their TINs, period of transaction, value of sales/purchases is to be maintained in each division for this purpose.

Scrutiny of the registers maintained in the four test checked divisions revealed that result of the cross check memos issued, the progressive figures of

outstanding memos, monthly abstracts, etc., were not recorded in these registers. It was also noticed that no follow up action was taken by the concerned branches for keeping the register upto date.

As the information required was neither kept on record nor the data updated in time the very purpose for which these registers was to be maintained was defeated.

- **Register number BAR 6 – selection criteria register**

As per departmental instructions, a register is to be maintained for selection of dealers for audit on the basis of the criteria prescribed under Section 22 of the MVAT Act. The register is to be maintained by the business audit branch until a computerised system for selecting the dealer in MAHAVIKAS is put in place.

It was noticed that in the four test checked divisions no such registers were maintained.

2.3.15.2 Reports and returns

The department has devised a system of calling for information from various functional branches/units of the field offices through a monthly statement known as key performance indicators (KPIs). The divisions in turn consolidate the KPIs under their jurisdiction in a form viz. key key performance indicator (KKPI) and send to the Commissioner's office for follow up action.

It was noticed that performance reports in form KKPI had been received in the office of the CST from the divisions only during the year 2007-08 and 2008-09.

No such reports were sent by the divisional offices for the years 2005-06 and 2006-07. The Department (August 2009) stated that the process of receiving KKPI reports in the Commissioner's office was initiated only in the month of December 2007.

Non-receipt of performance report from the field offices during 2005-06 and 2006-07 indicated that there was no control mechanism available with the department to monitor the performances of the various branches during these years.

2.3.16 Internal audit

2.3.16.1 Existence of Internal Audit

Under VAT administration there is no separate branch of internal audit (IA). The IA branch which was in existence under the repealed Acts along with its staff was allowed to continue for conducting internal audits of both BST Act and VAT Act.

Information received from the test checked divisions revealed that the IA branch was mainly engaged in conducting internal audit of assessments done under repealed Acts and not of VAT.

After being pointed out (July 2009), the department stated that since all the functional branches under VAT are headed by officers with full expertise in their respective fields, no internal audit under VAT was considered necessary.

The fact remains that the internal audit wing of any organisation is a vital component of the internal control mechanism and is defined as control of all controls to enable that the prescribed systems are functioning reasonably well. Absence of internal audit made the department vulnerable to the risk of control failure.

The Government may consider taking up the internal audit of the functional branches of VAT to monitor the work done under these branches.

2.3.17 Claim for compensation of loss due to introduction of VAT

As per the modalities prescribed under the GoI guidelines, compensation for loss of revenue due to implementation of VAT was available to the States at 100 *per cent*, 75 *per cent* and 50 *per cent* of such loss of revenue during the first three years, namely 2005-06, 2006-07 and 2007-08 respectively. The net revenue for the respective years was to be worked out after deducting the refunds granted under VAT from the gross receipts. The refunds were to be granted on receipt of application from the dealer for refunds in form 501.

During test check of the records of Mumbai and Pune divisions, it was noticed that though 112 dealers had applied for refund in time, during the years 2005-06, 2006-07 and 2007-08, the refunds were not granted in the same year but were granted during the subsequent years. Thus, due to delay in grant of refunds, the gross receipts could not be reduced by the refunds that would have been admissible during the year. This resulted in claim of less compensation from the GoI and consequent loss of revenue of Rs. 5.72 crore.

On this being pointed out, the department replied (March 2009) that this was the initial period of implementation of VAT. Being a new enactment, the trading community faced lots of problems in complying with the various requirements of the Act. Also the department faced several problems in administering the said Act. Under these circumstances it was impractical to implement the Act in totality right from the very beginning. Hence, the modalities as defined by the GoI for compensation were implemented and refunds granted to the dealers as per the circular instructions issued by the CST.

The fact remains that the department should have foreseen all these problems and taken steps to educate the traders and to gear the departmental machinery at all levels to expedite the grant of refund before the end of the respective financial years.

2.3.18 Conclusion

The review revealed that the administrative set up was not in place for smooth implementation of the VAT. The reorganisation of the department was done only after January 2007 and still the functional branches have not been fully streamlined. Further, the staff available with the department are not being fully utilised in assessing the pending cases under the repealed Acts. There

were delays in registration of unregistered dealers and their assessments resulting in potentially identified tax payers remaining out of the tax net.

Of the 22 modules included in MAHAVIKAS system only one module viz. that of Registration has been put to use so far. As the smooth functioning of VAT is based on effectiveness of data available on the system, its delay in implementation hampered the effective implementation of the Act. Also, returns were not scrutinised and defect notices were not issued from 2007-08 due to non-availability of data on MAHAVIKAS.

Internal control was not effective as the cases covered by Business Audit/Refund branch were not checked by the Internal Audit branch. Large refunds were granted without pre-audit or without taking bank guarantee from the claimant dealers. Non-imposition of penalty on dealers has resulted in loss of revenue to Government, besides sending wrong message to the dealers that the Department recovers only the tax evaded with interest in audit without any penalty as a deterrent measures.

2.3.19 Summary of recommendations

The Government may consider:

- **preparing modules in tune with the VAT functions for effective implementation of VAT;**
- **evolving a mechanism to complete the assessments early to realise any dues blocked in such pending assessments;**
- **instituting a suitable mechanism for validating the work outsourced to the agency responsible for data entry, printing of TIN certificates and issuing of RCs. Further, a system should also be laid down for timely cancellation of RCs, only after completion of verification process as required under the Act/Rules and for timely return of the cancelled RCs to avoid its misuse;**
- **making it mandatory to conduct periodic survey to unearth unregistered dealers in the interest of revenue;**
- **evolving a system for monitoring the issue of defect notices and for scrutiny of returns in the interest of revenue;**
- **devising a time bound programme for completion of refund audit to ensure that excess refunds were not granted;**
- **making it mandatory to provide details of the selling dealers in the return alongwith the details of treasury challans;**
- **evolving a mechanism for carrying out assessment of dealers on a selective basis in cases where evasion of tax is noticed during the Business Audit/Refund Audit so that the penalty could be levied where willful default have been noticed; and**
- **taking up the internal audit of the functional branches of VAT to monitor the work done under these branches.**

2.4 Other audit observations

Scrutiny of the assessment records of Sales Tax/Value Added Tax (VAT), Central Sales Tax and Works Contract tax Act maintained in Sales Tax Department revealed several cases of non-observance of provisions of Acts/Rules, non/short levy of tax, irregular grant of exemptions and other cases as mentioned in the succeeding paragraphs in this Chapter. These cases are illustrative and are based on a test check carried out in audit. Such omissions on the part of Assessing Authorities (AAs) are pointed out in audit each year, but not only the irregularities do persist; these remain undetected till an audit was conducted. There is need for the Government to improve the internal control system including strengthening of internal audit.

2.5 Excess claim for compensation of loss of revenue due to introduction of Value Added Tax in Maharashtra

The Value Added Tax (VAT) was implemented in Maharashtra with effect from 1 April 2005. The Government of India (GoI) agreed to compensate the Government of Maharashtra (GoM) for loss of revenue consequent to the implementation of VAT and issued guidelines in June 2006 on the modalities for calculation of compensation claim. As per the guidelines, the VAT receipts were to be compared with the revenue of the pre-VAT period and suitably extrapolated on the basis of the average growth of the rate of revenue of the previous five years. Further, motor spirit tax (MST) receipt, tax on liquor and credits on account of input tax credit (ITC) under the VAT adjusted against Central Sales Tax (CST) were to be excluded while computing the receipts. The resultant net revenue was to be compared with the projected tax revenue for 2006-07 to arrive at the loss due to the introduction of the VAT. The compensation was allowable at 75 *per cent* of such loss of revenue during the year 2006-07. The GoM preferred (January 2008) its final compensation claim of Rs. 3,061.23 crore for the year 2006-07, against which the GoI sanctioned Rs. 2,037.83 crore up to December 2008.

The refunds granted, receipts on account of the MST (non-VAT revenue),tax on liquor and input tax credit adjusted against the CST allowed as per the returns relating to the period April 2006 to March 2007 in Mumbai and Pune divisions were scrutinised between November 2008 and February 2009. The total amount of refund, MST, tax on liquor and input tax credit involved in the compensation claim under the VAT and amounts test checked for the period 2006-07 in the selected divisions were as under :

(Rupees in crore)

Description	Total amount involved in compensation claim	Mumbai division	Pune division
Refund	2,032.38	582.35	486.25
MST	6,496.98	6,496.98	NIL
Tax on liquor	954.24	362.95	134.81
ITC	1,058.87	375.45	428.64

Test check of the records in respect of Mumbai and Pune divisions indicated that there was excess compensation claim of Rs. 277.99 crore as discussed in the paragraphs below:

2.5.1 Inclusion of inadmissible refunds in the claim

According to the modalities prescribed by the GoI, tax refund allowed by the department relating to VAT items only are to be taken into consideration for claiming compensation.

2.5.1.1 The GoM considered the total refund of Rs. 2,032.38 crore allowed during 2006-07 for compensation. Of this, Rs. 582.35 crore related to Mumbai division and Rs. 486.25 crore related to Pune division. However, as per the information furnished to Audit by the Sales Tax department, the refund relating to VAT amounted to Rs. 304.96 crore for Mumbai division and Rs. 434.37 crore for Pune division. This resulted in excess claim of compensation of Rs. 246.95 crore[14].

After this was pointed out (February 2009) the Department accepted (May and July 2009) the inclusion of refunds pertaining to old Acts amounting to Rs. 329.27 crore in respect of Mumbai and Pune Division resulting in excess claim of compensation of Rs. 246.95 crore.

2.5.1.2 As per the letter sent to the Principal Secretary, Finance Department, GoM by the Commissioner of Sales Tax in January 2008, in final compensation claim the department had enhanced the amount of net revenue for the year 2006-07 by Rs. 1.07 crore[15] considering the grant of excess refund of Rs. 1.07 crore noticed by the refund audit section of the department. Scrutiny of the records indicated that the refunds actually disallowed by the refund audit sections in Mumbai and Pune was Rs. 96.79 lakh and Rs. 45.69 lakh respectively (totalling Rs. 1.42 crore). Thus, the net revenue was required to be enhanced by Rs. 1.99 crore[16] instead of Rs. 1.07 crore. This resulted in excess compensation claim of Rs. 69 lakh {(1.99 - 1.07) crore = 92 lakh x 75 *per cent*}.

The matter was reported to the department and the Government in March 2009; their reply is awaited (November 2009).

2.5.2 Inclusion of excess receipts on account of tax on liquor

According to the guidelines of the GoI, receipts on account of tax on liquor were to be excluded while computing the compensation claim. In the compensation claim preferred by the GoM for the year 2006-07, an amount of Rs. 954.24 crore was deducted on account of receipts from tax on liquor, out of which Rs. 362.95 crore related to Mumbai division.

During test check of the records of Mumbai division, it was noticed that in 20 cases, receipts on account of tax on liquor was considered at Rs. 69.50 crore. In these cases scrutiny of the audit reports in form 704 submitted by the chartered accountants indicated that actual receipts on account of tax on liquor was only Rs. 30.15 crore. The excess amount of Rs. 39.35 (69.50 – 30.15) crore was due to inclusion of tax on sale of food and non-exclusion of input tax credit on local sales. This resulted in excess deduction of Rs. 39.35 crore

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[14] Inadmissible amount={(Rs. 582.35-Rs. 304.96) crore + (Rs. 486.25-Rs. 434.37) crore} = Rs. 329.27 crore, 75 *per cent* of Rs. 329.27 crore is Rs. 246.95 crore.

[15] Includes Rs. 50 lakh in Mumbai, Rs. 54 lakh in Raigad and Rs. 3 lakh in Thane (City) divisions.

[16] Includes Rs. 96.79 lakh in Mumbai, Rs. 45.69 lakh in Pune, Rs. 54 lakh in Raigad and Rs. 3 lakh in Thane (City) divisions.

and excess claim of compensation of Rs. 29.51 crore (75 *per cent* of Rs. 39.35 crore).

After the cases were pointed out (March 2009) the department accepted (June 2009) the observations in 19 cases amounting to Rs. 27.82 crore. Reply in the remaining case is awaited.

The matter was reported to the Government in March 2009; their reply has not been received (November 2009).

2.5.3 Incorrect deduction of ITC in compensation claim

The guidelines issued by the GoI prescribed that input tax credit adjusted against CST were to be excluded while computing compensation claim. During test check of the records of Mumbai division, it was noticed that in eight cases input tax credit was considered as per the returns filed by the dealers at Rs. 4.78 crore. However, as per the audit report in form 704 submitted by the chartered accountant, ITC adjusted against CST in respect of these dealers was only Rs. 3.66 crore. This resulted in excess deduction of Rs. 1.12 crore (Rs. 4.78 crore – Rs. 3.66 crore) and consequential excess claim of Rs. 84.33 lakh (75 *per cent* of Rs. 1.12 crore).

The matter was reported to the department and the government between January and March 2009; their reply has not been received (November 2009).

2.6 Non-observance of the provisions of Acts/Rules

The BST/MVAT/CST/WCT Acts and Rules empowers/provide for :

(i) levy of tax/turnover tax/surcharge/interest at the prescribed rate;

(ii) registration of dealers liable for payment of tax under the VAT Act;

(iii) payment of refund of excess tax paid by the dealer either in cash or by adjustment against dues in respect of any other period;

(iv) exemption of tax on deemed export/branch transfers/inter-State sales subject to submission of the prescribed declarations/certificates;

(v) deferring tax under BST to eligible units either full or at a fixed percentage on the fulfillment of prescribed conditions; and

(vi) allowance of set-off as admissible.

The AAs, while finalising the assessments, did not observe some of the rules in cases mentioned in the paragraph 2.6.1 to 2.6.10. This resulted in non/short levy/non-realisation of tax/interest of Rs. 29.47 crore.

2.6.1 Short levy of tax

Under the provisions of the BST Act, the rate of tax applicable on any commodity is determined with reference to the relevant entry in schedule 'B' or 'C' of the Act. Further, the Government, by notification from time to time, exempts certain sales or purchases from payment of tax in full or any part thereof, which are payable under the provisions of the Act, subject to such conditions as are prescribed. Besides, turnover tax (TOT), surcharge (SC) and interest are also leviable as per the provisions of the Act.

2.6.1.1 During test check of the records of eight[17] divisions between December 2004 and September 2008, it was noticed in the assessments of 14 dealers finalised between July 2002 and October 2007, for the periods between 1999-2000 and 2004-05, that due to application of incorrect rates of tax, incorrect grant of exemptions, non-levy of tax, incorrect computation of turnover of taxable sales and error in computation of tax, there was underassessment of tax of Rs. 10.30 crore, including interest of Rs. 4.51 crore. A few illustrative cases are mentioned below:

(Rupees in lakh)

Sl. no.	Division No. of dealer	Period Month of assessment	Name of com-modity	Nature of irregularity	Taxable turnover	Tax leviable levied *(per cent)*	Under assess-ment Tax/ TOT/ SC/ Interest	Total
1.	Borivali 1	1999-2000 March 2005	Kerosene and Superwhite Kerosene Oil	Resales of taxable goods were incorrectly allowed from the gross turnover of sales	3,245.56	8 Nil	259.64 32.46 25.96 352.26	670.32
2.	Thane 1	2001-02 March 2007	Superior Kerosene Oil	Reduction of sales price was incorrectly allowed from the gross turnover of sales resulting in short levy of tax	258.69	20 Nil	51.74 2.59 5.17 NIL	59.50
3.	Ghatkopar 1	2000-01 to 2002-03 July 2002 to May 2005	Food	Incorrect benefit of notification was allowed to a contractor running canteen in a company	307	4 Nil	12.28 3.07 1.22 19.59	36.16
4.	Nariman Point 1	2002-03 April 2003	Food	Incorrect rate/ exemption from tax was allowed on the goods served in five star hotel	120.65	20 Nil	24.13 1.81 2.41 8.77	42.50
			Mineral Water		69.79	20 13	4.89 Nil 0.49 Nil	
5	Nariman Point 1	2004-05 July 2005	Food	Incorrect exemption was allowed on food served to diplomatic missions though condition for exemption was not fulfilled	126.90	20 Nil	25.38 1.90 2.54 Nil	29.82
Total							**378.06** **41.83** **37.79** **380.62**	**838.30**

[17] Andheri(1), Borivali(3), Dhule(1), Ghatkopar (2), Nariman Point (3), Nashik (1), Thane (1) and Worli (2).

After the cases were pointed out between January 2005 and October 2008, the department rectified/revised the assessment or re-assessed 13 cases, between April 2006 and January 2009, raising additional demands of Rs. 9.43 crore including interest of Rs. 4.51 crore and penalty of Rs. 60.04 lakh. This includes one case where rectification of assessment of Rs. 87 lakh was awaited. In another case involving Rs. 60 lakh no action has been taken by the department (November 2009). In one case Rs. 4.02 lakh out of Rs. 6.22 lakh has been recovered and in respect of interest of Rs. 2.22 lakh the dealer is in appeal. A report on recovery in the remaining cases has not been received (November 2009).

The matter was reported to the Government between February 2009 and April 2009; their reply has not been received (November 2009).

2.6.1.2 During scrutiny of records of Sales Tax Officer, C-959, Nagpur, it was noticed (April 2005) that the Sales Tax Officer allowed sales of branded milk aggregating Rs 22.07 crore as tax free under Section 5 of erstwhile BST Act while finalising assessment for the period from 1997-98 to 1998-99. However, the sale of branded milk was covered under schedule entry C-II-1 and was taxable at the rate of eight *per cent.* Incorrect assessment resulted in short levy of tax of Rs 3.85 crore including interest of Rs. 2.08 crore.

On this being pointed out in June 2005, the Deputy Commissioner of Sales Tax (Admn), M-95, Nagpur revised (August 2008) the assessment and raised the additional demand of Rs. 3.89 crore including interest and penalty. The dealer has filed an appeal against the revision orders. The decision in appeal is awaited (November 2009).

2.6.2 Non/Short levy of turnover tax and surcharge

Under Section 9 of the Bombay Sales Tax Act, 1959, as amended on 31 March 1999, Turnover tax was leviable at the rate of one *per cent* on the turnover of sales of goods specified in Schedule 'C', after deducting resales of goods from such turnover. Further, under Section 15A-I surcharge at the rate of 10 *per cent* of the tax payable where the aggregate of taxes payable by a dealer exceeded Rs. one lakh in a year was also leviable. From 1 April 2001, surcharge at the rate of 10 *per cent* of the taxes payable was leviable in all cases. Turnover tax was also leviable on the turnover of sales supported by declarations, subject to such conditions as prescribed by the Government from time to time.

2.6.2.1 During test check of the records of Pune-II division in May 2007, it was noticed that in the assessment of a dealer, for the period 2001-02, finalised in January 2007, turnover tax on the turnover of sales of Rs. 10.54 crore and surcharge on sales tax of Rs. 1.37 crore were not levied. This resulted in underassessment of tax of Rs. 32.98 lakh including interest of Rs. 8.73 lakh.

After the case was pointed out (May 2007), the assessing officer accepted the observations in May 2007 and stated that action would be taken.

2.6.2.2 During test check of the records of Nariman Point division in January 2008, it was noticed in the assessment of a dealer, finalised in March 2007, for the period 2001-02, that sales on declaration in Form-14 valued at

Rs. 9.14 crore were exempted from payment of turnover tax and surcharge. However, as per conditions of the notification sales on declaration in Form-14 were not exempted from turnover tax and surcharge. This resulted in underassessment of tax of Rs. 12.80 lakh.

After the case was pointed out in January 2008, the assessing authority accepted the observation and stated that the case had been forwarded in October 2008 to the appellate authority before whom the dealer has filed an appeal over the assessment order. The action taken in appeal is awaited (November 2009).

The matter was reported to the department and the Government in February and April 2009; their reply has not been received (November 2009).

2.6.3 Non/Short levy of tax under Works Contracts Tax Act

Under Section 6 of the Works Contract Tax (Re-enacted) Act, 1989 and the Rules made thereunder, a registered dealer is liable to pay tax on the turnover of sales involving transfer of property in goods in the execution of works contracts at the rates specified in the schedule to the Act. In case the dealer opted for the composition scheme, under Section 6A the amount of composition payable in lieu of tax on the total contract value, for the period May 1998 to 31 March 2000, was two *per cent* in respect of construction contracts and four *per cent* for other than construction contracts. The composition tax in respect of all types of contracts was three *per cent* for 2000-01 and four *per cent* thereafter. Besides, interest and penalty was leviable as per the provisions of the BST Act.

During test check of the records of Bandra division in September 2004 and March 2008, it was noticed in the assessments of two dealers, finalised in January 2004 and July 2006, that in one case sales valued at Rs. 9.90 crore for the periods 1999-2000 and 2000-2001 for construction and supply of heaters was incorrectly treated as a construction contract and taxed at the rate of two *per cent* instead of four *per cent*, resulting in underassessment of tax of Rs. 26.11 lakh including interest of Rs. 6.31 lakh. In the other case, for the period 2002-03, receipts on account of sales of Rs. 35.13 lakh on account of photo copy charges were deducted from turnover of sales under the BST Act. No tax was levied on these sales. As these receipts involved transfer of property of goods in the execution of works contract, tax was leviable under Works Contract Tax Act. This resulted in under assessment of tax of Rs. 2.76 lakh including interest of Rs. 1.35 lakh.

After the cases were pointed out in October 2004 and March 2008, the department revised/assessed the dealers in April 2006 and November 2008, raising additional demands totaling Rs. 28.92 lakh including interest of Rs. 7.64 lakh and penalty of Rs. 7,000. One dealer has filed appeal against the demand raised, results of appeal is awaited. Report on recovery in the other case is awaited (November 2009).

