



**Report of the
Comptroller and Auditor General of India
on
Revenue Sector
for the year ended March 2015**



Government of Assam
Report No.4 for the year 2015

**Report of the
Comptroller and Auditor General of India
for the year ended 31 March 2015**

**Report No. 4
Revenue Sector
Government of Assam**

TABLE OF CONTENTS

Particulars	Paragraph	Page
Preface		v
Overview		vii-xi
CHAPTER-I : GENERAL		
Trend of Revenue Receipts	1.1 – 1.1.4	1
Analysis of arrears of revenue	1.2	5
Arrears in assessments	1.3	5
Evasion of tax detected by the Department	1.4	6
Pendency of Refund cases	1.5	6
Response of Government/departments towards Audit	1.6	7
Analysis of the mechanism for dealing with the issues raised by Audit	1.7	9
Audit Planning	1.8	11
Results of Audit	1.9	12
CHAPTER-II :TAXATION		
SECTION – A VALUE ADDED TAX		
Administration	2.1	13
Results of Audit	2.2	13
‘Admissibility of Input Tax Credit’ – A Performance Audit	2.3	15
Compliance Audit observations	2.4	34
Incorrect grant of eligibility/entitlement certificate resulted in undue grant of tax exemption	2.5	35
Failure to update interest upto the date of drawing up Arrear Certificate led to short-levy of interest	2.6	37
Loss of revenue due to erroneous grant of the certificate of authorisation	2.7	39
Concealment of purchase turnover resulting revenue not being realised	2.8	40
Incorrect grant of concession against invalid declaration form led to revenue not being realised	2.9	41
Failure to detect fraudulent use of declaration forms resulted in revenue not being realised	2.10	42

Particulars	Paragraph	Page
Irregular allowance of concessional rate of tax against fake declaration forms issued in the name of non-existent dealer resulted in tax not being realised	2.11	43
Incorrect grant of concession against declaration form 'D' led to short levy of tax	2.12	43
SECTION - B ENTRY TAX		
Assessment of purchase price of coal at lower rates led to short determination of turnover; consequently entry tax was not realised	2.13	45
Concealment of purchase turnover led to evasion of entry tax	2.14	46
Dealers under the Assam Entry Tax Act not registered; consequently entry tax on taxable purchase not levied/realised	2.15	48
Assessing Officer failed to follow up a case of non-payment of tax resulting in tax not being realised	2.16	49
Three dealers failed to pay tax/paid tax belatedly on which interest was not/short levied by the assessing officers	2.17	50
Failure to detect purchases made prior to the date of registration led to tax not being realised	2.18	51
CHAPTER – III : STATE EXCISE		
Administration	3.1	53
Trend of receipts	3.2	53
Working of internal audit wing	3.3	54
Results of audit	3.4	54
Mis-classification of brands of IMFL resulted in loss of revenue	3.5	55
Evasion of excise duty due to overstatement of closing stock/ deficiency in actual stock of ENA	3.6	56
Revenue not realised against damaged stock allowed for destruction	3.7	58
Demand on incorrect reduction of strength of ENA by the Bottling Units was not raised resulting in loss of revenue	3.8	59
Two bonded warehouses, one bottling unit, five retail 'Off' and one retail 'On' licensees did not pay the annual licence fees while two bottling units and 58 'Off' licensees paid short resulting in non/short realisation of licensee fees	3.9	60
Excess allowance of godown wastage over and above the permissible limit led to revenue not being realised	3.10	61

Particulars	Paragraph	Page
Additional bottling fee not/short realised on India made foreign liquor	3.11	62
Payment of licence fees at lower rates by a Brewery resulted in short-realisation of revenue	3.12	63
Short realisation of licence fees from two bonded warehouses	3.13	64
CHAPTER-IV : MOTOR VEHICLE TAXES		
Administration	4.1	67
Working of internal audit wing	4.2	67
Results of audit	4.3	67
Audit on the theme - 'Collection of revenue from out-sourced activities in Transport Department'	4.4	69
CHAPTER-V : ENVIRONMENT AND FOREST		
Administration	5.1	83
Working of internal audit wing	5.2	83
Results of audit	5.3	83
Audit on the theme - 'Planning and Financial management of Major wildlife areas in Assam – Impact on Conservation efforts'	5.4	85
Minimum royalty on unauthorised extraction of minerals by a contractor under National Highway Authority of India not recovered	5.5	105
Demand notice for recovery of royalty for unauthorised extraction of stone/boulders not raised	5.6	106
Short realisation of revenue due to application of lower rates of royalty while issuing permits	5.7	107
Procurement of battery operated vehicles without carrying out feasibility study and not backing it up with a maintenance contract led to idling of the vehicles and expenditure becoming unfruitful	5.8	108
Irregular acceptance of plea of the <i>mahaldar</i> coupled with failure to put the <i>mahal</i> on risk sale resulted in loss of revenue	5.9	109
Appendices	113-117	

PREFACE

This Report of the Comptroller and Auditor General of India for the year ended 31 March 2015 has been prepared for submission to the Governor of Assam under Article 151 of the Constitution of India.

The Report contains significant findings of audit of Receipts and Expenditure of major Revenue earning Departments under Revenue Sector conducted under the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971.

The instances mentioned in this Report are those, which came to notice in the course of test audit during the period 2014-15 as well as those which came to notice in the earlier years, but could not be reported in the previous Audit Reports; instances relating to the period subsequent to 2014-15 have also been included, wherever necessary.

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

The Performance Audit on 'Environmental degradation in Greater Guwahati Area with emphasis on the State Pollution Control Board' conducted during the year will be presented as a separate Standalone Report.

OVERVIEW

This Report contains 46 paragraphs suitably clubbed into appropriate captions relating to non/short levy of taxes/duties/royalty, interest and penalty etc., loss of revenue, irregular exemption, unfruitful expenditure and other irregularities. It also contains a performance audit on 'Admissibility of Input Tax Credit' and two results of audit on the themes 'Collection of Revenue from out-sourced activities in Transport Department' and 'Planning and Financial management of Major wildlife areas in Assam – Impact on Conservation efforts'. Some of the major findings are mentioned below:

I. GENERAL

- The total receipts of the State for the year 2014-15 were ₹ 38,181.49 crore against ₹ 32,212.79 crore in the previous year. Of this, 31 per cent was raised by the State Government through tax revenue (₹ 9,449.81 crore) and non-tax revenue (₹ 2,412.89 crore). The balance 69 per cent was received from the Government of India in the form of State's share of net proceeds of divisible Union taxes (₹ 12,283.71 crore) and grants-in-aid (₹ 14,035.08 crore).

(Paragraph 1.1)

- Failure of senior officials to ensure timely replies and accountability resulted in 3,281 audit observations not being settled involving revenue implication of ₹ 6,943.11 crore at the end of June 2015.

(Paragraph 1.6)

- During the year 2014-15, only three Audit Committee meetings in respect of Environment and Forest, State Excise and Taxation departments were held in which 260 paragraphs were settled.

(Paragraph 1.6.2)

- Test check of records of 113 units of sales/value added tax, motor vehicles, state excise, forest, other tax and non-tax receipts conducted during the year 2014-15 revealed under assessment/short levy/short demand having revenue implication of ₹ 1,772.37 crore in 500 cases.

(Paragraph 1.9.1)

II. TAXES ON SALES, TRADE ETC.

A performance audit on ‘Admissibility of Input Tax Credit’ revealed the following:

Systemic deficiencies

Though the Taxation Department had introduced a system of furnishing purchase/sale figures by the dealers along with the returns in 2008, but the same was not made mandatory. Besides, the Department did not institute a system of electronic matching of purchase-sales before allowance of Input Tax Credit claims as is being practiced by other States. Neither has it put in place a norm for cross verification of returns while scrutinising the returns. Even after 10 years of implementation of VAT in the State, these systemic deficiencies continued to hinder effective checks before allowance of Input Tax Credit and have created a situation rife with scope of evasion of taxes. Audit scrutiny of sampled cases revealed huge irregularities with revenue implication of nearly ` 200 crore. Unless the Department initiates a timebound plan to overcome the deficiencies, these would prove to be major bottleneck to efficient administration of the Commercial Tax activity in the State while switching over to the proposed Goods and Services Tax system in future.

(Paragraph 2.3.9)

Compliance deficiencies

20,793 dealers of seven unit offices were allowed to avail Input Tax Credit of ` 3,081.22 crore during the period from 2009-10 to 2013-14; but there was no cross verification to ascertain that the claims of Input Tax Credit were genuine.

(Paragraph 2.3.10)

Cross verification of transaction of 33 purchasing and 32 selling dealers by Audit revealed excess claim of Input Tax Credit of ` 17.05 crore including interest of ` 4.79 crore. Besides, penalty of ` 24.55 crore was also leviable for willful inflation of purchase figures.

(Paragraph 2.3.12.1)

There was an irregular allowance of Input Tax Credit of ` 1.75 crore including interest on discounts/rebate/incentives.

(Paragraph 2.3.18)

Input Tax Credit was not reversed on goods specified in the Fourth Schedule which resulted in irregular allowance of Input Tax Credit of ` 89.70 lakh, including interest.

(Paragraph 2.3.20)

There was excess availment of Input Tax Credit to the tune of ₹ 7.08 crore including interest and penalty due to calculation of Input Tax Credit at higher rate.

(Paragraph 2.3.16)

13 manufacturers/dealers in 33 cases claimed Input Tax Credit on purchase of goods valuing ₹ 2,376.46 crore though the dealers disclosed local purchase worth only ₹ 2,123.44 crore in manufacturing account/annual returns. This resulted in excess claim of Input Tax Credit amounting to ₹ 17.51 crore including interest.

(Paragraph 2.3.13.1)

Scrutiny/best judgment assessment was not completed by the assessing authorities which resulted in incorrect claim of Input Tax Credit of ₹ 42.21 crore not being detected. In addition, interest of ₹ 25.82 crore and penalty of ₹ 25.45 crore was also leviable.

(Paragraph 2.3.14)

Other audit observations

- Incorrect grant of eligibility/entitlement certificate resulted in undue grant of tax exemption of ₹ 5.44 crore.

(Paragraph 2.5)

- Interest not updated upto the date of drawing up Arrear Certificate led to short-levy of interest of ₹ 74.55 lakh.

(Paragraph 2.6)

- There was loss of revenue of ₹ 60.22 lakh due to erroneous grant of the certificate of authorisation to one dealer.

(Paragraph 2.7)

- Concealment of purchase turnover resulted in revenue of ₹ 23.93 lakh including interest not being realised.

(Paragraph 2.8)

- Assessment of purchase price of coal at lower rates led to short determination of turnover and consequently entry tax of ₹ 5.50 crore was not realised on which interest of ₹ 3.07 crore was additionally leviable.

(Paragraph 2.13)

- Concealment of purchase turnover led to evasion of entry tax of ₹ 80.46 lakh on which interest of ₹ 43.76 lakh was additionally leviable.

(Paragraph 2.14)

- Failure to register dealers under the AET Act and levy tax on taxable purchase led to tax of ` 36.77 lakh including interest not being realised.

(Paragraph 2.15)

III. STATE EXCISE

- Mis-classification of brands of IMFL in wrong category resulted in loss of revenue of ` 172.08 crore.

(Paragraph 3.5)

- There was evasion of excise duty of ` 1.54 crore due to overstatement of closing stock/ deficiency in actual stock of ENA.

(Paragraph 3.6)

- Revenue of ` 1.18 crore not realized against damaged stock allowed for destruction.

(Paragraph 3.7)

- Demand not raised on incorrect reduction of strength of ENA by the Bottling Units resulting in loss of revenue of ` 61.63 lakh.

(Paragraph 3.8)

- Two bonded warehouses, one bottling unit, five retail 'Off' and one retail 'On' licensees did not pay the annual licence fees while two bottling units and 58 'Off' licensees paid short resulting in non/short realisation of licensee fees of ` 61.50 lakh.

(Paragraph 3.9)

IV. Motor Vehicle Taxes

Audit of the theme 'Collection of Revenue from out-sourced activities in Transport Department' revealed the following:

- 90 out of 160 auto emission testing stations defaulted in renewal of licences. Verification by Audit revealed that 17 of the 90 defaulting stations were actually operational and issuing Pollution Under Control certificates.

(Paragraph 4.4.6)

- Failure of the Department to ensure issuance of PUC certificates to all the vehicles against which PUC certificates were due resulted in non-realisation of revenue of ` 9.89 crore. Besides, these vehicles continued to ply on public roads without valid PUC certificate.

(Paragraph 4.4.7)

- Though the PUC testing fees were revised upwardly by percentages ranging from 120 to 750 *per cent*, the Government continued to get its share at old rates. Loss of revenue at minimum percentage of hike amounted to ` 72.16 lakh.

(Paragraph 4.4.8)

- There were instances of issue of PUC certificates without the vehicles being actually physically tested.

(Paragraph 4.4.9)

- 61,099 out of 5.40 lakh vehicles registered post-implementation of the High Security Registration Plate (HSRP) scheme were not fitted with HSRP though it was mandatory to use these security plates.

(Paragraph 4.4.13)

V. Environment and Forest

Audit of the theme ‘Planning and Financial management of Major wildlife areas in Assam – Impact on Conservation efforts’ revealed the following:

- None of the selected National Parks (NP) (Manas, Nameri and Orang) and Wildlife Sanctuary (WS) (Pobitora) had a long term management plan for the period covered by Audit.

(Paragraph 5.4.5)

- Analysis of planned expenditure to be met through the annual plans of operations *vis-à-vis* the funds allocated to the NPs and WS revealed an overall shortfall. This percentage of shortfall ranged between 40 to 87 *per cent*. Besides, there was inordinate delay in allocation of funds resulting in funds not being available during first seven to 11 months in all of the years covered by Audit. The lack of funds and mis-management of finances affected habitat management, infrastructural development, accessibility and the morale of the personnel was severely hampered. Basic remuneration to staff and provision of fodder to departmental elephants was also affected by paucity of funds.

(Paragraph 5.4.5.1, 5.4.6 – 5.4.14)

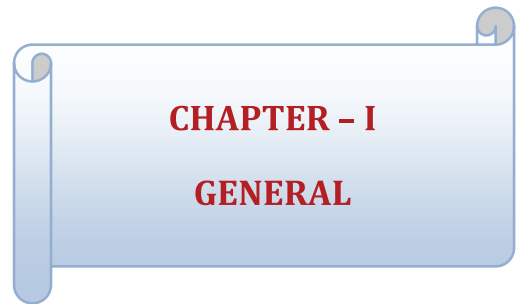
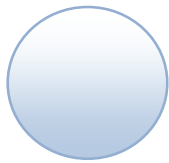
Other audit observations

- Minimum royalty of ` 7.67 crore on unauthorised extraction of minerals by a contractor under National Highway Authority of India not recovered.

(Paragraph 5.5)

- Demand notice for recovery of royalty of ` 12.05 lakh for unauthorised extraction of stone/boulders was not raised; besides, penalty of ` 48.20 lakh was additionally leviable.

(Paragraph 5.6)



CHAPTER - I
GENERAL



CHAPTER-I: GENERAL

1.1 Trends of Revenue Receipts

1.1.1 The tax and non-tax revenue raised by the Government of Assam during the year 2014-15, the State's share of net proceeds of divisible Union taxes and duties assigned to State, Grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are mentioned in **Table 1.1.1**.

Table 1.1.1
Trend of Revenue Receipts

(₹ in crore)						
Sl. No.	Particulars	2010-11	2011-12	2012-13	2013-14	2014-15
1.	Revenue raised by the State Government					
	• Tax revenue	5,929.84	7,638.23	8,250.21	8,994.92	9,449.81
	• Non-tax revenue	2,373.33	2,866.76	2,473.59	2,705.03	2,412.89
	Total	8,303.17	10,504.99	10,723.80	11,699.95	11,862.70
	Percentage of increase over previous year	--	26.52	2.08	9.10	1.39
2.	Receipts from Government of India					
	• Share of net proceeds of divisible Union taxes and duties	7,968.62	9,283.53	10,601.26	11,574.52	12,283.71 ¹
	• Grants-in-aid	6,733.15	7,666.87	9,365.92	8,938.32	14,035.08
	Total	14,701.77	16,950.40	19,967.18	20,512.84	26,318.79
3.	Total receipts of the State Government (1 and 2)	23,004.94	27,455.39	30,690.98	32,212.79	38,181.49
4.	Percentage of 1 to 3	36	38	35	36	31

Source: Finance Accounts.

¹ Note: For details, please see statement No.14: Detailed accounts of revenue by minor heads in the Finance Accounts (Volume-2) of Government of Assam for the year 2014-15. Figures under the "share of net proceeds assigned to States" under the major heads -0020-corporation tax, 0021- taxes on income and expenditure, 0032-taxes on wealth, 0037-customs, 0038-union excise duties, 0044-service taxes and 0045-other taxes and duties on commodities and services booked in the Finance Accounts under 'A- tax revenue' have been excluded from revenue raised by the State Government and included in 'States' share of divisible Union taxes' in the above table.

The above table indicates that during the year 2014-15, the revenue raised by the State Government (₹ 11,862.70 crore) was 31 per cent of the total revenue receipts as against 36 per cent during the previous year. The balance 69 per cent of the receipts during 2014-15 was from the Government of India.

1.1.2 Details of tax revenue raised during the period 2010-11 to 2014-15 are given in **Table 1.1.2**.

Table 1.1.2
Tax revenue

(₹ in crore)							
Sl. No.	Head of revenue	2010-11	2011-12	2012-13	2013-14	2014-15	Percentage of increase (+)/ decrease (-) in 2014-15 over 2013-14
1.	Taxes on sales, trade etc.	4,318.60	5,693.96	6,223.13	6,848.01	7,351.25	07
2.	State excise	323.12	503.35	568.11	610.26	664.99	09
3.	Stamp duty and registration fees						
	Stamps - judicial	7.66	8.29	9.15	10.63	8.81	(-) 17
	Stamps - non-judicial	64.61	90.10	124.12	106.08	125.85	19
	Registration fees	50.57	76.76	119.02	134.80	53.85	(-) 60
4.	Taxes and duties on electricity	41.58	36.67	41.83	40.54	44.00	09
5.	Taxes on vehicles	231.99	293.70	328.09	351.11	364.53	04
6.	Taxes on goods and passengers	478.10	536.39	369.10	413.89	396.94	(-) 04
7.	Other taxes on income and expenditure – Tax on professions, trades, callings and employments	160.60	164.27	168.31	186.36	191.28	03
8.	Other taxes and duties on commodities and services	9.93	11.76	71.11	47.60	54.92	15
9.	Land revenue	141.88	139.71	145.91	155.65	142.32	(-) 09
10.	Taxes on agricultural income	101.20	83.27	82.33	89.99	51.07	(-) 43
	Total	5,929.84	7,638.23	8,250.21	8,994.92	9,449.81	06

Source: Finance Accounts.

The reasons for major variations in respect of tax revenue during 2014-15 over those of 2013-14 as reported by the concerned department(s) were as follows:

Stamp Duty and Registration Fees: The fluctuation in revenues in respect of the Stamp Duty depends upon the transactions which vary from year to year. As regards the Registration fees, the decrease was due to decrease in the rate of registration fees from two/three² per cent in 2013-14 to one/two per cent during 2014-15.

Taxes on agricultural income: The decrease was mainly due to fall in production of green tea leaves affecting profitability of the assesseees.

1.1.3 Details of non-tax revenue raised during the period 2010-11 to 2014-15 are indicated in **Table 1.1.3**.

Table 1.1.3
Details of non-tax revenue raised

(` in crore)							
Sl. No.	Head of revenue	2010-11	2011-12	2012-13	2013-14	2014-15	Percentage of increase (+) / decrease (-) in 2014-15 over 2013-14
1.	Petroleum	1,625.93	1,970.63	1,589.55	1,791.31	1,421.15	(-) 21
2.	Interest receipts	415.88	475.93	510.21	418.61	313.99	(-) 25
3.	Dairy development	0.20	0.22	0.49	0.48	0.43	(-) 10
4.	Forestry and wild life	131.01	152.85	110.56	100.92	115.99	15
5.	Non-ferrous mining and metallurgical industries	0.83	0.85	1.10	0.48	0.96	100
6.	Miscellaneous general services	0.01	0.24	0.01	60.02	268.50	347
7.	Major and medium irrigation projects	0.38	0.21	0.38	0.43	0.62	44
8.	Medical and public health	8.42	10.42	12.13	11.29	11.38	01
9.	Co-operation	0.74	0.44	0.58	0.63	0.47	(-) 25
10.	Public works	3.15	3.12	3.32	2.01	1.14	(-) 43
11.	Police	25.13	29.51	36.22	59.40	43.54	(-) 27
12.	Other administrative services	58.89	49.31	56.75	62.48	69.25	11

² Women/Men.

Audit Report (Revenue Sector) for the year ended 31 March 2015

13.	Coal and lignite	29.35	26.34	43.95	38.76	51.22	32
14.	Roads and bridges	22.62	79.19	52.62	50.40	42.18	(-) 16
15.	Others ³	50.79	67.50	55.72	107.81	72.07	(-) 33
	Total	2,373.33	2,866.76	2,473.59	2,705.03	2,412.89	(-) 11

Source: Finance Accounts.

The reasons for major variations in respect of non-tax revenue during 2014-15 over those of 2013-14 as reported by the concerned department(s) were as follows:

Department of Geology and Mining: The decrease in receipts under the head 'Petroleum' was due to adjustment of payments made by the concerned petroleum companies. As regards the other heads namely Non-ferrous mining and coal lignite the Department stated that the revenues generated are driven by demand of coal and other mining products.

The other Departments did not intimate (November 2015) the reasons for increase/decrease despite requests.

1.1.4 A comparison of the revenues in respect of the major tax and non-tax receipts reported through the Finance Accounts as mentioned in the table 1.1.2 and 1.1.3 above and that reported by the concerned administrative departments was carried out. The results are shown in the following **Table 1.1.4**.

Table 1.1.4

(₹ in crore)				
Sl. No.	Head of revenue	Revenue as per Finance Accounts	Revenue as reported by the concerned Department	Variation
1.	Taxes on Sales Trade etc.	7,351.25	7351.25	--
2.	State Excise	664.99	665.82	0.83
3.	Registration	53.85	55.18	1.33
4.	Geology and Mining	1,473.33	1,471.71	(-) 1.62

Thus, there were variations between the figures depicted in the Finance Accounts with those furnished by the departments which point towards the need for reconciliation between both these figures.

³ Others include 29 major head of accounts.

1.2 Analysis of arrears of revenue

The position of arrears of revenue in respect of the Taxation Department is mentioned in the **Table – 1.2**.

Table 1.2
Arrears of revenue

(₹ in crore)

Sl. No.	Heads of Revenue	Total Amount outstanding as on 31 st March 2015	Amount outstanding for more than five years as on 31 st March 2015	Replies of the Department
1.	Agricultural Income Tax (0022)	55.22	0.79	The arrears of ₹ 4,120.83 crore was attributable to: i. Pendency of cases involving arrear of revenue in High Court/Supreme Court/ Board of Revenue and with Appellate/ Revisional Authority. ii. Untraceability of dealers.
2.	Professional Tax (0028)	2.33	0.75	
3.	Land Revenue (0029)	1,088.22	463.05	
4.	Sales Tax (0040)	2,760.38	505.34	
5.	Entry Tax (0042)	210.86	26.27	
6.	Other Taxes on Commodity and Services (0045)	3.82	3.11	
Total		4,120.83	999.31	

1.3 Arrears in Assessments

The details of cases pending at the beginning of the year, cases becoming due for assessments, cases disposed of during the year and number of cases pending for finalisation at the end of the year as furnished by the Sales Tax Department in respect of Sales Tax, Motor sprit Tax, Luxury Tax and Tax on works contract were as below in **Table 1.3**.

Table 1.3
Arrears in assessments

Head of revenue	Opening Balance as on 01.04.2014	New cases due for assessments during 2014-15	Total assessment due	Cases disposed of during 2014-15	Balance at the end of the year	Percentage of disposal (col. 5 to 4)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Sales Tax (AGST/VAT/ CST)	16,239	13,939	30,178	12,801	17,377	42.42
APTC & E Tax Act, 1947	31,026	43,158	74,184	42,926	31,258	57.86
Entry Tax	3,047	2,085	5,132	1,773	3,359	34.55
LUX (H & L)	499	442	941	483	458	51.33
Electricity Duty Act	1,777	589	2,366	351	2,015	14.84
SP. Land	1,103	903	2,006	1,168	838	58.23
Agricultural Income Tax	984	762	1,746	768	978	43.99
Total	54,675	61,878	1,16,553	60,270	56,283	51.71

Thus, the assessments pending at the end of the year increased over the opening balance in respect of all the Acts except Luxury Tax, Tax on Specified Land and Agricultural Income Tax. The percentage disposal against Electricity was particularly very poor. Further, the overall percentage of completion of assessment remained at the level of about 52 *per cent*. This was despite the fact that after introduction of VAT in the State only a percentage of the cases were to be assessed by the departmental officers. This needs to be looked into by the Taxation Department.

1.4 Evasion of tax detected by the Department

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

Table 1.4
Evasion of tax

Head of revenue	Cases pending as on 31 st March 2014	Cases detected during 2014-15	Total	Number of cases in which assessment/ investigation completed and additional demand with penalty etc. raised.		Number of cases pending for finalisation as on 31 st March 2015
				Number of cases	Amount of demand (₹ in crore)	
Sales Tax/ VAT	222	2,422	2,644	2,389	23.21	255

Thus, the Department detected 2,422 cases of evasion of taxes and raised additional demand of ₹ 23.21 crore during the year. However, the cases pending at the end of the year stood at 255 against the opening balance of 222.

1.5 Pendency of Refund Cases

The number of refund cases pending at the beginning of the year 2014-15, claims received during the year, refunds allowed during the year and the cases pending at the close of the year 2014-15, as reported by the Department is given in **Table 1.5**.

Table 1.5
Details of pendency of refund cases

Sl. No.	Particulars	Sales Tax/Vat	
		No. of cases	Amount
1.	Claims outstanding at the beginning of the year	56	10.38
2.	Claims received during the year	88	15.88
3.	Refunds made during the year	88	15.09
4.	Balance outstanding at the end of the year	56	11.17

Assam VAT Act provides for payment of interest, at the rate of one *per cent* per month, if the excess amount is not refunded to the dealer within 90 days from the date of the order and thereafter at the rate of 1.5 *per cent per month* till the refund is made. Thus, the Department needs to put in place a mechanism for monitoring the pendency of refund cases to ensure that there is no delay in refund of dues.

1.6 Response of Government/departments towards audit

The Accountant General (Audit), Assam (AG) conducts periodical inspection of the Government departments to test check the transaction and verify the maintenance of important accounts and other records as prescribed in the rules and procedures. These inspections are followed up with the Inspection Reports (IRs) incorporating irregularities detected during the inspection and not settled on the spot, which are issued to the heads of the offices inspected with copies to the higher authorities for taking prompt corrective action. The heads of the offices/Government are required to promptly comply with the observations contained in the IRs, rectify the defects and omissions and report compliance through initial reply to the AG within one month from the date of issue of the IRs. Serious financial irregularities are reported to the heads of the Department and the Government.

Inspection Reports issued upto December 2014 disclosed that 3,281 paragraphs involving ` 6,943.11 crore relating to 867 IRs remained outstanding at the end of June 2015 as mentioned below alongwith the corresponding figures for the preceding two years in **Table 1.6**.

Table 1.6
Details of pending Inspection Reports

	June 2013	June 2014	June 2015
Number of IRs pending for settlement	882	811	867
Number of outstanding audit observations	3,211	3,216	3,281
Amount of revenue involved (` <i>in crore</i>)	1,299.15	6,991.70	6,943.11

1.6.1 The Department wise details of the IRs and audit observations outstanding as on 30 June 2015 and the amounts involved are mentioned in the **Table 1.6.1**.

Table 1.6.1
Department wise details of IRs

Sl. No.	Name of the Department	Nature of receipts	Numbers of outstanding IRs	Numbers of outstanding audit observations	Money value involved (<i>` in crore</i>)
1.	Finance	Taxes on Sales, Trade etc.	201	1,276	508
		Agricultural Income Tax	14	54	19.37

Audit Report (Revenue Sector) for the year ended 31 March 2015

		(AGIT)			
		Other Taxes	95	255	59.63
2.	Excise	State Excise	85	330	85.11
3.	Transport	Taxes on Motor Vehicles	106	330	47.81
4.	Stamp and Registration	Stamp and Registration fees	73	130	7.54
5.	Mines and Minerals	Non-ferrous mining and metallurgical industries	12	63	6,042.88
6.	Forest and Environment	Forestry and Wild Life	281	843	172.77
Total			867	3,281	6,943.11

Audit did not receive even the first replies from the heads of offices within one month from the date of issue of the IRs, for 101 IRs issued during 2014-15. This large pendency of the IRs due to non-receipt of the replies is indicative of the fact that the heads of offices and the departments did not initiate action to rectify the defects, omissions and irregularities pointed out by the AG in the IRs.

1.6.2 Departmental Audit Committee meetings

The Government setup audit committees to monitor and expedite the progress of the settlement of the IRs and paragraphs in the IRs. The details of the audit committee meetings held during the year 2014-15 and the paragraphs settled are mentioned in **Table 1.6.2**.

Table 1.6.2
Details of Departmental audit committee meetings

Sl. No.	Head of revenue	Number of meetings held	Number of paras settled	Amount
1.	E & F Department (Revenue & Exp)	01	242	14.79
2.	State Excise Department (Exp)	01	12	--
3.	Taxation Department (Exp)	01	06	--
Total		03	260	14.79

Thus, 260 paragraphs could be settled in respect of the above three departments through the Audit Committee meetings held during the year. Further, an analysis of the outstanding paragraphs indicated that major outstanding objections related to the Taxation Department. The Taxation Department and also the other departments, thus, need to gear up to arrange Audit Committee Meetings at regular intervals so that the position could be pulled up.

1.6.3 Response of the Departments to the draft audit paragraphs

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

Besides 46 draft paragraphs, two Performance Audits on (i) 'Admissibility of Input Tax Credit' and (ii) 'Environmental degradation in Greater Guwahati area - with emphasis on the State Pollution Control Board' and results of audit of the themes (i) 'Collection of Revenue from out-sourced activities in Transport Department' and (ii) 'Planning and financial management of Major wildlife areas in Assam – Impact on Conservation efforts' were sent to the Principal Secretaries/Secretaries of the respective Departments by name between April and October 2015. The performance audit on Environmental degradation in Greater Guwahati area - with emphasis on the State Pollution Control Board had been featured as a standalone Report. The replies furnished by the Departments/Directorates had been appropriately incorporated in the respective paragraphs. The departments/Directorates did not provide replies to 32 draft paragraphs despite requests and the same have been incorporated in this Report without the response of the Department.

1.6.4 Follow up on the Audit Reports summarised position

The internal working system of the Public Accounts Committee, notified in December 2002, laid down that after the presentation of the Report of the Comptroller and Auditor General of India in the Legislative Assembly, the departments shall initiate action on the audit paragraphs and the action taken explanatory notes thereon should be submitted by the Government within three months of tabling the Reports, for consideration of the Committee. In spite of these provisions, the explanatory notes on audit paragraphs of the Reports were being delayed inordinately. 177 paragraphs (including performance audit) included in the Reports of the Comptroller and Auditor General of India on the Revenue Sector of the Government of Assam for the years ended 31st March 2010, 2011, 2012, 2013 and 2014 were placed before the State Legislature Assembly between June 2011 and March 2015. In none of the cases, *suo-motu* reply of the Departments was received within the stipulated date.

During 2014-15, the PAC discussed seven paragraphs including a performance audit "Taxes on Motor Vehicles and factors leading to Shortfall in Revenue Receipts- Motor Vehicles" pertaining to the Audit Reports for the years from 1996-97 to 2001-02. No recommendation of the PAC had been received in this year.

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

To analyse the system of addressing the issues highlighted in the Inspection Reports/Audit Reports by the departments/Government, the action taken on the paragraphs and Performance Audits included in the Audit Reports of the last five years for one Department is evaluated in detail and included in this Audit Report.

The succeeding paragraphs 1.7.1 and 1.7.2 discuss the performance of **Transport Department** in respect of the cases detected in the course of local audit during the last five years and also the cases included in the audit reports for years 2009-10 to 2013-14.

1.7.1 Position of Inspection Reports

The summarised position of Inspection Reports issued during the last five years, paragraphs included in these reports and their status as on 31st March 2014 are tabulated in **Table 1.7.1**.

Table 1.7.1
Position of Inspection Reports

(` in crore)

Year	Opening Balance			Addition during the year			Clearance during the quarter			Closing Balance during the year		
	IRs	Paras	Money value	IRs	Paras	Money value	IRs	Paras	Money value	IRs	Paras	Money value
2009-10	220	629	37.76	92	256	7.32	122	392	24.95	190	493	20.13
2010-11	190	493	20.13	16	58	4.10	160	415	14.87	46	136	9.36
2011-12	46	136	9.36	09	48	154.67	02	10	0.3	53	174	163.73
2012-13	53	174	163.73	17	72	22.70	01	06	1.65	69	240	184.78
2013-14	69	240	184.78	17	52	4.71	07	19	151.60	79	273	37.89

The Government arranges Audit Committee meetings between the Department and AG's office to settle the old paragraphs. As would be evident from the above table, against 220 outstanding IRs with 629 paragraphs as on start of 2009-10, the number of outstanding IRs declined to 79 with 273 paragraphs at the end of 2013-14. This is indicative of the fact that positive steps were taken by the Department in this regard resulting in reduction of the outstanding IRs and paragraphs.

1.7.2 Recovery of accepted cases

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

Table 1.7.2

(` in crore)

Year of Audit Report	Number of paragraphs included	Money value of the paragraphs	Number of paragraphs accepted including money value	Money value of accepted paragraphs	Amount recovered during the year	Cumulative position of recovery of accepted cases as of 31.03.2015
2009-10	--	--	--	--	--	--
2010-11	02 ⁴	0.47	--	--	--	--
2011-12	04	520.29	03	520.24	0.04	--
2012-13	03	0.33	--	--	--	--
2013-14	--	--	--	--	--	--

⁴ Including a Performance Audit - "Computerisation in the Transport Department".

It is evident from the above table that the progress of recovery even in accepted cases was very slow during the last five years. The Department may take immediate action to pursue and monitor recovery of the dues involved at least in the accepted cases.

1.7.3 Action taken on the recommendations accepted by the Departments/ Government

The performance audits conducted by the AG (Audit) are forwarded to the concerned departments/Government with a request to furnish their replies. These performance audits are also discussed in the exit conference and the department's/Government's views received during the exit conferences and at other points are included while finalising the performance audits for the Audit Reports. Besides, recommendations are also suggested through compliance audit paragraphs wherever appropriate.

During the last five years, one performance audit was carried out on 'Computerisation in the Transport Department'⁵ in which 11 recommendations were suggested to the Transport Department. The Transport Department has reported the action taken against the recommendations and also against other paragraphs which are mentioned in **Appendix - I**. Positive steps were observed towards streamlining the systems as well as other deficiencies while some are in the implementing process. The Department needs to follow up these so that the deficiencies mentioned in the performance audit as well as other audit paragraphs can be rectified and their recurrence prevented.

1.8 Audit Planning

The unit offices under various Departments are categorised into high, medium and low risk units according to their revenue position, past trends of the audit observations and other parameters. The annual audit plan is prepared on the basis of risk analysis which *inter-alia* includes critical issues in Government Revenue and tax administration *i.e.* budget speech, white paper on state finances, Reports of the Finance Commission (State and Central), recommendations of the Taxation Reforms Committee, statistical analysis of the revenue earnings during the past five years, factors of the tax administration, audit coverage and its impact during past five years etc.

During the year 2014-15, there were 334 auditable units, of which 92 units were planned and 113 units had been audited, which is 34 *per cent* of the total auditable units. The details are shown in the **Appendix – II**.

Besides, the compliance audit mentioned above, two performance audits and two theme audits as mentioned in paragraph 1.6.3, were also taken up.

⁵ Incorporated in the Audit Report of 2010-11.

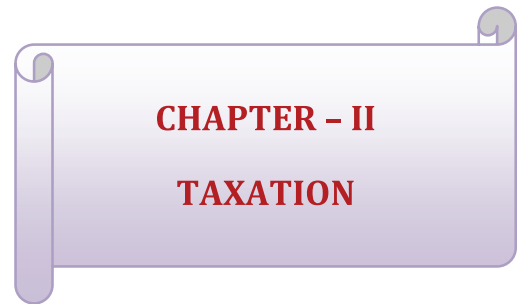
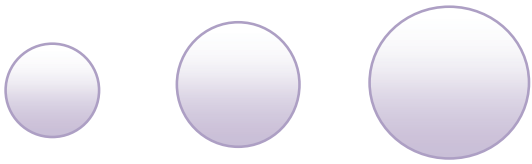
1.9 Results of Audit

1.9.1 Position of local audit conducted during the year

Test check of the records of 113 units of Sales Tax/Value Added Tax, State Excise, Motor Vehicles, Forest and other Departmental offices conducted during the year 2014-15 showed under assessment/short levy/loss of revenue aggregating ₹ 1,772.37 crore in 500 cases. Besides, two Performance Audits on (i) 'Admissibility of Input Tax Credit' and (ii) 'Environmental degradation in Greater Guwahati area - with emphasis on the State Pollution Control Board' and audit of the themes (i) 'Collection of Revenue from out-sourced activities in Transport Department' and (ii) 'Planning and financial management of Major wildlife areas in Assam – Impact on Conservation efforts' were also conducted during the year. During the course of the year, the Departments concerned accepted under assessment and other deficiencies of ₹ 306.60 crore involved in 22 cases which were pointed out in audit during 2014-15. The Departments collected ₹ 1.84 crore in 32 cases during 2014-15, pertaining to the audit findings of previous year.

1.9.2 Coverage of this Report

This Report contains 46 paragraphs suitably clubbed appropriate captions (selected from the audit detections made during the local audit referred to above and during earlier years, which could not be included in earlier reports) including one Performance audit on 'Admissibility of Input Tax Credit' and results of audit on the themes (i) 'Collection of Revenue from out-sourced activities in Transport Department' and (ii) 'Planning and Financial management of Major wildlife areas in Assam – Impact on Conservation efforts', involving financial effect of ₹ 414.64 crore of which the Departments accepted cases involving revenue of ₹ 10.71 crore and recovered ₹ 1.09 crore. These are discussed in succeeding Chapters II to V.



CHAPTER - II
TAXATION



CHAPTER – II: Taxation

2.1 Administration

The Finance (Taxation) Department is responsible for the administration of taxes on sales, trade etc., in the State. The Commissioner of Taxes (CT) is the Head of the Department and responsible for administration of all taxation measures and for general control and supervision over the zonal and unit offices and the staff engaged in collection of taxes and to guard against evasion of taxes. He is also the authority for disposing of revision petitions under all Taxation Acts and laws besides providing clarification under Assam Value Added Tax Act, 2003. He is assisted by Additional/Joint/Deputy/Assistant Commissioners of Taxes, Superintendents of Taxes, Inspectors of Taxes both at the Headquarters and regional/unit levels. The Commissionerate has one Head Office/Commissioner's Office, 10 Zonal Offices, five Appellate Offices, 34 unit Offices, 23 recovery Offices and 10 check posts.

The functioning of the Department is governed by the provisions of the Assam Value Added Tax (AVAT) Act, 2003 (*w.e.f.* 01.05.2005); the Central Sales Tax (CST) Act, 1956; the Assam Entry Tax Act, 2008 (*w.e.f.* 01.06.2008); the Assam Professions, Trades, Callings and Employments Taxation Act, 1947; the Assam Tax on Luxuries (Hotels and Lodgings Houses) Act, 1989; the Assam Amusement and Betting Taxation Act, 1939; the Assam Electricity Duty Act, 1964; the Assam Taxation (on Specified Land) Act, 1990; the Assam Agricultural Income Tax Act, 1939 and various administrative orders issued from time to time.

2.2 Results of Audit

In 2014-15, test check of the records of 31 units relating to VAT/Sales tax assessments showed underassessment of tax and other irregularities involving ₹ 123.27 crore in 280 cases. A Performance Audit of 'Admissibility of Input Tax Credit' was also conducted during the year. The results of Performance Audit involved revenue implication of ₹ 199.95 crore. These are mentioned in **Table – 2.1**.

Table 2.1
Results of Audit

Sl. No.	Categories	Number of cases	Amount (₹ in crore)
Sales Tax/VAT			
1.	‘Admissibility of Input Tax Credit’- A Performance Audit	01	199.95
2.	Short/non levy of tax/interest/penalty	62	37.00
3.	Irregular grant of exemption	38	10.13
4.	Concealment of turnover escaped assessment	27	21.10
5.	Irregular adjustment of tax	31	7.72
6.	Other irregularities	72	13.66
Total		231	289.56
Other Taxes			
1.	Short/non- levy of entry tax	29	7.30
2.	Short/non- payment of interest	06	0.37
3.	Short/non- levy of Profession tax	07	0.02
4.	Other irregularities	08	25.97
Total		50	33.66
Grand Total		281	323.22

During the course of the year, the Department accepted underassessment and other deficiencies of ₹ 33.66 crore in 91 cases which were pointed out in audit during 2014-15 and earlier years. An amount of ₹ 1.25 crore was recovered in 25 cases during the year 2014-15 pertaining to earlier years.

A Performance Audit of **‘Admissibility of Input Tax Credit’** involving revenue implication of ₹ 199.95 crore and a few illustrative cases involving ₹ 18.28 crore are discussed in the following paragraphs.

SECTION : A
VALUE ADDED TAX

2.3 Performance Audit of Admissibility of Input Tax Credit

Highlights

Systemic deficiencies

Though the Taxation Department had introduced a system of furnishing purchase/sale figures by the dealers along with the returns in 2008, but the same was not made mandatory. Besides, the Department did not institute a system of electronic matching of purchase-sales before allowance of Input Tax Credit (ITC) claims as is being practiced by other States. Neither has it put in place a norm for cross verification of returns while scrutinising the returns. Even after 10 years of implementation of VAT in the State, these systemic deficiencies continued to hinder effective checks before allowance of ITC and have created a situation rife with scope of evasion of taxes. Audit scrutiny of sampled cases revealed huge irregularities with revenue implication of nearly ₹ 200 crore. Unless the Department initiates a timebound plan to overcome the deficiencies, these would prove to be major bottleneck to efficient administration of the Commercial Tax activity in the State while switching over to the proposed Goods and Services Tax system in future.

(Paragraph 2.3.9)

Compliance deficiencies

20,793 dealers of seven unit offices were allowed to avail ITC of ₹ 3,081.22 crore during the period from 2009-10 to 2013-14; but there was no cross verification to ascertain that the claims of ITC were genuine.

(Paragraph 2.3.10)

Cross verification of transaction of 33 purchasing and 32 selling dealers by Audit revealed excess claim of ITC of ₹ 17.05 crore including interest of ₹ 4.79 crore. Besides, penalty of ₹ 24.55 crore was also leviable for willful inflation of purchase figures.

(Paragraph 2.3.12.1)

There was an irregular allowance of ITC of ₹ 1.75 crore including interest on discounts/rebate/incentives.

(Paragraph 2.3.18)

ITC was not reversed on goods specified in the Fourth Schedule which resulted in irregular allowance of ITC of ₹ 89.70 lakh, including interest.

(Paragraph 2.3.20)

There was excess availment of ITC to the tune of ₹ 7.08 crore including interest and penalty due to calculation of ITC at higher rate.

(Paragraph 2.3.16)

13 manufacturers/dealers in 33 cases claimed ITC on purchase of goods valuing ₹ 2,376.46 crore though the dealers disclosed local purchase worth only ₹ 2,123.44 crore in manufacturing account/annual returns. This resulted in excess claim of ITC amounting to ₹17.51 crore including interest.

(Paragraph 2.3.13.1)

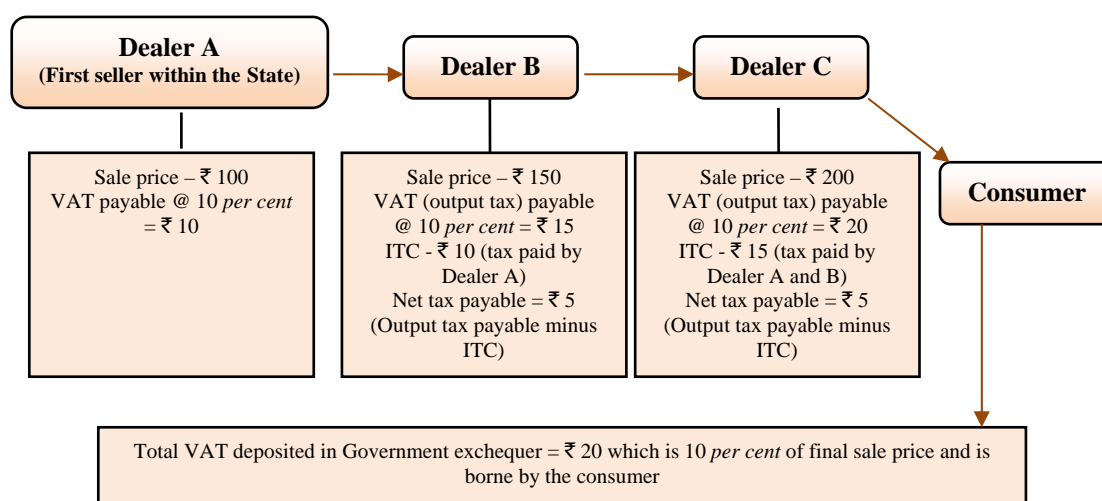
Scrutiny/best judgment assessment was not completed by the assessing authorities which resulted in incorrect claim of ITC of ₹ 42.21 crore not being detected. In addition, interest of ₹ 25.82 crore and penalty of ₹ 25.45 crore was also leviable.

(Paragraph 2.3.14)

2.3.1 Introduction

Value Added Tax (VAT) is a multi-point tax payable by manufacturer, processor, whole seller and retailer on the value added on each point of sale with provision for credit of tax paid during intra-state purchase and also at each point of purchase of such goods at rates applicable in the respective States. The Assam Value Added Tax (AVAT) Act, 2003 (hereinafter called the AVAT Act) and AVAT Rules, 2005 framed thereunder govern the assessment, levy and collection of VAT in Assam. The tax element included in the value of goods sold by a registered dealer to another registered dealer within the State of Assam for (i) resale, (ii) manufacture of taxable goods, (iii) use – as containers or packing material or (iv) execution of works contract is called 'Input Tax'. This tax is remitted to the State exchequer by the selling dealer and is subsequently set-off against the tax liability of the purchasing dealer to compensate his increased liability of tax. The system of allowing this set-off of tax against the tax liability is called 'ITC'. Output tax is the tax payable by a registered dealer to the Government under the AVAT Act for the sale of goods in course of business in Assam. The net tax payable by a registered dealer for a tax period shall be difference between the output tax and the input tax. The process of adjustment of input tax from the output tax to arrive at net tax

payable by a dealer is shown through the following block diagram.



The Act provides that ITC can be claimed only on purchases made locally *i.e.* within the State and both the purchasing and the selling dealers should be registered under the AVAT Act. ITC cannot be claimed on purchases made from dealer registered under the composition scheme of AVAT Act and from dealers in other States. The AVAT Act provides for submission of monthly/quarterly returns in Form 13 for claiming ITC. Rule 21 of the AVAT Rules provides that except for cases selected for audit assessment, all other cases shall be deemed to have been assessed under Section 35 of the Act. Further, the white paper on implementation of VAT in the country, prepared by the empowered committee of Finance Ministers, envisaged allowance of ITC based on documentation of tax invoice only.

2.3.2 Rationale for selecting the topic

Taxes on sales, trade etc contributes highest revenue to the State exchequer. The VAT Act aims at promoting voluntary compliance and the system largely depends on the tax payers to make self-assessment of the tax (after adjustment of ITC against the output tax liability) while a limited percentage of the cases are taken up for audit assessment by the Department. Further, the Government of India is contemplating introduction of Goods and Services Tax (GST) in the country which would open up ITC mechanism across the country. Thus, it is imperative that efficient systems are in place to ensure proper assessment, levy and collection of tax due to the exchequer and that the people responsible for paying tax are compliant with the provisions of the AVAT Act and Rules and there is a strong deterrent measure to prevent tax evasions.

In order to examine the efficacy of the system of allowing ITC in the VAT system in Assam and its preparedness towards implementation of GST, a Performance Audit (PA) was carried out which revealed a number of deficiencies as discussed in the succeeding paragraphs.

2.3.3 Organisational set up

The Finance (Taxation) Department, Government of Assam is responsible for administration of sales tax in the State. The Secretary, Finance (Taxation) is the overall in-charge of the Department at the Government level. The Commissioner of Taxes (CT) is the Head of the Department and responsible for administration of all tax measures and general control and supervision of scrutiny/assessments carried out at zonal and unit office level. He is assisted by two Additional Commissioners of Taxes, five Joint Commissioners of Taxes, 10 Deputy Commissioners of Taxes and 36 unit offices headed by Assistant Commissioner of Taxes (ACT)/ Superintendent of Taxes (ST) in carrying out scrutiny of returns and assessments and realisation of taxes under the AVAT Act.

2.3.4 Audit Objectives

The PA was conducted to ascertain whether:

- the electronic system as well as checks for VAT audit provide for detection of apparent deficiencies in ITC claims in the returns filed;
- Controls exist for claiming ITC correctly from the date of registration and for reversal of ITC on change over from VAT dealer to Composite dealer;
- the system for processing of refunds provides for ensuring that ITC claims are correct and refund is made out of the revenue already realized to Government account; and
- there existed an effective control mechanism in the Department in ensuring compliance of provisions and geared towards detection of fraudulent dealers in the VAT chain.

2.3.5 Scope and methodology of audit

Before commencement of the PA, an Entry Conference was held on 18 May 2015 to explain the scope and methodology of audit and selection of units. The CT, Assam who is also the Commissioner and Secretary to the Government of Assam, Finance Department attended the meeting alongwith other senior officers of the Department.