The matter was reported to the Government in April 2009; their reply has not been received. (November 2009).

2.6.4 Non-realisation of Value Added Tax

Under Section 3 of the Maharashtra Value Added Tax (MVAT) Act, 2002, every dealer is required to obtain a certificate of registration if the turnover of sales[18] during the year is Rs. 5 lakh and above, Value Added Tax (VAT) at the rate specified in the schedule to the act is leviable on the turnover of sales. Besides, interest and penalty is leviable as per provisions of the act.

In respect of licences issued by the district collectors for extraction of minor minerals including sand, the Commissioner of Sales Tax in his letter dated 28 March 2007 addressed to the Principal Secretary, Revenue and Forest Department had called for information in respect of these licences regarding name, address, quantity of sand extracted and amount of royalty paid. This was done as most of the licensees were found to be either unregistered or defaulters/evaders in payment of tax. In order to ascertain whether dealers liable to be covered were registered under the act and were paying taxes, details were independently collected by audit between January and March 2009 from the offices of five district collectors[19]. As per information received, 291 licences were issued by the collectorates for extraction of sand during the period 2005-06 to 2007-08. Out of this, only two licensees were registered under the MVAT Act and remaining 289 licensees were unregistered. These licensees had extracted sand aggregating 21.75 lakh brass[20]. Based on the district schedule of rates, the cost of sand extracted and sold excluding transportation charges worked out to Rs. 166.52 crore. The Department has not taken any follow-up action to get these dealers registered as per the provisions of the VAT Act though more than two years have elapsed after calling for the said information from the Collectorates. This resulted in non-realisation of VAT of Rs. 6.66 crore.

The matter was reported to the department in April 2009; their reply is awaited (November 2009).

2.6.5 Non-withdrawal of adjustment of refund

Under Section 43 of the Bombay Sales Tax Act, 1959, and rules made thereunder, the excess tax paid by a dealer is refundable by refund payment order or, at the option of the dealer, by adjustment against the amount due in respect of any other period.

During test check of the records of Nariman Point division in October 2006, it was noticed in the assessment of a dealer for the period 2001-02, finalised in January 2006, that the excess amount of Rs. 4.47 crore paid by the dealer, as per the assessment order passed in March 2001, for the period 1997-98 was adjusted against the dues payable by the dealer for the year 2001-02.

Scrutiny of records revealed that in March 2006, the Joint Commissioner of Sales Tax (Admn), Nariman Point Division, Mumbai had revised the assessment order for the period 1997-98 disallowing the excess amount and created a demand of Rs. 4.47 crore. This necessitated withdrawal of the credit

[18] substitued for the word "turnover" by Maharashtra Act 32 of 2006 with effect from June 2006.

[19] Ahmednagar, Aurangabad, Nashik, Pune, Raigad.

[20] Brass is 2.83 cubic meter.

of Rs. 4.47 crore incorrectly allowed in the assessment for the year 2001-02. However, no action was taken by the assessing officer to withdraw the incorrect adjustment of credit of Rs. 4.47 crore. This resulted in non-withdrawal of adjustment of credit of Rs. 4.47 crore.

After the case was pointed out in November 2006, the department rectified the error by issuing a corrigendum in November 2006, withdrawing the credit incorrectly allowed and enhancing the amount due for the year 2001-02 by Rs. 4.47 crore. The case is pending in second appeal. Decision of appeal is awaited. (November 2009).

The matter was reported to the Government in February 2009; their reply has not been received. (November 2009).

2.6.6 Irregular grant of exemption from payment of tax against form '14B'

Under the provisions of sub-section 3 of section 5 of the Central Sales Tax Act, 1956 read with Rule 21A of the Bombay Sales Tax Rules, 1959, sale in the course of export is exempt from tax provided the sale or purchase is preceded by an agreement or order from the foreign buyer for or in relation to such export. The selling dealer is required to produce a certificate in Form 14B duly filled in and signed by the exporter along with evidence of export of goods for claiming exemption of tax on sales.

2.6.6.1 During test check of the records of Ghatkopar Division in December 2007, it was noticed that in respect of a dealer selling batteries, sales valued at Rs. 11.12 crore, for the period 2004-05, assessed during May 2006, was exempted from tax, as sales in the course of exports on certificates in Form 14B which were issued by the purchasing dealers. Scrutiny revealed that the purchase order placed by the exporter with the seller was prior to the order received from the foreign buyer. This indicated that the purchases made by the exporter was not preceded by an agreement with the foreign buyer resulting in irregular grant of the exemption and underassessment of tax of Rs. 2.06 crore including interest of tax of Rs. 30.75 lakh.

After the case was pointed out in January 2008, the department rectified the error in May 2008, raising additional demand of Rs. 1.79 crore including interest of Rs. 26.92 lakh and penalty of Rs. 10,000.

The rectification order was defective to the extent of incorrect reduction of sale price of Rs. 1.48 crore from the turnover sales of Rs. 11.12 crore. Under Rule 46A of the Bombay Sales Tax Rules, 1959, reduction of sale price was admissible only if the dealer had collected tax separately or had reimbursed himself to the extent of tax liability payable by him in the sale price itself. In this case since the dealer had claimed sales of Rs. 11.12 crore as exempt, no reduction from sale price was admissible. This resulted in short computation of tax of Rs. 27 lakh in the rectification order and total underassessment of Rs. 2.06 crore.

2.6.6.2 During test check of the records of three divisions[21] between July 2004 and July 2008, it was noticed in the assessments of four dealers finalised

[21] Andheri (1), Ghatkopar (2) and Nariman Point (1).

between March 2004 and January 2008, for the periods 1995-96, 1996-97 and 2001-02 to 2003-04, that sales valued at Rs. 86.02 lakh were exempted from payment of tax on certificates in Form 14B. Scrutiny revealed that in respect of sales of Rs. 82.87 lakh, Form 14B furnished by three purchasing dealers were incomplete and regarding sales of Rs. 3.15 lakh one purchasing dealer had made purchases prior to the date of agreement orders of the foreign buyers. This resulted in irregular grant of exemption from tax and underassessment of Rs. 16.87 lakh including interest of Rs. 5.24 lakh.

After the cases were pointed out between August 2004 and August 2008, the department rectified the mistake/revised the assessment/reassessed the case between August 2008 and January 2009 raising additional demands totalling Rs. 26.69 lakh including interest of Rs. 5.24 lakh and penalty of Rs. 9.82 lakh. A report on recovery has not been received (November 2009).

The matter was reported to the department and to the Government in April 2009; their reply has not been received (November 2009).

2.6.7 Acceptance of invalid declarations for stock transfer

Under Section 6A(1) of the Central Sales Tax Act, 1956 no tax is payable by a dealer on movement of goods to other states which is not by way of sale but by reason of transfer of stock to other places of his business or to his agent or principal. For claiming exemption, the dealer may furnish to the assessing authority a declaration in Form 'F' duly filled in and signed by the Principal officer of the other place of business or his agent as the case may be alongwith evidence of despatch of the goods. Further, as per the CST (Registration and Transfer) Rules, 1957, a single declaration in Form 'F' is required for transfer of goods effected during a period of one calender month.

2.6.7.1 During test check of the records of Churchgate division in August 2005, it was noticed in the assessment of a dealer finalised in June 2004, for the period 2002-03, that in the returns filed by the dealer, claims relating to transfer of the goods of Rs. 2.11 crore to its branches/consignment agents were exempted from payment of tax. Scrutiny indicated that out of the claims relating to Rs. 2.11 crore, the branches/agents had not furnished Form 'F' to the extent of Rs. 1.83 crore. Further, in respect of the claims relating to Rs. 12.45 lakh, Form 'F' kept on records were incomplete with respect to description of the goods, transfer documents etc.. This resulted in irregular grant of exemption from tax of Rs. 26.13 lakh including interest of Rs. 6.59 lakh.

After the case was pointed out in September 2005, the department revised the assessment in February 2008, raising additional demand of Rs. 26.13 lakh including interest of Rs. 6.59 lakh. A report on recovery has not been received (November 2009).

2.6.7.2 Scrutiny of assessment records for the assessment year 2007-08 of two dealers in Aurangabad and Nashik divisions revealed that they had transferred goods (Brakes items and Travel Bags) valued at Rs. 41.12 lakh during the period between April 2002 and December 2003 to their branches in Karnataka and claimed exemption from tax by submitting three declarations in Form 'F'. However, cross verification of these forms with the assessment records of the issuing authority of Sales Tax Department of Karnataka revealed that the said

forms had not been issued by them. Thus incorrect allowance of sales against Form 'F' resulted in underassessment of tax of Rs. 11.42 lakh including interest of Rs. 1.50 lakh and penalty of Rs. 4.96 lakh.

The matter was reported to the department in May 2009; their reply has not been received (November 2009).

2.6.7.3 During test check of the records of Andheri division in November 2006, it was noticed in the assessment of a dealer finalised in March 2006, for the period 2002-03, that transfer of the goods to the agents in other States valued at Rs. 31.16 lakh were exempted from tax on production of the declarations in Form 'F'. Scrutiny revealed that all the declarations, in Form 'F' kept on record covered transactions of three months. As such, these declarations were invalid and the turnover was liable to tax under the local Act. This resulted in underassessment of Rs. 5.89 lakh including interest of Rs. 2.77 lakh.

After the case was pointed out, the department rectified the assessment in March 2008, raising additional demand of Rs. 5.89 lakh including interest of Rs. 2.77 lakh. A report on recovery has not been received (November 2009).

The matter was reported to the Government between February and May 2009; their reply has not been received (November 2009).

2.6.8 Short levy of Central Sales Tax

Under Section 8 of the Central Sales Tax Act, 1956 and the rules made thereunder, tax on sales in the course of inter-State trade or commerce, supported by valid declarations in Form 'C', is leviable at the rate of four *per cent* of the sale price. Otherwise, in respect of declared goods, tax is leviable at twice the rate applicable on sales and in respect of goods other than declared goods, at 10 *per cent* or at the rate applicable to the sale or purchase of goods, inside the State, whichever is higher. Besides, interest and penalty is also leviable as per the provisions of the BST Act.

During test check of the records of Kolhapur division (Satara district) in September 2006, it was noticed in the assessment of two dealers finalised in February and March 2006, for the period 2000-01, that inter-State sales valued at Rs. 19.93 lakh were taxed at concessional rate of tax though the declaration forms were invalid either due to absence of registration details or due to the date of registration not being valid for the period of transaction. This resulted in underassessment of tax of Rs. 6.11 lakh including interest of Rs. 3.85 lakh.

After the cases were pointed out in September 2006, the department revised the assessments in February 2008 raising additional demands of Rs. 6.31 lakh including interest of Rs. 3.85 lakh and penalty of Rs. 20,000. A report on recovery has not been received (November 2009).

The matter was reported to the Government in April 2009; their reply has not been received (November 2009).

2.6.9 Incorrect deferment of tax under package scheme of incentives

As per the package scheme of incentives of 1993, an eligible unit is entitled to incentives in the form of local sales tax and Central Sales Tax on the sale of

finished goods and purchase tax on the purchase of raw materials during the period covered by the eligibility and entitlement certificates subject to terms and conditions specified in the schemes. An existing unit which creates additional manufacturing capacity for manufacture of the same product is eligible for tax benefits on the product manufactured out of the expanded capacity only. Further, taxes are required to be deferred either in full or at the specified percentage mentioned in the eligibility certificate.

During scrutiny of records in Ghatkopar division in July 2005, it was noticed in the assessments of a dealer engaged in the manufacture of Yeast, for the periods 2001-02 and 2002-03 finalised in September 2004 and October 2004, that eligibility/entitlement certificates for deferment of sales tax incentives was granted from October 2000 to September 2008 for expansion of production capacity. The entitlement certificate prescribed that deferment of taxes in the eligible unit was only to the extent of 37.58 *per cent* of the production. However, while computing taxes to be deferred the amount was not restricted to the percentage prescribed in the entitlement certificate and set-off was also not reduced from the tax collected. This resulted in excess deferment and consequential underassessment of tax totaling Rs. 64.74 lakh including withdrawal of interest of Rs. 6.24 lakh on the refund incorrectly granted in the assessment orders.

After the case was pointed out in August 2005, the department revised the assessments in April 2008, raising additional demands of Rs. 1.37 crore including interest of Rs. 19 lakh. A report on recovery has not been received (November 2009).

The matter was reported to the department and the Government in April 2009; their replies have not been received (November 2009).

2.6.10 Incorrect grant of set-off

According to the Bombay Sales Tax Act and Rule 41D of BST Rules, a manufacturer who had paid tax on purchase of goods specified in entry 6 of Schedule 'B' and 'C' to the Act and used those goods within the state in the manufacture of taxable goods for sale or export or in packing of goods so manufactured was allowed set-off of tax paid on the purchases after reducing four *per cent* of the purchase price in respect of capital goods and three *per cent* in respect of raw materials. In case the claimant dealer was running a 100 *per cent* export oriented unit (EOU), certified, as such, by the Government of India (GoI), full set-off on the purchase price of raw materials was admissible without reducing any amount from the purchase price.

During test check of records in the office of the Assistant Commissioner of Sales Tax, B-225, Ahmednagar in December 2004, it was noticed in the assessment for the year 2000-01, finalised in November 2003, that in the case of a dealer, the assessing officer had allowed full set-off on tax paid on purchase valued at Rs. 160.56 lakh without reducing three *per cent* of purchase price treating the unit as a 100 *per cent* EOU. However, the unit was not certified by GoI as a 100 *per cent* EOU. This resulted in incorrect grant of set-off of Rs. 6.51 lakh including interest of Rs. 1.69 lakh.

After the case was pointed out in January 2005, the department accepted the error and revised the assessment in February 2008 raising additional demand of Rs. 6.51 lakh including interest of Rs. 1.69 lakh. A report on recovery had not been received (November 2009).

The matter was reported to the Government in February 2009; their reply has not been received (November 2009).

CHAPTER III : STAMP DUTY AND REGISTRATION FEES

3.1 Results of audit

Test check of the records of the stamp duty and registration fee conducted during the year 2008-09, indicated non-levy/short levy of duty and loss of revenue etc. amounting to Rs. 93.76 crore in 485 cases, which could be classified under the following categories:

(Rupees in crore)

Sl. no.	Category	No. of cases	Amount
1.	Short levy due to under valuation of property	356	50.64
2.	Incorrect grant of exemption of stamp duty and registration fees	40	21.81
3.	Short levy due to misclassification of documents	44	4.28
4.	Non-levy of stamp duty and registration fees	18	0.27
5.	Other irregularities	27	16.76
Total		**485**	**93.76**

In response to the observations made in the local audit reports during the year 2008-09 as well as during earlier years, the department accepted under assessments and other deficiencies involving Rs. 78.14 lakh in 420 cases which was recovered. Out of this, 17 cases involving Rs. 14.34 lakh were pointed out during 2008-09 and rest pertained to earlier years.

A few audit observations involving Rs. 3.39 crore are mentioned in the succeeding paragraphs.

3.2 Audit observations

Scrutiny of the records of the various registration offices revealed several cases of non-compliance of the provision of the Bombay Stamp Act, 1958 and Government modifications/instructions and other cases as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out in audit. Such omissions are pointed repeatedly, but irregularities still persist. There is need for the Government to improve the internal control system so that such omissions can be avoided.

3.3 Non-compliance of provisions of the Acts/Rules

The provisions of the Bombay Stamp Act, 1958 require:

- *levy of Stamp Duty on market value of the property;*
- *exemption of Stamp Duty on fulfillment of prescribed conditions;and*
- *correct classification of documents.*

The registering authorities did not observe some of the above provisions at the time of registration of document in cases mentioned in the paragraphs 3.3.1 to 3.3.6.This resulted in short levy of stamp duty of Rs. 3.39 crore.

3.3.1 Short levy of stamp duty due to undervaluation of property

As per the Bombay Stamp Act, 1958, stamp duty on conveyance deed is leviable on the market value of the property at the rates applicable to the area in which the property is situated. These rates are prescribed in the ready reckoner.[1]

During test check of records, between December 2007 and January 2009, it was noticed that in six instruments, stamp duty of Rs. 2.25 crore was short levied due to under valuation of property as mentioned below:

(Rupees in lakh)

Sl. no.	Name of the Sub-Registrar	Document No and Date of Execution	Market Value as per Ready Reckoner	SD Leviable	SD Levied	Short levy of SD
1.	Nagpur-II	2,217 31-03-2006	628.16	62.82	46.37	16.45
2.	Haveli-V	4,201 18-05-2007	103.78	10.38	3.30	7.08
3.	North Solapur-I	3,409 20-06-2007	256.00	13.10	0.90	12.20
4.	North Solapur-I	3,311 15-06-2007	184.56	9.23	2.90	6.33
5.	Nagpur – VI	3,557 08-08-2006	282.00	15.51	8.63	6.88
6.	Borivali – I	1,520 01-03-2006	4,015.00	201.00	25.00	176.00
Total			**5,469.50**	**312.04**	**87.10**	**224.94**

[1] Ready reckoner is an annual statement of rates of property prescribed by the Government.

The department (between October 2008 and April 2009) accepted the omission and stated that action has been initiated to recover the amount.

The matter was reported to the Government in April 2009; their reply has not been received (November 2009).

3.3.2 Short levy of stamp duty due to incorrect computation of market value

Under the provision of Bombay Stamp Act, 1958, stamp duty at prescribed rate is leviable on the market value of the property conveyed or delivered through instrument of conveyance.

During test check of the records of the office of the Sub-Registrar City-I Mumbai, it was noticed that a conveyance deed executed in December 2006 and stamp duty of Rs. 79.42 lakh was levied on consideration of Rs. 14.73 crore. Scrutiny of instrument, however, indicated that, while calculating the market value, the built up area of car parking and store room was not taken into account. The correct market value of the property works out to Rs. 17.86 crore on which stamp duty of Rs. 89.31 lakh was leviable. Incorrect computation of market value thus led to short levy of stamp duty of Rs. 9.89 lakh.

After the case was pointed out (January 2008), the Deputy Inspector General of Registration, Mumbai accepted the observation and directed (April 2008) the Sub-Registrar to initiate the action under the provisions of Bombay Stamp Act, 1958. Further report has not been received (November 2009).

The matter was reported to the Government in February 2009; their reply has not been received (November 2009).

3.3.3 Incorrect grant of exemption of stamp duty

By a notification issued on 5 May 2001, the Government remits the stamp duty on instruments of hypothecation, pawn, pledge, deposit of title deeds, conveyance, further charge on mortgage of property, lease, mortgage deed etc. for starting a new industry/new extension of industry in notified areas on the basis of a certificate issued by the Development Commissioner (Industries) or any authorised officer.

During test check of the records of the office of the Sub-Registrar VI Nagpur, it was noticed that an instrument of transfer of leasehold property was executed in January 2004, wherein Sub-Registrar remitted the stamp duty chargeable on instrument by classifying the instrument as instrument of sale. Further scrutiny revealed that as per recital in the instrument, the classification was incorrect, as the instrument is of assignment/transfer of lease and is chargeable to stamp duty under the provisions of the Bombay Stamp Act 1958. This led incorrect grant of exemption of stamp duty of Rs. 5.60 lakh.

After the case was pointed out in December 2005, the Inspector General of Registration, Pune accepted the observation (February 2009) and directed the Sub-Registrar concerned to recover the deficit stamp duty. A report on recovery had not been received (November 2009).

The matter was reported to the Government in March 2009; their reply had not been received (November 2009).

3.3.4 Short levy of stamp duty due to incorrect application of rate

Under the provisions of the Bombay Stamp Act, 1958, instrument of assignment of transfer of the development rights from one developer to another developer attracts stamp duty at the rate of three *per cent* on the true market value of the property or the consideration whichever is higher. This rate was reduced from three *per cent* to one *per cent* with effect from 7 May 2005 by an amendment of the act.

Test check of the records of the Sub Registrar-VIII and XII Haveli, Pune, between April 2006 and July 2006 indicated that in five instruments, the first developer transferred development rights acquired by him from the owner to the second developer. The department levied stamp duty at the rate of one *per cent* instead of three *per cent,* though these instruments were executed and registered prior to 7 May 2005. This resulted in short levy of stamp duty of Rs. 63.74 lakh.

The matter was reported to the Government in November 2009; their reply has not been received (November 2009).

3.3.5 Short levy of stamp duty on mortgage deed

Under the provisions of Bombay Stamp Act, 1958 when possession of the property or any part of the property comprised in such deed is given by the mortgager or agreed to be given, stamp duty and registration fee is chargeable as same as leviable on conveyance. However, when possession of the property is not given, stamp duty is chargeable five rupees for every one thousand or part thereof for the amount secured by such deed, subject to the minimum of one hundred rupees and the maximum of ten lakh rupees.

During test check of records between December 2007 and April 2008, it was noticed that in following two instruments stamp duty and registration fee of Rs. 29.79 lakh was short levied.

- In Sub-Registrar VIII, Nagpur, an instrument was executed in January 2006 for securing a loan of Rs. 4.68 crore. Since the instrument was a mortgage deed, with the right of possession by the mortgager, stamp duty of Rs. 25.76 lakh at the usual rate was to be levied as against which only Rs. 2.34 lakh was levied. This resulted in short levy of stamp duty of Rs. 23.42 lakh.

- In Sub-Registrar, Wardha, an instrument was executed in January 2006 for securing a loan of Rs. 12.15 crore. Since the document was a mortgage deed, without confirming any right to possession, stamp duty of Rs. 6.07 lakh and registration fee of Rs. 30,000 was leviable, as against which only Rs. 200 was levied. This resulted in short levy of stamp duty and registration fee of Rs. 6.37 lakh.