The PA was conducted through test check of records relating to 2009-10 to 2013-14 between May and July 2015. Out of 36 unit offices, 14¹ unit offices were selected based on Probability Proportionate to Size Without Replacement Method (PPSWRM). The sample size was selected in such a manner so as to represent the

¹ Bongaigaon, Dhubri, Goalpara, Guwahati - Unit-A, B, C and D, Hailakandi, Jorhat, Karimganj, Mangaldoi, Tezpur, Tinsukia and Silchar.

entire State. Besides, office of the CT, Assam was taken up as apex office of the Department. Moreover, audit findings from Inspection Reports issued in respect of other units for the same period covered in this PA, have been suitably incorporated.

2.3.6 Audit criteria

The PA was conducted based on the following criteria:

- The AVAT Act, 2003 (as amended);
- The AVAT Rules, 2005 (as amended);
- The AVAT Audit Manual prepared by the Department; and
- Notifications/Circulars issued by the Department from time to time.

2.3.7 Acknowledgement

The Indian Audit and Accounts Department acknowledges the co-operation of the CT, Assam and all other Heads/Staff of the unit offices.

Incidentally, it may be mentioned that though the CT, Assam has assured of full co-operation during the Entry Conference, the unit offices were not geared up to provide the requisite information sought during the field audit. Non-production of information by the field offices had largely affected the field work and audit analysis had to be limited to the extent of data/information made available by the Department. Details of non-production had been mentioned under relevant para.

Good Practice in other States

Commercial Tax Department, Kerala has provided access of Taxation online system to the Indian Audit & Accounts Department for smooth auditing.

The draft Report was sent to Taxation Department and Finance Department, GoA in September 2015. The audit findings and the recommendations were discussed in an Exit Conference in October 2015. The replies furnished during the Exit Conference had been appropriately incorporated at appropriate places of the Report.

2.3.8 Financials of ITC in Assam

2.3.8.1 Position of VAT collected *vis-à-vis* ITC claimed

Total amount of VAT collected year wise and amount of ITC availed during the period from 2009-10 to 2013-14 were as mentioned in the following table.

Table 2.2

(₹ in crore)

Year	Amount of VAT collected	Non-VAT collection	Net-VAT collection	Amount of ITC availed	Percentage of increase in ITC availed	Percentage of ITC adjusted over net-VAT collected
(1)	(2)	(3)	(4)	(5)	(7)	(8)
2009-10	3,229.44	1,245.88	1,983.56	989.89	--	50
2010-11	3,952.20	1,444.93	2,507.27	1,338.08	35.17	53
2011-12	5,181.44	2,140.02	3,041.42	1,807.03	35.05	59
2012-13	5,689.88	2,354.37	3,335.51	1,734.54	(-) 4.01	52
2013-14	6,288.54	2,633.00	3,655.54	1,848.84	6.59	51

Thus, percentage of ITC remained above 50 *per cent* of net VAT collection during the five year period ended March 2014. The year-wise percentage during first three years registered an increasing trend and went up from 50 *per cent* in 2009-10 to 59 *per cent* in 2011-12 which came down to 51 *per cent* in 2013-14.

2.3.8.2 ITC per dealer

The following table shows the position of ITC claimed vis-à-vis numbers of dealers claiming ITC during 2009-10 to 2013-14.

Table 2.3

Year	Amount of ITC availed (₹ in crore)	Number of dealer availing ITC	ITC per dealer (₹ in lakh)
2009-10	989.89	11,141	8.89
2010-11	1,338.08	11,917	11.23
2011-12	1,807.03	13,913	12.99
2012-13	1,734.54	11,148	15.56
2013-14	1,848.84	9,256	19.97

Thus, the ITC per dealer during 2009-10 to 2013-14 showed a consistent increase and from ₹ 8.89 lakh in 2009-10 it reached ₹ 19.97 lakh in 2013-14.

Audit findings

Systemic deficiencies

2.3.9 System of allowing ITC vis-à-vis e-governance efforts

In the review on 'Transition from Sales Tax to VAT' incorporated in the Report of the Comptroller and Auditor General of India for the year ended 31 March 2009 (para 2.2.10.1 refers) mention was made regarding absence of provision in the AVAT Act for submission of supporting documents while claiming ITC. It was also recommended through the above Report that the Department need to put in

place norms for carrying out cross verification while allowing ITC claims. The Government of Assam (GoA) amended (29 March 2008) the return format² and inserted Part-‘G’ for disclosing the purchases and Part-‘J’ showing the sales effected to be furnished by the dealers along with the returns.

Further, Taxation Information Management System (TIMS) was introduced as a measure to computerize the activities of the Taxation Department in December 2003. The system was devised to capture *inter-alia* detailed information of potential taxpayers, periodic returns from dealers and verifying the payment details with returns filed. The Department started *e*-filing of returns from January 2011 phase-wise. *e*-filing of returns was notified (December 2010) w.e.f. January 2011 in respect of dealers whose annual gross turnover exceeds ₹ 10 crore in any of the last three years and dealers who are registered as company. Subsequently, the *e*-filing of returns for the dealers whose turnover exceeds ₹ 1 crore, ₹ 40 lakh and ₹ 10 lakh in any of the last three years was instituted w.e.f. August 2011, May 2012 and July 2014 respectively.

Kerala and Karnataka have made it mandatory for all classes of dealers to file *e*-returns from **January 2009 and April 2010 respectively.**

Audit scrutiny revealed that though Parts ‘G’ and ‘J’ of the Return form to disclose the purchase and sales along with the returns of the dealers had been introduced way back in the year 2008; it had not been made mandatory for the dealers to file the same alongwith the returns filed either electronically or manually. Neither has a system of including the details of tax invoices in the returns/Part ‘G’, ‘J’ been put in place. Further, there was no module in the TIMS to match the Parts ‘G’ and ‘J’ of the dealers though Section 73 (2) of the AVAT Act empowers the CT to cause cross verification of transactions through automated data processing system. Besides, there were deficiencies in the TIMS database like overlapping of transaction details, non-acceptance of rate change etc as revealed during interaction with the dealers. Thus, despite pointing out deficiencies in the system of allowing ITC and recommendations for streamlining it in the review on ‘Transition from Sales Tax to VAT’ carried out more than five years ago and specific provisions in the AVAT Act, the system had not improved much. Absence of the basic information on purchase/sale details in Parts ‘G’/‘J’ as well as failure of the Department to install a mechanism for mandatorily matching these vital information (either electronically or manually) continued to hinder effective checks before allowing ITC claims in majority of the cases³ as corroborated by the following systemic deficiencies.

Good practice

West Bengal and Kerala have provided for electronic cross verification of sale-purchases through matching the dealers’ name/amount/invoice numbers.

² Form 13.

³ Apart from the negligible percentage of cases taken up for audit assessment where limited verification of purchase and sales is carried out.

2.3.10 Allowance of ITC without proper verification

Information relating to allowance of ITC in seven units are tabulated in the following table.

Table-2.4

(₹ in crore)					
Name of the unit	Periods	No. of dealers availing ITC (considering the dealer availing ITC in all the periods)	Amount of ITC availed	Cross verification done in respect of dealers availing ITC	Percentage of cross verification done
ST, Hailakandi	2009-10 to 2013-14	487	34.17	NIL	NIL
ACT, Guwahati Unit-B	2009-10 to 2013-14	5,773	924.84	NIL	NIL
ACT, Guwahati Unit-C	2009-10 to 2013-14	3,420	844.96	NIL	NIL
ST, Mangaldoi	2009-10 to 2013-14	356	21.23	NIL	NIL
ACT, Tinsukia	2009-10 to 2013-14	3,999	413.34	NIL	NIL
ACT, Dhubri	2009-10 to 2013-14	1,894	170.82	NIL	NIL
ACT, Guwahati Unit-A	2009-10 to 2012-13	4,864	671.86	NIL	NIL
Sub-Total		20,793	3,081.22		
ACT, Guwahati Unit-A	2013-14	1,067	209.64	13	1.22
ST, Karimganj	2009-10 to 2013-14	856	52.41	38	4.44
Total		22,716	3,343.27		

Thus, 20,793 dealers were allowed to avail ITC of ₹ 3,081.22 crore during the period from 2009-10 to 2013-14 without any cross verification either manually or electronically. In ST, Karimganj 856 dealers availed ITC of ₹ 52.41 crore during 2009-10 to 2013-14; of which only 38 cases (4.44 *per cent*) were cross verified. Further, during 2013-14, 1,067 dealers of ACT, Unit-A Guwahati availed ITC of ₹ 209.64 crore of which ITC claim of only 13 dealers (1.22 *per cent*) were cross verified manually. In absence of verification of claims of ITC there was scope of allowance of ITC against fraudulent claims. Further, as the ITC claims were more than 50 *per cent* of the net-VAT collections, the Department needed to install stringent control measures before allowing ITC claims.

2.3.11 Parts ‘G’ and ‘J’ not submitted along with the returns

Cross-verification of ITC largely depends upon submission of duly filled in Part ‘G’ and ‘J’ showing the purchase and sales respectively by the dealers along with the returns.

It was observed that 10,207 dealers under Guwahati Unit-A, C and Karimganj units availed ITC during 2009-10 to 2013-14. Of these, 3,150 dealers (31 *per cent*) did not fill up the Part-‘G’ of the returns. Though the same information was sought for (June-July 2015) from other 11 selected unit offices as well as Commissionerate, no such information had been received till finalization of this Report (August 2015).

Thus, allowance of ITC even when basic details *i.e.* purchase particulars were not furnished by the dealers corroborates the audit findings on non-verification of the claims before allowing the ITC. Case of anomalies between the Parts ‘G’ and ‘J’ noticed during the course of Audit are mentioned in the section under ‘Compliance deficiencies’.

During the exit conference, the CT stated that the system of matching the purchase and sales before allowing ITC had been introduced from June 2015.

Compliance deficiencies

AVAT Act provides that the ITC can be claimed only on purchase of taxable goods other than the goods specified in the Fourth Schedule against the tax invoices, made locally *i.e.*, within the State and both the purchasing and the selling dealers should be registered under the AVAT Act. As per Section 85 read with Section 90 of the AVAT Act, if a dealer attempts to evade or evade tax, he is liable to pay penalty twice the amount of tax evaded or sought to be evaded.

Section 29 of the AVAT Act read with Rule 17 of AVAT Rules provides for submission of monthly/quarterly returns by the dealers for claiming ITC. From March 2008, Parts ‘G’ and ‘J’ had been introduced to be appended with the return to declare the purchase and sales made during the period.

Rule 21 of the AVAT Rules envisages that except the cases selected for audit assessment, all other cases shall be deemed to have been assessed to tax. As per Departmental instruction issued on January 2007 scrutiny of returns is to be done within 15 days of submission of return.

Audit had attempted to manually⁴ examine the ITC claims on case to case basis, selected randomly, through cross verification of connected documents which revealed a number of deficiencies as well as cases of inadmissible claims of ITC which are mentioned in the succeeding paragraphs.

⁴ There was no scope of conducting cross verification electronically as there are deficiencies in the returns uploaded online (as discussed in preceding paragraphs) coupled with the fact that the TIMS management did not provide the database of returns for audit scrutiny despite repeated requests (May 2015) and personal contacts.

2.3.12 Anomalies between the Parts 'G' and 'J' vis-à-vis allowance of ITC

2.3.12.1 Discrepancy between Parts 'G' and 'J' of returns

- Verification of 102 returns of 33 purchasing dealers in six⁵ unit offices relating to the period 2011-12 to 2013-14 revealed that in the returns (Part-'G') the dealers disclosed purchase of ₹ 585.96 crore involving ITC of ₹ 32.81 crore. Cross verification of the corresponding returns (Part-'J') of 32 selling dealers of eight⁶ unit offices revealed that the selling dealers actually sold goods worth ₹ 371.32 crore to these purchasing dealers. As such, the purchasing dealers inflated the purchase by ₹ 214.64 crore and availed excess ITC of ₹ 17.05 crore, including interest of ₹ 4.79 crore. For wrong submission of details, the dealers were also liable to pay penalty of ₹ 24.55 crore.
- Verification of 44 returns of 13 purchasing dealers in five⁷ unit offices relating to the period 2011-12 to 2013-14 revealed that in the returns (Part-'G') the dealers disclosed purchase of ₹ 131.64 crore involving ITC of ₹ 12.92 crore. Cross-verification of the corresponding returns (Part-'J') of the 13 selling dealers of four⁸ unit offices (from whom the goods were purchased) however, revealed that the selling dealers disclosed sales as 'NIL' to those purchasing dealers. As such, ITC of ₹12.92 crore was irregularly claimed.

2.3.12.2 Returns not furnished by the selling dealers

Four purchasing dealers in three⁹ unit offices claimed ITC of ₹ 2.06 crore relating to the period 2011-12 to 2012-13 against purchase of ₹ 19.79 crore in six returns. However, cross verification revealed that the selling dealers of three¹⁰ unit offices did not file any return. Thus, there was no scope for tracing the audit trail by Audit as well as the assessing officers (AO) and the ITC of ₹ 2.06 crore was granted without any documentation.

2.3.12.3 Incorrect allowance of ITC as the selling dealer failed to furnish sales particulars in returns

Verification of 56 returns (Part-'G') of 20 purchasing dealers in four¹¹ unit offices relating to the period 2010-11 to 2013-14 revealed that the dealers claimed local purchase¹² of goods of ₹ 134.30 crore and availed ITC of ₹ 6.93 crore. During cross-verification the returns of 14 selling dealers of the same unit offices, it was noticed that the selling dealers from whom the purchasing dealers claimed to have

⁵ ACT, Guwahati Unit-A,B,C, D, Jorhat and Dhubri.

⁶ ACT, Guwahati Unit-A,B,C, D, Jorhat, Dhubri, Tezpur and ST, Hailakandi.

⁷ ACT, Guwahati Unit-A,B,C, D and Tinsukia.

⁸ ACT, Guwahati Unit-A,B,C and D.

⁹ ACT, Guwahati Unit-A,B and D.

¹⁰ ACT, Guwahati Unit-A,B and C.

¹¹ ACT, Guwahati Unit-A,B,C and D.

¹² Goods purchased within the State from the registered dealers.

purchased the goods did not disclose sale in Part-J of the returns. As such, there was no evidence of sale of goods to those purchasing dealers in absence of which, allowance of ITC of ₹ 6.93 crore was incorrect.

2.3.12.4 Disclosure of purchase particulars not done by purchasing dealer

Verification of Part-‘J’ of 63 returns of 15 selling dealers of four¹³ unit offices relating to the period 2010-11 to 2013-14 revealed that the dealers disclosed local sale of goods for ₹ 462.20 crore. While cross-verifying the returns (Part-‘G’) of the 19 purchasing dealers of eight¹⁴ unit offices, it was noticed that the purchasing dealers did not furnish any purchase particulars (Part-‘G’/separate purchase lists). In absence of these records/particulars, genuineness of sale and purchase transactions could not be verified by Audit.

2.3.13 Excess allowance of ITC

2.3.13.1 In 33 cases of 13 dealers in three¹⁵ unit offices for the period 2008-09 to 2013-14, it was noticed that the dealers disclosed local purchase of goods for ₹ 2,123.44 crore in manufacturing account/annual returns but ITC was claimed on ₹ 2,376.46 crore which resulted in excess claim of ITC amounting to ₹ 17.51 crore including interest of ₹ 5.82 crore. In addition, penalty of ₹ 23.37 crore was also leviable.

2.3.13.2 A dealer M/s Abutani Mercantile Pvt. Ltd. registered under Unit-C Guwahati, claimed ITC of ₹24.37 lakh for the year 2011-12 which the AO allowed in March 2014 while completing scrutiny. Scrutiny of returns however, revealed that the dealer disclosed local purchase of goods for ₹ 35.52 lakh involving ITC of ₹ 3.72 lakh. The dealer was, thus, allowed excess ITC of ₹ 20.65 lakh. In addition to tax, the dealer was liable to pay interest of ₹ 12.08 lakh.

2.3.13.3 Two dealers of ACT, Guwahati Unit-C disclosed ITC as ₹ 22.24 crore as per quarterly return for the year 2012-13. However, the dealers claimed /allowed ITC of ₹ 22.29 crore which resulted in excess allowance/availing of ITC of ₹ 5.15 lakh. In addition, interest of ₹ 2.09 lakh and penalty of ₹ 10.31 lakh were also leviable.

2.3.14 Completion of scrutiny/ best judgment assessment was not done which resulted in allowance of ITC claims without supporting documents

Section 37 of AVAT Act provides that if any dealer has not furnished annual return in respect of any period by the prescribed date, or failed to comply with terms of

¹³ ACT, Guwahati Unit-A,B,C and D.

¹⁴ ACT, Guwahati Unit-A,B,C, D , Silchar, Tezpur, Jorhat and ST, Karimganj.

¹⁵ ACT, Guwahati Unit-A,B and C.

any notice the prescribed authority shall, after issuing a notice to the dealer in the prescribed form and in the prescribed manner, so as to give him a reasonable opportunity of being heard, assess him to the best of his judgment.

2.3.14.1 A dealer M/s Pibco India Ltd registered in Unit-C, Guwahati claimed and availed ITC of ₹ 34.61 crore¹⁶ during the period 2009-10 to 2013-14 (upto September 2013).

Scrutiny of records revealed that the dealer claimed ITC without producing supporting purchase documents. During 2012-13, the dealer disclosed 'Nil' local purchase in the returns for January and February 2013 but claimed ITC of ₹ 1.58 crore. The dealer claimed purchase of goods from M/s Mahindra & Mahindra for ₹ 3.83 crore during June, September, December 2012 and March 2013 but mentioned three different TINs of same dealer. Cross verification of returns of M/s Mahindra & Mahindra however, revealed that the dealer did not disclose any sales to M/s Pibco India Pvt. Ltd. Though the dealer did not furnish necessary document in support of local purchase and also fraudulently claimed ITC, the returns were not scrutinised to ascertain the genuineness of ITC claims. The AO served several notices between May 2011 and August 2013 for production of books of accounts for assessment. Though the dealer did not respond to any of the notices, no step was taken to complete the assessment *ex-parte*. It was further observed that the dealer discontinued furnishing returns since October 2013. Thus, due to non-completion of scrutiny of returns/assessment, ITC of ₹ 34.61 crore remained un-verified.

On being pointed out, the AO while accepting the audit observation stated that the assessments relating to 2009-10 to 2011-12 had been completed under section 37 of AVAT Act raising demand of ₹ 39.50 crore (tax : ₹ 23.31 crore and interest : ₹ 16.19 crore). The AO further stated that arrear certificate had been issued (January and March 2015) to the ST, Recovery levying further interest of ₹ 28 lakh as the dealer failed to pay the dues against notices of demand. Reply in respect of the years 2012-13 and 2013-14 during which the liability stood at ₹ 17.68 crore including interest of ₹ 4.96 crore had not been received. Thus, dealer's total liability stood at ₹ 82.91 crore including penalty (₹ 25.45 crore).

2.3.14.2 A dealer M/s Lafarge Aggregates & Concrete India Pvt. Ltd registered under ACT, Unit-B of Guwahati availed ITC of ₹ 6.18 crore¹⁷ for the period 2008-09 to 2012-13. The AO while completing scrutiny of returns for the years 2008-09 and 2009-10 allowed ITC of ₹ 1.83 crore and for periods from 2010-11 to 2012-13 the returns were neither scrutinised nor assessed. Scrutiny further revealed that the dealer did not furnish any documentary evidence regarding

¹⁶ ₹ 4.75 crore, ₹ 8.21 crore, ₹ 8.93 crore, ₹ 10.53 crore and ₹ 2.19 crore.

¹⁷ ₹0.21 crore, ₹1.62 crore, ₹1.45 crore, ₹1.89 crore and ₹1.01 crore respectively.

local purchase of goods. The dealer had closed down his business since December 2013 as evident from the Report of Area Inspector of Taxes dated 22 July 2014.

Thus, due to non-completion of scrutiny of returns/assessment, the ITC claims remained un-verified. After this was pointed out, the AO while accepting the audit observation, served notice to the dealer to his address at Kolkata in January 2015 for production of documentary evidence of purchase from within the State but no action was taken to assess the dealer under section 37 of AVAT Act (best judgment) till the date of audit (August 2015). The dealer's total liability stood at ₹10.57 crore including interest of ₹4.39 crore.

2.3.15 Irregular allowance of ITC without documentary evidence

2.3.15.1 In 15¹⁸ unit offices the AOs allowed ITC of ₹ 128.06 crore in case of 89 dealers for the period 2009-10 to 2013-14 though the dealers did not furnish particulars of purchase in Part-‘G’ of the returns. In absence of evidence of purchase from within the State, allowance of ITC of ₹ 128.06 crore was incorrect.

2.3.15.2 A dealer (M/s Assam Roofing Ltd.) claimed ITC of ₹ 6.20 crore for the year 2009-10 on local purchase of ‘CR Coil’ for ₹155.08 crore without furnishing the Part-‘G’ of the return. The AO while completing assessment in March 2013 allowed ITC of ₹ 5.63 crore on local purchase of ‘CR coil’ of ₹ 140.86 crore from M/s PDP Steel Ltd. Cross-verification of records of the selling dealer (M/s PDP Steel Ltd.) revealed that the dealer did not disclose any sale to M/s Assam Roofing Ltd in Part-‘J’ of the return. Thus, allowance of ITC of ₹ 5.63 crore was incorrect. In addition to tax, interest of ₹ 5.32 crore was also leviable. Thus, dealer's total liability stood at ₹ 10.95 crore.

2.3.16 Irregular allowance of ITC at higher rate

‘CR Coil’/ ‘GP Sheet’ were taxable at the rate of four *per cent* upto 20 July 2011 and five *per cent* with effect from 21 July 2011 under the AVAT Act.

Two dealers of two Unit offices¹⁹ availed ITC for the period 2011-12 to 2013-14 more than the prescribed rate of tax but the returns of the dealer were not scrutinised. This resulted in excess availing of ITC of ₹ 2.94 crore including interest of ₹ 0.86 crore. In addition, penalty of ₹ 4.14 crore was also leviable. The details are shown in the following table.

¹⁸ Bongaigaon, Dhubri, Guwahati Unit-A, B, C, D, Jorhat, Haikandi, Karimganj, Mangaldoi, Tezpur, Tinsukia, Silchar, Sivasagar and Goalpara.

¹⁹ Guwahati Unit-A and C.

Table-2.5

(₹ in crore)

Name of the dealer Name of Unit	Year Return Period	Item Rate of tax	Purchase value	ITC availed	ITC actually allowable	Excess ITC availed	Interest leviable upto 7/15	Penalty leviable
M/s Assam Roofing Ltd. ACT, Unit-C, Guwahati	2011-12 (9/2011)	CR Coil 4%	46.61	2.10	1.86	0.24	0.14	0.47
	2012-13 (12/2012)	CR Coil 5%	19.18	2.59	0.96	1.63	0.66	3.26
		Zinc 5%	1.21	0.16	0.06	0.10	0.04	0.20
M/s Surendra Steel Pvt. Ltd. ACT, Unit-A, Guwahati	2013-14 (9/2013)	GC/GP sheet 5%	7.89	0.50	0.39	0.11	0.02	0.21
Total						2.08	0.86	4.14

2.3.17 Irregular allowance of ITC on purchase of Stores

Section 14 of AVAT Act provides that a manufacturing dealer is not entitled to set off the tax paid on purchase of stores and fuel. The AVAT Manual specifically stated that the AO should not allow ITC on purchase of stores and fuel in the manufacturing process.

In 10 cases, three dealers of two²⁰ unit offices claimed ITC of ₹ 71.59 lakh during the period 2009-10 to 2013-14 on local purchase of 'stores' and 'consumables' though these dealers were engaged in manufacture of 'iron and steel' and 'asbestos'. In addition to tax, interest of ₹ 39.22 lakh and penalty of ₹ 1.43 crore was leviable. This was despite the fact that the AO of ACT, Guwahati Unit C rejected the claim of ITC against purchase of stores in two cases (2011-12 and 2012-13) in respect of one dealer.

2.3.18 Irregular allowance of ITC on discounts/rebate/incentives

CT, Assam instructed²¹ (November 2007) all the ACsT/SsT to ensure that the dealer deducts the amount received as credit note on account of cash discount/trade discount/rebate/incentive from purchase value and ITC is required to be reversed proportionately.

In 31 cases involving 10 dealers of four²² unit offices for the period 2007-08 to 2013-14 the dealers claimed and availed ITC on original purchase value but subsequently received credit note for discount/incentive/rebate etc. The dealers were allowed ITC of ₹ 1.19 crore against those credit notes of ₹ 14.56 crore but ITC was not reversed proportionately for such credit notes received subsequently.

²⁰ ACT, Guwahati Unit-A and C.

²¹ Circular No.34/2007 dated 12 November 2007.

²² ACT, Guwahati Unit-B, D; Nagaon and Sivasagar.

Thus, ITC of ₹ 1.75 crore including interest of ₹ 55.85 lakh remained short-reversed.

2.3.19 Incorrect allowance of ITC on goods distributed as free samples

As per section 14(6) of AVAT Act, when the goods, on the purchase of which tax credit has been availed, are distributed as free sample, the ITC already availed are required to be reversed. Further, as per section 39 of the AVAT Act, no assessment shall be made after the expiry of five years from the end of the year to which the assessment relates.

Scrutiny of records of a dealer (M/s Malhotra Marketing Pvt. Ltd.) registered under ACT, Guwahati Unit-D revealed that the dealer during the period 2007-08 to 2013-14 claimed ITC on local purchase of ₹ 56.39 crore. However, it was seen from the Audited Account (Trading A/C) that the dealer distributed goods worth ₹ 3.63 crore involving ITC of ₹ 41.18 lakh as free samples out of the goods purchased locally by availing ITC. However, ITC was not reversed on goods distributed as free sample which resulted in non-reversal of ITC of ₹ 41.18 lakh on which interest of ₹ 38.53 lakh was additionally leviable.

In this regard, it may be mentioned here that assessment for the years 2007-08, 2008-09 and 2009-10 has become time barred²³ and the AO has to invoke special provisions²⁴ for reopening them.

2.3.20 Irregular allowance of ITC on purchase of goods specified in the Fourth schedule

The AVAT Act provides that the ITC shall be allowed to the extent of the amount of tax paid by the purchasing dealer on his purchase of taxable goods other than the goods specified in the Fourth Schedule²⁵. The item 'Tea' was under Schedule IV from May 2005 and 'Tobacco' was inserted to Schedule IV from 21 July 2011.

It was noticed that in six cases of three dealer registered in two unit²⁶ offices during the period from 2010-11 to 2012-13 the dealers purchased Schedule IV goods (tea and tobacco) worth ₹6 crore locally and irregularly availed ITC of ₹ 68.81 lakh on such purchases. Due to incorrect claim of ITC there was short levy of tax of ₹ 89.70 lakh including interest of ₹ 20.89 lakh.

²³ Section 39 of the AVAT Act.

²⁴ Section 40 of the AVAT Act.

²⁵ Goods taxable at first point of sale in the State.

²⁶ ACT, Sivasagar and ST, Hojai.

2.3.21 Mismatch between ITC claimed in annual return with that of quarterly return

Scrutiny of quarterly returns of 26 dealers in 38 cases relating to six²⁷ unit offices for the period 2010-11 to 2013-14 revealed that dealers purchased goods worth ₹ 943.07 crore and claimed ITC of ₹47.38 crore. Further scrutiny of annual returns of these dealers revealed that the dealers claimed ITC of ₹ 58.48 crore against purchase of ₹ 1,165.05 crore. Though the dealers claimed excess purchase of ₹ 221.98 crore in annual returns, no documentary evidence against the excess purchase was found available in the case records. This resulted in excess claim of ITC of ₹ 11.10 crore. In addition, interest was also leviable as per provision of the Act.

2.3.22 Internal Control mechanism

Internal control is an integral component of an organisation's management processes established in order to provide reasonable assurance that organisation's operations are carried out effectively, economically and efficiently. Deficiencies in control and monitoring of the ITC claims had been discussed in the preceding paragraphs. Deficiencies in the internal audit facility, MIS mechanism in the Taxation Department are discussed in the following paragraphs.

2.3.22.1 Internal Audit facility

Internal Audit is an integral part of internal control mechanism and functions as 'eyes' and 'ears' of any organisation. Internal Audit enables in safeguarding the interest of the Department and the Government through periodical check of the departmental records to help the department in plugging the loopholes.

Audit observed that an Internal Audit Wing (IAW) was created by the Government in May 1998 with staff strength of eight internal auditors in the office of the CT, Assam. The Department did not respond to the audit request to provide the details of internal audit facility available in the Department during 2015. Against an audit query issued during the PA conducted during 2014, the department had stated in 2014 that the wing was defunct. Had there been an effective internal audit system in the Department, the deficiencies could have been rectified through internal evaluation and the system would be functioning better.

2.3.22.2 Discrepancy between database received from Apex Office and information received from unit offices

The CT, Assam gathers information from the field offices to prepare management information system. This data, if compiled, can help in effective decision making.

²⁷ ACT, Guwahati Unit-A, B, C D, Tezpur and ST, Goalpara.

Analysis of information received from the Office of the CT as well as the units revealed discrepancies which are mentioned in the following tables.

Table -2.6

Table showing discrepancy in the database of dealers availed ITC of ₹ 10 lakh or more

Sl. No.	Name of unit	Year	No. of dealer availed ITC ₹ 10 lakh or more during the year		Difference
			As per Unit office	As per database maintained by Apex office	
1	ST, Hailakandi	2009-10	12	12	-
		2010-11	12	16	4
		2011-12	12	19	7
		2012-13	12	16	4
		2013-14	12	14	2
2	ST, Karimganj	2009-10	23	37	14
		2010-11	40	44	4
		2011-12	40	55	15
		2012-13	53	11	42
		2013-14	56	4	52
3	ACT, Unit-B Guwahati,	2009-10	134	165	31
		2010-11	291	209	82
		2011-12	296	283	13
		2012-13	291	330	39
		2013-14	230	346	116
4	ACT, Unit-A Guwahati,	2009-10	89	148	59
		2010-11	111	216	105
		2011-12	145	233	88
		2012-13	145	229	84
		2013-14	154	243	89
5	ACT, Unit-C Guwahati,	2009-10	96	74	22
		2010-11	130	160	30
		2011-12	210	234	24
		2012-13	223	197	26
		2013-14	198	267	69
6	ACT, Dhubri	2009-10	32	45	13
		2010-11	43	52	9
		2011-12	56	81	25
		2012-13	70	72	2
		2013-14	73	70	3
7	ST, Mangaldoi	2009-10	7	16	9
		2010-11	10	14	4
		2011-12	12	15	3
		2012-13	14	13	1
		2013-14	13	7	6

Table-2.7

Table showing discrepancy in the database of dealer s availing ITC

Name of unit	Year	No. of dealer availing ITC		Difference
		As per Unit office	Database maintained by Apex Office	
ACT, Unit-C Guwahati	2009-10	195	369	174
	2010-11	241	611	370
	2011-12	238	825	587
	2012-13	308	757	449

	2013-14	383	863	480
ST, Karimganj	2009-10	262	224	38
	2010-11	304	227	77
	2011-12	356	268	88
	2012-13	416	94	322
	2013-14	470	43	427

The above tables indicate that there was lack of coordination between Unit offices and the Apex office. As such, no assurance can be drawn from the database maintained by the Department.

2.3.22.3 Discrepancy between TIMS database and manual records

- Scrutiny of returns of 22 dealers of nine²⁸ unit offices revealed that in 42 cases the dealers availed ITC of ₹ 45.03 crore during the period from 2009-10 to 2013-14. However, there was no indication of claim of ITC by these dealers as per TIMS database. As such, the TIMS database was not giving the correct picture of dealers' claim of ITC and the ITC amount of ₹ 45.03 crore remained outside the database.
- Scrutiny of returns of a dealer under ACT, Jorhat revealed that in two cases the dealer claimed ITC of ₹ 177.48 lakh. However, it was seen in the database that the dealer's claim of ITC was ₹ 156.56 lakh indicating a discrepancy of ₹ 20.92 lakh.

2.3.23 Reversal of ITC was not done on change of registration type from 'TIN' to 'GRN'

As per Section 20(4) of the AVAT Act, a dealer registered under Composition Scheme shall not be entitled to any claim of ITC in respect of purchase of any goods made by him in the State.

Further, as per section 2(41) of the AVAT Act the Input Tax on the goods for which credit has already been availed such goods are subsequently used for a purpose other than those specified to be eligible for ITC is to be reversed.

Scrutiny of records in two cases of two dealers relating to two unit offices²⁹ revealed that dealers changed over his registration to composition scheme. The dealers claimed ITC on entire local purchase during the regular registration and had closing balance of ₹ 36.36 lakh. As the dealers converted to composition schemes (from April 2013) and hence the ITC availed on closing stock was to be reversed. However ITC was not reversed. This resulted in extra benefit of ₹ 3.23 lakh including interest of ₹ 0.93 lakh allowed to the dealers.

Similar cases were requisitioned from the unit offices but the same were not provided on the plea that the same had been transferred to old record.

²⁸ ACT, Guwahati Unit-A,B,C, Silchar, Jorhat, Tezpur, ST, Karimganj, Hailakandi and Mangaldoi.

²⁹ ACT, Guwahati Unit-B and D.

2.3.24 Conclusion

The VAT regime aimed at instituting a transparent taxation system revolving around faith on the traders for self declaration of tax payable and non-intrusive controls exercised by the Department. However, to attain these objectives and to prevent tax evasions it is important that a fool proof IT system with end-to-end integration is to be put in place.

The PA revealed that the Department had taken a number of positive steps like introduction of TIMS and introduction of Parts ‘G’ and ‘J’ to obtain details of purchase and sales from the dealers. However, there were a number of issues which still needed to be streamlined and implemented to ensure effective monitoring and controls as summarised below.

The white paper for VAT implementation as well as the AVAT Act emphasised on granting ITC based on documentation of tax invoices and the Department notified for furnishing specific lists of purchase/sales along with the return. It was however, observed that there was no system installed by the Department for uploading purchase and sales details invoice/date-wise in the database. Neither had the Taxation Department made it mandatory to furnish purchase/sales list along with the returns which benefitted the errant dealers on one hand while defeated the purpose of the notification on the other. Resultantly, not a single test checked unit could conduct cross-verification for ascertaining genuineness of claim of ITC through TIMS. The Department amended the returns inserting Part ‘G’ and Part ‘J’ for recording details of purchase and sales but most of the dealers either did not adopt revised return form or fill up Part ‘G’ or Part ‘J’ which hampered cross-verification of these cases manually. There were abnormal delays in completion of scrutiny of returns and assessments which resulted in non-detection of incorrect, inadmissible claim of ITC etc. Limited verification conducted by Audit revealed a number of cases of irregular allowance of ITC, non-detection of excess availing of ITC etc. These cases are only illustrative and randomly picked up during the course of the audit. The internal controls within the Department was found to be weak as evidenced by absence of internal audit, mismatch between the figures provided by the Commissionerate and the unit Offices etc. Based on the systemic and compliance deficiencies discussed above, it can be concluded that there is almost no control of the Department on ITC claims and these are being allowed on *ad hoc* basis.

2.3.25 Preparedness for Goods and Services Tax

After introduction of GST, the system of ITC is expected to play greater role as the set off facility would open up for inter-State purchases and taxes paid against services as well. In view of the multiplicity of the inputs and allowance of credits thereagainst, it is imperative that the GST framework should have a sound and robust IT platform.

The findings of the present PA revealed that despite lapse of more than 10 years after VAT system was introduced in the State, the Department was yet to put in place a system for electronic scrutiny of the ITC claims while the manual system was also not sufficing as the dealers were not furnishing the purchase/sales lists along with the returns. The implementation of GST is imminent but the loose ends across the IT/manual system of checking ITC as well as rampant non-compliance of departmental directives by the dealers (Parts 'G' and 'J' to be attached with the returns) has created a situation rife with opportunities for evasion of tax and may prove to be a disadvantage for the Department while switching over to GST framework.

2.3.26 Recommendations

The Department may consider implementing the following recommendations to rectify the deficiencies in the system and to gear up for adoption of the GST as and when the same is implemented in the State.

- 1. Make it mandatory for the major dealers to file online returns including Parts 'G' and 'J' for atleast preceding three years and cross verify the ITC claims electronically through matching the invoices/dealers/amounts to ascertain the extent of evasion of tax;*
- 2. Place automation high on agenda to ensure that the State is ready to implement GST by (i) upgrading the TIMS software to build in system that disallows uploading of returns until the Parts 'G' and 'J' are filled in and matches with the purchases/sales disclosed in the return and (ii) making it mandatory to check the ITC claims electronically as being done in other States to detect and prevent irregular claims of ITC;*
- 3. Prescribe a comprehensive mechanism for cross-verification of the returns of the dealers with other returns of other dealers; and*
- 4. Strengthen the internal control mechanism by arranging for internal audit of the activities and putting in place a robust MIS mechanism.*

2.4 Compliance Audit observations

Scrutiny of records relating to sales/value added tax (VAT)/entry tax in the Taxation Department revealed several cases of non-observation of provisions of Acts/Rules/departmental orders. These cases are illustrative and are based on a test check carried out by Audit. It is a matter of concern as these observations are also sent to the higher authorities including the Government each time these are detected. Government and the Department need to strengthen measures to effectively monitor the cases and to arrest recurrence of the irregularities.

2.5 Incorrect grant of eligibility/entitlement certificate resulted in undue grant of tax exemption of ₹ 5.44 crore

As per the Assam Industries Sales Tax Concession Scheme 1997, a new industrial unit is eligible for sales tax exemption on purchase of raw material from within the State of Assam and also the sale of finished products manufactured in the State of Assam for a period of seven years subject to a maximum of 150 *per cent* of the capital investment. Consequent upon implementation of Assam VAT Act, 2003 with effect from 1 May 2005, the existing scheme was replaced by remission scheme and the industrial units are entitled to remission of ninety nine *per cent* of the tax payable by them during the return periods until the amount of such remission exceeds the un-availed quantum of monetary ceiling. To avail the exemption, the intending industrial units are required to obtain a certificate of authorisation from the concerned sales tax office on the basis of eligibility certificate issued by the Industries Department.

In view of the confusion among the District Industries Centres across the country which had come to their notice, the Ministry of Industry, Government of India (GoI) had in August 1993 clarified the following pre-conditions to qualify a process as ‘manufacture’; (i) mechanised process should be involved; (ii) value addition should take place; (iii) the end product should have a distinct name, character or use *i.e.* change of form and (iv) the processed product must be excisable. The Supreme Court in the case of Commissioner of Sales Tax Vs D S Bist³⁰ held that unlike many agricultural products tea leaves are not marketable in the market fresh from the gardens as nobody eats tea leaves and tea leaves are only fit for marketing after a minimal process, yet tea leaves do not change their character and are sold in the market as such. Thereafter, similar verdicts³¹ had been delivered by the Allahabad High Court and the Uttaranchal High Court. In all the above cases it was held that ***withering, crushing and roasting of tea leaves at no point robbed the tea leaves of their character and thus it cannot be termed as manufacturing process.*** Further, the High Court of Bombay in the case of CST Vs Bombay Traders³² held that ***“roasting, salting, spicing of nuts is not manufacture – purchasing plain cashew nuts, frying, applying spices and packing in plastic bags is not manufacture”.*** This verdict of Bombay High Court was also followed in the case of Phil Corporation Vs CCE³³.

The Commissioner of Taxes (CT), Assam in his Circular of July 2008 intimated all the ACsT/SsT regarding the results of a review of the certificates of authorisation issued by the Taxation Department which revealed that in a number of cases tax

³⁰ Reported in [1979] 44 STC 392; [1979] UPTC 1511.

³¹ In the case of Dehradun Tea Company Vs Commissioner of Sales Tax Reported in [1980] UPTC 459 and Dehradun Tea Company Vs State of Uttaranchal and Others dated 26 June 2006.

³² (1976) 38 STC 286 (Bombay HC).

³³ (140) ELT 450 (CEGAT).

remission benefits had been irregularly extended although the activities of the units do not tantamount to 'manufacture' like stone crushers, refining of mustard oil, packaging of water etc. The CT instructed all the ACsT/SsT to cancel all such authorisation certificates and recover the due taxes from such units.

[ST, Digboi; January – March 2014]

2.5.1 During test check of records in the above Office, it was observed that four dealers engaged in processing of tea leaves were granted eligibility certificate by the Industries Department between December 1999 and November 2009 for a period of seven/nine³⁴ years or attaining the maximum limit of tax exemption as applicable, whichever is earlier. On the basis of the eligibility certificate, authorisation³⁵/entitlement³⁶ certificates were issued to the dealers by the ST, Digboi. The dealers accordingly claimed tax exemption of ₹ 3.77 crore³⁷ between 1998-99 and 2011-12. However, a perusal of the clarification issued by the Ministry of Industry, GoI and the Apex/High Courts as stated above would reveal that processing tea leaves was not tantamount to 'manufacture'. However, the Industries Department and the ST, Digboi issued the eligibility/authorisation/entitlement certificates to these ineligible units despite the clarification/judgments, which was incorrect. Further, despite the directives of the CT, Assam in July 2008, the ST, Digboi did not review these cases which would have enabled him to cancel the certificates granted erroneously. Thus, failure to take into consideration the clarification issued by the Ministry/judgment of various Courts including the Supreme Court and non-compliance of the directives of the CT, Assam resulted in undue grant of tax exemption of ₹ 3.77 crore.

The case was reported to the Department/Government in March 2014 and followed up in June 2015; their replies have not been received (November 2015).

[ACT, Dhubri; July - September 2013]

2.5.2 During test check of records in the above Office, it was observed that eleven dealers engaged in processing of raw cashew nuts were granted eligibility certificate by the Industries Department between September 1999 and December 2010 for a period of seven years or attaining the maximum limit of tax exemption as applicable, whichever is earlier. On the basis of the eligibility certificate,

³⁴ M/s Dhrujyoti Tea Co Pvt Ltd was granted exemption for nine years under the Assam Industries (Tax exemption for Pipeline Units) Order, 2005 while the other three dealers were allowed exemption for seven years under the Scheme of 1997 and 2005.

³⁵ During pre-VAT era under the Scheme of 1997 when Assam General Sales Tax was in vogue.

³⁶ Post implementation of VAT in May 2005.

³⁷ M/s Lekhapani Tea Company Pvt Ltd (₹ 95.45 lakh during 1998-99 to August 2005 and 2003-04 to 2009-10), M/s Borbil Tea Company (₹ 126.42 lakh during 2006-07 to 2010-11), M/s Cha Indica Pvt Ltd (₹ 145.24 lakh during 2001-02 to 2004-05 and 2005-06 to 2008-09) and M/s Dhrujyoti Tea Co Pvt Ltd (₹ 10.38 lakh during 2009-10 to 2011-12).

authorisation³⁸/entitlement³⁹ certificates were issued between October 1999 and May 2013 to the dealers by the ACT, Dhubri. The dealers accordingly claimed tax exemption of ₹ 1.67 crore⁴⁰ between June 1999 and 2012-13. However, a perusal of the clarification issued by the Ministry of Industry, GoI and the Bombay High Court as stated above would reveal that processing raw cashew nuts was not tantamount to ‘manufacture’; yet the Industries Department and the ACT, Dhubri issued the eligibility/authorization/entitlement certificates to these ineligible units despite the clarification/judgments, which was incorrect. Further, despite the directives of the CT, Assam in July 2008, the ACT, Dhubri did not review these cases which would have enabled him to cancel the certificates granted erroneously. Thus, failure to take into consideration the clarification issued by the Ministry/judgment of the High Court and non-compliance of the directives of the CT, Assam resulted in undue grant of tax exemption of ₹ 1.67 crore.

On being pointed out, the Department stated (October 2015) that once eligibility/authorization certificate is issued there is no option but to allow tax remission. The reply is not in consonance with the order of the CT, Assam issued in July 2008 wherein the AOs were directed to review the authorization certificates and cancel them wherever certificates were wrongly issued.

The case was reported to the Government in November 2013 and followed up in June 2015; their replies have not been received (November 2015).

2.6 Failure to update interest upto the date of drawing up Arrear Certificate led to short-levy of interest of ₹ 74.55 lakh

[ACT, Unit – A, Guwahati; July – September 2012]

Under Section 30 of the Assam VAT Act, if any dealer fails to pay the amount of tax due within the prescribed timeframe, he shall in addition to the tax, be liable to pay simple interest, at one and half *per cent* per month on the amount of tax remaining unpaid. As per Section 43 of the AVAT Act, where a dealer fails to pay the tax assessed or interest levied or penalty imposed within thirty days from the date of service of the notice then the dues shall be recoverable as arrears of land revenue. Further, Section 43 (8) provides that where the amount paid falls short of the aggregate of the tax or any other amount due and interest payable, the amount so paid shall first be adjusted towards interest payable and the balance, if any, shall be adjusted towards the tax or any other amount due.

³⁸ During pre-VAT era under the Scheme of 1997 when Assam General Sales Tax was in vogue.

³⁹ Post implementation of VAT in May 2005.

⁴⁰ M/s Bothra Agro Industries (₹ 23.39 lakh), M/s Hasan Agro Industries (₹ 11.47 lakh), M/s Mankachar Cashew Industry (₹ 12.80 lakh), M/s M D Industries (₹ 23.68 lakh), M/s R B Industries (₹ 16.29 lakh), M/s Rose Cashew Nut Factory (₹ 9.61 lakh), M/s Roushan Cashew Industries (₹ 6.91 lakh), M/s Saurabh Agro Industries (₹ 30.45 lakh), M/s T C Industries (₹ 16.80 lakh), M/s Tripathi Industries (₹ 12.21 lakh) and M/s Quality Agro Industries (₹ 3.15 lakh).

During test check (July – September 2012) of records in the above Office, it was observed that a dealer (M/s Vinay Cements Ltd) was assessed for the years 2004-05 and 2005-06 {under Central Sales Tax (CST)Act⁴¹} in November 2009 & August 2008 respectively and 2006-07 (under both⁴² CST as well as AVAT Act) in January 2009 raising demand of ₹ 5.26 crore⁴³. Since the dealer made part payments of ₹ 1.69 crore and did not pay the remaining amount, the case was referred to the Recovery Officer (RO) for recovery of balance dues as arrears of land revenue. However, while forwarding the case to the RO, the AO did not update the interest leviable on unpaid taxes upto the date of referring the case resulting in short-levy of interest of ₹ 74.55 lakh as discussed in the following Table.

Table 2.8

Year	Act under which assessed/ date of assessment	Amount of tax/ interest assessed to be paid after assessment (₹ in lakh)	Amount of tax paid / Payment date (₹ in lakh)	Date of sending to RO	Remarks	Interest leviable (₹ in lakh)
2004-05	CST Act/ 13-11-2009	80.68/ 87.14	Nil	5-6-2010	Interest calculated on balance tax of ₹ 80.68 lakh	6.72
2005-06	CST Act/ 13-8-2008	41.71/ 18.83	25.00/ 17-9-2008 & 31-8-2009	-do-	Payment of ₹ 25 lakh first adjusted against interest of ₹ 18.83 lakh and the remaining ₹ 6.17 lakh adjusted against tax dues. Thus, interest calculated on balance tax of ₹ 41.71 lakh till the payment was made and thereafter on ₹ 35.54 lakh.	12.28
2006-07	CST Act/ 22-1-2009	65.56/ 25.08	5.00/ 31-8-2009	5-6-2010	Payment of ₹ 5 lakh adjusted against interest due of ₹ 25.08 lakh. Further interest calculated on ₹ 65.56 lakh.	15.37
	AVAT Act/ 22-1-2009	143.92/ 62.93	139.38/ Between 16-2-2009 and 30-7-2010	16-3-2011	Payment of ₹ 139.38 lakh first adjusted against interest due of ₹ 62.93 lakh and the balance of ₹ 76.46 lakh paid on various dates adjusted against tax dues of ₹ 143.92 lakh. Further interest calculated on the tax remaining unpaid on various dates.	40.18
Total		331.87/ 193.98				74.55

⁴¹ Inter-state sales.

⁴² Inter-state as well as intra-state sales.

⁴³ 2004-05 = ₹ 167.82 lakh (CST Act); 2005-06 = ₹ 60.54 lakh (CST Act); 2006-07 = ₹ 206.86 lakh (AVAT Act) and 2006-07 = ₹ 90.63 lakh (CST Act).

On being pointed out, the AO revised (October 2012) the assessments raising additional demand of ₹ 74.55 lakh updating the interest as pointed out by Audit. The Department in October 2015 stated that the demand had since been recovered.

The case was reported to the Government in October 2012 and followed up in June 2015; their replies have not been received (November 2015).

2.7 Loss of revenue of ₹ 60.22 lakh due to erroneous issue of the certificate of authorisation

[*ST, Nalbari; May 2013*]

As per the Assam Industries Sales Tax Concession Scheme 1997, a new industrial unit is eligible for sales tax exemption on purchase of raw material from within the State of Assam and also the sale of finished products manufactured in the State of Assam for a period of seven years subject to a maximum of 150 *per cent* of the capital investment. Consequent upon implementation of AVAT Act with effect from 1 May 2005, the existing scheme was replaced by remission scheme and the industrial units are entitled to remission of 99 *per cent* of the tax payable by them during the return periods until the amount of such remission exceeds the un-availed quantum of monetary ceiling. To avail the exemption, the intending industrial units are required to obtain a certificate of authorisation from the concerned sales tax office on the basis of eligibility certificate issued by the Industries Department.

The CT, Assam in his Circular of July 2008 intimated all the ACsT/SsT that a review of the certificates of authorisation had revealed that in a number of cases tax remission benefits had been irregularly extended although the activities of the units do not tantamount to ‘manufacture’ like stone crushers, refining of mustard oil, packaging of water etc. The CT instructed all the ACsT/SsT to cancel all such authorisation certificates and recover the due taxes from such units. Further, the division bench of Bombay High Court in the case of Additional Commissioner of Sales Tax Vs. BG Chtale⁴⁴ held that certificate of entitlement cannot be cancelled with retrospective effect but can be from prospective effect.