After the cases were pointed out in December 2007 and April 2008, the department accepted the omission (September 2008 and December 2008) and directed the Sub-Registrars to recover the deficit stamp duty and registration fee. A report on recovery has not been received (November 2009).

The matter was reported to the Government in March 2009; their reply has not been received (November 2009).

3.3.6 Short levy of stamp duty on deed of assignment

Under the provision of Bombay Stamp Act, 1958, in case of instrument of transfer of lease by way of assignment, stamp duty as is leviable on a conveyance shall be charged on the market value of the property or consideration, whichever is higher, which is the subject matter of transfer. Further any charges unpaid or paid due on the same shall be deemed to be part of the consideration.

In Sub-Registrar II, Andheri, Mumbai, an instrument of transfer of lease of land was executed in August 2006, wherein the lease was assigned from assignor to the assignee. Further scrutiny revealed that, as per recital in the instrument gross amount of consideration worked out to Rs. 205.62 crore including Rs. 1.02 crore being 10 *per cent* of the assignment charges which the assignee had undertaken to pay. However, while levying the stamp duty, this was not included and stamp duty of Rs. 10.23 crore was levied on consideration value of Rs. 204.60 crore, which led to short levy of stamp duty of Rs. 5.11 lakh.

After the case was pointed out (April 2007), the Inspector General of Registration, Pune accepted the observation and stated (March/October 2008) that, action has been initiated under the provisions of Bombay Stamp Act, 1958 for recovery. Further report has not been received (November 2009).

The matter was reported to the Government in January 2009; their reply has not been received (November 2009).

CHAPTER IV - LAND REVENUE

4.1 Results of audit

Test check of the records relating to land revenue conducted during the year 2008-09, indicated non-levy/short levy of land revenue and loss of revenue etc. amounting to Rs. 188.48 crore in 402 cases, which could be classified under the following categories:

(Rupees in crore)

Sl. no.	Category	No. of cases	Amount
1.	Non-levy/short levy of education cess etc.	91	144.19
2.	Non-levy/short levy of occupancy price/rent etc.	104	15.69
3.	Non-levy/short levy/incorrect levy of NAA, ZP/VP cess, conversion tax and royalty	137	14.91
4.	Non-levy/short levy/incorrect levy of increase of land revenue	26	12.50
5.	Short levy of measurement fees, sanad fees etc.	44	1.19
Total		**402**	**188.48**

In response to the observation made in the local audit reports during the year 2008-09 as well as during earlier years, the department accepted and recovered underassessments and other deficiencies involving Rs. 16.33 crore in 582 cases pertaining to earlier years.

Two audit observations involving Rs. 140.50 crore are included in the succeeding paragraphs.

4.2 Audit observations

Scrutiny of records of the various land records and land revenue offices revealed several cases of non-compliance of the provisions of the Maharashtra Land Revenue Code, 1966 (MLR Code), Government notifications/instructions and other cases as mentioned in the succeeding paragraphs of this chapter. These cases are illustrative and are based on the test check carried out in audit. Such omissions are pointed out in audit every year, but not only do the irregularities persist, these remain undetected till an audit is conducted. There is need on the part of Government to improve the internal control system so that recurrence of such cases can be avoided.

4.3 Short realisation of the premium

Incorrect application of the market rate resulted in short realisation of the premium of Rs. 138.93 crore.

Under the provisions of the Bombay Stamp Act 1958, market value in relation to any property which is the subject matter of any instrument means the price which such property would have fetched if sold in the open market on the date of execution of the instrument. Subsequently, the Government (May 2006) had also decided to apply the ready reckoner rates for the market valuation in the pending cases of land revenue.

Scrutiny of the records of the Collector, Mumbai Suburban District (MSD) revealed that the Government (April 1971) had granted a lease of land admeasuring 80,800 square metres situated at Bandra to the Indian Film Combine Private Limited (lessee) initially for the purpose of a drive-in theatre for a period of 99 years which was further renewable by 99 years on the same terms and conditions. Further, the Government (July 1999) on the request of the lessee had permitted commercial development (including office use) of 40,400 square metres (50 *per cent* of 80,800) of land. As per the terms and conditions laid down in the Government Memorandum (July 1999), the lessee was to pay the premium on the basis of the current market value and the market rate was to be decided by the Town Planning and Valuation Department (TPVD). The Assistant Director, TPVD, Mumbai (March 2001) had decided the market rate of Rs. 44,000 per square metre. Further, the TPVD had apportioned 25 *per cent* of the market rate of Rs. 44,000 per square metre i.e. Rs. 11,000 per square metre as the Government share and 75 *per cent* i.e. Rs. 33,000 per square metre as the lessee's share.

Based on the market rate of Rs. 44,000 per square metre, the premium recoverable for 40,400 square metres of land works out to Rs. 177.76 crore. However, it was observed (June 2008) in audit that no initial demand was made for the recovery of the premium due to a difference of opinion between the Collector (MSD), Mumbai and the TPVD on whether the premium should be computed at the market rate of Rs 44,000 or at the rate of Rs. 11,000 fixed as the Government share. The matter was referred to the Government (August 2001) by the Collector (MSD), Mumbai seeking its guidance in respect of the rate to be adopted for the recovery of the premium. Meanwhile, the lessee on

his own accord had paid Rs. 38.83 crore as premium (Rs. 5 crore in January 2002 and Rs. 33.83 crore in November 2005) at the rate of Rs. 11,000 per square metre. The Collector (MSD) directed (August 2006) the lessee to make a temporary deposit of Rs. 50 crore. Being aggrieved, the latter appealed to the Revenue Minister (October 2006 and January 2007) for a stay of the demand made by the Collector (MSD) as well as for the final determination of the premium payable by the lessee. The stay was granted by the Government in November 2007. Thereafter, the Revenue Minister in exercise of his powers under Section 257 of the Maharashtra Land Revenue Code, 1966, decided (November 2007) to adopt the rate of Rs. 11,000 per square metre. In the proceedings the Revenue Minister had observed that considering the market value of land at 112 times the monthly rent realised as provided in the ready reckoner applicable to tenanted property, the valuation would be Rs 28.32 lakh only. After application of the rate fixed by the TPVD, the premium worked out to Rs. 38.83 crore which was higher. Accordingly, the Revenue Minister decided to apply the rate of Rs. 11,000 per square metre for recovery of the premium. The application of incorrect rate thus conferred undue benefit to the lessee and resulted in short realisation of the premium by Rs. 138.93 crore.

On this being pointed out, the department stated (July 2009) that the Revenue Minister decided to recover the premium at the rate of Rs. 11,000 per square metre as recommended by the TPVD on the basis of the Supreme Court judgment in the case of Sharatchandra Chimanlal and others vs. the State of Gujarat. The Government to whom the matter was referred stated (November 2009) that the value of Rs. 44,000 per square metre determined by the TVPD was the value that the land would have had if it was vacant and unencumbered and that the value of the land encumbered with the lease was Rs. 11,000 per square metre. This is the rate at which the government was entitled to charge the premium. It also stated that the principle set out in the Supreme Court judgment in the case of Sharatchandra Chimanlal and others vs. the State of Gujarat dealt with the valuation of the land with leasehold rights and laid down that the interest of the lessor in property encumbered by a long lease was 25 *per cent* and that of the lessee was 75 *per cent* (which is the principle being followed by the TVPD).

The reply is not tenable as the instructions of the ready reckoner are applicable to tenanted property only and cannot be applied for valuation of this leasehold land. The Supreme Court judgment quoted also does not apply to the present case. In the case of Sharatchandra Chimanlal and others vs. the State of Gujarat the land in question belonged to a private person who had given it on permanent lease to another person. On acquiring the land for public purpose, the Government paid its full value. Since the land was already on permanent lease to another person, the question arose about the manner in which the compensation paid should be shared between the original owner of the land and the lessee holding permanent lease. The Supreme Court decided the apportionment of the compensation paid between the landlord and the permanent lessee in the ratio of 25:75 respectively. In the present case, the Government already possesses the land and it has also not been given on permanent lease. It is not a case of land acquisition but pertains to the issue of change in use of land only. Thus, the question of apportionment does not

apply in this case and the premium should have been collected at the full market rate of Rs. 44,000 per square metre.

4.4 Non-recovery of balance auction money

Non-recovery of balance amount from original bidder has resulted in non-realisation of revenue of Rs. 1.57 crore.

As per resolution issued in September 2003 and subsequent guidelines issued in November 2008 by the Government for disposal of rights for removal of sand by auction, the highest bidder, whose bid is accepted, is required to deposit 25 *per cent* of the bid money on the day of the auction. The balance auction money is to be paid in one installment within 15 days of auction. If the agreement is not executed within the prescribed time, the area is to be re-auctioned and the amount deposited by the bidder is forfeited. In case of any deficit in re-auction, the deficit amount was to be recovered from the original bidder as arrears of Land Revenue.

During test check of record in three District Collectorate[1] between August 2006 and July 2008 it was noticed that auction for the period between 2004-05 and 2006-07 in respect of 25 sand ghats were conducted for Rs. 2.33 crore. The highest bidders paid Rs. 0.76 crore at the time of auction. As highest bidders neither execute/signed agreement, nor paid balance of the bid, the Collector concerned took action to re-auction the said sand ghats at the cost of highest/original bidder, but no bid was received in reauction. This has resulted in non-recovery of balance auction money of Rs. 1.57 crore though recoverable.

On this being pointed out, Collector, Pune (December 2008) stated that amount credited at the time of auction was forfeited and Government has not permitted issue of temporary permission. However, demand notices were issued to the defaulter. Collector, Beed (January 2009) stated that amount of Rs. 42.03 lakh credited by bidders with his office but did not clarify whether the said amount was forfeited to Government. SDO, Partur, District Jalna (May 2009) accepted the omission and stated that the recovery was in progress. Further report has not been received (November2009).

The fact remains that the balance amount from original bidder is recoverable as arrears of Land Revenue, action for which has not yet been initiated.

The matter was reported to the Government in May 2009; their reply has not been received (November 2009).

[1] Beed, Jalna and Pune

CHAPTER V :
TAXES ON MOTOR VEHICLES AND STATE EXCISE

5.1 Results of audit

Test check of the records of taxes on motor vehicles and State excise conducted during the year 2008-09 indicated underassessments, non/short levy/recovery, loss of revenue etc., amounting to Rs. 12.48 crore in 3,045 cases as shown below :

(Rupees in crore)

Sl. no.	Nature of receipts	No. of cases	Amount
	A - TAXES ON MOTOR VEHICLES		
1.	**Misappropriation of Government Revenue**	337	0.43
2.	Non/short levy of tax due to application of incorrect rates	2,330	8.90
3.	Excess refunds and miscellaneous items	130	0.06
	Total	**2,797**	**9.39**
	B - STATE EXCISE		
4.	Non/short recovery of licence/privilege fees/excise duty/application fee	141	1.36
5.	Non/short recovery of supervision charges/bonus	50	0.15
6.	Non/short levy of excise duty/application fees/compounding fee/licence fee/privilege fee	35	0.10
7.	Miscellaneous/toddy instalments	22	1.48
	Total	**248**	**3.09**
	Grand total	**3,045**	**12.48**

In response to the observations made in the local audit reports during the year 2008-09 as well as during earlier years, the concerned departments accepted underassessment, short levy, etc. and recovered Rs. 1.30 crore in 908 cases. Out of which 323 cases involving Rs. 39.84 lakh were pointed out during the year 2008-09 and the rest during earlier years.

A few audit observations involving Rs. 1.65 crore are included in the succeeding paragraphs, against which Rs. 39.92 lakh along with interest of Rs. 2.52 lakh, had been recovered upto March 2009.

SECTION A
TAXES ON MOTOR VEHICLES

5.2 Audit observations

Scrutiny of the records of Regional Transport Offices/Dy. Regional Transport Offices and State Excise Offices revealed several cases of non-observance of provisions of the Bombay Motor Vehicles Tax Act, 1958 and Maharashtra Potable Liquor (periodicity and fees for grant, renewal or continuance of licence) Rules, 1996 as mentioned in the succeeding paragraphs of this chapter. These cases are illustrative and are based on a test check carried out in audit. Such omissions are pointed out in audit every year, but not only the irregularities do persist, these remain undetected till an audit is conducted. There is need for the Government to improve the internal control system so that occurrence of such cases can be avoided.

5.3 Non-compliance of the provisions of the Acts/Rules

The Bombay Motor Vehicle Tax Act, 1958, provides for levy and collection of Motor Vehicle Taxes. The vehicle registering authorities did not observe the above provisions and prescribed procedure for maintenance of vehicle records in cases as mentioned in the paragraph 5.3.1 and 5.3.2 which resulted in misappropriation of Government revenue to the tune of Rs. 43.13 lakh and non/short recovery of taxes of Rs. 1.04 crore.

5.3.1 Misappropriation of Government revenue

Under Section 3 of the Bombay Motor Vehicles Tax Act, 1958 and the rules made thereunder, motor vehicle tax (including one time tax) and fees are recoverable at the prescribed rates on all the vehicles used or kept for use in the State. As per the procedure prescribed for collection of tax/fees, the receipts are required to be prepared in triplicate; the first copy of which is issued to the person paying the tax; the duplicate copy is kept in the motor vehicle records; and the triplicate copy is retained in the receipt book for making entries in the cash book.

As per Rule 8(1) of the Maharashtra Treasury Rules (MTR), 1968, all moneys received by or tendered to the Government Officers are to be paid in full into a treasury/bank within two days of their receipt. Further, as per Rule 98(ii), (iii), (iv) and (vi) all monetary transactions should be entered in the cash book as soon as they occur and get attested by the Head of the office (HOD) in token of check. The cash book should be closed regularly and the totalling of the cash book should be verified by the HOD or have this done by some responsible subordinate other than the writer of the cash book and initialed as correct. At the end of the month, the HOD should verify the cash balance in the cash book and record a signed and dated certificate to that effect mentioning therein the balance both in words and figures. Once an entry is made in the cash book, erasures and over-writings are prohibited. If a mistake is found later it should be corrected by drawing a pen through the incorrect entry

and inserting the correct figure in red ink. Every such correction should be initialed by the HOD with date.

Test check of the records of Deputy Regional Transport Officer, Ambejogai, district Beed in July/August 2008 revealed misappropriation of government money of Rs. 15.61 lakh through manipulation of figures in the receipt book and cash book. As per the duplicate copies of the receipts kept in the motor vehicle records of the vehicle owners pertaining to the period February 2007 to April 2008, Rs. 16.55 lakh was realised in respect of 65 vehicles. Cross verification of these receipts with the triplicate copies of the receipts as well as with the cash book revealed that the amount reflected in the cash book was Rs. 0.94 lakh only. Thus, though the amount realised was shown in full in the motor vehicle records, there was short accounting in the cash book and consequent short realisation of Rs. 15.61 lakh due to manipulations in the triplicate copies of the receipt book as well as in the cash book. In the receipt books, receipt slips are in triplicate. As all the copies are to be prepared simultaneously, variation in amount received as per the duplicate and triplicate copies apparently indicated that the triplicate copies of receipts were separately prepared.

After the case was unearthed, a cent *per cent* audit was taken up in September 2008 to conduct a detailed check of the records of the office since it came into existence on 15 October 2004. Scrutiny of the records revealed that between May 2005 and June 2008 total amount of short realisation was Rs. 42.58 lakh on account of manipulation of figures between duplicate and triplicate copies of the receipts.

Detailed review of cash book in October 2008 also revealed the following deficiencies:

(i) *Short accounting of cash* : Between 24 November 2004 and 28 November 2007 vide 21 receipts amount aggregating Rs. 91,899 was received. Against this, only Rs. 37,317 was entered in the cash book and remaining amount was not accounted for. Further scrutiny of these receipts indicated that in respect of nine receipts aggregating Rs. 4,235, no amount was entered in the cash book and in the remaining 12 receipts only partial amount was entered in the cash book instead of the full amount.

(ii) *Short remittance into Government treasury* : As against the daily totals of Rs. 32,280 on 19 November 2007, Rs. 44,085 on 7 March 2008 and Rs. 12,835 on 27 March 2008 in the cash book, there was actual remittance of Rs. 32,180, Rs. 44,005 and Rs. 12,825 respectively. When this was pointed out by audit, the department rectified the mistake in August 2008 by remitting the total differential amount of Rs. 190 pertaining to above three dates.

(iii) *Delay in remittance into the treasury* : On nine occasions, between 29 November 2004 and 30 November 2007, as against the amount aggregating Rs. 10.41 lakh received as per the cash book/receipt book, Rs. 9.87 lakh was credited in time and the balance amount aggregating

Rs. 54,006 was credited into the treasury after delays ranging from 8 to 41 days.

(iv) ***Erasures and overwritings*** **: During the period between 9 November 2004 and 23 June 2008, there were 65 instances of erasures/over-writings and use of white fluid for making alterations/corrections of figures in the cash book. These alterations were not attested by the HOD.**

(v) ***Doubtful transaction*** **: During various periods between June 2005 and November 2007, there were 36 entries in the cash book ranging from Rs. 43 to Rs. 3,003 of doubtful nature, as these entries could not be correlated with the receipt book.**

(vi) ***Credit of receipts to improper head*** **: Three receipts totalling Rs. 17,456 pertaining to motor vehicle tax was incorrectly credited to the head 0028-Profession Tax instead of 0041-Motor Vehicle tax.**

(vii) ***Occasional authentication of cash book*** **: The cash book was signed occasionally during the period from 22 November 2004 to March 2006 by the HOD. Further, from 1 April 2007 to 31 March 2008 the daily totals of the cash book were not verified and attested by the HOD as required under the Maharashtra Treasury Rules.**

Though most of the above deficiencies were pointed out by the Audit way back in August 2006 by specifically stating that if remedial measures were not taken it may lead to misappropriation, the department failed to take corrective measure.

The total misappropriation of government revenue was Rs. 43.13 lakh out of which Rs. 3.38 lakh was recovered at the instance of audit. Report on recovery of balance amount is awaited (November 2009).

The case was reported to the Additional Chief Secretary (Home), Government of Maharashtra demi-officially in November 2008. The department stated in January 2009, that an FIR had been lodged against the staff involved in the misappropriation of government money. A report on further development in the matter is awaited (November 2009).

5.3.2 Non-recovery of tax

Under Section 3 of the Bombay Motor Vehicles Tax Act, 1958 and the rules made thereunder, tax at the prescribed rate is leviable on all vehicles used or kept for use in the State. The Act further provides that the tax leviable is to be paid in advance by the owners of the vehicles. Interest at the rate of two *per cent* of the amount of tax, for each month or part thereof is payable in each case of default.

5.3.2.1 During test check of records of 19 offices[1] of the Regional Transport Officer (RTO)/Deputy Regional Transport Officer (Dy. RTO) in 15 districts[2], between March 2006 and May 2008, it was noticed that in respect of 728

[1] RTO: Aurangabad, Mumbai - Central, Wadala, Andheri, Thane; Dy. RTO: Ambejogai, Akluj, Baramati, Jalgaon, Jalna, Malegaon, Nanded, Nandurbar, Parbhani, Pen, Pimpri-Chinchwad, Ratnagiri, Shrirampur and Solapur.

[2] Ahmednagar, Aurangabad, Beed, Jalgaon, Jalna, Nanded, Nandurbar, Nashik, Mumbai, Pune, Parbhani, Raigad, Ratnagiri, Solapur and Thane.

vehicles, Motor Vehicle tax (MVT) of Rs. 89.38 lakh for various periods between March 2003 and February 2009, was not paid by the owners of the vehicles. No action was taken by the department to recover the dues. This resulted in non-realisation of MVT of Rs. 89.38 lakh. Interest at the prescribed rates for delayed/non-payment of MVT was also leviable in these cases.

After the cases were pointed out between April 2006 and June 2008, the department accepted the observations and recovered Rs. 25.18 lakh alongwith interest of Rs. 2.43 lakh, between April 2006 and March 2009 in respect of 290 vehicles. A report on recovery in respect of the remaining vehicles has not been received (November 2009).

5.3.2.2 During test check of records of the Dy. RTO, Bhandara, in April 2008, it was noticed that in respect of 15 cases of goods carriage vehicles and four cases of school buses MVT of Rs. 8.69 lakh for different periods falling between May 2002 and March 2008 was not paid by the owners of the vehicles. No action was taken by the department to recover the dues. This resulted in non-realisation of MVT of Rs. 14.31 lakh (including interest of Rs.5.62 lakh for delayed/non-payment of MVT).

After the cases were pointed out, the department (March 2009) accepted the omission and intimated that notices have been issued to concerned vehicle owners and deputed one Assistant Dy. RTO for recovery at the earliest. Further, it was stated (July 2009) that an amount of Rs. 1.23 lakh has been recovered in two cases. A report on recovery in remaining cases has not been received (November 2009).

The matter was reported to the Government between March and May 2009; their replies has not been received (November 2009).

SECTION B
STATE EXCISE

5.3.3 Short recovery of licence fees

The Maharashtra Potable Liquor Rules, 1996, provides for levy and collection of licence fees at the rates notified annually by the Commissioner of State Excise. The State Excise authorities did not ensure that the correct rates of licence fees are levied and recovered resulting in short recovery of licence fees of Rs. 18.62 lakh as mentioned in succeeding paragraph.

Under the provisions of the Maharashtra Potable Liquor (periodicity and fees for grant, renewal or continuance of licence) Rules, 1996, the rates of licence fees are notified annually by the Commissioner of State Excise (CSE) in exercise of the powers conferred by clause (i) of Rule 4 of the said Rules for various licences. The fees payable for the licences are based on the population slabs for the city, town or village in which the liquor shops are located. These rates were revised periodically for the years 2005-06 to 2008-09. In case of default in payment of dues, interest at the rate of two *per cent* per month was chargeable on the amounts from the date they became due.

During test check of the records in the offices of Superintendent of State Excise (SPE) in Ahmednagar, Nagpur and Sangli districts, between April 2007

and November 2008, it was noticed that in respect of 20 licences renewed for periods between 2005-06 and 2008-09, there was short recovery of licence fees aggregating Rs. 18.62 lakh, due to non-application of rates as per population slab, non-updating of population slabs as per census 2001 and application of incorrect rate of tax, respectively.

After the cases were pointed out, SPEs, Ahmednagar and Nagpur accepted the observations in respect of 17 licences involving Rs. 18.15 lakh. SPE, Nagpur recovered Rs. 10.01 lakh along with interest of Rs. 9,483 from eight licensees and SPE, Sangli stated that the matter would be referred to the CSE and also had recovered Rs. 0.12 lakh from one licensee between March 2008 and February 2009.

The matter was reported to the department and to the Government between May 2007 and April 2009; their reply has not been received (November 2009).

CHAPTER VI : OTHER TAX RECEIPTS

6.1 Results of audit

Test check of the records relating to entertainment duty, electricity duty, State education cess, employment guarantee cess, tax on buildings (with larger residential premises), repair cess and profession tax conducted during the year 2008-09 indicated short levy, loss of revenue etc., amounting to Rs. 522.86 crore in 2,521 cases as mentioned below :

(Rupees in crore)

Sl. no.	Nature of receipts	No. of cases	Amount
1.	**Levy and collection of entertainment duty (A review)**	1	375.37
2.	Electricity duty, tax and fees	321	135.25
3.	Entertainment duty	1,146	3.77
4.	State education cess, employment guarantee cess	56	3.32
5.	Tax on buildings (with larger residential premises)	2	2.22
6.	Repair cess	20	2.60
7.	Profession tax	975	0.33
	Total	**2,521**	**522.86**

In response to the observations made in the local audit reports during the year 2008-09 as well as during earlier years, the concerned departments accepted underassessment, short levy, etc. and recovered Rs. 133.81 crore, in 2,166 cases of which 349 cases involving Rs. 127.67 crore related to 2008-09 and the rest to earlier years.

A review on **"Levy and collection of entertainment duty"** involving a total financial effect of Rs. 375.37 crore and a few audit observations involving Rs. 422.84 crore are included in the following paragraphs against which Rs. 83.17 crore alongwith interest of Rs. 33,967 had been recovered upto November 2009.

SECTION A
ENTERTAINMENTS DUTY

6.2 Review on "Levy and collection of entertainment duty"

Highlights

Incorrect grant of exemption of Rs. 160.40 crore to Multiplex Theatre Complexes on account of non-fulfillment of prescribed conditions.

(Paragraph 6.2.7)

Absence of a provision in the Act led to unjust enrichment of Rs. 1.16 crore.

(Paragraph 6.2.8)

Absence of survey and non-raising of demand of Rs. 201.27 crore for recovery of entertainment duty from 1,350 cable operators.

(Paragraph 6.2.9)

Non-levy of entertainment duty of a minimum of Rs. 4.99 crore on Indian Premier League cricket matches held in Mumbai.

(Paragraph 6.2.10)

Non/short levy of surcharge of Rs. 8.13 crore in respect of eight water parks.

(Paragraph 6.2.17)

Incorrect exemption of entertainment duty of Rs. 2.26 crore granted to seven films.

(Paragraph 6.2.18)

Non-forfeiture of security deposit of Rs. 1.87 crore collected from organisers of special events/performances.

(Paragraph 6.2.19)

6.2.1. Introduction

The levy and collection of entertainment duty (ED) is governed by the Bombay Entertainments Duty Act (Act), 1923. As per the provisions of the Act and the Rules made thereunder, duty at prescribed rates is to be levied and paid to the Government on all payments for admission to any entertainment[1].

The Act empowers the Government to exempt any entertainment or a class of entertainment from payment of ED by a general or special order. The District Collectors (DCs) grant exemption to those entertainments which are organized for philanthropic or charitable purposes, educational or partly for educational purpose and partly for scientific purposes. The power to grant exemption by a general or special order to any entertainment or class of entertainment from liability to pay ED is exercised by the Revenue and Forests Department (R&FD).

[1] An entertainment includes any exhibition, performance, amusement, game or sport to which people are admitted on payment.

6.2.2. Organisational set-up

The Additional Chief Secretary, R&FD, is responsible for the administration of the Act. He is assisted by six Divisional Commissioners at Konkan[2], Pune[3], Nashik[4], Aurangabad[5], Amravati[6] and Nagpur[7]. The Act is administered by the DCs and Taluka Magistrates (TMs) in Districts and Talukas, respectively. The implementation of the Act involves identification of new entertainment centres, issue of licences, assessment and collection of duty, compilation and reconciliation of revenue figures, exemption of duty to entertainments etc. The Commissioner of Police is the licensing authority in his jurisdiction and the DC is the licensing authority in other areas. The DC is responsible for levy, assessment and collection of duty in both the cases. The DC is assisted by Deputy Collectors, Entertainment Duty Officers and Entertainment Duty Inspectors (EDI) for identification/inspection of entertainment centers, levy and collection of ED, imposing penalty or disciplinary action on evasion of duty etc.

6.2.3 Scope of Audit

Test check of records for the period 2003-04 to 2007-08 was conducted between September 2008 and June 2009. Eleven offices[8] out of 35 DC were selected for audit on the basis of application of statistical sampling technique (Probability proportional to size). The district-wise revenue collection figures of entertainment duty receipts were considered as the basis for selection of districts for test check of records with a view to verify the adequacy of the systems and procedures in respect of levy and collection of entertainment duty.

6.2.4 Audit objectives

The review was conducted to ascertain whether:

- all entertainment centres have been registered and their licences have been renewed periodically by the competent authority;
- the Multiplex Theatre Complexes to which exemptions have been granted have fulfilled the conditions prescribed for grant of exemption;
- survey is being conducted regularly by the department to check any evasion of entertainment duty by the proprietors/operators running entertainment centres;
- an internal control mechanism exists to ensure timely realisation of duty, payment/renewal of the licence fees, etc.;

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2 For the districts Mumbai City, Mumbai Suburban, Raigad, Ratnagiri, Sindhudurg and Thane.

3 For the districts Kolhapur, Pune, Sangli, Satara and Solapur.

4 For the district Ahmednagar, Dhule, Jalgaon, Nandurbar and Nashik.

5 For the districts Aurnagabad, Beed, Hingoli, Jalna, Latur, Nanded, Osmanabad and Parbhani.

6 For the districts Akola, Amravati, Buldhana, Washim and Yavatmal.

7 For the districts Bhandara, Chandrapur, Gadchiroli, Gondia, Nagpur and Wardha.

8 Amravati, Hingoli, Mumbai City, Mumbai Suburban, Nagpur, Pune, Ratnagiri, Sangli, Solapur, Thane and Wardha.

- internal audits are conducted regularly to ensure that the systems and procedures laid down are followed properly; and
- in view of the changing economic activities in the state wherein the ambit of entertainment has widened, the department has brought these entertainment activities within the ambit of the Act.

6.2.5 Acknowledgement

Indian Audit and Accounts Department acknowledges the co-operation of the Revenue and Forests Department and its subordinate offices for providing necessary information and records for audit. An entry conference to explain the audit objective, scope and methodology could not be held due to lack of response from the Department despite request from audit. The draft Review Report was forwarded to the Government and the department in July 2009. No reply was received. The exit conference to discuss the audit conclusions and recommendations also could not be held despite several requests between September and November 2009.

6.2.6 Trend of revenue

As per the Maharashtra Budget Manual, budget estimates should be prepared to achieve as close an approximation to the actuals as possible based on the collection of entertainment duty of the previous year, any recognisable regularity in the figures of the past years, amount outstanding at the end of the current year and amount likely to be collected in the next financial year out of the next revenue year's demand. The budget estimate and revenue realised by the department for various years between 2003-04 and 2007-08 were as under:

(Rupees in crore)

Year	Budget estimates	Actuals	Variation excess(+) shortfall(-)	Percentage of variation
2003-04	233.00	293.07	(+) 60.07	25.78
2004-05	361.48	246.48	(-) 115.00	31.81
2005-06	500.00	244.84	(-) 255.16	51.03
2006-07	339.99	327.94	(-) 12.05	3.54
2007-08	355.00	409.74	(+) 54.74	15.42

It would be seen from the above table that the budget estimates were more than the actuals of the previous years except for the year 2003-04[9].

After this was pointed out, the Government stated (July 2009) that the budget estimates are prepared by increasing the estimates of the previous year by 20 *per cent*.

The reply itself indicates that the budget estimates were not being prepared on scientific basis. The regularity in figures of the past years and anticipated collection out of the demands to be raised in the subsequent financial years were not being taken into consideration. Also, the reasons for the sharp variations between the budget estimates and actuals were not being analysed to factor them into frame the budget estimates in a realistic manner.

[9] Actuals for the year 2002-03 was Rs. 279.15 crore.

Audit findings

System deficiencies

6.2.7 Incorrect grant of exemptions to Multiplex Theatre Complexes on account of non-fulfillment of prescribed conditions

Under the provisions of the Act, Multiplex Theatre Complexes (MTC) which are issued Eligibility Certificates (ECs) are exempt from payment of ED for the first three years from the date of issue of ECs. ED is payable at the rate of 25 *per cent* for the subsequent two years and from the sixth year onwards ED is payable at the full rate. The exemptions/ concessions granted are subject to fulfillment of conditions as specified in the notification issued in August, 2001. However, the Government did not prescribe any mechanism to ensure that the conditions prescribed in the notification are fulfilled subsequent to sanction of the EC.

In order to ascertain whether the MTCs had fulfilled the conditions prescribed in the notification, a joint team comprising officers of the Department and Audit visited the MTCs in six[10] out of 11 selected districts under the jurisdiction of respective Collectors. The irregularities are discussed below:

6.2.7.1 Non-providing of obligatory facilities

As per sub-section 13 of Section 3 of the Act, the exemptions/ concessions granted are subject to fulfillment of conditions specified in the notification issued in August, 2001, for providing obligatory facilities such as Art Gallery, Exhibition Centre, Entertainment Centre, etc. These facilities are not to be discontinued or curtailed without prior permission of the Government. In case of violation of these conditions, the exemptions/ concessions granted were liable to be withdrawn and ED was to be levied and collected at full rate along with interest from the date of commencement of business.

Joint-visits to 10 MTCs[11] which had availed exemptions for periods between January 2002 and March 2008 indicated that, these MTCs had not provided the obligatory facilities specified in the notification. This resulted in irregular grant of exemption of ED of Rs. 102.40 crore in respect of 10 MTCs.

6.2.7.2 Non-exhibition of Marathi cinema for the prescribed period of one month in one screen of the MTC

As per clause (b) (ii) of sub-section 13 of Section 3 of the Act, one screen in the MTC has to be reserved for a period of one month in a year exclusively for exhibition of Marathi cinema.

[10] Mumbai City, Mumbai Suburban, Nagpur, Pune, Sangli and Thane.

[11] 24 Carot, Jogeshwari; Fame Adlab, Kandivali; Fame Adlab, Malad; Huma Adlabs, Kanjur Marg; I-Max Adlab, Wadala; Movie Time, Goregaon; PVR, Mulund; R Adlabs Cinema, Mulund in Mumbai Suburban; Cine Prime, Mira Road and Meghraj, Vashi in Thane District.

During the joint-visits to the MTCs falling under the jurisdiction of the Collectors at Mumbai Suburban, Thane and Pune districts, it was found from the books of accounts of the MTCs that, 14 MTCs[12] had availed exemptions/ concessions of Rs. 100.72 crore during the periods between 2003-04 and 2007-08 but did not fulfill the conditions of reserving one screen for one month in a year for exhibition of Marathi cinema. In these theatres Marathi cinemas were exhibited in different screens ranging from eight to 152 shows as against the requirement of 150 to 210 shows depending on number of shows exhibited in a theatre per day. Except issue of notices to these MTCs, the department has not initiated any action to recover the amount of ED exempted.

After this was pointed out by audit, the Government stated (May 2009) that instructions had been issued to the Divisional Commissioners for action as per the provisions of the Act.

6.2.7.3 Minimum rate of admission (entry ticket) fixed by the Collector not observed

As per clause b(i) of sub-section 13(a) of section 3 of the Act, during the exemption/concession period, the proprietor of the MTC should not charge an admission rate lesser than the prevailing highest rate for admission at any given time in any of the single screen cinema theatres in the district in which the MTC is situated. The DC communicates this minimum rate for admission to the MTC from time to time.

- Test check of records in the office of the Collector, Mumbai Suburban District, indicated that one MTC[13] had availed of concession of Rs. 4.60 crore between July 2006 and March 2008. In this MTC, the proprietor had charged Rs. 100 as admission rate for regular show as against the minimum rate of Rs. 110 fixed by the Collector during this period.

On this being pointed out, the department stated (June 2009) that an amount of Rs. 1.17 crore for the period February 2007 to December 2008 had been recovered in March 2009.

The action of the department to recover the ED from February 2007 was not adequate as the proprietor did not comply with the condition of the EC from July 2006 onwards resulting in irregular grant of exemption/concession of Rs. 4.60 crore.

- In another case, joint visit to an MTC[14], in Thane district indicated that, the MTC had availed of concession of Rs. 4.27 crore. In this case, the scheme of concession in ticket "buy two, get one free" was introduced by the proprietor during the period October 2004 to March 2008, which resulted in lower rate of admission of Rs. 73. As the Collector had fixed the minimum rate of admission of Rs. 100, charging lower rate of Rs. 73 resulted in irregular grant of exemption/concession of Rs. 4.27 crore.

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[12] 24 Carot, Jogeshwari; Cinemax, Kandivali; Cinemax, Versova; Fame Adlab, Andheri; Fame Adlab, Kandivali; Fame, Malad; Fun Republic, Andheri; Huma Adlab, Kanjur Marg; Movie Time, Goregaon; PVR, Mulund; PVR, Juhu; R Adlab, Mulund in MSD, Mumbai; Gold Adlab, Pune; Cine Prime, Mira Road in Thane District.

[13] G-7, Bandra; Mumbai Suburban.

[14] Cine Prime, Mira Road; Thane District.

After this was pointed out, the department stated (September 2008) that show-cause-notice had been issued. Further developments are awaited (November 2009).

6.2.7.4 Non-observance of conditions specified in the Conditional Letter of Intent

As per the condition No.21 of the conditional letter of intent (CLI) issued to the MTC (M/s.Nirmal Lifestyle Ltd., Mumbai) in August 2005, it should make provision for minimum seating capacity of 1,855 and eight screens. Further, in case of non-fulfillment of the conditions, the CLI was liable to be cancelled.

- Test check of records in the office of the Collector, Mumbai Suburban District indicated that as against the mandatory requirement of eight screens and 1,855 seats, M/s. Nirmal Lifestyle Ltd. had provided for six screens and 1,815 seats. Thus, as the conditions of the CLI were not fulfilled, the exemption of ED of Rs. 5.91 crore availed during the period August 2006 to March 2008 was irregular.

After this was pointed out, the department stated (June 2009) that guidelines in this regard will be obtained from the Government.

As specified in the revised Government resolution (GR) issued on 4 January 2003, the CLI issued to the applicant for construction of MTC is non-transferable. The exemption/concession from payment of ED is available to those persons who had applied between 17 August 2001 and 16 August 2002. The benefit of exemption from payment of ED was exclusively admissible only to the applicants.

- Test check of records of the R&FD indicated that in respect of one[15] multiplex in Mumbai Suburban District, the Additional Collector (ED) had transferred the CLI in April 2006 to another person. Further, in Aurangabad and Latur districts the R&FD had transferred the CLIs in two[16] cases in September 2006. The proprietors of these MTCs had availed of exemptions of Rs. 5.78 crore, Rs. 1.25 crore and Rs. 1.03 crore respectively during the periods between September 2006 and March 2008. As the CLIs were not transferable, it resulted in irregular grant of exemption aggregating Rs. 8.06 crore.

After these cases were pointed out, the Government stated (April 2009) that there is no provision in the Act regarding non-transferability of CLI.

The reply is not tenable as the exemptions from payment of ED were availed of by the proprietors of MTCs who had not applied for exemptions/ concessions within the stipulated period as specified in the GR. Further, the GR specifically states that the CLI issued to the proprietor of the MTC is non-transferable.

6.2.7.5 Incorrect availing of benefit due to transfer of ownership

As per the condition No 5(b)(i) of the GR dated 4 January 2003, the applicant of MTC has to submit the documents of purchase of land/registered agreement of developing the land to the DC within three months of issue of CLI. Thus,

[15] Fame, Kandivli, Mumbai.
[16] PVR, Aurangabad and PVR, Latur.

only the land owners have the exclusive right to develop the property and run the MTC. In case of contravention of terms and conditions, the CLI and eligibility certificate issued was liable to be cancelled.

Scrutiny of the books of accounts during joint visit to the MTCs in Mumbai Suburban district indicated that two[17] applicants to whom ECs were granted in November 2005 and October 2006 had given their lands on lease for running MTCs during October 2004 and March 2008. As these MTCs were not run by the owners to whom exemptions were granted, it resulted in irregular exemption of ED of Rs. 9.32 crore.

The matter was reported to the department and the Government between February and July 2009; their reply has not been received (November 2009).

In another case, the proprietor of an MTC[18] had sold his total share holdings to another person in December 2007 which resulted in change of ownership. Violation of the prescribed condition of the GR resulted in irregular exemption of ED of Rs. 10.32 crore during the period from June 2003 to March 2008.

After the case was pointed out, the Government accepted (March 2009) the observation and sought reasons for non-cancellation of the EC of the MTC owner from the Collector, Mumbai Suburban district. Further report in the matter is awaited (November 2009)

6.2.7.6 Non-executing of agreement for creating charge on sole property right on the land

As per Clause 5(b)(5) of the GR dated 4 January 2003, before issue of eligibility certificate, an agreement is to be made between the DC and the owner of the MTC for creating charge on sole property right on the land for 10 years from the date of starting of MTC. Further, the Government issued a corrigendum on 30 June 2005 that in the absence of the agreement, a security deposit is to be taken from the owner for continuous running of the MTC in the same place for at least 10 years.

Test check of records of the Collector, Mumbai Suburban indicated that in case of seven MTCs[19] the agreements were not executed. In the absence of agreements, deposits were to be obtained in all these cases.

After the case was pointed out, the department stated that wherever the agreements were not executed, the deposits could not be obtained from the owners of such MTCs.

Absence of a system in the department to periodically watch the fulfillment of the conditions mentioned in the EC resulted in claims of incorrect exemptions aggregating Rs. 160.40 crore[20] as shown in **Annexure V**. This was also

[17] Cinemax Growel, Kandivali and Huma Adlab, Kanjurmarg.

[18] R-Adlab, Mulund.

[19] Imax Adlab, Chembur; Fun Republic, Andheri; Fame, Malad; Movie Time, Goregaon; Huma Adlabs, Kanjurmarg; Cinemax, Versova and PVR, Mulund.

[20] Rs. 245.63 crore for all the six sub-paras less Rs. 85.23 crore (relating to multiple observations in respect of same MTC regarding non-fulfillment of more than one specified condition in sub-paragraphs 6.2.7.1 to 6.2.7.5) = Rs. 160.40 crore

substantiated by joint visits which revealed that 19 MTCs had failed to comply with one or more of the specified conditions of the GR.

The Government may consider evolving appropriate control mechanisms for enforcing the prescribed conditions for grant of exemptions/ concessions to Multiplex Theatre Complexes.

6.2.8 Absence of provision in the Act in case of 'unjust enrichment'

Under the provisions of the Act, entertainment duty on MTCs who had been issued the ECs were exempted from payment of duty for the first three years from the date of issue of the ECs. For the subsequent two years, ED at the rate of 25 *per cent* was applicable and from the sixth year onwards ED was payable at full rate. The Government had not prescribed any upper limit for the cost of admission ticket but had barred the multiplexes from charging an amount lower than that of single screen cinemas in the district.

Test check of records in the office of the Collector, Mumbai indicated that M/s. Swanstone Multiplex Pvt. Ltd., the proprietor of M/s. Fame Adlab, Mumbai, had charged admission rate of Rs. 135 per ticket. The full rate of ED at the rate of 45 *per cent* of the admission rate was Rs. 41.95 per ticket. The proprietor was permitted to collect ED on the tickets at the rate of 25 *per cent* of ED only i.e. Rs. 10.46 per ticket with effect from 7 June 2005. However, the proprietor had charged the entire 45 *per cent* from the customers and collected total ED of Rs. 1.46 crore against the permissible ED of Rs. 30 lakh. Calling it an "unjust enrichment", the State Government served Fame Adlabs a notice in January 2006 asking the MTC to remit the excess ED amounting to Rs. 1.16 crore collected from customers. The notice was subsequently challenged by the proprietor in the Bombay High Court.

The court accepted the submission of M/s. Swanstone Multiplex Pvt. Ltd. that the relief was provided to MTC and not to patrons. The High Court ruled that the Government was not entitled to collect ED in excess of the specified 25 *per cent* for the two years irrespective of the duty amount printed on the ticket.

In the absence of a provision in the BED Act to forfeit the ED, where no ED was leviable but collected or ED was collected in excess of the amount leviable, the Government could not present the case in favour of revenue.