During test check of records in the above Office, it was observed that an eligibility certificate was issued by the Department of Industry to a dealer (M/s A R Enterprise engaged in packing of mustard oil after filtration of unfiltered mustard oil) for claiming tax exemption on sales of finished products for a period of seven years with effect from 13 February 2005 to 12 February 2012 or attaining the maximum limit of tax exemption of ₹ 68.19 lakh (being 150 *per cent* of the capital investment

⁴⁴ (2011) 45 VST 575.

of ₹ 45.46 lakh) whichever is earlier. On the basis of the eligibility certificate, an authorisation certificate was issued (August 2006) to the dealer by the ST, Nalbari. The dealer accordingly claimed tax exemption of ₹ 60.22 lakh from 2005-06 to 2008-09 (upto July 2008) when in pursuance of the CT's circular of July 2008, the ST, Nalbari revoked (1 July 2008) the certificate of authorisation granted to the dealer. As the authorization certificate could not be revoked retrospectively in view of the Court judgment, tax remission claimed by the dealer between 2005-06 and July 2008 could not be recovered. Had the Taxation Department noticed irregular issue of eligibility certificate by the Industries Department, grant of authorization certificate could be prevented. Thus, erroneous grant of authorization certificate by the Taxation Department led to loss of revenue of ₹ 60.22 lakh.

On being pointed out, the Department agreed that the certificate of authorization could not be revoked with retrospective effect in view of the Court judgment.

The case was reported to the Government in July 2013 and followed up in June 2015; their replies have not been received (November 2015).

2.8 Concealment of purchase turnover resulting revenue of ₹ 23.93 lakh including interest not being realised

[ACT, Silchar; April – May 2014]

The AVAT Act read with the CST Act provides that if any dealer conceals or fails to fully disclose the particulars of his turnover, the AO may, within eight years from the date of relevant years, make an assessment/re-assessment of the dealer. 'Spare parts' was taxable at five *per cent* under the AVAT Act.

During test check of records in the above Office it was observed that a dealer (M/s Johnson Automobiles dealing in TATA motor vehicles, spare parts and lubricants) submitted annual returns along with audited accounts for the year 2011-12 disclosing purchase turnover of spares as ₹ 96.42 lakh. The AO while assessing the dealer in May 2013 accepted the aforesaid turnover and assessed the dealer accordingly. Audit scrutiny of the utilisation statements of form 'C' furnished by the dealer however, revealed that the dealer had actually purchased spares from outside the State valued at ₹ 4.48 crore during the year 2011-12. Thus, there was concealment of purchase turnover of ₹ 3.52 crore⁴⁵ which resulted in tax of ₹ 17.60 lakh⁴⁶ and interest of ₹ 6.33 lakh (calculated upto the date of Audit) remaining unrealised.

⁴⁵ ₹ 4.48 crore minus ₹ 96.42 lakh.

⁴⁶ ₹ 3.52 crore @ five *per cent*.

The case was reported to the Department/Government in November 2014 and followed up in June 2015; their replies have not been received (November 2015).

2.9 Incorrect grant of concession against invalid declaration form led to revenue of ₹ 18.35 lakh not being realised

[*ST, Digboi; January – February 2015*]

Under the CST Act, 1956 as it stood during the relevant years, inter-State sales of goods, other than declared goods, to the registered dealers if supported by valid declaration in form 'C' were taxable at the concessional rate of **four/three/two per cent**. Otherwise, tax was leviable at the rate of 10 per cent, or rate of tax applicable to sale of such goods within the State, whichever is higher upto March 2007 and thereafter at the rate applicable within the State. During the relevant period, 'Liquefied Petroleum Gas' (LPG) was taxable at nine per cent.

The CT, Nagaland, in his letter of February 2002 intimated the CT, Assam regarding cancellation of a series of declaration forms 'C' with effect from 11 June 2001. The information was duly circulated to all the unit offices by the CT, Assam in December 2002 to be taken note of while finalising assessments.

During test check of records in the above Offices, it was observed that the AO while assessing a dealer (M/s Indian Oil Corporation Limited, Digboi) in March 2014 for the year 2008-09 allowed concessional rate of tax at two/three per cent on turnover of ₹ 195.85 crore. Scrutiny of declaration forms submitted by the dealer revealed that three declaration forms involving turnover of ₹ 1.30 crore issued by two dealers of Nagaland⁴⁷ dealing in LPG were among the series of forms which were declared invalid by Government of Nagaland. Though the details of invalid forms were circulated by the CT, Assam, the AO failed to detect the above three forms while completing the assessments. The irregular grant of concessional rate of tax on the basis of invalid declaration forms resulted in tax of ₹ 9.02 lakh⁴⁸ remaining unrealized on which interest of ₹ 9.33 lakh (at 1.5 per cent from date of assessment till the date of audit) was additionally leviable.

The case was reported to the Department/Government in March 2015 and followed up in June 2015; their replies have not been received (November 2015).

⁴⁷ Declaration form No. NL 029604 and 029605 involving ₹ 56.98 lakh and ₹ 60.19 lakh respectively issued by M/s Belho Gas Agency, Kohima and form No. BB 238147 involving ₹ 12.86 lakh issued by M/s Paramount Gas Agency, Zunheboto.

⁴⁸ Turnover pertaining to 1-4-2008 to 31-5-2008 = ₹ 8.09 lakh during which three per cent tax was leviable. Thus, difference of tax upto 31-5-2008 - ₹ 8.09 lakh at six per cent = ₹ 48,540 (nine per cent minus three per cent) and for 1-6-2008 to 31-3-2009 - ₹ 1.22 crore at seven per cent (nine per cent minus two per cent) = ₹ 8.53 lakh.

2.10 Failure to detect fraudulent use of declaration forms resulted in revenue of ₹ 17.88 lakh not being realised

[ST, Jalukbari; August 2013]

As per the CST Act and rules made thereunder, sale of coal to registered dealers in the course of inter-state trade and commerce is taxable at the concessional rate of two *per cent* (from 1 June 2008) subject to production of valid declaration in form 'C'. Otherwise, tax is leviable at the rate applicable in the State wherefrom sale is originated. 'Coal', being declared goods⁴⁹, is taxable at four *per cent* within Assam. For non-payment/concealment of tax, interest and penalty are additionally leviable.

During test check of records in the above Office it was observed that while completing the assessments of a dealer (M/s Sangam Enterprise) dealing in Coal for the year 2009-10, the AO allowed concessional rate of tax at two *per cent* on turnover of ₹ 2.48 crore as the dealer produced two declaration forms (bearing No. 95 C 1436474 and 95 C 1437337 issued by the Government of West Bengal). Audit had carried out (September 2012) a cross verification of the declaration forms submitted by the dealer (M/s KB Enterprise) registered with the Taxation Authorities in West Bengal which revealed that the forms were not issued in favour of M/s Sangam Enterprise by the dealers registered in that State. Instead, the forms were utilised by the dealers of West Bengal to procure Coal valued at ₹ 76,561 from M/s B L Minerals and ₹ 78,948 from M/s SMJ Eximp Limited respectively. Thus, the dealer fraudulently used the declaration forms issued to other dealers from West Bengal and evaded tax of ₹ 4.97 lakh on which interest of ₹ 2.98 lakh (calculated upto the date of Audit i.e. July 2013) was additionally leviable. Besides, for fraudulent usage of declaration forms to evade tax, maximum penalty of ₹ 9.93 lakh was also leviable.

On being pointed out, the Department stated (October 2015) that the assessment had been revised levying tax, interest and penalty of ₹ 22.88 lakh as pointed by Audit and since the dealer failed to pay the dues despite notices, the case had been sent to the RO to recover the dues as arrears of land revenue. Besides, additional interest of ₹ 1.86 lakh had been demanded. Report on recovery had not been received (November 2015).

The case was reported to the Government in October 2013 and followed up in June 2015; their replies have not been received (November 2015).

⁴⁹ Goods of special importance in course of inter-state trade or commerce.

2.11 Irregular allowance of concessional rate of tax against fake declaration forms issued in the name of non-existent dealer resulted in tax of ₹ 15.63 lakh including interest not being realised

[ACT, Dibrugarh; April - June 2013]

Under the CST Act as it stood during the relevant period, inter-State sales of goods, other than declared goods, to the registered dealers of other States if supported by valid declaration in form 'C' were taxable at the concessional rate of **two per cent**. Otherwise, tax was leviable at the rate of tax applicable to sale of such goods within the State.

During test check of records in the above Office it was observed that while completing the assessments of M/s Asoka Stores for the period 2008-09 in June 2011 the AO accepted the inter-State sales turnover of ₹ 85.08 lakh and allowed concessional rate of tax at two *per cent* as the same was supported by three declaration forms⁵⁰ issued by a dealer (M/s Nilachal Enterprise, Kohima) registered in the State of Nagaland. However, information available with Audit obtained from the Taxation Department of Nagaland revealed that there was no dealer registered in Nagaland in the name and style of 'Nilachal Enterprise' and further the declaration forms issued by the Nagaland Government bears series 'NL' and not 'NS' as in the forms produced by the dealer. Thus, the concessional rate of tax was allowed against fake declaration forms issued in the name of non-existent dealer which was irregular. This resulted in tax of ₹ 8.93 lakh⁵¹ and interest of ₹ 6.70 lakh (interest calculated upto the date of Audit) remaining unrealized.

On being pointed out, the Department stated (October 2015) that the assessment had been revised levying tax and interest of ₹ 15.63 lakh as pointed out by Audit; of which, the dealer has deposited ₹ 13.13 lakh. Recovery of balance amount had not been reported (November 2015).

The case was reported to the Government in July 2013 and followed up in June 2015; their replies have not been received (November 2015).

2.12 Incorrect grant of concession against declaration form 'D' led to short levy of ₹ 8.43 lakh on which interest of ₹ 6.32 lakh was additionally leviable

[ACT, Jorhat; February – March 2012]

Under the CST Act as it stood during the relevant period, a dealer, who in course of inter-State trade or commerce sold to Government departments, any goods, other than declared goods, was liable to pay tax at concessional rate of four *per cent* if

⁵⁰ Bearing No. NS 02 352782, 352780 and 352783.

⁵¹ 12.5 *per cent* on ₹ 85.02 lakh = ₹ 10.63 lakh minus ₹ 1.70 lakh paid by the dealer = ₹ 8.93 lakh.

sales were supported by valid and duly filled in certificates in form 'D'. Otherwise, tax was payable at the rate of 10 *per cent* of at the rate of tax applicable under the State Act, whichever was higher. The grant of concessional rate of tax against certificates in form 'D' had been abolished from 1 April 2007.

The item 'Conductor' was taxable at 12.5 *per cent* upto 4 February 2008 which was reduced to four *per cent* thereafter.

During test check of records in the above Offices, it was observed that the AO while assessing a dealer (M/s Singhi Cables & Conductors Pvt Ltd) in September 2010 for the year 2007-08 allowed concessional rate of tax at four *per cent* on turnover of ₹ 6.05 crore pertaining to inter-State sales of 'Conductors' effected during the year based on declaration forms submitted by the dealer. Scrutiny of declaration forms submitted by the dealer revealed that the dealer submitted a certificate in form 'D' issued by the Electricity Department, Government of Manipur on turnover of ₹ 99 lakh. The allowance of concessional rate of tax based on certificate in form 'D' was irregular as the same had been withdrawn from April 2007. This resulted in short levy of tax of ₹ 8.43 lakh on which interest of ₹ 6.32 lakh was additionally leviable.

On being pointed out, the ACT stated (January 2013) that the dealer submitted declaration in form 'C' in lieu of certificate in form 'D' from the Electricity Department, Government of Manipur for ₹ 98 lakh⁵² which was found to be in order by the AO. Verification of the declaration form 'C' through the TINXSYS website revealed that the Electricity Department, Government of Manipur was registered under the CST Act from 30 March 2009 and thus, the declaration in form 'C' furnished by the dealer ought to have been rejected and tax levied accordingly.

The case was reported to the Department/Government in April 2012 and followed up in June 2015; their replies have not been received (November 2015).

⁵² Excluding freight, insurance and packing charges.

SECTION : B
ENTRY TAX

2.13 Assessment of purchase price of coal at lower rates led to short determination of turnover; consequently entry tax of ₹ 5.50 crore was not realised on which interest of ₹ 3.07 crore was additionally leviable

[ACT, Unit – B, Guwahati; October – December 2014]

As per the Assam Entry Tax (AET) Act, 2001 and 2008 read with Section 34 of the AVAT Act⁵³, where the tax return furnished by a dealer appears to the prescribed authority to be incomplete and if the dealer fails to furnish evidence of payment of tax, the prescribed authority shall proceed to assess the dealer to the best of his judgment on the basis of information received/collected by him and direct the dealer to pay the amount of tax so assessed. Interest⁵⁴ at 1.5 *per cent* is leviable for delayed payment of tax. As per Section 40 of the AVAT Act, if the prescribed authority has reason to believe that any part of the turnover had been under-assessed, he may proceed to assess the amount of tax due from the dealer in respect of such turnover within a period of eight years. ‘Coal’ was taxable at four *per cent* till 13 September 2009 and two *per cent* thereafter.

The coal based industries and the resellers of coal in Assam depend largely on coal mined from various parts of Meghalaya while a limited volume pertains to the coalfields located a Margherita in Assam. As per information collected by Audit from its counterparts in Meghalaya, the pithead price⁵⁵ of coal in Meghalaya ranged between ₹ 1,400 - ₹ 1,500/MT⁵⁶ during 2002. Similarly, the Government of Meghalaya during their survey⁵⁷ in 2009 found the prices of coal at the source (coal fields) as ₹ 3,200/MT and accordingly fixed the royalty on coal as ₹ 290/MT⁵⁸.

During test check of records in the above Office it was noticed that five dealers⁵⁹ disclosed purchase price of Meghalaya based coal of 13.46 lakh MT⁶⁰ as ₹ 70.49 crore during the years 2008-09 to 2011-12. Thus, purchase price of coal per MT ranged between ₹ 500 and ₹ 900/MT during the above years. The AOs while assessing the dealers for the above years accepted the purchase turnover and

⁵³ Assessments under the Assam Entry Tax Act are to be conducted following same provisions as incorporated in the Assam Value Added Tax Act.

⁵⁴ Notified vide Government notification dated 28 February 2011.

⁵⁵ Price at the point of coal mine.

⁵⁶ As ascertained by the Taxation Department, Government of Meghalaya.

⁵⁷ Carried out in view of GoI, Ministry of Coals orders that the royalty on coal would be ₹ 130 + five *per cent* of the pit head price of coal excluding taxes, levies and other charges.

⁵⁸ ₹ 130 plus five *per cent* of ₹ 3,200/MT (pithead price of coal).

⁵⁹ M/s Ganesh Met Coke Industries, M/s Jai Coke Industries, M/s Raj Coke Industries, M/s Sethi Coke Industries and M/s Shiva Coke Industries.

⁶⁰ 2008-09 : 1.40 lakh MT; 2009-10 : 4.03 lakh MT; 2010-11 : 3.61 lakh MT and 2011-12 : 4.42 lakh MT.

assessed the dealers accordingly between July 2010 and June 2012. However, the purchase price of coal as disclosed by the dealers was far below the minimum rate prevalent during the respective years *i.e.* ₹ 1,400/MT during 2008-09, 2009-10 and ₹ 3,200/MT during 2010-11, 2011-12 and thus there was concealment of purchase turnover of at least ₹ 262.52 crore and consequent short levy of tax of ₹ 5.50 crore. Interest of ₹ 3.07 crore was additionally leviable⁶¹ for non-payment of tax. The AO has the only option to re-open the assessments under Section 40 of the AVAT Act to make good the loss incurred by the State Government.

On being pointed out, the Department stated (October 2015) that the assessments in respect of all the five dealers had been revised and demand notice issued. Recovery particulars had not been received.

The case was reported to the Government in November 2014 and followed up in May 2015; their replies have not been received (November 2015).

2.14 Concealment of purchase turnover led to evasion of entry tax of ₹ 80.46 lakh on which interest of ₹ 43.76 lakh was additionally leviable

As per the AET Act, a registered dealer liable to pay tax is required to submit to the AO his monthly statement of all such purchase along with a copy of the treasury *challan* showing full payment of tax payable on the purchase value of goods disclosed in the statement. The statement is to be furnished before the expiry of the next succeeding month. As per Section 39 of the AVAT Act, no assessment⁶² shall be made after the expiry of five years from the end of the year to which the assessment relates. However, in cases where specific information is available, assessment can be made on best judgment basis under Section 40 of the AVAT Act as a special case within a period of eight years. Interest⁶³ at 1.5 *per cent* is leviable for delayed payment of tax. ‘Extra Neutral Alcohol’ (ENA) was taxable at 10 *per cent* till 13 September 2009 and at four *per cent* thereafter. ‘Clinker’ was taxable at eight *per cent* and ‘Machineries’ were taxable at four *per cent* till 13 September 2009 and at two *per cent* for the both thereafter.

[ACT, Silchar; April - May 2014]

2.14.1 During test check of records in the above Office, it was observed that a dealer (M/s Surma Distillery Pvt Ltd) manufacturing India Made Foreign Liquor submitted returns under the AET Act for the years 2008-09 (from June 2008 onwards) and 2009-10 disclosing import of ENA valuing ₹ 88.23 lakh and ₹ 1.74 crore respectively. Admitted tax of ₹ 8.82 lakh and ₹ 11.20 lakh was paid on the

⁶¹ Calculated at 1.5 *per cent* for 44 months from March 2011 till the date of Audit (October 2014).

⁶² Assessments under the Assam Entry Tax Act are to be conducted following same provisions as incorporated in the Assam Value Added Tax Act.

⁶³ Notified vide Government notification dated 28 February 2011.

purchases disclosed for the respective years. Scrutiny of Annexure III to the annual returns available in the case records under the VAT Act however, indicated that the dealer imported ENA valuing ₹ 3.22 crore, ₹ 3.60 crore and 5.70 crore (excluding freight) during 2007-08, 2008-09 and 2009-10 respectively. Thus, the dealer concealed purchase turnover of ₹ 3.22 crore, ₹ 2.72 crore and ₹ 3.96 crore during the corresponding years and evaded entry tax of ₹ 75.19 lakh⁶⁴. Interest of ₹ 40.60 lakh⁶⁵ was additionally leviable for non-payment of tax. Though the purchase particulars were available in the case records of the dealer under VAT Act, the AO did not review the returns under AET Act. Scope of recovery is remote as the case had become barred by limitation of time. The AO has the only option of opening the cases under Section 40 of the AVAT Act.

On being pointed out, the Department stated (October 2015) that as per the reply of the concerned ACT, the purchase included other items like carton, caps, level, caramel etc. The fact remains that the purchase considered by Audit was only relating to the purchases of ENA included in the manufacturing account which is transported in tankers.

[*ST, Hojai; June 2014*]

2.14.2 During test check of records in the above Office, it was observed that a dealer (M/s Mahabali Cements Pvt. Ltd.) manufacturing Cement submitted returns under the AET Act for the year 2009-10 disclosing import of ‘Clinker’ and ‘Machineries’ valuing ₹ 23.46 lakh and ₹ 30.74 lakh respectively. Admitted tax of ₹ 3.41 lakh was paid on the purchases disclosed for the respective year. Scrutiny of Annexure II to the annual returns available in the case records under the VAT Act however, indicated that during 2009-10 the dealer imported ‘Clinker’ and ‘Machineries’ valuing ₹ 80.76 lakh and ₹ 1.34 crore (excluding freight) respectively. Thus, due to concealment of purchase turnover on Clinker and Machineries of ₹ 57.29 lakh and ₹ 1.03 crore respectively during 2009-10 the dealer evaded entry tax of ₹ 5.27 lakh⁶⁶. Interest of ₹ 3.16 lakh⁶⁷ was additionally leviable for non-payment of tax. Though the purchase particulars were available in the case records of the dealer under VAT Act, the AO did not review the returns under AET Act. Scope of recovery is remote as the case had become barred by limitation of time. The AO has the only option of opening the cases under Section 40 of the AVAT Act.

On being pointed out, the Department stated (October 2015) that against a notice issued by the AO, the dealer has submitted challans for ₹ 5.21 lakh. The reply was

⁶⁴ 10 per cent for 2007-08 and 2008-09 while minimum four per cent had been considered for 2009-10.

⁶⁵ Calculated from March 2011 till the date of Audit (April 2014).

⁶⁶ Minimum two per cent for Clinker and minimum four per cent for Machineries as purchase made prior to 14 September 2009.

⁶⁷ Calculated from March 2011 till the date of Audit (June 2014).

silent regarding recovery of the balance amount of ₹ 3.47 lakh. Besides, it was also stated that after furnishing of rectified returns by the dealer, fresh assessments would be made. Further developments are awaited.

The cases were reported to the Government in November 2014 and followed up in May 2015; their replies have not been received (November 2015).

2.15 Dealers under the AET Act not registered; consequently entry tax of ₹ 36.77 lakh including interest not levied/realised

[ACT, Silchar; April - May 2014]

As per entry 34 of the schedule attached to the AET Act, 'aluminium plain sheet, channels and sections' are taxable at the rate of four *per cent*. Against a query raised by the ACT, Jorhat regarding taxability of 'circular (round) shaped pieces of aluminium with different diameter' brought into the State under the AET Act, the CT, Assam had clarified (March 2010) that the item was nothing but 'aluminium plain sheet' cut into round shape and as such was taxable under entry 34. Further, as per the AET Act read with the AVAT Act, if the prescribed authority is satisfied that a dealer who has been liable to pay tax under this Act, in respect of any period has failed to get himself registered, he shall proceed to assess on best judgment basis the amount of tax due from the dealer for any periods. As per Section 39 of the AVAT Act, no assessment⁶⁸ shall be made after the expiry of five years from the end of the year to which the assessment relates. However, in cases where specific information is available, assessment can be made on best judgment basis under Section 40 of the AVAT Act as a special case within a period of eight years.

During test check of records in the above Office it was observed that two dealers (M/s Sudam Alloys and M/s Barak Valley Aluminium Industry) manufacturing 'aluminium utensils' imported 'aluminium circle' from outside the State valuing ₹ 5.15 crore during 2006-07 to 2011-12 and ₹ 1.17 crore during 2005-06 to 2012-13 respectively as evident from the manufacturing account appended with the Audit Report/Annexure I and III of Annual Returns submitted by the dealers. It was however, noticed that the dealers neither sought registration under the AET Act nor paid the tax of ₹ 20.60 lakh and ₹ 4.69 lakh payable on the imported turnover. The ACT also did not take up the assessments on best judgment basis despite the fact that the clarification of the CT, Assam on taxability of 'aluminium circle' was circulated to all unit Offices of the Department and the information of import of taxable item was available in the case records of both the dealers. This resulted in non-levy of tax of ₹ 25.35 lakh (₹ 20.66 lakh and ₹ 4.69 lakh). Besides, interest of ₹ 11.42 lakh (₹ 9.10 lakh and ₹ 2.32 lakh) at 1.5 *per cent* per month (from March

⁶⁸ Assessments under the Assam Entry Tax Act are to be conducted following same provisions as incorporated in the Assam Value Added Tax Act.

2011 till date of Audit) was also leviable. Scope of recovery of tax pertaining to the years upto 2009-10 is remote as the cases had become barred by limitation of time. The AO has the only option to open the assessment as a special case under Section 40 of the AVAT Act. However, assessments for the year 2006-07 cannot be opened as eight years had already elapsed. Thus, revenue of ₹ 1.58 lakh (₹ 0.82 lakh and ₹ 0.76 lakh) pertaining to the periods upto 2006-07 is foregone. The balance tax and interest of ₹ 35.19 lakh (₹ 28.94 lakh and ₹ 6.25 lakh) can be recovered if the AO completes the assessment under relevant sections of the AVAT Act.

On being pointed out, the Department stated (October 2015) that the assessments were revised raising demand of ₹ 36.72 lakh including interest of which the dealers paid ₹ 5.21 lakh. Report on recovery of balance amount is yet to be received.

The cases were reported to the Government in November 2014 and followed up in May 2015; their replies have not been received (November 2015).

2.16 Assessing officer failed to follow up a case of non-payment of tax resulting in tax of ₹ 12.69 lakh including interest not being realized; penalty of ₹ 7.81 lakh was additionally leviable

[ACT, Unit B, Guwahati; October - December 2014]

Under the AET Act read with⁶⁹ the AVAT Act, a registered dealer is required⁷⁰ to pay the tax assessed by the AO within 30 days from the date of service of the demand notice. Where a dealer fails to pay the tax assessed within the prescribed period of 30 days, the AO may, after allowing the dealer a reasonable opportunity of being heard, direct⁷¹ that he shall pay by way of penalty a sum not exceeding two *per cent* of the unpaid tax, interest etc. For delayed payment of tax, interest⁷² at 1.5 *per cent* is leviable from 28 February 2011.

During test check of records in the above Office, it was observed that a dealer (M/s Gammon India Ltd) dealing in execution of works contract was assessed to tax of ₹ 7.51 lakh⁷³ in August 2007 and demand notice was issued accordingly in September 2007 for payment of the assessed tax. As the dealer failed to pay the tax, another notice was issued by the AO in July 2010 in response to which the dealer requested (July 2010) the AO to provide the basis of computation of tax for the respective years. It was noticed that neither did the AO furnish any reply clarifying the methodology of arriving at the tax assessed nor was the case followed up till it was picked up for Audit for scrutiny in October – December 2014.

⁶⁹ As per Government notification dated August 2009 certain Sections of the Assam VAT Act to apply mutatis mutandis in cases of Assam Entry Tax Act.

⁷⁰ Under Section 43 (4) of Assam VAT Act.