On this being pointed out, the department stated that the High Court had decided in October 2008 that the proprietor can retain excess recovery and the Government has no right to demand excess revenue collected. The Government had appealed against this decision in the Supreme Court in March 2009 which held that absence of a statutory provision does not mean that a person can claim or retain undue benefit. Hence, the State Government was directed to realise the amount to the extent the company had unjustly enriched itself and pay the same to a voluntary or charitable organisation.

The Government may consider including a provision in the Act for forfeiting the excess amount of ED collected by the entertainment centres in order to avoid litigation in future.

6.2.9 Absence of survey and non-raising of demand for realisation of entertainment duty in case of cable operators

Mention was made in paragraph 5.2.7 of the report of the Comptroller and Auditor General of India (Revenue Receipts for the year ended 31 March 2004) regarding the absence of periodical, comprehensive and organised survey to check evasion of duty by cable operators and the need to evolve some more practical alternative for computing duty.

Audit scrutiny indicated that except for Mumbai City, Mumbai Suburban and Thane districts, none of the other districts had conducted any survey on cable connections.

The Divisional Commissioner, Konkan region had organised a survey through private agencies in Mumbai City, Mumbai Suburban and Thane districts between May and December 2006 to detect cases of non-registration and under-reporting of cable connections by cable operators. The survey indicated that there was non/under reporting of 10,23,588 cable connections by 3,512 cable operators which also included 889 unregistered cable operators.

In a meeting organised by the Divisional Commissioner, Konkan Region with Collectors' of Mumbai City, Mumbai Suburban and Thane districts on 9 April 2008 and 17 December 2008, it was decided that ED as applicable along with a penalty at the rate of one and half times of the ED would be recovered from the defaulting cable operators.

In respect of 10,23,588 un-reported cable connections in respect of 3,512 cable operators in the districts where the survey was conducted, ED of Rs. 101.33 crore and penalty of Rs. 152.00 crore totaling Rs. 253.33 crore was recoverable upto March 2008. Against this, the department had raised demand of Rs. 52.06 crore upto October 2008 without considering penalty in respect of 2,162 cable operators and recovered Rs. 7.45 crore upto November 2008. Demands for recovery of Rs. 201.27 crore in respect of remaining 1,350 cable operators were not issued till January 2009 even after a lapse of 25 months from the date of completion of survey. This resulted in non realisation of revenue of Rs. 201.27 crore.

In view of the fact that the survey in three districts has indicated more than 10 lakh un-reported cable connections with revenue potential of Rs. 253.33 crore, the department should realise the full revenue potential by conducting surveys in all the districts of the State.

The Government may consider conducting an extensive survey, in co-ordination with other departments to bring evaders of duty within the fold of the Act to augment the State revenue.

6.2.10 Non-levy of entertainment duty of Rs. 4.99 crore on Indian Premier League Cricket Matches held in Mumbai

As per the GR issued in May 1964, all sports meetings (excluding race meetings) are exempted from payment of ED. Accordingly, cricket matches held in various stadia of the State are exempted from payment of ED.

The Indian Premier League (IPL) organised a T-20 cricket tournament in April and May 2008 in which 10 matches were played in Mumbai, six in Wankhede stadium and four in D.Y. Patil stadium, Navi Mumbai. M/s. India Win sports (Pvt.) Ltd., Mumbai was entrusted with the work of sale of tickets for these matches. However, ED was not levied on the admission fee to these IPL Matches.

The IPL matches were of a purely commercial nature and the franchisee owners of the eight teams comprising business tycoons and film stars spent crores of rupees to buy the teams and players from all cricket playing nations for the world's richest cricket tournament. The IPL was conceptualised as an entertainment spectacle and was also pitched as the ultimate destination of TV entertainment. It is thus obvious that the main objective of IPL was to provide entertainment and hence merited levy of ED on sale of tickets. It is also pertinent to mention that the Government of Delhi has treated the IPL as a commercial venture and has accordingly decided to impose ED on the sale of tickets.

Information regarding rates of tickets and number of tickets sold for different matches was called for from the department to estimate the amount of ED forgone. The department has not furnished information regarding number of tickets sold and aggregate amount of admission fees collected for these matches. The department had called for this information from the franchisee, but the franchisee did not make the information available stating that these cricket matches were exempted from payment of ED. On the basis of information in respect of seating capacity of the stadiums, collected independently by audit and considering the minimum rate of admission fee of Rs. 500 (as against the range from Rs. 500 to Rs. 10,000), amount of ED forgone is calculated at Rs. 4.99 crore.

Since the IPL matches are purely commercial in nature having considerable revenue potential, the Government may consider the levy of ED on the sale of tickets for IPL matches. Moreover, legislative sanction needs to be obtained, if at all exemptions are to be given to such type of commercial activities and blanket exemptions should not be granted merely on the basis of a GR which was issued much before the IPL was visualised.

The Government may consider levying entertainment duty on commercialised sports activities such as IPL matches having considerable revenue potential. Further, legislative sanction may be obtained for granting exemption from payment of entertainment duty rather than giving exemption on the basis of GR alone.

6.2.11 Non-registration of tourist buses with video facility

As per the provisions of the Act, with effect from May 2002, ED is payable in advance on or before 15 January of every calendar year by the operators of tourist buses having video facility at the rate of Rs. 1,000 per annum. In addition, surcharge at the rate of 10 *per cent* of ED is also payable. No system has been evolved by the department to assess and collect entertainment duty from the buses having video facility. The department had also not approached the Motor Vehicle Department by asking them to register the tourist buses with video facility as a separate category and to pass on the information to the

respective DCs, so that ED can be collected from all the bus operators by bringing them into the tax net.

Test check of records of the R&FD and Collector, Amravati, Mumbai City, Mumbai Suburban, Nagpur, Pune and Thane indicated that the offices did not have the information regarding number of tourist buses having video facilities running in their respective jurisdictions. Though the activity was treated as entertainment and provision was made in the Act to bring the tourist buses with video facility under the tax net, there was no mechanism in the Act/Rules for implementation of the said provisions. In the absence of reliable data, the department could not levy and collect ED on this entertainment activity.

The Government may consider evolving a system for sharing of information of buses with video facility between the Motor Vehicles Department and the R&FD.

6.2.12 Internal control

Every department is required to institute appropriate internal control for its efficient and cost effective functioning by ensuring proper enforcement of laws, rules and departmental instructions. The internal controls also help in creation of reliable financial and management information system for adequate safeguards against non/short collection or evasion of taxes. The internal controls should also be reviewed and updated from time to time to keep it effective. Deficiencies noticed in the internal control mechanism have been commented in the succeeding paragraphs.

6.2.12.1 Non-submission of reports

As per the Government circular dated 20 September 2001, three months from the date of commencement of the MTC, the DC is required to submit a report regarding the effect of the MTC, especially the revenue aspect, on other theatres in that locality. However, no such reports are being submitted by the DCs to ascertain the effect of concessions granted to the MTCs on the nearby theatres. In the absence of such report, the department is not in a position to ascertain the commercial viability of the single screen theatres in the locality as these theatres are the sources of entertainment for masses. Moreover, these theatres are the regular sources of revenue for the department in the light of large scale exemptions granted to the MTCs.

After this was pointed out in audit, the Government called for clarification from the concerned DCs in this regard.

The Government may prescribe a mechanism for monitoring the performance of MTCs, so that the effect of the MTCs on the single screen theatres of that area could be ascertained.

6.2.12.2 Non-maintenance of separate register to watch the transactions relating to security deposit

Scrutiny of records in the office of the Collector, Mumbai Suburban District (MSD) indicated that, security deposits received from organisers of special events were deposited into a separate savings bank account which was

operated by the Additional Collector, MSD. The balance amount as per the pass book of that account was Rs. 4.76 crore as of March 2009.

The department had not maintained a separate register for recording the transactions in respect of the amount of security deposits received. In the absence of such a register, correctness of the transactions relating to credits of security deposits, transfer of EDs to the concerned major head and refund of security deposits to organisers could not be verified in audit.

6.2.12.3 Inadequate coverage by internal audit

The internal audit wing (IAW) of an organisation is a vital component of its internal control mechanism. As per the GR dated 2 April 1983, the work of internal audit was entrusted to the divisional commissionerate. However, this work was transferred to the respective Collectorates as per Government letter dated 19 July 2006 addressed to the Divisional Commissioners.

- Test check of records indicated that, till date internal audit has not been conducted in the offices of Collectors of Solapur, Pune and Nagpur districts since 1992-93, 1994-95, 2004-05, respectively. Further, in these offices 34 audit notes issued prior to 1992-93 involving amount aggregating Rs. 20.61 lakh were pending for action.

On this being pointed out, the DC, Solapur stated that, the internal audit was not conducted as the post of the Accounts Officer had been lying vacant. No reply was received from DC, Nagpur and Pune.

- In the office of the Collector, Mumbai City though the internal audit was conducted upto 2006-07, 125 audit notes issued between 1992-93 and 2006-07 involving revenue of Rs. 1.13 crore were pending for action in the department.

Lack of regular internal audit made the department vulnerable to the risk of control failure. Since timely action on audit notes issued by the internal audit was not taken, it resulted in delayed realisation of revenue.

The Government may consider evolving a mechanism for monitoring the functions of internal audit wing.

6.2.13 Non-submission of completion certificate within 24 months from the date of issue of Conditional letter of Intent in case of Multiplex Theatre Complex

As per the condition No. 4 of the GR dated 4 January 2003, the proprietor of MTC has to furnish a certificate of completion of construction of MTC (issued by the Municipality/Gram Panchayat alongwith licence issued by the Commissioner of Police/Collector for running the cinema, video games etc.) to the Government within 24 months from the date of issue of CLI. In case of failure to fulfill the above condition the CLI is liable to be cancelled.

Test check of records in the office of the R&FD indicated that though the CLIs were issued to 23 applicants in six districts[21] between February 2004 and September 2006 for construction of MTCs, none of the applicants had

[21] Amravati(1), Mumbai Suburban (8), Mumbai City (3), Nagpur (2), Pune (4) and Thane (5).

furnished the certificates of completion of construction along with the required licences for running the cinema, video games etc., even after a period ranging from 28 to 59 months. Audit observed that no system was laid down in the department to watch compliances to the conditions of issue of the CLI.

The Government may prescribe a mechanism for monitoring the compliance with the conditions of issue of the CLI.

Compliance deficiencies

6.2.14 Non-reconciliation of receipts with treasury records

As per the provisions of Rule 98 (2) of the Maharashtra Treasury Rules, 1968, all moneys received by the Government Officer on behalf of the Government and remitted into the treasury are required to be reconciled with figures booked by the concerned treasury officer.

Test check of records of the Mumbai Suburban (Taluka Magistrate, Kurla and Borivali) and Solapur (Resident Dy. Collector) districts indicated that the Pay and Accounts Office, Mumbai and Solapur treasury had intimated non-accounting of credits aggregating Rs. 48.39 lakh to the respective Taluka offices between June 2003 and March 2006.

The department has not taken any action to ascertain the reason for non-accounting of credits in these offices. Failure of the department to reconcile the remittances with the treasury receipts exposed the department to the risk of misappropriation.

Further, in the office of the DC, Pune, no reconciliation of revenue receipts with treasury records was carried out between April 2001 and March 2005.

After this was pointed out, the department stated that reconciliation of revenue receipts with treasury records would be carried out and a report would be submitted to audit.

6.2.15 Non-reconciliation of balances between Personal Ledger Account (PLA) and bank scrolls

As per para 589 of Maharashtra Treasury Manual, the Treasury Officer is required to obtain certificate of balances at the end of each year from the administrator of PLAs. Further, as per Rule 515 of the Maharastra Treasury Rules, the balances shown in the PLA cash book should be reconciled with the Treasury Cash Book at the end of each month.

Scrutiny of records of the Collector, Mumbai City indicated that, the balance in the cash book as of March 2008 was Rs. 1,75,06,953, whereas, the balance reflected by the bank scroll for March 2008 was Rs. 1,63,99,312. The difference of Rs. 11,07,641 was not reconciled.

On this being pointed out, the department stated that the difference would be reconciled.

6.2.16 Pendency in receipt of service charge accounts and scrutiny thereof of cinema theatres

As per provisions of Section 2(b) of the Act, 1923 read with circular dated 2 May 1998 issued by the R&FD, the proprietor of a cinema theatre is required to submit service charges account duly certified by a Chartered Accountant to the prescribed officer before 30th September every year. After receipt of the accounts, the prescribed officer is required to scrutinise the accounts to verify that, amount collected has been spent towards the maintenance of cinema theatre and providing facilities and safety measures as specified by the Government. This scrutiny is to be completed on or before 31st December every year. Further, as per the third proviso below Section 2 (b), in case the service charges or part thereof has not been spent towards the maintenance and providing facilities and safety measures, then the said amount of service charges or part thereof, not so spent, shall be included in the payment of admission and subjected to ED.

Test check of records of office of the Collector in Mumbai Suburban, Pune and Solapur districts indicated that out of 823 accounts in respect of utilisation of service charges receivable for the period 2003-04 to 2007-08, 370 accounts were received. Out of this only 33 accounts were scrutinised and approved by the department leaving a balance of 337 accounts[22] pending for scrutiny. The department has also not taken any action in respect of 453 service charge[23] accounts not received from the theatres.

On this being pointed out, the department stated that necessary action in this regard will be taken. Further reply is awaited (November 2009).

6.2.17 Non/short levy of surcharge in respect of water parks

Under the provisions of the BED Act, water parks were exempted from payment of duty for the first three years from the date of their commencement. For the subsequent two years ED at the rate of five *per cent* and from the sixth year onwards ED at the rate of 10 *per cent* on the admission fees was to be levied. Further, surcharge at the rate of five *per cent* where payment for admission does not exceed one rupee and in all other cases at the rate of 10 *per cent* in respect of entertainments other than an amusement park is leviable.

Test check of records in the offices of collectors of four districts[24] indicated that during various periods between April 2003 and March 2008, there was short payment of surcharge aggregating Rs. 2.00 crore, in respect of three water parks[25] as the assesses had paid the surcharge on the ED payable rather than on the admission rate of the ticket. Further, in respect of five water parks[26], the assessees had not paid surcharge aggregating Rs. 6.13 crore. The department did not take any action to recover the amount of surcharge of Rs. 8.13 crore non/short paid.

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[22] Mumbai Suburban District 105, Pune 92 and Solapur 140.
[23] Mumbai Suburban District 370, Pune 63 and Solapur 20.
[24] Mumbai Suburban, Nagpur, Pune and Thane.
[25] Great Escape (Vasai); Suraj Water Park and Tikuji-ni-wadi in Thane districts.
[26] Water Kingdom in Mumbai Suburban; Fun and Food in Nagpur district; Dolphin at Nigdi and MTDC at Karla in Pune district; and Sangrila Resort, Bhiwandi in Thane District.

On this being pointed out, in case of Mumbai Suburban and Nagpur districts, the department accepted the observation and agreed to recover the amount (April and May 2009). In case of Pune and Thane districts the department stated (June 2009) that the audit observation would be verified.

6.2.18 Incorrect exemption of entertainment duty on films

Under the provision of Section 6(3) of the Act, Government may by general or special order, exempt any entertainment or class of entertainments from liability to pay ED. The producer of a film, which is granted exemption from payment of ED, is required to give an undertaking that he would pay an amount equivalent to the amount of ED leviable on the exhibition of such film to the person or persons most responsible for the educational, cultural or social contribution of such films as nominated by the advisory committee. The producer is also required to submit a weekly return to the DC specifying particulars of payments made to the nominated person(s) with a copy thereof to the Government. Exemption from liability to pay ED for exhibition of any such film should be withdrawn, if the producer fails to comply with the undertaking. However, the Government did not prescribe any mechanism to ensure that the conditions laid down in the Act were enforced.

Test check of records of the R&FD indicated that seven[27] films were declared tax-free and were granted exemptions from payment of ED aggregating Rs. 2.26 crore for various periods between 2005-06 and 2006-07. But in none of the cases:

- the advisory committee had nominated any person or persons responsible for the educational, cultural or social contribution of the film; and
- the proprietor had submitted the weekly returns as prescribed to the DC with a copy thereof to the Government.

While granting exemptions from payment of ED by declaring the films as tax-free, the department had failed to ensure that essential conditions subject to which exemptions were granted were fulfilled. This resulted in incorrect grant of exemption aggregating Rs. 2.26 crore.

After the cases were pointed out, the Government stated that the rules framed under the Act were outdated and the same were undergoing modification.

The facts remains that the conditions prescribed in the Act were not fulfilled due to absence of a mechanism to enforce these conditions.

6.2.19 Non-forfeiture of security deposit of Rs. 1.87 crore from the organisers of special events

Under the Bombay Entertainments Duty Rules, 1958, every organiser of an entertainment shall pay security deposit to the prescribed officer as that officer may decide. If an organiser fails either to submit returns and accounts or to pay the ED due within 10 days from the date of entertainment or such

[27] Antariksha, Chaka Chak, Dr. Babasaheb Ambedkar, Hanuman, Lage Raho Munnabhai, Netaji Subash Chadra Bose and Salam Bache.

extended period not exceeding one month as the prescribed officer may allow, the prescribed officer may, after giving the organiser a weeks notice, forfeit the security deposit.

Test check of the records in Mumbai City and Mumbai Suburban District indicated that security deposits of Rs. 1.87 crore were collected from the organisers of special events such as new year eve programme, fun fair, music concerts etc., between April 2003 and March 2008 in respect of 138 performances. However, the organisers had neither submitted the prescribed returns and accounts for assessment nor had paid ED for periods ranging from one to six years after the events were held. Seven of these organisers who had not submitted the prescribed returns in respect of special events organised during the previous year were also granted permission to organise special events in subsequent years. Despite the failure on the part of the organisers to fulfill the prescribed conditions, the department had not issued notices to forfeit the security deposit amounting to Rs. 1.87 crore and the amount is lying in a bank account outside the Consolidated Fund of the State. Further, since the organisers of entertainment have not approached the department for refund of security deposit in excess of the ED payable, there is a room for doubt that the ED actually payable would have been in excess of the security deposit collected by the department. Also, the department does not have a mechanism in place to ensure that the accounts are submitted by the organisers regularly and the same are assessed in time. In the absence of such a mechanism, Audit could not calculate the actual amount of ED forgone.

After the cases were pointed out, the department has agreed to issue notices to the organisers for submission of returns and accounts and to initiate action for forfeiture of security deposit.

The Government may consider evolving a mechanism to ensure that the accounts are submitted by the organisers of special events on time so as to assess the correct amount of ED payable, enhancing the amount of security deposit and having a provision for penalty in case of non-submission of the accounts.

6.2.20 Incorrect refund of security deposit

As per sub Section 13 (a) of the Act and conditions prescribed in the revised GR issued on 4 January 2003, the conditional letter of intent (CLI) issued to the applicant for construction of multiplex theatre complex is non-transferable. The applicant is also required to pay security deposit, which is refundable at the time of issuing of EC.

Test check of records of the Collector, Pune indicated that M/s. Paranjape Schemes Construction (Pvt) Ltd., was issued CLI in February 2004 on payment of security deposit of Rs. 28 lakh. M/s Paranjape Schemes Construction (Pvt) Ltd., had tendered application to the Government to transfer the CLI to M/s. Sairaj Scheme (Buildcon) (Pvt) Ltd. The Government under letter dated 17 July 2004 addressed to the Additional Collector, Pune accepted the proposal of transfer. Accordingly, the security deposit of Rs. 28 lakh paid by M/s. Paranjape Schemes Construction (Pvt) Ltd., was refunded in August 2005. The transfer of CLI and refund of Rs. 28 lakh was irregular as it was against the conditions prescribed in the GR issued in January 2003.

After this was pointed out, the department stated (March 2009) that regarding transfer of CLI and refund of security deposit, guidance of the Government would be obtained.

6.2.21 Conclusion

The review indicated that the department failed to enforce the prescribed conditions for grant of exemptions to Multiplex Theatre Complexes and hence has allowed undue benefits to the proprietors. It has also failed to bring more number of duty payers into the tax-net by conducting surveys as in the case of cable operators. Internal control mechanism of the department was not effective and internal control tools such as internal audit were not used timely and effectively.

6.2.22 Summary of recommendations

The Government may consider:

- **evolving appropriate control mechanisms for enforcing the prescribed conditions for grant of exemptions/concessions to Multiplex Theatre Complexes;**
- **including a provision in the Act for forfeiting the excess amount of ED collected by the entertainment centres to avoid litigation in future;**
- **conducting an extensive survey, in co-ordination with other departments to bring evaders of duty within the fold of the Act to augment the state revenue;**
- **levying entertainment duty on commercialised sports activities such as IPL matches having considerable revenue potential. Further, legislative sanction may be obtained for granting exemption from payment of entertainment duty rather than giving exemption on the basis of GR alone;**
- **evolving a system for sharing of information of buses with video facility between the Motor Vehicles Department and the R&FD;**
- **prescribing a mechanism for monitoring the performance of MTCs, so that the effect of the MTCs on the single screen theatres of that area could be ascertained;**
- **evolving a mechanism for monitoring the functions of internal audit wing;**
- **prescribing a mechanism for monitoring the compliance with the conditions of issue of the CLI; and**
- **evolving a mechanism to ensure that the accounts are submitted by the organisers of special events on time so as to assess the correct amount of ED payable, enhancing the amount of security deposit and having a provision for penalty in case of non-submission of the accounts.**

6.3 Other audit observations

Scrutiny of records in the offices of the Resident Deputy Collectors/Taluka Magistrates, Municipal Corporations, Offices of the Chief Engineer (Electrical) and the Electrical Inspectors, and Profession Tax Officers revealed several cases of non-observance of provisions of the Acts and rules as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out in audit. There is a need for the Government to evolve suitable mechanism so that mistakes can be avoided, detected and corrected.