⁷¹ Under Section 43 (5) of Assam VAT Act.

⁷² Notified vide Government notification dated 28 February 2011.

⁷³ ₹ 6, 28,618 for 2002-03 and ₹ 1,22,556 for 2004-05 assessed on 23 August 2007.

Consequently, tax of ₹ 7.51 lakh remained unrealised. For non-payment of tax despite notices, interest of ₹ 5.18 lakh (calculated from March 2011 till date of Audit) and penalty not exceeding ₹ 7.81 lakh (calculated from September 2010 till the date of Audit) was also leviable.

On being pointed out, the Department stated (October 2015) that the tax dues of ₹ 7.51 lakh had been recovered through adjustment against advance tax deposited by the dealer. The reply was silent regarding levy of penalty for non-payment of dues in time by the dealer.

The case was reported to the Government in March 2015 and followed up in May 2015; their replies have not been received (November 2015).

2.17 Three dealers failed to pay tax/paid tax belatedly on which interest of ₹ 11.32 lakh was not/short levied by the assessing officers

[ACT, Unit – C, Guwahati; June - August 2014]

As per the AET Act, a registered dealer liable to pay tax is required to submit to the AO his monthly statement of all such purchase along with a copy of the treasury *challan* showing full payment of tax payable on the purchase value of goods disclosed in the statement. The statement is to be furnished before the expiry of the next succeeding month. For delayed payment of tax, interest⁷⁴ at 1.5 *per cent* per month is leviable.

During scrutiny of records in the above Office, it was noticed that in case of three dealers, tax of ₹ 48.74 lakh was paid belatedly while tax of ₹ 42.79 lakh remained unpaid for the periods between 2005-06 and 2009-10. Though interest of ₹ 12.28 lakh was leviable at 1.5 *per cent* per month till the date of payment of tax/assessment, the assessing officer levied interest of ₹ 0.96 lakh in case of one dealer and did not levy any interest on the other two dealers while completing the assessments between September 2011 and January 2013.

This resulted in non/short levy of interest of ₹ 11.32 lakh as shown in the following Table.

⁷⁴ Notified vide Government notification No. LGL. 3/2007/97 dated 28 February 2011.

Table 2.9

Name of dealer	Period/date of assessment	Tax details (₹ in lakh)	Paid/unpaid	Interest leviable	Interest levied	Interest short/not levied
				(₹ in lakh)		
M/s Assam Roofing Ltd	2005-06/ 16-1-2013	5.95	Paid on 28-1-2013	2.05	0.96	1.09
M/s PDP Steel Ltd	2009-10/ 12-4-2012	58.03	The AO issued arrear certificate for ₹ 42.79 lakh without levying interest	4.17	Nil	4.17
M/s G M Coke Industries	2008-09 and 2009-10/ 28-9-2011	49.41 (2008-09)	Of ₹ 49.41 lakh, ₹ 24.82 lakh for 2008-09 was paid between November 2011 and January 2012	3.46		3.46
		39.43 (2009-10)	Of ₹ 39.43 lakh, ₹ 17.91 lakh for 2009-10 was paid between November 2011 and January 2012	2.60		2.60
Total				12.28	0.96	11.32

On being pointed out, the Department stated (October 2015) that interest amounting to ₹ 1.09 lakh had been recovered in respect of M/s Assam Roofing Ltd and in respect of the remaining two dealers arrear certificates had been issued for recovery of dues. Further developments are awaited.

The cases were reported to the Government in November 2014 and followed up in May 2015; their replies have not been received (November 2015).

2.18 Failure to detect purchases made prior to the date of registration led to tax of ₹ 5.40 lakh not being realised on which interest of ₹ 3.24 lakh was additionally leviable.

[ACT, Hojai; June 2014]

As per the AET Act read with the AVAT Act, upon receipt of an application for registration under the AET Act, the prescribed authority may conduct such inquiry/call for such evidence and information as he deems fit and after the inquiry/considering the evidence and information, if he is satisfied that the application for registration is in order, he shall register the applicant and issue a certificate of registration. Further, if the AO is satisfied that any part of the turnover of a dealer in respect of any period has escaped assessment to tax, he may within eight years from the end of the relevant year make a reassessment of the dealer. Besides for delayed payment of tax, interest⁷⁵ at 1.5 per cent is leviable. Under the AET Act, 'cement' was taxable at 12 per cent from 9 August 2005 till 14 September 2009 and was reduced to four per cent thereafter while 'HTS wire' was

⁷⁵ Notified vide Government notification dated 28 February 2011.

taxable at 12.5 *per cent* from 4 November 2006 which was reduced to four *per cent* from 14 September 2009.

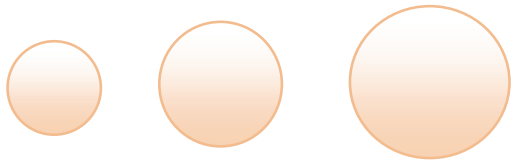
During scrutiny of records in the above Office, it was noticed that a dealer M/s Allied Sleepers Pvt. Ltd. imported 'Cement' & 'HTS Wire'⁷⁶ respectively valued at ₹ 23.10 lakh and ₹ 21.03 lakh respectively during November 2005 and 24 January 2008 as evident from the utilisation statements of road permits and declaration forms available in the case records under AVAT and CST Acts. Further scrutiny revealed that the dealer was registered under the AET Act since 24 January 2008 and the AO did not co-relate the information available in the AVAT/CST files while registering the dealer and fixing the date of liability. Failure of the AO to do so resulted in turnover of ₹ 44.13 lakh escaping assessment on which tax of ₹ 5.40 lakh was realisable. For non-payment of tax, interest of ₹ 3.24 lakh was additionally leviable (upto June 2014). Scope of recovery is remote as the period upto 2006-07 has become barred⁷⁷ by limitation of time. Recovery pertaining to imports made during 2007-08 is only possible if the AO re-opens the case before March 2016.

On being pointed out, the Department stated (October 2015) that on the basis of the audit observation the assessments are revised. Verification of the assessment order revealed that the same related to the year 2008-09 while the audit observation related to the period 2005-08. Further developments had not been reported.

The case was reported to the Government in November 2014 and followed up in May 2015; their replies have not been received (November 2015).

⁷⁶ High Temperature Superconductor.

⁷⁷ As per the AVAT Act, the AO can open cases for assessment upto eight years.



CHAPTER - III
STATE EXCISE



CHAPTER – III: STATE EXCISE

3.1 Administration

The State Excise Department is responsible for collection of revenue under Assam Excise Act and enforcement of Excise laws on prohibition of illicitly distilled liquor, *Ganja*, *Bhang* and Opium. In addition, the Department is given the responsibility of enforcing the provisions of Narcotic Drugs and Psychotropic Substances Act and the Medicinal & Toilet Preparation Act. The Commissioner of Excise (CE), Assam is the head of the Department. He is primarily responsible for administration and execution of Excise policies and programmes of the State Government. He is assisted by an Additional Commissioner of Excise, a Joint Commissioner of Excise and two Deputy Commissioners of Excise, one at headquarters and another for Bodoland Territorial Area.

3.2 Trend of receipts

Position of budget estimates and actual receipts under State Excise for the years from 2010-11 to 2014-15 is exhibited in following table:

Table 3.1
Trend of Receipts

(₹ in crore)

Year	Budget Estimates	Actual Receipts	Variation Excess (+)/ Shortfall(-)	Percentage variation
2010-11	259.46	323.12	63.66	25
2011-12	400.00	503.35	103.35	26
2012-13	530.00	568.11	38.11	7
2013-14	609.04	610.26	1.22	0.2
2014-15	732.31	664.99	(-) 67.32	(-) 9

Thus, though the actual receipts of the Department registered an increasing trend, there were fluctuations in actual receipts when seen against the budget estimates which the Department needs to look into.

3.3 Working of internal audit wing

Internal audit, a vital component of internal control mechanism, functions as 'eyes and ears' of the Department and is a vital tool which enables the management to assure itself that prescribed systems are functioning reasonably well.

The Department stated that the Finance Department has not put in place any separate internal audit system for Excise Department. However, inspections of different establishments under Excise Department are conducted by officers of the Department at different levels. Thus, had there been an effective internal audit system in the Department, the deficiencies could have been rectified through internal evaluation and the system would be functioning better.

Recommendation 1: As the Finance Department has not arranged for internal audit of the State Excise units till now, the Department may in coordination with Finance Department, arrange to conduct internal audit of its records/unit Offices.

3.4 Results of audit

In 2014-15, test check of the records of 21 units relating to excise duty, license fee receipts etc., showed non/short realisation of excise duty/license fee/ renewal fee and other irregularities involving ₹ 198.29 crore in 102 cases, as mentioned in **Table 3.2.**

Table 3.2
Results of Audit

(₹ in crore)

Sl. No.	Category	Number of cases	Amount
1.	Loss due to warehouse going dry	01	0.92
2.	Non/ Short realisation of Establishment charges.	03	0.57
3.	Non/Short payment of licence fee	07	0.50
4.	Loss due to non-levy of excise duty	01	--
5.	Other irregularities	90	196.30
Total		102	198.29

During the course of the year, the Department accepted underassessment and other deficiencies of ₹ 180.15 crore in 12 cases which were pointed out in earlier years. An amount of ₹ 8 lakh was recovered in two cases during the year 2014-15.

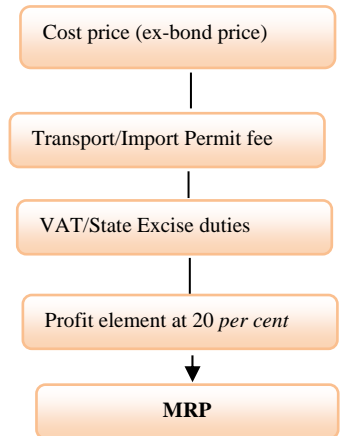
A few illustrative cases involving ₹ 176.56 crore are discussed in the following paragraphs.

Audit observations

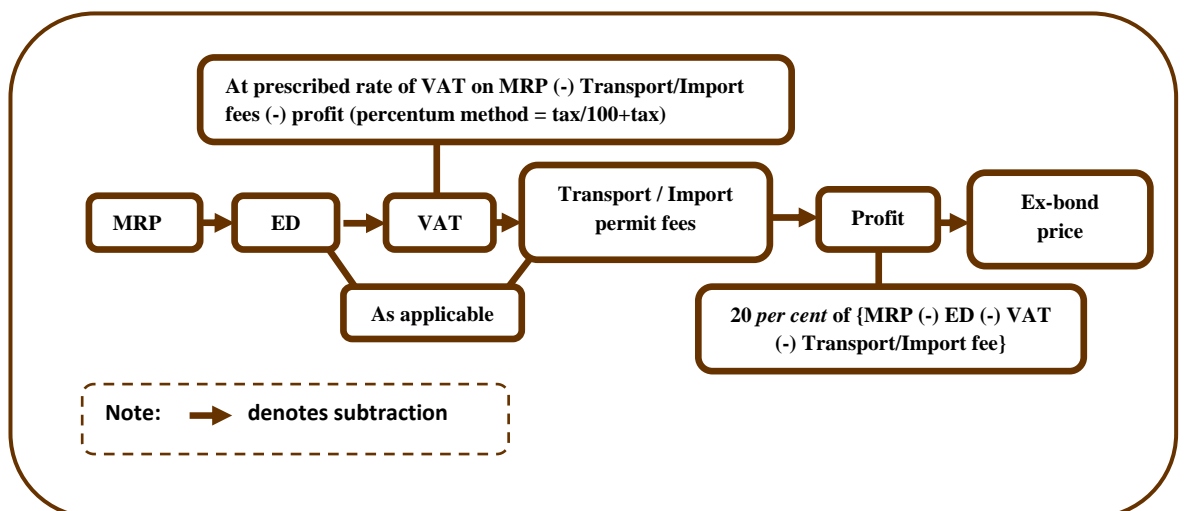
3.5 Mis-classification of brands of IMFL resulted in loss of revenue of ₹ 172.08 crore

[*Superintendent of Excise (SE); Kamrup; Guwahati, August - October 2014*]

As per the provisions of the AE Act and Rules, excise duty is leviable on the ‘cost price’ of India Made Foreign Liquor (IMFL). ‘Cost price’ in this case means the ‘ex-bond price’ *i.e.* the price at which the IMFL consignments are issued by the bonded warehouses to the retailers. At the beginning of the year, the bottling units producing IMFL or the bonded warehouses importing IMFL from outside the State are required to apply for label registration to the CE, Assam furnishing full details of the brand, its ex-bond price, maximum retail price (MRP) etc. The process involved in the registration of labels is shown through the block diagram alongside.



Mention was made in para 5.8.4.1 of the Performance Audit on ‘Receipts under State Excise’ incorporated in the Report of the Comptroller and Auditor General of India for the year 2012-13, Revenue Sector, Government of Assam regarding absence of a system in the Office of the Superintendents of Excise/CE, Assam to devise a system of re-verifying whether the classification of the brands as applied by the bottling units/companies and ordered by CE, Assam holds good in view of the MRP printed on the labels furnished by the licensees. During the exit conference of the aforesaid performance audit, the CE while accepting the audit recommendation stated (October 2013) that similar analysis would be carried out during registration of labels in future. The formula adopted by Audit for arriving at the ex-bond price through backward calculation from the MRP is as follows:



During scrutiny of the records of five bottling units¹ under the above SE, it was observed that three brands of IMFL namely 'Mc Dowell's No. 1 Reserve Whisky', 'Officers Choice Blue Pure Grain Whisky' and 'AC Black Whisky' were registered as 'Luxury' brand (attracting excise duty of ₹ 598.90 per case) on the basis of the ex-bond price (below ₹ 1,199 per case) declared by the licensees at the time of application for label registration. The MRP of the products were fixed as ₹ 240 per bottle of 750 ml or equivalent and approved by the CE, Assam for affixing on the body of the bottles. Analysis of the cost price in view of the MRP on the lines as depicted in block diagram above revealed that the ex-bond price after deducting the prescribed elements worked out to ₹ 1,291.98 per case and thus, the brands were to be classified under next higher category *i.e.* 'Premium' attracting higher rates of excise duty at ₹ 942.50 per case and value added tax (VAT) on the same. Had the Department devised a system of re-verifying the classification after receipt of the printed labels on the basis of the MRP printed therein, such mis-classification could have possibly got detected. Considering the volume of sale of the above brands during the years 2013-14 and 2014-15², there was loss of revenue of ₹ 172.08 crore on account of excise duty and VAT.

The case was reported to the Department/Government in December 2014 and followed up in April 2015; their replies have not been received (November 2015).

3.6 Evasion of excise duty of ₹ 1.54 crore due to overstatement of closing stock/ deficiency in actual stock of ENA.

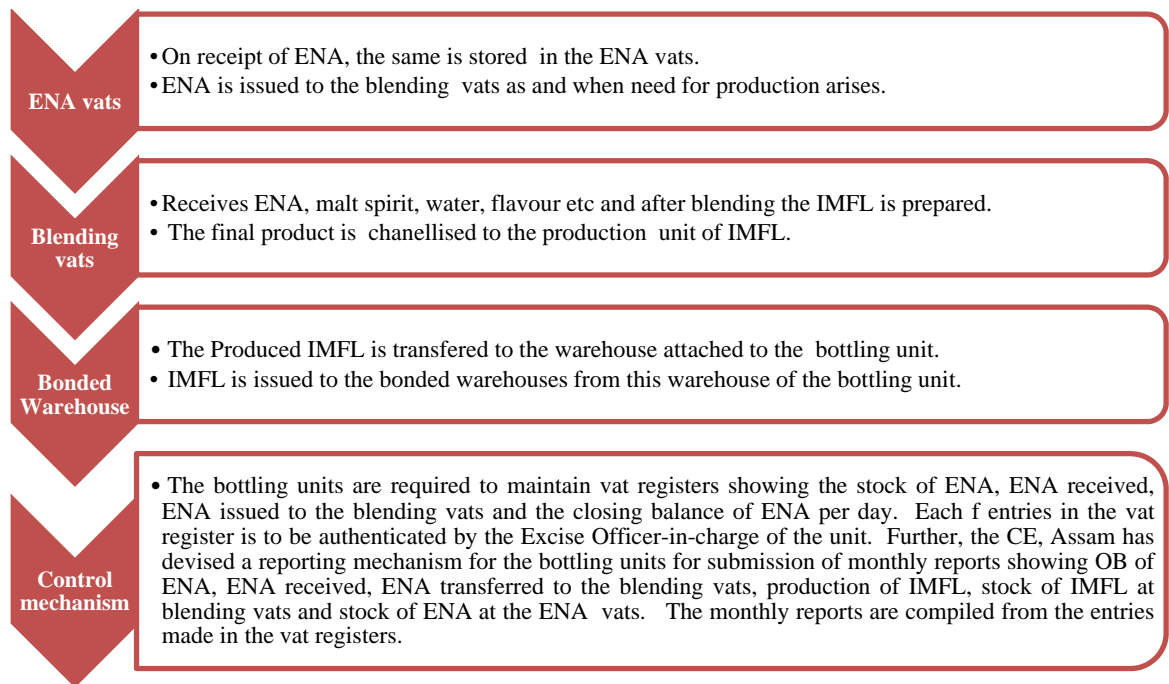
[SE; Kamrup; Guwahati, August - October 2014]

As per the system prevalent in the Bottling units, the base material for manufacture of IMFL is extra neutral alcohol (ENA), malt spirit, other flavours etc. These materials are stored in separate vats³ and issued to the blending vats as per the need. The infogram below explains the production mechanism.

¹ M/s Spey Bottlers Pvt Ltd, M/s Karnak Distillery Pvt Ltd, M/s Manglam Distillers and Bottling Industries, M/s Saaran Industries and M/s Indo Assam Distillery and Bottling Pvt Ltd.

² M/s Spey Bottlers Pvt Ltd, M/s Karnak Distillery Pvt Ltd, M/s Manglam Distillers and Bottling Industries, M/s Saaran Industries up to August 2014 and M/s Indo Assam Distillery and Bottling Pvt Ltd up to July 2014.

³ Container in which ENA/malt etc are stored in bottling units.



During scrutiny of records of two bottling units namely M/s Manglam Distilleries and Bottling Industries and M/s Seven Sisters Trade and Distilleries Pvt. Ltd under the above SE, a detailed verification of the stock of ENA was carried out. In M/s Manglam Distilleries it was observed that as per the ENA stock register maintained by the Officer-in-charge of the bottling unit, the closing stock of ENA as on 31 August 2014 was shown as 7,62,827.12 LPL⁴. Between 1 – 15 September 2014 1,65,967.983 LPL ENA was received in the ENA vats while 3,24,221.356 LPL ENA was shown to have been issued to the blending vats during the same period. Thus, the stock of ENA as on 15 September 2014 was shown as 6,04,573.75 LPL. Subsequently, a joint physical verification was carried out the same day *i.e.* 15 September 2014 in coordination with the Excise personnel and representatives of the bottling unit. It was seen that the actual stock of ENA was 4,30,669.25 LPL, thus revealing a difference of 1,73,904.5 LPL.

Similarly, in M/s Seven Sisters Trade and Distilleries Pvt. Ltd it was observed that as per the ENA stock register maintained by the Officer-in-charge of the bottling unit, the closing stock of ENA as on 2 September 2014 was shown as 1,34,964 BL⁵. Subsequently, a joint physical verification was carried out the same day (after the closure of issue of ENA for blending from ENA vats) in coordination with the Excise personnel and representatives of the bottling unit. It was seen in the

⁴ London Proof Litre – Strength of alcohol is measured in terms of ‘degree proof’. Strength of such alcohol 13 parts of which weigh exactly equal to 12 parts of water at 51 degree Fahrenheit is assigned 100 degree proof. Any given sample of alcohol when converted into volume of alcohol having strength 100 degree is called LPL.

⁵ Bulk litre.

verification that the actual stock of ENA was 1,04,475 BL, thus revealing a difference of 30,489 BL or 50,962 LPL⁶ ENA.

The differential stock of ENA was capable of producing 26,349 cases and 7,722 cases⁷ of IMFL in the aforesaid two bottling units respectively involving minimum excise duty of ₹ 1.54 crore⁸ which was evaded by the licensees.

The cases were reported to the Department/Government in December 2014 and followed up in April 2015; their replies have not been received (November 2015).

3.7 Revenue of ₹ 1.18 crore not realised against damaged stock allowed for destruction

[SsE, Cachar and Kamrup; November – December 2014 and August – October 2014]

As per the Assam Bonded Warehouse (ABW) Rules, 1965, if spirits stored in a bonded warehouse are found to be of inferior quality or otherwise unsuitable for the purpose for which they were stored, they might be rejected or destroyed or otherwise dealt with under the orders of the CE. Further, Rule 32 of the ABW Rules mentions that the State Government shall not be responsible for the destruction, loss or damage of any spirit stored in warehouse by fire or by gauging or by any other cause, whatsoever.

During scrutiny of records of four bonded warehouses⁹ in the above SE Offices, it was observed that the CE, Assam allowed (between May 2011 and May 2014) destruction of IMFL and Beer involving excise duty of ₹ 1.18 crore¹⁰ which were found to be unfit for human consumption due to prolonged storage. Accordingly the stock of IMFL/Beer was destroyed under supervision of the concerned SsE between June 2011 and June 2014. It was, however noticed that though the Rule 32 of ABW Rules specifically states that the State Government shall not be responsible for any damage/destruction of IMFL/Beer, neither did the licensees pay the excise duty involved nor was any demand raised by the CE/SE for recovery of the same. This resulted in revenue of ₹ 1.18 crore not being realised.

⁶ Considering the average strength of ENA available as on 02.09.2014 i.e. 67.15 degree over proof.

⁷ Calculated at 6.6 LPL per case (750 ml/375 ml cases contain 6.75 LPL while 180 ml cases contain 6.48 LPL – hence calculated at median of the two as production of 180 ml is more than the other two).

⁸ Considering the minimum rate of excise duty i.e. ₹ 452.79 per case applicable to General brands.

⁹ M/s S.B Bonded warehouse, Cachar, M/s Nanak Singh Sujana Singh Sadana Pvt Ltd, M/s Abhijeet International and M/s Carlsberg India Pvt Ltd., Kamrup.

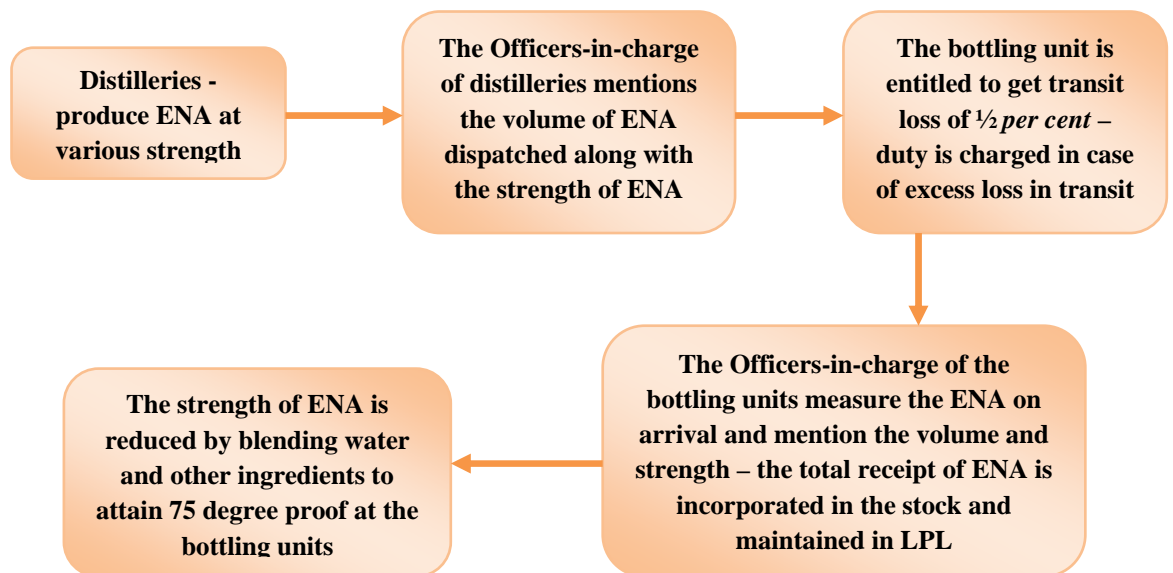
¹⁰ M/s S.B Bonded warehouse, Cachar - 9,346 cases of IMFL and 10,807 cases of Beer involving excise duty of ₹ 64.63 lakh; M/s Nanak Singh Sujana Singh Sadana Pvt Ltd, Kamrup - 51,691.84 BL of IMFL and 31,020.8 BL Beer involving excise duty of ₹ 36.96 lakh; M/s Abhijeet International, Kamrup - 711 cases of IMFL and 3,066 cases of Beer involving excise duty of ₹ 9.19 lakh and M/s Carlsberg India Pvt Ltd, Kamrup - 5,891 cases of Beer involving excise duty of ₹ 6.90 lakh.

The case was reported to the Department/Government in December 2014/January 2015 and followed up in April 2015; their replies have not been received (November 2015).