6.4 Non-recovery of entertainment duty from cable operators

The Bombay Entertainments Duty (BED) Act, 1923 provides for levy and collection of entertainment duty (ED) on cable connections at the prescribed rate. The Entertainment Duty Officers did not observe some of the provisions which resulted in non-recovery of entertainment duty of Rs. 81.59 lakh.

Under Section 3(4) of the BED Act, 1923, ED was payable by the cable operators at flat rates of Rs. 30, Rs. 20 or Rs. 10 per television set per month with effect from 1 April 2000 depending on whether the area is a municipal corporation (MC), A and B class municipality or other area. The rates were revised to Rs. 45, Rs. 30 or Rs. 15 per television set per month with effect from June 2006. Further, ED is payable on or before the 10th of the subsequent month to which it relates. Interest at the rate of 18 *per cent* per annum for the first 30 days and 24 *per cent* thereafter is to be levied in case of default.

During test check of the records of 20 units[28] in seven districts[29], between November 2006 and July 2008, it was noticed that ED amounting to Rs. 81.59 lakh was not paid by 317 cable operators during various periods between 2004-05 and 2007-08. The demands were also not raised by the Resident Deputy Collectors/Taluka Magistrates/Entertainment Duty Officers against these cable operators. This resulted in non-recovery of ED of Rs. 81.59 lakh. Besides, interest at the prescribed rates was also leviable.

After the cases were pointed out between December 2006 and August 2008, the department accepted the observations and recovered ED amounting to Rs. 38.48 lakh alongwith interest of Rs. 33,967, between April 2007 and May 2009, from 214 cable operators. A report on recovery of the balance amount has not been received (November 2009).

The matter was reported to the Government between March and April 2009; their reply has not been received (November 2009).

[28] Resident Deputy Collectors : Kolhapur, Mumbai-Zone II, V, VI, VIII, IX, Nashik; Entertainment Duty Officer : Pune-Zone G, J, K, M; Taluka Magistrate : Andheri-Zone II and IV; Shegaon and Mehkar at Buldhana; Kurla-Zone XI, XII; Kalyan, Murbad, Wada at Thane

[29] Buldhana, Kolhapur, Mumbai City, Mumbai Suburban, Nashik, Pune and Thane.

SECTION B
STATE EDUCATION CESS AND EMPLOYMENT GUARANTEE CESS

6.5 Non-remittance of education and employment guarantee cess

Non-observance of the Maharashtra Education and Employment Guarantee Cess (Cess), Tax on Lands and Buildings (Collection and Refund) Rules, 1962 resulted in non-remittance of State Education Cess and Employment Guarantee Cess to the extent of Rs. 180.41 crore.

Under Section 4 and 6B of the Maharashtra Education and Employment Guarantee (Cess) Act, 1962 read with Rule 4 of the Collection and Refund Rules, cess and penalty collected by the MCs during a calendar week are required to be credited to the Government account before the expiry of the following week in which it was recovered. If any MC defaults in payment of any sum under the Act, the Government may, after holding such enquiry as it thinks fit, fix a period for the payment of such sum. The Act also empowers the Government to direct the bank/treasury in which the earnings of the MC are deposited, to pay such sum from the bank account to the Government.

During test check of the records of Bhiwandi-Nizampur Municipal Corporation and Brihan Mumbai Municipal Corporation in May 2006 and April 2009, it was seen that the MCs did not remit revenue amounting to Rs. 180.41 crore relating to State education cess and employment guarantee cess collected during the year 2005-06 and 2007-08. The Government also did not initiate any action either to fix a period for payment of the dues or to direct the banks to pay the amounts due from the bank accounts of the MC.

After the cases were pointed out in June 2006 and April 2009, the MC Mumbai remitted Rs. 80.45 crore into the Government treasury in July 2009 leaving a balance of Rs. 98.93 crore and MC Bhiwandi-Nizampur stated that in respect of Rs. 1.03 crore, the amount would be remitted into the Government account. Further report has not been received (November 2009).

The matter was reported to the Government between February and April 2009; their reply has not been received (November 2009).

SECTION C
REPAIR CESS

6.6 Foregoing of revenue due to non-prescribing of rate of repair cess

The Maharashtra Housing and Area Development Act, 1976 prescribed the rates at which the repair cess is to be levied and collected. The Government has not yet enhanced the rate of repair cess with respect to the increased permissible limit of expenditure towards cost of repairs which resulted in foregoing of revenue due to non-prescribing of rate of repair cess to the extent of Rs. 14.50 crore.

Under Section 82 of the Maharashtra Housing and Area Development Act, 1976, when a building is structurally repaired, a cess[30] is to be levied depending upon the category[31] of the building, at the rate prescribed in the second schedule to the Act. The rate of cess is based on the permissible limit towards cost of repairs to be borne by the Board[32]. The permissible limit was increased by the Government to Rs. 750 per sq.m. in 1992 and further increased to Rs. 1,000 and 1,200 per sq.m. on 15 May 1998 and 4 July 2004, respectively. However, Government had enhanced the rate of cess only with respect to permissible limit towards cost of repairs of Rs. 750 per sq.m. The assessment, levy and collection of cess vests with the Brihan Mumbai Municipal Corporation (BMC).

During test check of the records of nine[33] wards of the BMC in July 2008, it was noticed that during the period from 1 February 2004 to 31 March 2008, 1,434 buildings were structurally repaired by incurring expenditure at the enhanced cost of repairs of Rs. 1,000 and Rs. 1,200 per sq.m. However, as the rate of cess was not fixed by the Government, these buildings continued to be assessed for cess at the rate applicable to the cost of repairs of Rs. 750 per sq.m. In this regard the Chief Officer of the Board had proposed to the Government in June 2001 and July 2004, the rate of cess that should be levied on the enhanced cost of repairs depending on the categories of the buildings. Non-fixing of revised rates of repair cess resulted in foregoing of revenue of Rs. 14.50 crore as worked out at the rates proposed by the Board.

After the cases were pointed out in September 2008, the Government stated that there was no loss of revenue as the cabinet had not decided the issue relating to recovery of cess at enhanced rates. The fact, however, remains that the delay in enhancement of rates of repair cess resulted in foregoing of revenue of Rs. 14.50 crore.

The matter was reported to the Government in April 2009; their reply has not been received (November 2009).

SECTION D
TAX ON BUILDINGS
(With Larger Residential Premises)

6.7 Non-remittance of tax

Non-observance of the provisions of the Maharashtra Tax on Buildings (with Larger Residential Premises) (Re-enacted) (MTOB) Act, 1979 resulted in non-remittance of tax of Rs. 214.41 lakh.

Under section 14 of the MTOB Act, 1979, tax recovered by a municipal corporation (MC) on behalf of the State Government is to be credited to the Consolidated Fund of the state within 30 days from the date of its recovery. If any MC defaults in payment to the state Government any sum due under the

[30] Mumbai Building Repairs and Reconstruction Cess.
[31] A, B and C.
[32] Mumbai Building Repairs and Reconstruction Board.
[33] A, B, C, D, E, F-North, F-South, G-North and G-South.

Act, the State Government can, after holding such enquiry as it thinks fit, fix a period for payment of such sum. The Act also empowers the Government to direct the bank/treasury in which the earnings of the MC are deposited, to pay such sum from such bank account to the state Government. Any such payment made in pursuance of the orders of the Government shall be a sufficient discharge to such bank/treasury from all liabilities to the MC.

During test check of the records of the two MCs at Mumbai and Pune in January and February 2009, it was noticed that the MCs did not remit revenue amounting to Rs. 2.14 crore collected during the year 2007-08 on account of tax on buildings (with larger residential premises). In both the cases the State Government had not directed the bank/treasury to pay the sum into the Government account as required. This resulted in non-remittance of tax of Rs. 2.14 crore.

After the cases were pointed out in February 2009, MC Pune remitted the entire amount of Rs. 68.12 lakh into the Government treasury in February 2009 and MC Mumbai remitted Rs. 144.05 lakh into the Government treasury in July 2009 leaving a balance of Rs. 2.24 lakh. Further report in the matter is awaited (November 2009).

The matter was reported to the Government in March 2009; their reply has not been received (November 2009).

SECTION E
ELECTRICITY DUTY

6.8 Incorrect retention of tax on sale of electricity and non-levy of interest

Non-observance of the provisions of the Maharashtra Tax on Sale of Electricity (TOS) Act, 1963 resulted in non-remittance of Rs. 85.35 crore alongwith the interest of Rs. 38.09 crore.

Under Section 3 and 4 of the TOS Act, 1963, every bulk licensee shall pay tax into the Government treasury on or before the last date of the succeeding calendar month on every unit in respect of all his sales of energy in bulk. Further, as per Section 8 of the Act, in case of failure to pay the tax on sale collected, by the due date, the interest at the rate of 18 *per cent* per annum for the first three months and 24 *per cent* per annum thereafter is chargeable on the amount of tax remaining unpaid till the date of payment.

During test check of the records of the Chief Engineer (Electrical), Mumbai (CE) in February 2009, it was noticed that the Maharashtra State Electricity Distribution Company Ltd. (MSEDCL) collected tax on sale of electricity aggregating Rs. 153.01 crore during the period from April 2007 to March 2008 from the consumers but did not remit the amount into the Government account. The Government by issuing a resolution in March 2008 adjusted Rs. 67.66 crore against the subsidy payable by Government to MSEDCL leaving a balance of Rs. 85.35 crore.

After this was pointed out in February 2009, the Chief Engineer (Electrical) stated that he had proposed to the Government in September 2008 either to

adjust Rs. 47.51 crore against the dues payable by the Government or to recover the dues from MSEDCL and the balance amount would be recovered by this way of adjustment at Government level. However, the fact remains that the amount collected on behalf of the Government was incorrectly retained by MSEDCL instead of crediting the amount in the Government treasury. This resulted in non-remittance of Rs. 85.35 (153.01 - 67.66) crore by MSEDCL on account of tax on sale of electricity and also non-recovery of interest of Rs. 38.09 crore.

The matter was reported to the Government in March 2009; their reply has not been received (November 2009).

6.9 Incorrect retention and non-levy of interest on electricity duty

Non-observance of the provisions of the Bombay Electricity Duty Act, 1958 resulted in non-remittance of Rs. 70.83 crore alongwith interest of Rs. 15.94 crore.

Under Section 4 of the Bombay Electricity Duty Act read with Rule 2 of the Bombay Electricity Rules, 1962, every licensee who supplies electricity to consumers is required to collect duty from the consumers together with his own charges, if any, and pay it to the State Government on or before the last date of the succeeding calendar month in which the bills are raised. Further, as per Section 8 of the Act, in case of default, interest at the rate of 18 *per cent* per annum for the first three months and 24 *per cent* per annum thereafter is chargeable on the amount of duty remaining unpaid till the date of payment.

During test check of the records of the Chief Engineer (Electrical), Mumbai (CE) in February 2009, it was noticed that the Maharashtra State Electricity Distribution Company Ltd (MSEDCL) collected electricity duty aggregating Rs. 1,089.33 crore during the period from April 2007 to March 2008 from the consumers but did not remit the amount into the Government account. The Government by issuing the resolution between September 2007 and November 2008, adjusted Rs. 1,018.50 crore of electricity duty due from MSEDCL against the subsidy payable to it. The CE proposed to the Government in September 2008 to adjust the balance amount of Rs. 70.83 crore against the dues payable by the Government to MSEDCL or to recover the dues from it. Report on remittance of the balance amount of Rs. 70.83 crore has not been received. (November 2009).

After this was pointed out in February 2009, the Chief Engineer (Electrical) stated that the balance amount would be recovered by way of adjustment at Government level. However, the fact remains that the amount collected on behalf of the Government was incorrectly retained by MSEDCL instead of crediting it into the Government treasury. This resulted in non-remittance of electricity duty of Rs 70.83 crore and also non-recovery of interest of Rs 15.94 crore.

The matter was reported to the Government in March 2009; their reply has not been received (November 2009).

6.10 Non recovery of inspection fees

Non-observance of the Indian Electricity Rules, 1956 resulted in non-realisation of inspection fees of Rs. 41.90 lakh.

Under Rule 4 of the Indian Electricity Rules, 1956, inspection fees are required to be paid by the consumers within 10 days from the date of the inspection, examination or test of electrical installations. The rates of fees payable are regulated by notifications issued by the Government from time to time.

During test check of the records of the offices of the Electrical Inspectors in seven districts[34] between December 2007 and January 2009, it was noticed that inspection fees aggregating Rs. 41.90 lakh for the inspection of electrical installations carried out during 2006-07 and 2007-08 were not paid by 328 consumers. No action was taken by the department to recover the amount.

After the cases were pointed out, the department accepted the observations between December 2007 and January 2009 and recovered Rs. 21.53 lakh between December 2007 and August 2009, from 157 consumers. A report on recovery of the balance amount has not been received (November 2009).

The matter was reported to the Government in April 2009; their reply has not been received (November 2009).

SECTION F
PROFESSION TAX

6.11 Non-realisation of Profession Tax

Under the provisions of the Profession Tax Act, 1975, every person liable to pay tax under the Act is required to obtain an enrolment certificate. Non-enrolment of the medical practitioners with the profession tax department resulted into non-realisation of the profession tax to the tune of Rs. 14.35 crore.

Under Section 3 of the Profession Tax Act, 1975, every person liable to pay tax under the Act is required to obtain an enrolment certificate and pay tax annually at the rates specified in Schedule I to the Act. Section 5(5) of the Act provides that, if a person liable for enrolment fails to apply for such certificate, a penalty of Rs. 2 per day is leviable.

In order to ascertain whether all the medical practitioners in allopathic, homeopathy, ayurvedic and dental medicine in respect of Pune district are brought under the purview of the Act, details of medical practitioners who were registered with the four medical councils[35] were collected between January and March 2009. As per the information received from the medical councils 16,668 medical practitioners were registered with the medical councils upto March 2008. Cross check of these details with the information

[34] Ahmednagar, Aurangabad, Kolhapur, Nashik, Pune, Sangli and Thane.

[35] Maharashtra Medical Council (Allopathic), Mumbai, Homeopathic Medical Council, Maharashtra, Mumbai, Medical Council for Indian Medicines (Ayurvedic), Mumbai and Maharashtra Dental Council, Mumbai.

furnished by the five[36] profession tax officers of Pune district indicated that only 287 medical practitioners were enrolled with the profession tax department. This resulted in non-realisation of profession tax of Rs. 14.35 crore in respect of 16,381 non-enrolled persons for the period from 2005-06 to 2008-09.

The matter was reported to the department in April 2009; their reply has not been received (November 2009).

[36] Profession Tax Officers, Pune division: 1,2,3,4 and 5.

CHAPTER VII : NON-TAX RECEIPTS

7.1 Results of audit

Test check of the records of non-tax receipts conducted during the year 2008-09 indicated underassessments/short levy, loss of revenue etc., of Rs. 504.92 crore in 18 cases as shown below:

(Rupees in crore)

Sl. no.	Category	No. of cases	Amount
1.	**User charges for supply of water from Irrigation Projects (A review)**	1	195.58
2.	Non-recovery of interest receipt	1	292.60
3.	Loss of revenue on sale of *tendu* leaves	6	7.02
4.	Loss on miscellaneous items	7	6.70
5.	Loss of revenue due to deterioration in transit/in sale /in re-sale/due to non-extraction/non-lifting of material other than bamboo	2	2.39
6.	Loss of forest revenue	1	0.63
	Total	**18**	**504.92**

In response to the observations made in the local audit reports during the year 2008-09 as well as during earlier years, the department accepted under assessments and other deficiencies and recovered Rs. 1.55 crore in three cases which were pointed out during earlier years.

A review on **"User charges for supply of water from Irrigation Projects"** involving a total financial effect of Rs. 195.58 crore and an illustrative audit observation involving Rs. 292.60 crore are included in the succeeding paragraphs.

7.2 Review on "User charges for supply of water from irrigation projects"

7.2.1 Highlights

Timely and guaranteed water supply is of paramount importance for agriculture production and development of irrigation plays a key role in supply of water. The Government of Maharashtra had created irrigation potential through Major, Medium and Minor Irrigation Projects. In most of the Major and Medium Irrigation project water is harnessed for domestic and industrial use and is supplied to the irrigators and non irrigators at the prescribed rates. A comprehensive study by audit revealed some important finding as indicated below:

- Huge arrears of water charges amounting to Rs. 1,005.21 crore were pending for recovery as on 31 March 2009

  (Paragraph 7.2.8)

- Shortfall in utilisation of irrigation facilities created resulted in loss of revenue of Rs. 125.77 crore during the period 2004-05 to 2008-09

  (Paragraph 7.2.9.1)

- Wastage and non-utilisation of water resulted in loss of Rs 57.01 crore

  (Paragraph 7.2.10)

- Non-recovery of water charges from well owners amounted to Rs. 36.15 crore

  (Paragraph 7.2.13)

- Supply of water to the tune of Rs. 12.80 crore was made without executing agreement

  (Paragraph 7.2.14)

7.2.2 Introduction

The State of Maharashtra has 223.81 lakh hectares of cultivable land of which 36.67 lakh hectares are under irrigation. Irrigation Divisions levy and collect water charges for water supply from reservoir, tanks, flowing canals and lakes etc. for irrigation and non-irrigation purposes. This is governed by the Maharashtra Irrigation (MI) Act 1976, Bombay Canal Rules (BCR), 1934 and Maharashtra Water Resources Regulatory Authority (MWRRA) Act, 2005. The Irrigation year begins in July and consists of three seasons viz. Kharif (July 1 to October 14), Rabi (October 15 to February 28/29) and hot weather (March 1 to June 30).

The collection of water charges for the irrigation purposes is based on seasonal cropping pattern per hectare whereas it is on volumetric basis in respect of the Water Users Association. The rate in respect of non-irrigation purposes is levied on the quantity of water supplied from the source of water. The last revision in levy of water charges was made in September 2001 by the Government of Maharashtra (GoM) with the instruction to increase the rates every year from July by adding 15 *per cent* to the existing rates. However, in subsequent orders issued in 2004 and 2006 the rates applicable from 01-07-03

as communicated in September 2001 were permitted to be continued. Similarly the water rates for non-irrigation purpose fixed in the year 2003-04 were continued till 31-08-06 and thereafter periodical increase in rates was introduced with effect from 01-09-06. Besides,as per the instructions of Government local cess at 20 *per cent* of water rate is also levied. In cases of unauthorised use of water and for the defective electronic meter penalty at the rate 50 and 10 *per cent* respectively of the normal rates are leviable. A review on the above subject included in the Report of the Comptroller and Auditor General of India for the year ended 31 March 2003, and discussed by the Public Accounts Committee.

7.2.3 Organisational Structure

The Water Resources Department (WRD) is headed by Secretary, WRD and Secretary, Command Area Development Authority (CADA) at Government level and Chief Engineer (CE) at the department level. The CE is assisted by the Superintending Engineers (SE) who are assisted by the Executive Engineers (EE), the Sub-Divisional Officers and the Section Officers.

7.2.4 Scope of audit

The records relating to levy and collection of water charges in 18 out[1] of 72 irrigation divisions covering the period 2004-05 to 2008-09 were test checked between November 2008 and April 2009. The results of the test check have been incorporated in the succeeding paragraphs.

7.2.5 Audit objectives

The review has been conducted with a view to:

- ascertain the appropriateness of water charges with reference to applicable provisions of the Acts, rules and orders;
- ascertain the efficiency and accuracy in assessment of water charges;
- ascertain the efficiency and effectiveness of the departmental efforts for recovery of the water charges;
- correlate the irrigation potential created and utilised by the department; and
- ascertain meeting out the cost of operation and maintenance expenditure.

7.2.6 Acknowledgement

Indian Audit and Accounts Department acknowledges the co-operation of Irrigation Department and their subordinate offices in providing necessary information and records for the audit. The Draft Review was forwarded to Department and the Government in May 2009.

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[1] Ahmednagar, Amravati, Aurangabad, Bag Itiadoh, Girna, Gondia, Jalgaon, Jayakwadi, Khadakwasla, Kolhapur, Malegaon, Mula, Nanded, Pune, Raigad, Sangli, Thane and Upper Wardha Dam.

The entry conference to explain the audit objective, scope and methodology could not be held as the department did not give any response despite several requests from audit. No reply to the Review Report has been received. The exit conference to discuss the audit conclusions and recommendations also could not be held, though requested, due to lack of response from the department.

7.2.7 Trend of revenue

As per the Maharashtra Budget Manual, budget estimates should be prepared to achieve as close an approximation to the actuals as possible based on the collection of receipts and arrears of past years, any recognisable regularity in the figures of past years, amount likely to remain outstanding at the end of the current year and the amount likely to be collected in the next financial year out of the next revenue year's demand. Details of budget estimates and actual receipts of the state as a whole on account of water charges during the years 2004-05 to 2008-09 are as follows:

(Rupees in crore)

Year	Arrears	Budget estimate	Total recovery due	Actual Receipt	Variation (5 - 3)	Percentage of variation
(1)	(2)	(3)	(4)	(5)	(6)	(7)
2004-05	737.74	497.06	1,234.79	448.35	(-)48.71	(-)9.79
2005-06	687.21	418.54	1,105.75	413.47	(-)5.06	(-)1.20
2006-07	668.46	507.29	1,175.75	494.99	(-)12.30	(-)2.42
2007-08	701.68	674.24	1,375.92	627.01	(-)47.23	(-)7.00
2008-09	870.05	808.32	1,678.37	673.17	(-)135.15	(-)16.71

It could be seen from the above table that the percentage of variation ranged from 1.20 *per cent* (2005-06) to 16.71 *per cent* (2008-09). However, not even in a single year the BE was recovered. Consequently, the arrear has increased from Rs. 737.74 crore (2004-05) to Rs. 870.05 crore (2008-09). The department did not take any effective action to liquidate these arrears.