3.8 Demand on incorrect reduction of strength of ENA by the Bottling Units was not raised resulting in loss of revenue of ₹ 61.63 lakh

[SE; Kamrup; Guwahati, August - October 2014]

As per the system prevalent in the State Excise Department, proof of strength is determined by taking the hydrometer reading and the temperature of the liquor. The findings are to be read in the sykes's table book¹¹ to determine the strength of the liquor. The system of dispatch of ENA from the distilleries and accounting of the same at the bottling units is shown in the infogram below.



During scrutiny of records of two bottling units namely M/s Saaran Industries and M/s Karnak Distillery Pvt Ltd under the above SE, it was observed that in case of 209 consignments¹² of ENA received between September 2012 and December 2013 the strength of ENA at the point of dispatch was certified ranging between 1.67 and 1.684 degree proof. However, while receiving the same consignments the strength of ENA was reduced and mentioned to be between 1.66 and 1.68. The irregular reduction of strength of the ENA consignments led to short accounting of ENA by 67,926.794 LPL which was capable of producing 10,292 cases of IMFL. Though Officers-in-charge were posted at the bottling units, the irregular reduction in

¹¹ Sykes book of hydrometer is used for gauging the strength of liquor by taking the reading of hydrometer and temperature.

¹² M/s Saaran Industries - 121 consignments and M/s Karnak Distillery Pvt Ltd - 88 consignments.

strength of ENA escaped their notice. This resulted in loss of revenue of ₹ 61.63 lakh¹³.

The case was reported to the Department/Government in December 2014 and followed up in April 2015; their replies have not been received (November 2015).

3.9 Two bonded warehouses, one bottling unit, five retail ‘Off’ and one retail ‘On’ licensees did not pay the annual licence fees while two bottling units and 58 ‘Off’ licensees paid short resulting in non/short realisation of licensee fees of ₹ 61.50 lakh

[SsE, Diphu, Golaghat, Kamrup, Karimganj and North Lakhimpur; February-March 2014, November-December 2013, August – October 2014, September 2014 and December 2013]

The Assam Excise Rules provide that the licensee of wholesale bonded warehouses and retail licensees are required to pay annual licence fees and wholesale licence fees (for bonded warehouses), in advance, before the commencement of the financial year. From 30 September 2010, the licence fees for retail ‘Off’ and ‘On’/Bar licensees¹⁴ are ₹ 1 lakh and ₹ 50,000 per annum respectively while the rates of licence fees for bonded warehouses depend upon the bond limits as shown in the table (inset). The bonded warehouses are also liable to pay wholesale licence fees at ₹ 2 lakh per annum. Further, the licence fee for bottling units of foreign liquor is fixed as ₹ 1.50 lakh per annum to be paid in advance upto production of a quantity of 30 lakh LPL annually.

Bond limit	Licence Fees
Upto ₹ 25 lakh	₹ 1 lakh
From ₹ 25 lakh to ₹ 50 lakh	₹ 1.50 lakh
From ₹ 50 lakh to ₹ 1 crore	₹ 2.50 lakh
₹ 1 crore and above	₹ 5 lakh

During scrutiny of the records in the above SE Offices, it was observed that though the licence fees are to be paid in advance before the commencement of the year, two bonded warehouses, five retail ‘Off’ licensees and one ‘On’ licensee did not pay the annual licence fees, wholesale licence fees etc., for various years between 2010-11 and 2013-14. Similarly, M/s Raizel Industries did not pay the Wholesale licence fees of ₹ 2 lakh for 2014-15 while the bottling fees for the years 2013-14 and 2014-15 were paid short by ₹ 1 lakh and M/s N V Distilleries & Breweries (North East) Pvt.Ltd paid the wholesale licence fees for 2011-12 to 2014-15 at lower rates than that applicable leading to short payment of ₹ 4 lakh. Further, 58 ‘Off’

¹³ Considering excise duty applicable to ‘luxury brands’ i.e. ₹ 598.90/case – as the unit is authorised by the CE, Assam to produce luxury brands (Officers Choice and Officers Choice Blue).

¹⁴ ‘Off’ licensees – where IMFL/Beer can be sold and cannot be consumed in the premises of the licensee and ‘On’ licensees – where IMFL/Beer can be consumed in the premises of the licensee.

licensees paid licence fees at lower rates pertaining to various years between 2011-12 and 2012-13. This resulted in non/short realisation of licence fees of ₹ 61.50 lakh (**Appendix - III**). Despite non/short payment of licence fees by the licensees, no demand notice was issued by any of the SsE till the matter was pointed out by Audit.

On this being pointed out, the SsE, Karbi Anglong and North Lakhimpur stated during the exit conferences that demand notices had been issued to three and two licensees respectively. Particulars of recovery in respect of the above cases and further development in respect of the remaining cases had not been reported (November 2015).

The cases were reported to the Department/Government between January and December 2014 and followed up in April 2015; their replies have not been received (November 2015).

3.10 Excess allowance of godown wastage over and above the permissible limit led to revenue of ₹ 19.55 lakh not being realised

[SsE, Dhubri and Kamrup; March 2014 and August - October 2014]

As per Rule 37 of the Assam Bonded Warehouse (ABW) Rules and subsequent executive instructions, the SE or the officer-in-charge of the bonded warehouse shall take stock of all spirits in the warehouse on the last day of the quarter and the licensee shall pay duty at prescribed rates on all spirits in excess of an allowance of one *per cent* on account of wastage allowance.

During test check of records in the above Offices, it was observed that during the quarter endings falling between June 2011 and March 2014, three licensees of bonded warehouses claimed godown wastage of 54,457.28 LPL against the admissible wastage of 32,398.18 LPL calculated at one *per cent* of the closing stock of 32,39,817.68 LPL. The excess and inadmissible wastage of 22,059.10 LPL of IMFL pertaining to various brands claimed by the licensees escaped notice of the Officers-in-charge. Also, though the licensees had submitted monthly statements to the CE, Assam through the SsE, excess claim of godown wastage could not be detected at any level. This resulted in excise duty of ₹ 19.66 lakh not realised as shown in the following Table.

Table 3.3

Name of the licensee/ Name of controlling SE	Quarter ended falling between	Closing balance disclosed	Godown wastage permissible (@ one per cent of the closing balance as at col 3)	Godown wastage claimed	Excess godown wastage over and above one per cent	Excise duty involved (₹ in lakh)
M/s Shivam Enterprise BW/ SE, Dhubri	June 2011 and December 2013	8,89,009.60	8,890.10	22,972.95	14,082.85	12.21
M/s KDC BW / SE, Kamrup	January 2013 and March 2014	19,77,981.45	19,779.81	24,289.57	4,509.76	4.09
M/s Eastern Enterprise BW/ SE, Kamrup	March 2013 and September 2013	3,72,826.63	3,728.27	7,194.76	3,466.49	3.36
Total		32,39,817.68	32,398.18	54,457.28	22,059.10	19.66

The cases were reported to the Department/Government between April and December 2014 and followed up in April 2015; their replies have not been received (November 2015).

3.11 Additional bottling fee of ₹ 13.68 lakh not/short realized on IMFL

[SE, Kamrup, August-October 2014]

As per the Government of Assam notification of September 2010 the licence fee for bottling units of foreign liquor is fixed as ₹ 1.50 lakh per annum to be paid in advance upto production of a quantity of 30 lakh LPL annually. For production beyond the prescribed limit of 30 lakh LPL, the licensee is required to pay an additional bottling fee of ₹ 8 per case. The additional bottling fee is to be paid within first week of the end of the financial year to which such production relates.

During scrutiny of records of two bottling units (M/S Saaran Industries, Sonapur and M/S Seven Sister Trade and Distillery Pvt Ltd, Amingaon) under the SE, Kamrup it was observed that the licensees produced 54.94 lakh LPL and 37.66 lakh LPL IMFL respectively during 2013-14. Though the production exceeded the prescribed limit of 30 lakh LPL by 24.94 lakh LPL and 7.66 lakh LPL respectively on which additional bottling fees of ₹ 29.55 lakh¹⁵ and ₹ 9.08 lakh¹⁶ was payable, M/s Saaran Industries paid only ₹ 24.95 lakh while no payment was made by the

¹⁵ 24.94 lakh LPL or 3,69,417 cases X ₹ 8 per case.

¹⁶ 7.66 lakh LPL or 1,13,477 cases X ₹ 8 per case.

other licensee. The Excise Officers-in-charge posted at the bottling units also did not raise any demand for realisation of the balance amount. Consequently, there was non/short realisation of revenue of ₹ 13.68 lakh. Further, although the licensees submitted monthly statements of production to the Office of the CE, Assam through the SE, Kamrup, non/short realisation of additional bottling fees remained unnoticed.

The case was reported to the Department/Government in December 2014 and followed up in April 2015; reply has not been received (November 2015).

3.12 Payment of licence fees at lower rates by a Brewery was not detected which resulted in short-realisation of revenue of ₹ 10 lakh

[SE, Kamrup, August-October 2014]

As per Government notification of September 2010, a licensee operating brewery shall pay an annual licence fee of ₹ 10 lakh per annum in advance upto the production capacity of 80 lakh BL and ₹ 15 lakh per annum in case of production exceeding 80 lakh BL.

During scrutiny of records of M/S Master (India) Brewing Company, Changsari (a brewery licensee) under SE, Kamrup it was observed that the licensee paid licence fees of ₹ 10 lakh per annum for the years 2011-12 and 2012-13 in advance on 15 March 2011 and 30 March 2012 respectively. Further scrutiny revealed that the licensee produced 91.20 lakh BL and 112.70 lakh BL Beer during the above years which attracted licence fees at higher rates of ₹ 15 lakh per annum. Neither did the licensee pay the balance amount of ₹ 10 lakh (at ₹ 5 lakh per annum for both years) nor was any demand raised by the Excise Officers-in-charge posted at the brewery for recovery of balance licence fees. Consequently, there was short-realisation of revenue of ₹ 10 lakh. Further, although the licensee submitted monthly statements of production to the Office of the CE, Assam through the SE, Kamrup, short realisation of licence fees remained unnoticed.

The case was reported to the Government/Department in December 2014 and followed up in April 2015; reply has not been received (November 2015).

3.13 Short realisation of licence fees of ₹ 10 lakh from two bonded warehouses

[SE, Kamrup, August-October 2014]

The Assam Excise Rules provide that the licensee of wholesale bonded warehouses are required to pay annual licence fees and wholesale licence fees (for bonded warehouses), in advance, before the commencement of the financial year. From 30

September 2010, the bonded warehouses are required to pay licence fees at various rates depending upon the bond limits as shown in the table in the inset. The stock of IMFL/Beer is to be maintained in a separate register to be kept at the disposal of the Officers-in charge of the bonded warehouses.

Bond limit	Licence Fees
Upto ₹ 25 lakh	₹ 1 lakh
From ₹ 25 lakh to ₹ 50 lakh	₹ 1.50 lakh
From ₹ 50 lakh to ₹ 1 crore	₹ 2.50 lakh
₹ 1 crore and above	₹ 5 lakh

During scrutiny of records of two bonded warehouses under the above SE Office, it was observed that the bond limit of these licensees were fixed below ₹ 1 crore. The annual licence fees of ₹ 2.50 lakh per annum were accordingly paid by these bonded warehouses for the years falling between 2012-13 and 2014-15. However, scrutiny of the stock registers maintained by the licensees and monthly reports submitted to the CE, Assam revealed that the excise duty involvement in the stock of IMFL/Beer held by these licensees on various dates during the above years had increased above the bond limit fixed by the CE, Assam which made them liable to payment of licence fees at rates higher than that paid by them. The differential licence fees were neither paid by the licensees of the bonded warehouses nor did the concerned Officers-in-charge /SE detect the excise duty involvement in IMFL/Beer in stock crossing the bond limit fixed by the CE. Consequently, there was short-realisation of licence fees of ₹ 10 lakh. Details are shown in the following Table.

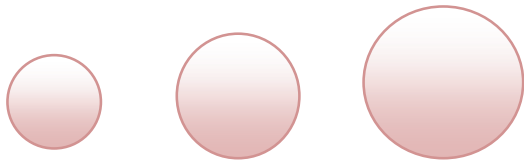
Table 3.4

Name of the licensee/ bond limit fixed by CE	Year/ Licence fees paid (₹ in lakh)	Instances of duty involved in stock crossing over the bond limit		Licence fees payable (₹ in lakh)	Licence fees short realised (col 5 – col 2) (₹ in lakh)
		Month	Excise duty involved in the stock held (₹ in lakh)		
(1)	(2)	(3)	(4)	(5)	(6)
Mangalam Distillers & Bottling Industries/ below ₹ 1 crore	2012-13/ 2.50	October 2012	195.00	5.00	2.50
		March 2013	203.00		
	2013-14/ 2.50	September 2013	191.00	5.00	2.50
		March 2014	206.00		
Star Bonded Warehouse/	2013-14/ 2.50	December 2013	118.33	5.00	2.50

below ₹ 1 crore	2014-15/ 2.50	May 2014	138.00	5.00	2.50
Total					10.00

On this being pointed out, the SE, Kamrup stated during the exit conference (November 2014) that M/s Star Bonded Warehouse had paid ₹ 2.50 lakh on 18 November 2014 and recovery of the balance amount was in process. Further developments had not been reported (November 2015).

The case was reported to the Department/Government in December 2014 and followed up in April 2015; reply has not been received (November 2015).



CHAPTER - IV
MOTOR VEHICLE TAXES



CHAPTER – IV: Motor Vehicle Taxes

4.1 Administration

The Transport Department is responsible for collection of taxes, fees and fines on motor vehicles in Assam. Motor vehicles tax is realised primarily from all vehicles registered in the State. Tax is realised once for 15 years in the case of private vehicles while for commercial vehicles, it is realised each year, at the option of the vehicle owner to pay it every quarter, half yearly or annually. Besides, composite fee *in lieu* of motor vehicles tax is also collected from commercial vehicles bearing national permit/tourist permit of other States willing to ply in the State. Further, there is provision for levy and collection of fines for various offences which are imposed under the respective Acts and Rules. Motor vehicle tax so collected is deposited in the Government exchequer under the major head of account-0041.

4.2 Working of internal audit wing

Internal audit, a vital component of the internal control mechanism, functions as eyes and ears of the Department and is a vital tool which enables the management to assure itself that prescribed systems are functioning reasonably well.

The Department stated that the Finance Department has not put in place any separate internal audit system for the Transport Department. Had there been an effective internal audit system in the Department, the deficiencies could have been rectified through internal evaluation and the system would be functioning better.

Recommendation 1: As the Finance Department has not arranged for internal audit of the motor vehicle tax units till now, the Department may, in coordination with Finance Department, arrange to conduct internal audit of its records/accounts through the Director of Local Audit regularly.

4.3 Results of audit

Test check of records in 12 unit offices of the Transport Department during 2014-15 revealed non/short levy and realisation of fine/motor vehicles taxes amounting to ₹ 1,408.81 crore in 46 cases. Besides, an Audit on the theme 'Collection of

Revenue from out-sourced activities in Transport Department' was also conducted during the year involving revenue implication of ₹ 11.17 crore. These are mentioned in **Table – 4.1**.

Table 4.1
Results of Audit

Sl. No.	Categories	Number of cases	Amount (₹ in crore)
1.	Collection of Revenue from out-sourced activities in Transport Department	01	11.17
2.	Non-realisation of road tax and fine	13	438.27
3.	Non-reassignment of new registration number	06	160.65
4.	Non-realisation of fees for fancy number	02	0.23
5.	Non-settlement of offence cases	04	--
6.	Other irregularities	21	809.66
Total		47	1,419.98

During the course of the year 2014-15, the Department accepted 45 cases involving revenue of ₹ 590.32 crore and recovered ₹ 0.45 crore in three cases during the year 2014-15.

An Audit on the theme '**Collection of Revenue from out-sourced activities in Transport Department**' involving revenue implication of ₹ 11.17 crore is discussed in the following paragraphs.

4.4 Collection of Revenue from out-sourced activities in Transport Department

Highlights

90 out of 160 auto emission testing stations defaulted in renewal of licences. Verification by Audit revealed that 17 of the 90 defaulting stations were actually operating and issuing Pollution Under Control (PUC) certificates.

(Paragraph 4.4.6)

Failure of the Department to ensure issuance of PUC certificates to all the vehicles against which PUC certificates were due resulted in non-realisation of revenue of ₹ 9.89 crore. Besides, these vehicles continued to ply on public roads without valid PUC certificates.

(Paragraph 4.4.7)

Though the PUC testing fees were revised upwardly by percentage ranging from 120 to 750 *per cent*, the Government continued to get its share at old rates. Loss of revenue at minimum percentage of hike amounted to ₹ 72.16 lakh.

(Paragraph 4.4.8)

There were instances of issue of PUC certificates without physical presence of the vehicles.

(Paragraph 4.4.9)

61,099 out of 5.40 lakh vehicles registered post-implementation of the High Security Registration Plate (HSRP) scheme were not fitted with HSRP though it was mandatory to use these security plates.

(Paragraph 4.4.13)

4.4.1 Introduction

The functioning of the Transport Department is governed by the provisions of the Motor Vehicles Act, 1988 and Central Motor Vehicles Rules 1989, the Assam Motor Vehicles Taxation Act, 1936 and Rules, 2003 and various administrative orders issued from time to time. The Assam Motor Vehicle Taxation Act was amended in May 2011. In addition to realisation of motor vehicle taxes, fees and fines, revenue is also generated from ‘auto emission testing’ to issue PUC certificates and issuance of ‘High Security Registration Plates’ which are out-sourced to private agencies. Motor vehicle tax, fees, fines and other revenues so collected by the Transport Department are deposited in the Government exchequer under the Major Head of Account-0041. The Commissioner of Transport is the

head of the Department and is assisted by one Joint Commissioner (who is also the ex-officio Secretary, State Transport Authority), one Deputy Commissioner and one Assistant Commissioner of Transport. There are 29 district level offices¹ in the 27 districts which are headed by District Transport Officers (DTO) who are assisted by Motor Vehicles Inspectors and other officials in discharging their day to day functions. They are empowered to implement taxation laws and rules.

In order to examine the efficacy and effectiveness of the ‘out-sourced activities’ in the Transport Department and revenue generated therefrom, an audit on the theme ‘Revenue generated from out-sourced activities in Transport Department’ was conducted which revealed a number of deficiencies as discussed in the succeeding paragraphs.

4.4.2 Scope and methodology of Audit

The records pertaining to period 2010-11 to 2014-15 maintained in the offices of Commissioner of Transport, Assam; five² out of 27 Districts {selected on the basis of numbers of Auto Emission Testing Stations (AETS)} including selective AETS under these DTOs and M/s Agros Impex (I) Pvt Ltd (authorised for affixing High Security Registration Plates in the state of Assam by the Transport Department) was test checked during April to May 2015.

4.4.3 Trend of revenue (outsourced activities)

The year wise revenue collected under out-sourced activities during the years 2010-11 to 2014-15 were as follows:

Table 4.2

(₹ in lakh)

Year	Auto Emission testing (issue of PUC)		High Security Registration Plates		
	Target	Revenue collection	Target	Revenue collection	
2010-11	NA	6.99	NA	Issue of HSRP commenced from 2012-13	
2011-12		14.35			
2012-13		17.61			1.36
2013-14		10.46			3.06
2014-15		10.72			3.81
Total		60.13		8.23	

Thus, revenue under emission testing registered an increasing trend upto 2012-13 when it reached ₹ 17.61 lakh but decreased to ₹ 10.46 lakh and ₹ 10.72 lakh during subsequent years. Revenue from HSRP had been showing an increasing trend.

¹ 27 Districts of which DTO, Kamrup has three Offices.

² Dibrugarh, Goalpara, Kamrup, Sibsagar and Tinsukia.

Against an audit query on the control mechanism being exercised on the AETS, the Department stated that information on collection of fees for issue of PUC certificates by the AETS are maintained by the respective DTOs. The reply coupled with the fact that the Department did not fix any targets was indicative of weak internal controls. This also pointed towards deficient management information system (MIS) mechanism as the Apex Office was not collecting the information on function of AETS from the DTOs regularly.

Recommendation 2: The Department may fix revenue targets on the DTOs in respect of the out-sourced activities and put in place a robust MIS mechanism for monitoring the revenue earning activities of the field functionaries.

Audit findings

4.4.4 Auto emission testing to issue PUC certificates

Issue of licenses to the private parties for operating AETS (for both petrol & diesel driven vehicles) were undertaken by the Government from the year 2001 as a means for employment generation to the educated unemployed youth. As per the system, once an application is received for AETS³, the Commissioner of Transport, Assam would forward the application to the concerned district seeking enquiry/verification/report from the respective Superintendents of Police and DTOs regarding feasibility of setting up the AETS. Upon satisfactory completion of the process, licence for operating AETS is granted by the Commissioner.



Mobile AETS

The year-wise position of AETS during 2010-11 to 2014-15 *vis-a-vis* the vehicle population during those years are mentioned below:

**Table 4.3
No. of Pollution Centres**

Year	Number of AETS at the beginning of the year	Registration during the year	AETS at the end of the year
2010-11	108	7	115
2011-12	115	8	123
2012-13	123	17	140
2113-14	140	12	152
2014-15	152	8	160

³ With all particulars and documents *i.e.* availability of land, no objection certificate from local *Panchayat/Municipality*, bank pass book for annual turnover, address proof etc.

Table 4.4
Motor Vehicle statistics of Assam

Sl. No.	Vehicle class	Registered Upto 2010-11	Vehicles registered during				Total
			2011-12	2012-13	2013-14	2014-15	
1	Moped/2 Wheeler	7,73,595	1,42,330	1,45,010	1,67,602	1,89,102	14,17,639
2	Three Wheeler	46,766	8,179	7,897	8,209	10,012	81,063
3	Motor Car	2,34,682	42,312	41,653	42,606	44,798	4,06,051
4	All Diesel Vehicle	1,88,019	33,189	32,807	31,147	21,420	3,06,582
Grand Total		12,43,062	2,26,010	2,27,367	2,49,564	2,65,332	22,11,335

Table 4.5
Motor Vehicles per AETS

Year	Total vehicles	No. of AETS	Vehicles per AETS
2010-11	12,43,062	115	10,809
2011-12	14,69,072	123	11,944
2012-13	16,96,439	140	12,117
2013-14	19,46,003	152	12,802
2014-15	22,11,335	160	13,821

Thus, while the total vehicle population in the State over the five year period registered an increase of 78 *per cent*, the increase in the number of AETS was only 39 *per cent*. Secondly, due to the mis-match between the growth in registration of vehicles *vis-à-vis* availability of AETS during 2010-11 to 2014-15, the vehicle per AETS also showed an increasing trend. From 0.11 lakh vehicles per AETS in 2010-11 the figure went up to 0.14 lakh vehicles per AETS during 2014-15. Against an audit query regarding the number of AETS required, the Department replied that there was no study conducted on the actual requirement of AETS before implementation of the scheme. The above analysis and Department's reply would point towards the need for revamping the number of the AETS operating on the ground either by renewing the licenses of the defunct AETS on recovery of dues or by setting up new AETS following the prescribed procedures.

4.4.5 Status of Vehicle registration and AETS in selected Districts

The yearly registration of vehicles and status of AETS during the five year period ending 31 March 2015 in the selected districts were as mentioned in the following Tables.

Table 4.6

Table showing revenue generated through AETS

Name of District	Yearly registration of vehicles (in lakh) Revenue generated by the AETS annually (₹ in lakh)														
	2010-11			2011-12			2012-13			2013-14			2014-15		
	VP	No of AETS	AETS Rev	VP	No of AETS	AETS Rev	VP	No of AETS	AETS Rev	VP	No of AETS	AETS Rev	VP	No of AETS	AETS Rev
Dibrugarh	0.11	13	2.20	0.14	13	2.40	0.13	13	2.57	0.13	13	2.54	0.15	13	2.26
Goalpara	0.03	2	0.27	0.47	2	0.33	0.03	2	0.22	0.06	2	0.35	0.04	2	0.35
Kamrup(M)	0.57	11	0.12	0.64	11	0.11	0.59	11	0.11	0.67	11	0.11	0.67	11	0.23
Sibsagar	0.09	7	0.73	0.09	7	1.75	0.11	7	1.90	0.13	7	1.96	0.14	7	1.58
Tinsukia	0.11	8	2.78	0.15	8	2.92	0.13	8	3.02	0.14	8	3.11	0.15	8	3.11

- VP – vehicle population. AETS Rev – Revenue remitted by AETS.
- (VP – in lakh. No of AETS – in numbers. AETS Rev – ₹ in lakh).

Table 4.7

Table showing status of AETS as on March 2015

District	Vehicle population	No of AETS	No of inactive AETS	No of active AETS	Vehicle per active AETS
Dibrugarh	0.66	18	5	13	5,077
Goalpara	0.63	14	12	2	31,500
Kamrup(M)	3.14	43	32	11	28,545
Sibsagar	0.56	8	1	7	8,000
Tinsukia	0.68	10	2	8	8,500
Total	5.67	93	52	41	81,622

- (Vehicle population – in lakh. No of AETS – in numbers. Vehicle per active AETS – in numbers).

From the above, the following is observed:

(i) 14 to 86 per cent (overall 57 per cent) AETS were inactive in the selected districts.