7.2.8 Position of arrears

The overall position of arrears under irrigation and non-irrigation purposes in respect of the State as a whole for the period 2004-05 to 2008-09 as furnished by the Government is given below in table A and B respectively:

(Rupees in crore)

Table A						
Year	Opening Balance	Budget Estimate	Amount to be recovered	Actual Amount recovered	Balance recovery	Percentage of recovery
2004-05	379.54	78.68	458.22	45.78	412.45	9.98
2005-06	405.96	68.25	474.21	64.03	410.18	13.50
2006-07	410.07	95.60	505.67	74.73	430.95	14.77
2007-08	433.82	110.35	544.17	70.47	473.70	12.94
2008-09	489.20	112.95	602.15	71.05	531.10	11.79

(Rupees in crore)

Table B						
Year	**Opening Balance**	**Budget Estimate**	**Amount to be recovered**	**Actual Amount recovered**	**Balance recovery**	**Percentage of recovery**
2004-05	358.20	418.38	776.57	402.57	326.00	51.83
2005-06	281.25	350.29	631.54	349.44	282.10	55.33
2006-07	258.39	411.69	670.07	420.26	249.81	62.71
2007-08	267.86	563.89	831.74	556.54	275.10	66.92
2008-09	380.85	695.37	1,076.22	602.12	474.11	55.94

Above tables indicate that the percentage of recovery of the water charges during the years 2004-05 to 2008-09 in respect of the irrigators ranged between 9.98 and 14.77 *per cent* and in respect of the non-irrigators it was between 51.83 to 66.92 *per cent*. It could also be seen that though the arrears had reduced during 2005-06 compared to the arrears as on 2004-05 but it had been increasing thereafter indicating lack of efforts for recovering the arrears from the defaulters by the divisions concerned. Audit observations on departmental inaction for recovery of the arrears have been included in this review at paragraphs 7.2.12.1 and 7.2.12.2. Further, the closing balances shown were not the opening balance of the next year. The Government has not furnished (November 2009) its explanation.

Divisions (April 2009) attributed the arrears (i) towards the penal assessment (for non-irrigation) which is 50 *per cent* more than the actual assessment of charges; (ii) the defaulters were not in a position to pay water charges in full due to weak financial condition, continuous lesser yield resulted in weaker financial condition of farmers; and (iii) waiver of the recovery of water charges by Government of Maharashtra (GoM) created a tendency among the farmers to expect write off by the Government.

The fact, however, remains that the GoM had not issued mass waiver order so far but empowered (February 2004) the Executive Engineers and the Superintending Engineers of the Divisions/Circles concerned to write off arrears of the irrigators and the non-irrigators respectively subject to certain conditions i.e. if in one financial year (i) 40 *per cent* paid in one installment 60 *per cent* would be waived; (ii) 50 *per cent* paid in two installments 50 *per cent* would be waived; and (iii) 60 *per cent* paid in three installments 40 *per cent* would be waived. Despite these concessions, the department failed to recover the arrears and the arrears are increasing. Further, the arrears amounting to Rs. 474.11 crore are recoverable for the water charges from the non-irrigators to whom the argument of weaker financial condition due to less yield is not applicable. Thus, there was no sustained effort from the divisions to effect recovery from the defaulters. In the cases of the defaulters of the non-irrigators even though the divisions could disconnect the supply of water in view of huge arrears, no step was taken in this direction.

Government may direct the department for speedy recovery of water charges and especially the recovery from non-irrigators should be pursued vigorously by the divisions.

The PAC in its 12th Report (June 2009) has also recommended to fix responsibility on the officers concerned who failed in this aspect.

Audit findings

System deficiencies

7.2.9 Shortfall in utilisation of irrigation potential created

The irrigation potential created and actual utilisation under major, medium and minor projects in respect of 18 Irrigation Divisions[2] is shown below:

Type of Projects	Average Potential created (in hectares)	Potential Utilised (in hectares)					Average Potential utilised (in hectare)	Percentage of utilisation
		2004-05	2005-06	2006-07	2007-08	2008-09		
Major	6,96,256	3,11,919	3,94,976	4,36,704	4,76,441	4,09,737	4,05,955.40	58.30
Medium	1,49,034	30,383	30,638	53,601	62,118	59,921	47,332.20	31.75
Minor	2,57,003	90,109	1,03,211	1,29,700	1,47,589	1,31,901	1,20,502.00	46.88
Total	**11,02,293**	**4,32,411**	**5,28,825**	**6,20,005**	**6,86,148**	**6,01,559**	**5,73,789.60**	**52.05**

The average percentage of utilisation during last five years was high at 58.30 *per cent* in respect of major projects and for medium projects and minor schemes utilisation was below 50 *per cent*. It can be further seen from the **Annexure VI** that in respect of major project for which data was available from 11 Divisions[3] the percentage of utilisation of irrigation potential varied widely between 16.57 *per cent* (Jalgaon Irrigation division) to 87.30 *per cent* (Kolhapur Irrigation division). Similarly, in medium and minor project the variation ranged between 16.97 *per cent* to 53.21 *per cent* and 11.68 *per cent* to 101.98 *per cent* respectively.

It was further noticed that Kolhapur, Bagh Itiadoh and Sangli Irrigation divisions had recorded the highest potential utilisation ranging between 80.53 and 87.30 *per cent* in respect of major projects. In respect of minor projects Gondia and Pune utilised the highest potential ranging between 80.90 and 101.98 *per cent*. Utilisation in respect of majority of the medium projects was noticed to be below 50 *per cent*, the highest utilisation being 53.21 *per cent*. In Jalgaon and Malegaon divisions the percentage of utilisation against the potential created during the years 2004-05 to 2008-09 in respect of major, medium and minor projects was very low ranging between 16.57 and 31.21 *per cent*. No explanation for this wide variation was furnished by the divisions.

[2] Ahmednagar, Amravati, Aurangabad, Bag Itiadoh, Girna, Gondia, Jalgaon, Jayakwadi, Khadakwasla, Kolhapur, Malegaon, Mula, Nanded, Pune, Raigad, Sangli, Thane and Upper Wardha Dam.

[3] Bagh Itiadoh, Girna, Jalgaon, Jayakwadi, Khadakwasla, Kolhapur, Malegaon, Mula, Nanded, Sangli, Upper Wardha Dam.

7.2.9.1 Loss of revenue due to under utilisation

Under utilisations lead to loss of water charge revenue. The potential loss of the revenue on account of shortfall in utilisation of the irrigation facilities created by applying the paddy rate of Rs. 476 per hectare during last five years from 2004-05 to 2008-09 worked out to Rs. 125.77 crore as given below:

(Rupees in crore)

Type of Projects	Potential created (hectares)	Potential Utilised (hectares)	Shortfall (hectares)	Loss
Major	34,81,280	20,29,777	14,51,503	69.09
Medium	7,45,170	2,36,661	5,08,509	24.20
Minor	12,85,015	6,02,510	6,82,505	32.48
Total	**55,11,465**	**28,68,948**	**26,42,517**	**125.77**

The divisions attributed shortfall in utilisation of potential created to:

(i) less demand of water from the cultivators especially during the rainy season; (ii) due to urbanisation and industrialisation in the command area there was less demand of water for the cultivation; (iii) the irrigation system was 25 to 30 years old and due to paucity of fund there is poor maintenance of the irrigation system; and (iv) leakage through the head regulator and underground pipe lines.

The Government may issue instructions to the department for full utilisation of the potential created. The department may take all necessary steps to stop loss of revenue due to underutilisation of potential created.

7.2.10 Loss of water released for irrigation purpose

As per WRDs circular dated 5-12-2001 the area of land irrigable in hot weather season and other seasons (Kharif and Rabi) should not be less than 110 and 150 hectare, respectively, from the one million cubic metre water released.

The actual irrigation carried out by farmers with reference to water released from the major, medium and minor projects in 10 test checked divisions[4] indicate huge loss of water. The consequential loss of revenue for the period from 2004-05 to 2008-09 arrived at Rs. 57.01 crore by applying minimum paddy rate of Rs. 476 per hectare, as detailed in the following table:

(Rupees in crore)

Year	Quantity of water released for irrigation (m. cum)	Area of land to be irrigated (hectare)	Area of land actually irrigated (hectare)	Area of land less irrigated (hectare)	Loss of revenue
2004-05	3,658.56	4,99,285	2,37,639	2,61,646	12.45
2005-06	3,770.92	5,04,995	2,90,421	2,14,573	10.18
2006-07	4,547.43	6,00,879	2,88,781	3,12,098	14.85
2007-08	4,560.61	6,19,417	3,31,942	2,87,476	13.68
2008-09	1,709.63	2,39,285	1,16,354	1,22,931	5.85
Total					**57.01**

[4] Amravati, Girna, Jalgaon, Jayakwadi, Khadakwasla, Kolhapur, Mula, Raigad, Thane and Upper Wardha Dam Division.

It was noticed that out of the total loss of Rs. 57.01 crore the major portion of 48 *per cent* and 22 *per cent* pertain to Khadakwasla and Kolhapur divisions. In Khadakwasla division the loss of Rs. 6.66 crore in 2004-05 had almost remained the same in the year 2006-07 (Rs. 6.66 crore) and 2007-08 (Rs. 6.12 crore). In Kolhapur division the loss which was Rs. 1.94 crore in 2004-05 had increased to Rs. 2.86 crore in 2005-06, Rs. 4.60 crore in 2006-07 and Rs. 3.09 crore in 2007-08 during hot weather and other seasons.

After this was pointed out, the department stated that (i) distribution system being very old, structure of canal system is damaged; (ii) a large portion in the command area is covered by hills and forest and some part is urbanised; and (iii) the demand for irrigation in the command area is of scattered nature which results in heavy transit losses during irrigation.

Audit observed that though the department was aware of the deficiency, they have failed to take action to address the problem of loss of water. Further in other 8 test checked divisions[5], the area of land irrigated was noticed to be more than the norms prescribed by the government.

The department needs to take action to avoid leakage of water which is resulting in loss of revenue besides reducing availability of water to the needy farmers/users.

7.2.11 Excess expenditure on operation and maintenance

As per the recommendations of Maharashtra State Water Policy 2003 and various commissions the cost of operation and maintenance of Irrigation Projects (Working expenses) were to be met from the water charges collected from the water users. It was, however, noticed that the expenditure on operation and maintenance in respect of five Irrigation divisions were in excess of the actual revenue assessed for recovery during the year 2004-05 to 2008-09 as detailed below:

(Rupees in lakh)

Sl. no.	Name of Division	Current year's assessment for last five years	Actual recovery for last five years	Expenditure incurred during last five years	Percentage of excess expenditure over assessment	Percentage of excess expenditure over actual recovery
1.	Bagh Itiadoh Irrigation division	1,226.01	864.19	2,668.63	117.66	208.80
2.	Gondia Irrigation division	576.44	362.71	1,222.98	112.16	237.17
3.	Ahmednagar Irrigation divsion.	3,084.00	2,835.65	5,276.30	71.08	86.07
4.	Aurangabad Irrigation division	635.09	563.51	935.00	47.22	65.92
5.	Amravati Irrigation division	527.00	384.00	692.92	31.48	80.44
	Total	**6,048.54**	**5,010.06**	**10,795.83**	**78.48**	**115.48**

[5] Ahmednagar, Aurangabad, Bagh Itiadoh, Gondia, Malegaon, Nanded, Pune and Sangli.

It could be seen from the above table that in Bagh Itiadoh Irrigation Division that the percentage of assessment over operation and maintenance was in excess by 117.66 *per cent* of the actual amount assessed for recovery. Likewise, in Gondia, Ahmednagar, Aurangabad and Amravati divisions it was 112.16, 71.08, 47.22 and 31.48 *per cent* respectively. Further, actual recovery was even less than the amount assessed.

After this was pointed out, these divisions stated that the authority for fixation of water charges rests with the Maharashtra Water Resources Regulatory Authority. However, audit observed that the water rates are same throughout the State, as such the argument of non-revision of rates is not sustainable. Further, out of 18 divisions test checked, only in these divisions expenditure on operation and maintenance was in excess of the amount assessed/recovered.

The department needs to look into the problem areas of these loss making divisions and find out the reasons for excess of expenditure over assessment/recovery and take immediate steps to rectify them.

Compliance deficiencies

7.2.12.1 Recovery through Revenue Recovery Certificate (RRC)

Section 88 of the MI Act, 1976, provides that the water rate or installment thereof which is not paid on the date when it become due shall be deemed as an arrears of land revenue due on account of land and shall be recoverable as such by any of the processes specified in section 176 of the Maharashtra Land Revenue (MLR) Code, 1966.

A test check of the records in nine divisions indicated that Rs. 106.73 crore was pending for recovery as of March 2009 as shown in table below:

(Rupees in crore)

Sl. no.	Name of Division	Amount	Period
1.	Bagh Itiadoh Division, Gondia	3.97	2003-04 and 2007-08
2.	Gondia Irrigation Division	0.59	2003-04 and 2004-05
3.	Jalgaon Irrigation Division	62.50	Since 2007-08
4.	Girna Irrigation Division, Jalgaon	1.42	1999 to 11/2003
5.	Ahmednagar Irrigation Division	17.84	2004
6.	Mula Irrigation Division, Ahmednagar	0.66	2004-05 to 2008-09
7.	Pune Irrigation Division	0.49	2003-04 and 2004-05
8.	Jayakwadi Irrigation Division, Paithan	0.73	2004-05 to 2008-09
9.	Kolhapur Irrigation Division	18.53	2007-08
Total		**106.73**	

It was noticed that out of the above nine divisions, recovery of the arrears amounting to Rs. 102.17 crore (95.72 *per cent*) through RRC was not proposed by seven divisions.

The other two[6] divisions though proposed the recovery through RRC during the period 2003-04, the EE, Gondia Irrigation division, Gondia stated that no response was received when they approached the revenue authorities concerned to ascertain the actual quantum of recovery effected through RRC.

[6] Gondia Irrigation Division and Bagh Itiadoh Irrigation Division and Gondia.

EE, Bagh Itiadoh Irrigation division, Gondia stated that it had not followed up the matter with the revenue authorities. In the absence of follow up, the divisional records showed no recovery through RRC.

7.2.12.2 Heavy pendency from sugar factories and thermal power station

During the course of review it was noticed in the test checked divisions that out of total the arrears of Rs. 188.80 crore under non-irrigation purpose, recovery of Rs. 38.93 crore as on March 2009 was pending from 35 sugar factories which was 20.62 *per cent* of the total pending arrears.

The following are some of the sugar factories from which huge arrears of water charges were pending recovery as of March 2009.

(Rupees in crore)

Sl. no.	Name of the sugar factories	Amount	Remarks
1.	Sant Muktabai Sahakari Sakhar Karkhana, Muktainagar	2.36	The arrears of Rs. 2.36 crore was pending prior to 2003-2004 and water connection was disconnected since February 2002. But the department had not declared the arrears for recovery through R.R.C.
2.	Augusti Sahakari Sakhar Karkhana	7.21	The arrears of Rs. 4.12 crore were pending since March 2003 which further accumulated to Rs. 7.21 crore.
3.	Dr. V. V.Patil Sahakari Sakhar Karkhana	3.36	The arrears of Rs. 2.30 crore were pending since March 2003 which further accumulated to Rs. 3.36 crore.
4.	Ashok Sahakari Sakhar Karkhana	1.12	The arrears of Rs. 39.25 lakh were pending since March 2003 which further accumulated to Rs. 1.12 crore.
5.	Dr. B.B. Tanpure Sahakari Sakhar Karkhana	1.03	The arrears of Rs. 41.36 lakh were pending since March 2003 which further accumulated to Rs. 1.03 crore.
Total		**15.08**	

It was also noticed that Rs. 35.98 crore was pending from Bhusawal Thermal Power Station at Deep Nagar, Bhusawal as of March 2009 against the outstanding arrears of Rs. 5.31 crore during March 2004 which showed that arrears were increasing.

The EE, Jalgaon division stated that in respect of Bhusawal Thermal Power Station from the total outstanding arrears of Rs. 49.29 crore, it had recovered Rs. 13.41 crore in March 2009 and the balance was Rs. 35.88 crore only which pertain to penalty imposed.

The Executive Engineers, Jalgaon, Mula and Kolhapur divisions stated (March/April 2009) that the reasons for non-recovery of water charges from the sugar factories were that as per Govt. Circular the non-irrigators were liable to pay water charges on 90 *per cent* of the quota granted to them irrespective of the actual quantity of water consumed by them and therefore they were not ready to pay the penal assessment.

The fact remains that the concerned divisions failed to enforce the contractual conditions.

7.2.13 Non-recovery of the water charges from the well owners

Section 55 (b) of the MI Act, 1976, provides that water charges for irrigation of sugarcane, fruit crops, vegetables and other similar perennial crops and seasonal crops like cotton, ground nut and other cash crop etc. if carried through old or new well situated within a distance of 35 metres from the nearest boundary of the command area of irrigation project and all main canals, branch canals, distributaries, field or drainage channels, flood barrages, notified rivers, nallas and seepages etc. shall be charged at half of the normal rates prescribed by Government.

Test check of the records revealed that in 10 divisions the water charges amounting to Rs. 36.15 crore was pending recovery as on 31-03-2009 from the well owners as mentioned below:

(Rupees in crore)

Name of division	Outstanding Amount
Amravati Irrigation division	0.23
Aurangabad Irrigation division	8.21
Ahmednagar Irrigation division	6.19*
Jalgaon Irrigation division, Jalgaon	0.33
Khadakwasla Irrigation division, Pune	2.15
Girna Irrigation division,. Jalgaon	0.41
Nanded Irrigation division, Nanded	0.46
Sangli Irrigation division, Sangli	0.78
Kolhapur Irrigation division, Kolhapur	6.70
Pune Irrigation division, Pune	10.69
Total	**36.15**

* Pending as on 31 March 2008

The reasons for pendency were stated to be the farmers' denial to make payment on the ground that they were not getting water directly from the storage point.

7.2.14 Supply of water without execution of agreement

As per Government Resolution dated 21-1-2003, supply of water to any agency or institute for non-irrigation purpose shall not be made unless an agreement therefor is executed by the agency/institute in the prescribed form.

Test check of the records in the following six divisions revealed that the water costing Rs. 12.80 crore was drawn by the 16 agencies without executing formal agreement with the appropriate authorities.

(Rupees in crore)

Name of Division	No. of Agencies	Amount
Gondia Irrigation Division	02	0.07
Jalgaon Irrigation Division	03	2.70
Nanded Irrigation Division	03	4.97
Jayakwadi Irrigation Division	03	2.72
Sangli Irrigation Division	04	2.14
Malegaon Irrigation Division	01	0.20
Total	**16**	**12.80**

The department stated (February, March and April 2009) that the above agencies are concerned with supply of water for drinking purpose and efforts were being made for execution of the agreement. Further, inspite of protracted

correspondence made with the agencies concerned there was no response from them. However, the department stated that recovery was made from the unauthorised water users by multiplying the volume of water by 1.5 times of the water actually consumed.

7.2.15 Conclusion

The study highlights that one of the major areas of concern is the continuous shortfall in collection of water revenue. The accumulation of arrears has been increasing year after year but adequate efforts have not been made to recover the current revenue let alone the outstanding in this regard. The department had failed to utilise full potential of the irrigation facilities created. There is heavy pendency in referring the arrear cases to District Revenue Department for recovery through RRC. Even in a few cases which have been referred to Revenue Department, no follow up action has been taken.

7.2.16 Summary of recommendations

The Government consider the following to improve the revenue collection:

- **Government may issue direction to the department for vigorous pursuance of recovery through RRC;**
- **Take urgent action to avoid leakage of water, which is also resulting in loss of revenue besides depriving availability of water to the needy farmers/users;**
- **the department may analyse the problem areas in the divisions where office and maintenance expenditure is more than the amount assessed for recovery and find out the reasons of such excess of expenditure over assessment/recovery and take immediate steps to rectify them.**
- **Cultivators may be motivated for full utilisation of water by adopting rotation of crop in all the three seasons.**
- **The Government may take necessary steps to ensure full utilisation of the potential created.**

7.3 Non-recovery of interest receipt from Maharashtra State Textile Corporation

Non-raising of demand of interest by the Co-operation and Textile Department resulted in non-recovery of interest of Rs. 292.60 crore.

The loans advanced by the Government usually carry the interest at the rates fixed by the sanctioning authorities keeping in view the financial resources and purpose for which the loan is provided. The period and manner of repayment of the loans as well as the rate of the interest are generally specified before grant of the loans and are indicated in the sanction order itself.

During the scrutiny of Financial Accounts of Maharashtra State Textile Corporation (MSTC) Ltd. in May 2008, it was noticed that the Government had sanctioned loans aggregating Rs. 280.19 crore between December 1997 and December 2002 to the Corporation. The loans carried the interest at the rate of 15 *per cent* per annum which was also leviable during the moratorium period of two years. On completion of the moratorium period, the loan was repayable along with the interest in five equal annual installments. The Penal interest at the rate of two *per cent* is chargeable on delayed payment of interest as per the conditions of sanction. The interest payable on these loans upto March 2008 by the Corporation was Rs. 292.60 crore. Out of the principal amount of Rs. 280.19 crore, the Government had converted Rs. 29.28 crore into share capital between February 1999 and March 2006 and the MSTC had paid the principal of Rs. 25 crore in May 2007 to the Government. The department neither demanded nor recovered the balance amount of loan of Rs. 225.91 crore and interest of Rs. 292.60 crore. This resulted in non-recovery of the interest of Rs. 292.60 crore including penal interest as on 31 March 2008.

The matter was referred to the Government in May 2009. The Government stated (June 2009) that MSTC has been facing financial crisis and the Government has decided to wind up the activities of the Corporation and decision to waive-off the loan and interest would be taken at the time of closure of the Corporation. Further reply in the matter has not been received. (November 2009).

(RAJIB SHARMA)
Principal Accountant General (Audit)-I,
Maharashtra

Mumbai,
The 10 MAR 2010

Countersigned

(VINOD RAI)
Comptroller and Auditor General of India

New Delhi,
The 12 MAR 2010

ANNEXURE I

YEARWISE DETAILS OF OUTSTANDING INSPECTION REPORTS AND AUDIT OBSERVATIONS UNDER VARIOUS RECEIPTS AS OF 30TH JUNE 2009

(Reference: Paragraph 1.10)

(Rupees in lakh)

Sl. no.	Nature of receipt	upto 2004-05			2005-06			2006-07			2007-08			2008-09			Total		
		IRs	Objs	Amount	IRs	Objs	Amount	IRs	Objs	Amount	IRs	Objs	Amount	IRs	Objs	Amount	IRs	Objs	Amount
1.	Sales tax/VAT etc.,	527	1,006	5,485.05	170	378	2,410.68	255	623	484.95	425	1,295	5,812.43	148	541	1,467.49	1,525	3,843	15,660.60
2.	Land revenue	569	1,218	18,173.22	142	260	1,367.56	123	346	8,824.56	157	272	3,369.13	225	514	17,093.92	1,216	2,610	48,828.39
3.	Stamp Duty and Registration Fees	265	562	8,839.65	142	293	4,814.74	141	324	10,091.67	119	267	2,495.56	146	345	9,413.24	813	1,791	35,654.86
4.	Taxes on motor vehicles	39	60	296.37	25	45	159.84	39	87	177.61	40	98	338.95	36	171	815.98	179	461	1,788.75
5.	Forests receipts	122	211	845.17	19	40	1,197.96	25	46	3,162.37	20	41	229.83	18	55	263.04	204	393	5,698.37
6.	Entertainments duty	32	35	32.69	20	26	32.92	31	37	19.75	63	91	132.03	73	143	367.15	219	332	584.54
7.	State excise	13	13	159.53	12	17	134.08	13	17	13.58	29	34	21.28	36	65	71.05	103	146	399.52
8.	Electricity duty	3	3	1.86	1	1	49.69	4	5	--	7	9	8.54	14	19	682.44	29	37	742.53
9.	Tax on professions	34	47	39.86	22	30	26.94	33	42	35.35	5	6	13.07	14	20	22.99	108	145	138.21
10.	Tax on residential premises	10	10	7.67	11	13	9.77	10	10	19.11	5	5	--	8	8	--	44	46	36.55
11.	State education cess & employment guarantee cess	26	30	67.99	17	22	362.18	25	40	178.48	19	33	225.97	12	17	196.40	99	142	1,031.02
12.	Repair cess	1	1	20.79	1	1	1.93	1	1	--	1	1	--	3	4	260.13	7	8	282.85
13.	Other Non-tax receipts	100	118	4,389.06	2	2	--	6	6	17.07	6	9	155.52	12	12	--	126	147	4,561.65
Total		**1,741**	**3,314**	**38,358.91**	**584**	**1,128**	**10,568.29**	**706**	**1,584**	**23,024.50**	**896**	**2,161**	**12,802.31**	**745**	**1,914**	**30,653.83**	**4,672**	**10,101**	**1,15,407.84**

IRs - Inspection Reports
Objs. - Objections

ANNEXURE-II
STATEMENT SHOWING STATISTICAL SAMPLING METHOD
FOR REVIEW ON "SALES TAX INCENTIVES UNDER PACKAGE SCHEME OF INCENTIVES"

(Reference: Paragraph 2.2.3)

(Rupees in crore)

Sl. no.	District	Deferral		Exemption		Total		Rounding	Cumulative Value	Range	Table Nos.
		No of ECs issued	Amount	No of ECs issued	Amount	No of ECs issued	Amount				
1.	Amravati	0	0.00	3	8.21	3	8.21	8	8	00000-00008	
2.	Aurangabad	211	2,690.11	255	2,498.67	466	5,188.78	5,189	5,197	00009-05198	**00076**
3.	Kolhapur	196	1,156.85	289	2,417.13	485	3,573.98	3,574	8,771	05199-08773	
4.	Nagpur	132	1,420.82	322	8,269.86	454	9,690.68	9,691	18,462	08774-18465	**15591**
5.	Nanded	1	7.85	0	0.00	1	7.85	8	18,470	18466-18474	
6.	Nashik	316	3,306.39	262	2,270.64	578	5,577.03	5,577	24,047	18475-24052	**22620**
7.	Pune	310	3,471.35	257	4,104.91	567	7,576.26	7,576	31,623	24053-31629	**29789**
8.	Solapur	2	47.83	1	2.47	3	50.30	50	31,673	31630-31680	
9.	Thane	274	6,809.17	447	10,857.49	721	17,666.66	17,667	49,340	31681-49348	**43773**
Total		**1,442**	**18,910.37**	**1,836**	**30,429.38**	**3,278**	**49,339.75**	**49,340**			

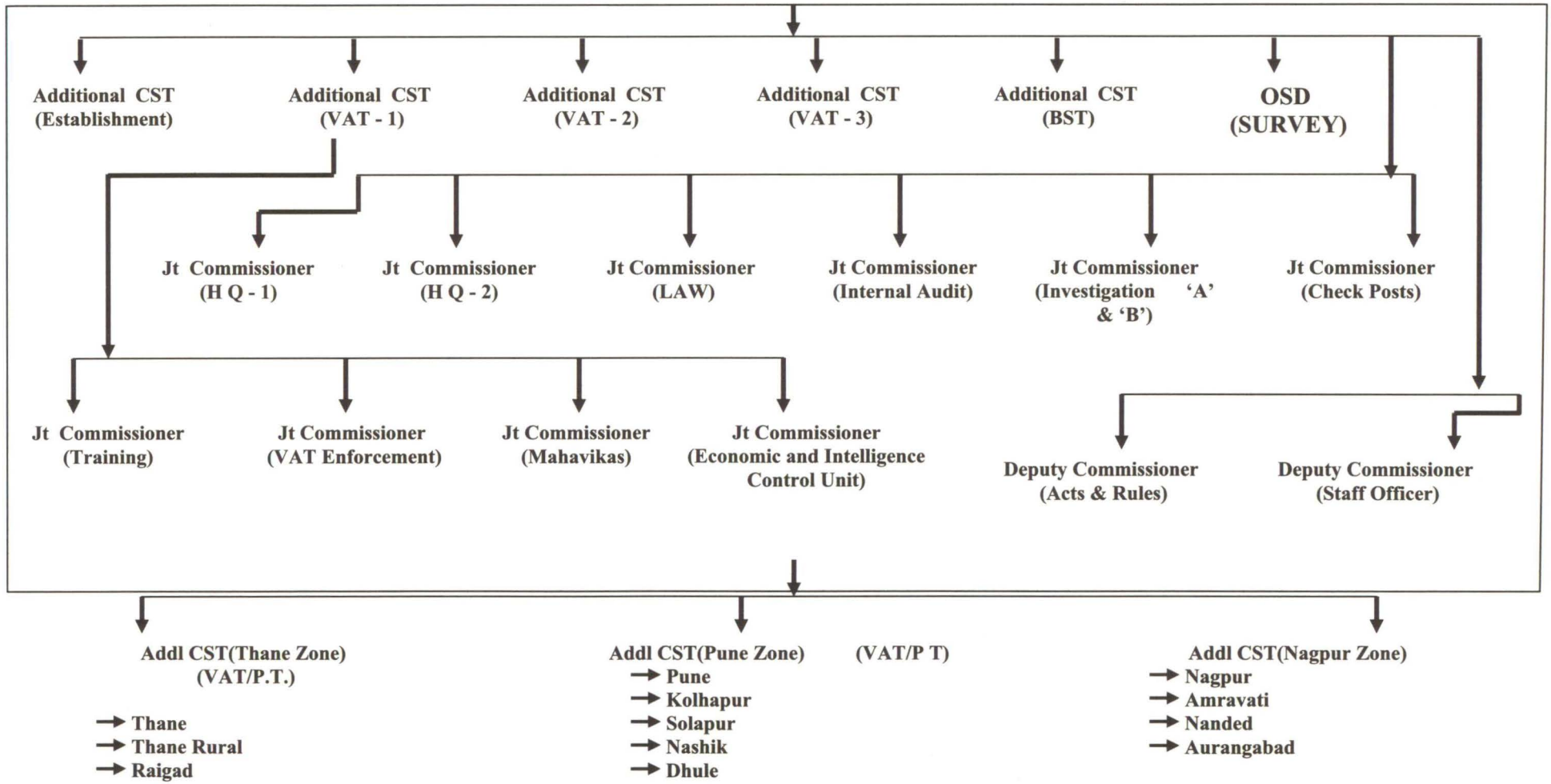
For the selection of sample of five divisions the above data of nine divisions was taken as the population and these were arranged in alphabetical order. As per the guidelines, table number 5, vertical column of the booklet "Random Sampling Numbers" of the National Sample Survey Organisation of the Government of India was used by applying simple random sampling without replacement technique (SRSWOR). The five divisions selected by this method were Aurangabad, Nagpur, Nashik, Pune and Thane.

ANNEXURE-III

ORGANISATION STRUCTURE OF THE OFFICE OF COMMISSIONER OF SALES TAX

COMMISSIONER OF SALES TAX

(Reference : Paragraph 2.3.2)



ANNEXURE-IV
STATEMENT SHOWING STATISTICAL SAMPLING METHOD FOR REVIEW ON "TRANSITION FROM BST TO VAT"
(Reference: Paragraph 2.3.4)

(Rupees in Crore)

Sl. no.	Divisons	2005-06	2006-07	2007-08	Total Receipts	Cumu-lative Value	Range	Sampling number
1.	Amravati	94.95	130.43	178.44	404	404	00000-00404	
2.	Aurangabad	491.78	593.64	710.02	1,795	2,199	00405-02199	
3.	Dhule	0.00	183.26	240.88	424	2,624	02200-2624	
4.	Kolhapur	375.88	500.83	558.33	1,435	4,059	02625-04059	
5.	Mumbai	13,339.46	15,707.73	17,611.01	46,658	50,717	04060-50717	**50548**
6.	Nagpur	706.87	882.33	1,033.09	2,622	53,339	50718-53339	
7.	Nanded	0.00	77.88	106.53	184	53,524	53340-53524	
8.	Nasik	719.37	790.76	940.46	2,451	55,974	53525-55974	**54797**
9.	Palghar	0.00	239.28	275.46	515	56,489	55975-56489	**56052**
10.	Pune	2,142.26	3,052.40	3,630.35	8,825	65,314	56490-65314	**63431**
11.	Raigad	329.29	413.98	445.23	1,189	66,502	65315-66502	
12.	Solapur	0.00	236.97	283.18	520	67,023	66503-67023	
13.	Thane	676.21	662.25	803.31	2,142	69,164	67024-69164	

For the selection of sample of four divisions the above data of 13 divisions was taken as the population and these were arranged in alphabetical order. As per the guidelines, table number 9, vertical row no.1 of the booklet "Random Sampling Numbers" of the National Sample Survey Organisation of the Government of India was used by applying simple random sampling without replacement technique (SRSWOR). The four divisions selected by this method were Mumbai, Nasik, Pune and Thane Rural.

ANNEXURE-V
STATEMENT SHOWING IRREGULAR GRANT OF EXEMPTION FROM ED OF MTCs ON ACCOUNT OF NON-FULFILLMENT OF PRESCRIBED CONDITIONS
(Reference: Paragraph 6.2.7.6)

(Rupees in crore)

Sl. no.	Name of the MTC/ District	Para No.	Period	Amount involved in para 6.2.7.1 to 6.2.7.5	Amount* included in column 5 also	Irregular exemption of ED granted (5-6)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	24 Carat, Jogeshwari, Mumbai Suburban	6.2.7.1	2003-04 to 2007-08	7.28		7.28
		6.2.7.2	2003-04 to 2006-07	4.71	4.71	
2.	Cinemax, Kandivali, Mumbai Suburban	6.2.7.2	2006-07 to 2007-08	3.05		3.05
		6.2.7.5	2006-07 to 2007-08	3.05	3.05	
3.	Cinemax, Varsova, Mumbai Suburban	6.2.7.2	2006-07 to 2007-08	11.25		11.25
4.	Fame Adlab, Andheri, Mumbai Suburban	6.2.7.2	2003-04 to 2006-07	14.94		14.94
5.	Fame, Kandivali, Mumbai Suburban	6.2.7.1	2002-03 to 2007-08	18.90		18.90
		6.2.7.2	2006-07 to 2007-08	5.78	5.78	
		6.2.7.4	2006-07 to 2007-08	5.78	5.78	
6.	Fame, Malad, Mumbai Suburban	6.2.7.1	2005-06 to 2007-08	13.20		13.20
		6.2.7.2	2005-06 to 2007-08	13.20	13.20	
7.	Fun Republic, Andheri, Mumbai Suburban	6.2.7.2	2004-05 to 2007-08	11.64		11.64
8.	I-Max Adlab, Wadala, Mumbai Suburban	6.2.7.1	2001-02 to 2007-08	24.00		24.00
9.	Huma Adlab, Kanjur Marg, Mumbai Suburban	6.2.7.1	2005-06 to 2007-08	6.27		6.27
		6.2.7.2	2005-06to 2006-07	3.50	3.50	
		6.2.7.5	2005-06 to 2007-08	6.27	6.27	
10.	Movie Time, Goregaon, Mumbai Suburban	6.2.7.1	2005-06 to2007-08	6.74		6.74
		6.2.7.2	2006-07 to 2007-08	6.74	6.74	
11.	PVR , Mulund, Mumbai Suburban	6.2.7.1	2006-07 to2007-08	5.91		5.91
		6.2.7.2	2006-07 to 2007-08	5.91	5.91	
		6.2.7.4	2006-07 to2007-08	5.91	5.91	
12.	PVR, Juhu, Mumbai Suburban	6.2.7.2	2006-07 to 2007-08	5.90		5.90
13.	R Adlab, Mulund, Mumbai Suburban	6.2.7.1	2003-04 to2007-08	10.32		10.32
		6.2.7.2	2003-04 to 2006-07	6.13	6.13	
		6.2.7.5	2003-04 to2007-08	10.32	10.32	
14.	Cine Prime, Mira Road, Thane	6.2.7.1	2004-05 to2007-08	4.27		4.27
		6.2.7.2	2004-05 to 2006-07	3.66	3.66	
		6.2.7.3	2004-05 to2007-08	4.27.	4.27.	
15.	Meghraj, Vashi, Thane	6.2.7.1	2004-05 to2007-08	5.53		5.53
16.	Gold Adlab, Pune	6.2.7.2	2005-06 to 2007-08	4.32		4.32
17.	PVR, Aurangabad	6.2.7.4	2006-07 to2007-08	1.25		1.25
18.	PVR, Latur	6.2.7.4	2006-07 to2007-08	1.03		1.03
19.	G-7, Mumbai Suburban	6.2.7.3	2006-07 to2007-08	4.60		4.60
Total				**245.63**	**85.23**	**160.40**

* Relating to multiple observations in respect of same MTCs regarding non-fulfillment of more than one specified conditions.

Annexure VI

Statement showing the irrigation potential created and short utilisation thereof

(Reference: Paragraph 7.2.9)

Major Projects

Sl. no.	Name of the Divisions	No. of Projects	Average Potential created	Potential Utilised (In Hectare)					Average Potential Utilised	Percentage of average Potential Utilised during last 5 years
				2004-05	2005-06	2006-07	2007-08	2008-09		
1.	Mula Irrigation Division, Ahmednagar	1	70,689	33,820	42,080	37,802	39,763	19,643	34,621.60	48.97
2.	Jayakwadi Irrigation Project , Paithan	1	44,200	11,182	28,383	23,490	34,728	42,460	28,048.60	63.45
3.	Bagh Itiadoh Irrigation Division, Gondia	2	60,106	41,916	59,929	55,504	58,469	40,734	51,310.40	85.36
4.	Jalgaon Irrigation Division, Jalgaon	1	51,861	8,572	9,272	8,414	8,949	7,769	8,595.20	16.57
5.	Gima Irrigation Division, Jalgaon	1	69,350	20,016	40,641	33,248	42,213	36,011	34,425.80	49.64
6.	Malegaon Irrigation Division, Malegaon	1	18,460	2,851	4,290	3,064	2,788	2,459	3,090.40	16.74
7.	Upper Wardha Dam Division, Amravati	1	74,468	16,890	16,606	27,543	36,119	12,648	21,961.20	29.49
8.	Nanded Irrigation Division	2	41,402	22,525	25,595	29,951	25,643	14,494	23,641.60	57.10
9.	Kolhapur Irrigation Division	1	32,270	28,877	29,469	27,200	26,905	28,410	28,172.20	87.30
10.	Sangli Irrigation Division	1	1,52,334	81,835	90,748	1,42,075	1,47,073	1,51,655	1,22,677.20	80.53
11.	Khadakwasla Irrigation Division,	3	81,116	43,435	47,963	48,413	53,791	53,454	49,411.20	60.91
	Total	**15**	**6,96,256**	**3,11,919**	**3,94,976**	**4,36,704**	**4,76,441**	**4,09,737**	**4,05,955.40**	**58.30**

Annexure VI (Contd.)

Medium Projects

Sl. no.	Name of the Division	No. of Projects	Average Potential created	Potential Utilised (In Hectares)					Average Potential Utilised	Percentage of average Potential Utilised during last 5 years
				2004-05	2005-06	2006-07	2007-08	2008-09		
1.	Ahmednagar Irrigation Division, Ahmednagar	3	7,840	4,036	3,977	3,976	4,138	3,544	3,934.20	50.18
2.	Amravati Irrigation Division, Amravati	2	11,360	463	2,145	2,796	3,309	3,290	2,400.60	21.13
3.	Aurangabad Irrigation Division, Aurangabad	21	40,605	1,649	2,537	13,033	23,139	21,367	12,345.00	30.40
4.	Girna Irrigation Division, Jalgaon	4	15,660	3,891	2,404	6,741	7,413	6,285	5,346.80	34.14
5.	Pune Irrigation Division, Pune	2	8,987	1,609	1,168	1,505	2,327	3,104	1,942.60	21.61
6.	Sangli Irrigation Division, Sangli	7	19,047	5,473	5,537	9,793	7,854	9,765	7,672.00	40.27
7.	Jalgaon Irrigation Division, Jalgaon	5	13,450	3,838	1,614	2,075	1,715	2,175	2,283.40	16.97
8.	Malegaon Irrigation Division, Malegaon	3	20,564	6,138	4,823	5,866	6,455	5,529	5,762.20	28.02
9.	Jayakwadi Irrigation Division, Paithan	1	2,200	336	467	974	798	850	685.00	31.13
10.	Nanded Irrigation Division, Nanded	8	9,321	2,950	5,966	6,842	4,970	4,074	4,960.40	53.21
	Total	**56**	**1,49,034**	**30,383**	**30,638**	**53,601**	**62,118**	**59,921**	**47,332.20**	**31.75**

Annexure VI (Contd.)

Minor Projects

Sl. no.	Name of the division	No. of Projects	Average Potential created	Potential Utilised (In Hectares)					Average Potential Utilised	Percentage of average Potential Utilised during last 5 years
				2004-05	2005-06	2006-07	2007-08	2008-09		
1.	Gondia Irrigation Division, Gondia	58	19,609	11,320	18,067	17,592	17,649	14,694	15,864.40	80.90
2.	Amravati Irrigation Division, Amravati	61	18,976	3,939	6,195	7,961	9,152	3,432	6,135.80	32.33
3.	Girna Irrigation Division, Jalgaon	26	6,838	937	971	4,039	2,282	3,422	2,330.20	34.07
4.	Jalgaon Irrigation Division, Jalgaon	35	10,919	1,574	928	3,226	1,669	1,759	1,831.20	16.77
5.	Ahmednagar Irrigation Division, Ahmednagar	28	22,711	5,763	5,858	7,103	8,097	6,942	6,752.60	29.73
6.	Malegon Irrigation Division, Malegon	37	13,611	3,541	3,332	4,531	4,584	5,253	4,248.20	31.21
7.	Raigad Irrigation Division, New Mumbai	03	782	84	116	74	83	100	91.40	11.68
8.	Thane Minor Irrigation Division, Kalwa	40	6,873	1,868	2,642	3,772	3,935	3,572	3,157.80	45.94
9.	Pune Irrigation Division, Pune	30	51,557	46,476	44,137	47,246	63,912	61,134	52,581.00	101.98
10.	Nanded Irrigation Division, Nanded	75	28,794	3,872	8,903	10,922	4,991	6,031	6,943.80	24.11
11.	Aurangabad Irrigation Division,Aurangabad	96	36,062	2,046	4,895	12,105	20,568	16,512	11,225.20	31.12
12.	Sangli Irrigation Division, Sangli	82	33,317	4,511	2,907	6,640	6,218	4,579	4,971.00	14.92
13.	Kolhapur Irrigation Division, Kolhapur	28	6,954	4,178	4,260	4,489	4,449	4,471	4,369.40	62.83
	Total	**599**	**2,57,003**	**90,109**	**1,03,211**	**1,29,700**	**1,47,589**	**1,31,901**	**1,20,502.00**	**46.88**