(ii) Vehicles per AETS in the selected districts as of March 2015 showed a wide variation ranging between 5,000 and more than 30,000. Besides, vehicles per AETS in the selected districts during 2010-11 to 2014-15 registered increasing trend⁴ over the years except for Goalpara which showed uneven trend as it went up to 23,500 vehicles per AETS in 2011-12 from the level of 1,500 in 2010-11 and again came down to 2,000 vehicles in 2014-15 after touching levels of 1,500 and 3,000 during 2012-13 and 2013-14 respectively.

(iii) Further, an analysis of the revenue contributed by the selected districts would reveal that though Kamrup (M) registered maximum number of vehicles yearly, it has been the lowest revenue contributor from issue of PUC certificates; whereas, Tinsukia, Dibrugarh and Sibsaagar performed consistently and contributed major revenues to the State exchequer. The low revenue generated in Kamrup (M) when seen against the fact that it is the capital district and registered maximum vehicles not only reflected poor performance of the AETS/DTO but also highlighted the risk that a large number of vehicles in the capital district might be plying without valid

⁴ Dibrugarh – 846 to 1,154; Goalpara – 1500 to 3000; Kamrup – 5,181 to 6,091, Sibsaagar – 1,286 to 2,000 and Tinsukia – 1,375 to 1,875.

PUC. There was a need for more effective check by the enforcement wing to detect the erring vehicles plying without PUC, especially in Kamrup (M). As the information relating to AETS was mainly confined with the DTOs and not percolated up through MIS, the senior management remained unaware about such wide variation and increasing trend in vehicles per AETS in the State.

Recommendation 3: The Department needs to monitor the growth in registration of vehicles vis-a-vis availability of AETS and if needed, consider renewing the inactive AETS/setting up of new AETS accordingly.

4.4.6 AETS licence renewal fees not realised

Licences of the AETS can be renewed each year on application by the AETS submitted one month prior to expiry of the licence along with proof of payment of renewal fee for each category of vehicle in the form of Bank Draft. The Government of Assam, Department of Transport *vide* notification dated 17 August 2001 modified the licence fees for AETS with effect from 1 September 2001 as under:-

(i)	Initial licence fees for petrol vehicles	₹ 10,000
(ii)	Initial licence fees for Diesel Vehicles	₹ 10,000
(iii)	Initial fees for Gas Analyser	₹ 10,000
(iv)	Subsequent renewal fees for each categories Vehicles (Diesel/Petrol)	₹ 5,000 per year.
(v)	Subsequent renewal fees for Gas Analyser	₹ 5,000 per year.

In case of delay in renewal, the AETS are liable to a fine of ₹ 25 per week subject to a maximum of ₹ 400.

The Commissioner of Transport, Assam at different points of time issued guidelines/ instructions regarding proper maintenance of records in respect of statistics and deposit of fees in regard to all categories of vehicles furnished by AETS. Moreover, during the course of renewal all the particulars relating to issuance of PUC certificates and depositing and maintaining of records of all vehicles in accordance with information furnished by the AETS are to be taken into consideration. DTOs are entrusted with the task of monitoring and maintaining all records as well as existence of proper functioning indicating category wise vehicles and collection of fees thereof.

Test check of Emission Testing Licence Register maintained by the Commissioner of Transport, Assam revealed that 90 out of 160 AETS across the State did not pay the renewal licence fees. An amount of ₹ 56.24 lakh pertaining to the period falling between May 2003 and March 2015 was realisable from these 90 AETS. Audit had carried out a detailed verification of the defaulting AETS in the selected districts which revealed that though 17 (19 *per cent*) out of 90 defaulting AETS did not pay the renewal fees for different periods post- September 2004, these AETS were actually operating, submitting returns on tests conducted and remitting revenue to

the respective DTOs. This revealed lack of control mechanism in these DTOs to verify the validity of the licences of the AETS while receiving the returns. Such a system could have alerted the DTOs regarding non-payment of licence fees. Besides, on the basis of audit findings in the selected districts, operation of the other 73 AETS without payment of licence fees could not be ruled out.

Recommendation 4: The Department may recover the arrears of licence fees from the defaulting AETS. Further, the Department may install a mechanism for reviewing the validity of the licences of the AETS by the DTOs at the time of receipt of returns.

4.4.7 Short realisation of emission testing fees

Rule 115(7) of the Central Motor Vehicle Rules, 1989 and Department's notification dated 17 August 2001 requires that every motor vehicle on expiry of one year from the date of initial Registration should obtain a PUC certificate every six months. The emission fees collected by the AETS and Government revenue to be paid against different class of vehicles are mentioned in the following table.

Table 4.8

Sl No	Nature of Vehicle	Emission fees	Govt. dues
		(In ₹)	
1.	Moped	10	5
2.	Three wheeler	25	10
3.	Motor Car	30	10
4.	All Diesel Vehicles except Motor Car	50	15
5.	Two wheeler	15	5

The vehicle owner who defaults in obtaining a PUC certificate in time will have to obtain a clearance from the concerned DTO prior to renewing their PUC.

Upon clearance, the vehicle owner is liable to pay penalty⁵ in addition to the fees as prescribed. If any AETS issues PUC certificate without the prior approval of the concerned DTO, the license of that station is liable to be suspended.

Test check of records revealed that during the year 2010-11 to 2014-15, an amount of ₹ 10.49 crore was due⁶ as revenue on PUC certificates on vehicles registered against which the Department recovered only ₹ 60.13 lakh as emission testing dues. Besides short realisation of revenue of ₹ 9.89 crore was also indicative of plying of a large number of vehicles on public roads without a valid PUC certificate. It was observed that the Department had not taken up awareness campaigns on the need of obtaining PUC certificates after one year of registration. This was important as all new vehicles are fitted with a sticker 'Non-polluting vehicle' while the need to obtain PUC certificates after one year is mentioned nowhere.

⁵ At ₹ 1,000 for the first offence and ₹ 2,000 for every subsequent offence of violation as provided under Section 190 (2) of the Motor Vehicles Act, 1988.

⁶ Calculated allowing a grace period of one year after expiry of the year of registration of vehicles.

Verification also revealed that the Department was not maintaining a database of vehicles obtaining PUC certificates though the AETS were submitting the details along with the returns. Preparation of such a database, State-wise, and mapping the same with the vehicle registration system ‘Vahan’⁷ would have enabled the Department to ensure issue of PUC and identify the defaulting vehicles and issue notices to the owners of the vehicles.

Further, from the record notes of the DTOs conference held in September 2014, it was observed that none of the DTOs possessed remote sensing device⁸ for pollution control in absence of which real time detection of vehicles plying without PUC certificate was not possible. However, in order to use the remote sensing device effectively, preparation and updation of the database of vehicles obtaining PUC certificates as discussed in the preceding paragraph was a pre-requisite.

Recommendation 5: The Department may initiate steps for maintenance of a State-wise database of issuance of PUC certificates and map the same with the ‘Vahan’ software for monitoring the issue of PUC and defaulting vehicles plying without PUC certificate.

4.4.8 Revision of emission testing fees without revising Government revenue

The pattern of emission testing fees and Government revenue is discussed in the preceding paragraph. During test check of records in the selected districts, it was observed that the AETS were recovering fees at higher rates with effect from April 2010 as shown in the table below.

Sl No.	Nature of Vehicle	Emission fees w.e.f Sept/2001 to Mar/2010	Emission fees w.e.f April/2010	Percentage increase
		(In ₹)		
1.	Moped	10	85	750
2.	Three wheeler	25	85	240
3.	Motor Car	30	110	267
4.	All Diesel Vehicles except Motor Car	50	110	120
5.	Two wheeler	15	85	467

Thus, the fees were enhanced between 120 and 750 per cent. It was further noticed that though the revised structure of fees had been implemented way back in April 2010 by the AETS, the Department continued to receive Government share at

the old rates. On this being pointed out, the Department stated that the AETS had enhanced the fees on their own and there was no Government notification on the same. The Department also did not initiate any action to revise the Government

⁷ Computerised vehicle registration system.

⁸ A device which would scan the HSRP and ascertain validity of the PUC certificate.

share commensurate to the revision in the emission testing fees. **This reveals a serious lapse on the part of the Department to monitor the functioning of the AETS and also points towards extending undue financial benefits to the AETS operators whereby they were unauthorisedly allowed to realise fees at enhanced rates not fixed by the Government. Failure of the Department to initiate timely action not only deprived the Government of additional revenue of ₹ 72.16 lakh⁹ but also unfairly burdened the State consumers besides extending undue financial benefit to the AETS to that extent.**

Recommendation 6: The Department may initiate immediate action to investigate how the AETS revised the fees on their own and also revise the Government share of the emission testing fees proportionately to avoid further loss to the State exchequer.

4.4.9 Issue of PUC certificates without physical appearance of the vehicle

Emission tests could be conducted by the AETS only after a vehicle is physically presented before the AETS.

During test check of records of DTO, Kamrup (M) it was observed that in two cases though the vehicles were seized by the Enforcement Wing for non-production of documents, PUC certificates were subsequently issued by two AETS (Ganesh Mandir, Narengi and Anupama AETS, Lakhra) on the same day which were produced by the vehicle owners to the Enforcement Wing. Against the show-cause notice by the Enforcement Wing, one of the AETS replied that the certificate was issued on verbal request of the vehicle owner.

The above observation shows that it is entirely possible for PUC certificates to be obtained without the vehicles to be checked at the AETS. This laxity needs to be controlled.

4.4.9.1 Physical verification not conducted by the Transport authorities

The AETS functions under the direct control and monitoring of the concerned DTOs. Audit observed that -

- The DTOs conduct physical verification of the AETS only at the time of commissioning and there was no system of periodic physical verification of the equipments of the AETS.

This denied the Department of having a check on the efficacy of the testing equipments and consequently there was no assurance that the PUC certificates issued by the AETS conformed to the prescribed standards.

⁹ Based on the minimum percentage of increase in emission testing fees *i.e.* 120 per cent multiplied by ₹ 60.13 lakh being the revenue for 2010-11 to 2014-15.

- There is no system of periodic verification of the renewal of licenses and proper collection of fees by the AETS.
- The DTOs or any other authority did not conduct any supervisory checks of samples of vehicles already checked by AETS for assessing the quality of checks.

A system of periodic physical verification would have enabled the DTOs to detect the AETS issuing PUC certificates without payment of fees and renewal of their licences.

Recommendation 7: The Department may consider prescribing a system of periodic physical verification of AETS by the DTOs and frame detailed guidelines on points to be seen during such verification.

4.4.10 High Security Registration Plates

High Security Registration Plates (HSRP) is a scheme whereby a motor vehicle is affixed registration number plates in such a manner to prevent removal or alteration of number plates and also prevent the practices of tampering. The Government of India had framed the HSRP Schemes by amending Rule 50 of the Central Motor Vehicle Rules, 1989. The samples for the State of Assam are depicted through the diagrams below.



Samples of HSRP as displayed in the Office of the Commissioner of Transport, Assam

Objectives of implementation of HSRP Scheme were (i) standardization in display of vehicular registration numbers, (ii) securing the identification and registration of vehicles, (iii) creation of central repository of nationwide vehicle population; (iv) setting up a national real-time information system; (v) Registration plates issuance control by department under single window; and (vi) to check the rising instances of theft of motor vehicles and possible use of such stolen motor vehicles in criminal/terrorist activities.

The advantages for HSRP implementation as envisaged were *inter-alia* to (i) regulate the used car market as these happens to be the easiest source of vehicles for the terrorists/anti-national activists; (ii) provide quick details of the vehicles to law enforcement agencies during raids, at check posts, at State borders; (iii) increase

in revenue of the State; (iv) phase out old and polluting vehicles with the aid of database so developed; and (v) prevent leakage of revenue.

The process of implementation of HSRP scheme was launched in DTO, Kamrup (Registration and Licensing) from June 2012 executed through the vendor {M/s Agros Impex (I) Pvt Ltd selected through tendering} and gradually extended to other districts except three districts¹⁰ of Assam as of March 2015. As per the agreement, the State Government would get one *per cent* royalty and 12.5 *per cent* Value Added Tax while 14 *per cent* Service Tax plus Central Excise would go to the Government of India. The basic price of the HSRP¹¹ is as per the tender excluding all taxes which are charged from the customers. The Contract Agreement period is for 15 years. The company is responsible for affixing the HSRP on the vehicles in accordance with Rule 50 of the Central Motor Vehicles Rules.

Audit findings

4.4.11 Deficiencies in implementation

Audit scrutiny of the implementation of HSRP scheme revealed the following:

- Though the scheme clearly stipulates affixture of HSRP on all old vehicles within a timeline of two years from the date of implementation, no target was fixed by the State Government.
- The Department had not issued any order making it mandatory to affix HSRP on commercial vehicles as well as old vehicles (registered prior to commencement of project). This was despite the fact that the vendor, from time to time, had requested the Department to issue orders for implementation of the same.
- As per the tender conditions, a price revision (as per the formula given in the agreement) had to occur every three year. Though price increment was due since January 2015 and an application for the same had been moved by the vendor prior to that; however till date of Audit, no action had been taken on the issue by the Department. Consequently, the State Government continued to lose revenue in the shape of royalty and Value Added Tax.

¹⁰ Baksa, Karbi Anglong and Kokrajhar.

¹¹ Ranging between ₹ 105 to ₹ 295 plus ₹ 300 for fixation of the HSRP on the vehicles.

4.4.12 Foregoing of revenue due to HSRP not being implemented on all vehicles

As per the Supreme Court verdict and orders of the Ministry of Road Transport and Highways, affixture of HSRP has to be ensured on all newly registered vehicles as well as all old vehicles in phased manner within two years from the date of implementation.

Audit observed that against the total vehicle population of 22.11 lakh in the State as of March 2015, the vendor had affixed HSRP in only 4.84 lakh vehicles which was barely 22 per cent. Thus, about 78 per cent vehicles were yet to be affixed with HSRP after the lapse of almost three years since commencement of HSRP scheme in the State. Further, the figure of 4.84 lakh vehicles on which HSRP was fitted when seen against the figure of 4.79 lakh vehicles (as mentioned in the table of succeeding paragraph) which were registered during 2012-13 to 2014-15 would indicate that only about 0.05 lakh old vehicle owners had come forward for fixing HSRP in their vehicles, which was negligible when compared to the total vehicles registered in the State. This not only resulted in non-compliance of the Apex Courts'/Ministry of Road Transport and Highways targets but also deprived the State Government of revenue which could not be quantified.

Recommendation 8: The Department may ensure affixture of HSRP on all the vehicles in a phased manner by fixing targets on the vendor and through public awareness. They may also pursue the price revision for implementation at the earliest so as to avoid further loss of revenue.

4.4.13 HSRP not affixed on new vehicles registered in the State

As per notification of Ministry of Road Transport and Highways, GoI dated 22 August 2001, the vehicle population details are required to be provided by the Transport Department to the vendor implementing the HSRP scheme in accordance to the contractual obligations.

Audit scrutiny of the system revealed that the Department had not made it mandatory for the vehicle owners to pay for the HSRP and issue the same by the vendor before the registration certificate was issued. Instead the

vehicle owners were issued with the registration certificate and it was left to the discretion of the vehicle owners whether to apply for the HSRP or proceed with the registration certificate and fix number plates from the open market (non-HSRP). This deficiency in the system had led to non-affixture of HSRP even on 61,099 new

Table 4.10

Year	Total fitment to be done	Fitment done	Fitment pending
2012-13	90,675	71,133	19,542
2013-14	2,18,644	2,07,808	10,836
2014-15	2,30,301	1,99,580	30,721
Total	5,39,620	4,78,521	61,099

vehicles which were registered post-implementation of the HSRP scheme in the State.

4.4.14 Manpower management

Table 4.11

Post	Sanctioned strength	Men in position	Vacancy	Per cent of vacancy
DTO	33	21	12	36
Enforcement Inspector	88	74	14	16
Assistant Enforcement Inspector	189	113	76	40
Enforcement Constable	146	89	57	39

Analysis of the sanctioned strength and men-in-position as on 31 March 2015 revealed that against the sanctioned strength of 33 DTOs, 88 Enforcement Inspectors, 189 Assistant Enforcement Inspectors and 146 Enforcement Constables, there were 21, 74, 113 and 89 of them in

place respectively. Thus, there was vacancy of 159 staff members – percentage of vacancy ranging between 16 and 40 *per cent*. Due to the vacancy hampering of enforcement functions and non-monitoring of the activities of the AETS cannot be ruled out. Besides, the Department was yet to prescribe the checks and balances on the AETS by the DTOs. In such case, the vacancy would have more bearing as the additional workload would have to be distributed among the men-in-position.

4.4.15 Conclusion

The Transport Department had out-sourced two of its activities namely issue of PUC certificates and affixture of HSRP on the vehicles to the private parties. Audit scrutiny of the out-sourced activities revealed a number of deficiencies.

The revenue earned from issue of PUC by the AETS decreased post-2012-13. Against the growth of vehicles in the State registering an increase of 78 *per cent* during 2014-15 over 2010-11, the growth in number of AETS was at 39 *per cent* which was largely responsible for increase in vehicle per AETS. This led to increase in vehicle per AETS over the years. 90 of the 160 AETS licensed by the Department defaulted in payment of renewal fees; yet, verification by Audit revealed that 17 out of the 90 AETS continued to operate and issue PUC certificates. Against revenue of ₹ 10.49 crore to be recovered as Government share of PUC certificates an amount of ₹ 60.13 lakh only could be recovered. This led to short realisation of ₹ 9.89 crore and possible plying of large number of vehicles without PUC certificate. In absence of a monitoring mechanism/MIS and as the management of AETS is left at the discretion of the DTOs, the Department at the apex level did nothing to improve the above deficiencies. The testing fees were upwardly revised at rates ranging between 120 to 750 *per cent* from April 2010, yet the government share remained static at rates applicable prior to April 2010 which resulted in loss of revenue and extension of undue financial benefit to the AETS

licensees. Instances of issue of PUC certificates without physical appearance of the vehicles were noticed.

The implementation of HSRP scheme started off with deficiencies as the Department was yet to initiate action for bringing all vehicles, new and old under the ambit of HSRP. From 2012-13 (commencement of the HSRP scheme in Assam), only 4.84 lakh vehicles had been covered against the total vehicular population of 22.11 lakh. Further, of the 4.84 lakh vehicles which were fitted with HSRP, 4.79 lakh vehicles were registered post 2012-13. The Department failed to ensure affixture of HSRP on all newly registered vehicles post-2012-13.

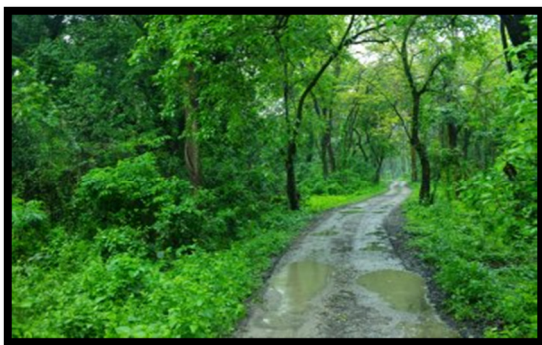
4.4.16 Summary of recommendations

The Department may consider implementing the recommendations with special emphasis on the following.

- *Revenue targets may be fixed on the DTOs and MIS to be strengthened for effective monitoring of the field functioning.*
- *Introduce a State-wise database of issue of PUC and map the same with 'VAHAN' software for monitoring the issue of PUC and defaulting vehicles.*
- *Investigate the revision of fees by the AETS and revise the Government share on the revised testing fees.*
- *Prescribe a system of periodic physical verification of AETS by the DTOs with detailed guidelines on actionable points during such checks.*
- *Ensure affixture of HSRP on all vehicles in a phased manner.*



CHAPTER - V
ENVIRONMENT AND
FOREST



CHAPTER – V: Environment and Forest

5.1 Administration

The Principal Chief Conservator of Forests (PCCF) who is in overall charge of the Department is assisted by seven Chief Conservators of Forests (CCF) and 19 Conservators of Forests (CF). There are 58 forest divisions each headed by Deputy Conservator of Forests (DCF)/ Divisional Forest Officers (DFO). The divisions are further divided into ranges and beats for ensuring effective control and supervision of the forests of the State.

The principal Acts under which the functioning of Department of Environment and Forest is governed are the Assam Forest Regulation, 1891; Assam Sale of Forest Produce Coupes and *Mahals* Rules, 1977; Assam Minor Minerals Concession Rules, 1994 as amended and Rules and notifications/ orders issued thereunder, from time to time.

5.2 Working of internal audit wing

Internal audit, a vital component of the internal control mechanism, functions as eyes and ears of the Department and is a vital tool which enables the management to assure itself that prescribed systems are functioning reasonably well.

It was observed that the Finance Department has not put in place any separate internal audit system for the Environment & Forest Department. Had there been an effective internal audit system in the Department, the deficiencies could have been rectified through internal evaluation and the system would be functioning better.

Recommendation 1: As the Finance Department has not arranged for internal audit of the forest units till now, the Department may, in coordination with Finance Department, arrange to conduct internal audit of its records/accounts through the Director of Local Audit regularly.

5.3 Results of audit

In 2014-15, test check of the records of 31 units relating to forest receipts showed non/short recovery of royalty, non-levy of interest/VAT/extension fee and other irregularities involving ₹ 41.58 crore in 34 cases as mentioned in **Table 5.1**.

Besides, an audit on the theme ‘Planning and Financial management of Major wildlife areas in Assam – Impact on Conservation efforts’ was also conducted during the year.

Table 5.1
Results of Audit

Sl. No.	Category	Number of cases	Amount (₹ in crore)
1.	‘Planning and Financial management of Major wildlife areas in Assam – Impact on Conservation efforts’	01	--
2.	Non levy of interest/VAT	06	12.42
3.	Non/short recovery of royalty	06	8.70
4.	Non levy of extension fee	03	0.71
5.	Other irregularities	19	19.75
Total		35	41.58

During the course of the year, the Department accepted 21 cases with revenue implication of ₹ 14.92 crore and recovered ₹ 6.4 lakh during 2014-15 in two cases.

A Thematic Audit of ‘Planning and Financial management of Major wildlife areas in Assam – Impact on Conservation efforts’ and a few illustrative audit observations with financial implication of ₹ 8.68 crore are mentioned in the succeeding paragraphs.

5.4 Planning and Financial management of Major wildlife areas in Assam – Impact on Conservation efforts

Highlights

None of the selected National Parks (NP) and Wildlife Sanctuary (WS) had a long term management plan for the period covered by Audit.

(Paragraph 5.4.5)

Analysis of planned expenditure to be met through the annual plans of operations *vis-à-vis* the funds allocated to the NPs and WS revealed an overall shortfall. This percentage of shortfall ranged between 40 to 87 *per cent*. Besides, there was inordinate delay in allocation of funds resulting in funds not being available during first seven to 11 months in all of the years covered by Audit. The lack of funds and mis-management of finances affected habitat management, infrastructural development, accessibility and the morale of the personnel was severely hampered. Basic remuneration to staff and provision of fodder to departmental elephants was also affected by paucity of funds.

(Paragraph 5.4.5.1, 5.4.6 – 5.4.14)

5.4.1 Introduction

In India, there are more than 500 WS, 104 NPs and 18 biosphere reserves. Of these, there are 18 WSs¹ and five NPs² covering 1,840.14 sq km and 1,947.21 sq km area respectively while there are two bio-sphere reserves namely Dibru-Saikhowa and Manas in Assam. No human activity is allowed inside a NP while limited activities are permitted within WS and Bio-sphere reserves.

Assam– counted amongst the world’s 34 biodiversity hotspots, has been a biological frontier in the 21st century. This region’s upper Brahmaputra Valley harbours wet alluvial grassland and lowland tropical evergreen forests, regarded among the most threatened forest types in the world. The altitudinal variation and rainfall patterns of southwest and north-eastern monsoon play a significant role in the development of ecological niches in this region of India. However, these lowland forests and alluvial grassland are today broken up by vast tracts of tea plantations and human habitation into isolated fragments that are still very rich in biodiversity. These remnant habitats act as the last refuge for many, among the wide varieties of primates, carnivores, herbivores and birds which are denizens of these tropical rainforests and grassland. About 190 species of mammals, 44 types of endangered and rare species, 14 types of reptiles and amphibians and more than 800 species and subspecies of birds are so far reported from Assam. There are nine species of

¹ Garampani, Laokhowa, Bornadi, Chakrasila, Bura chapori, Pani dihing, Hollongapar Gibbon, Pobitora, Sonai Rupai, Beherjan-Borajan Padumoni, East Karbi Anglong, Nambor, Morat Longri, Nambor Doigurung, Amchang, Dihing patkai, Borail and Deepor Beel.

² Dibru-Saikhowa, Kaziranga, Manas, Nameri and Orang.

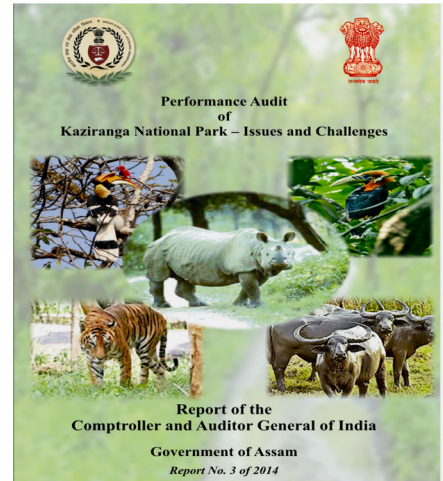
primates in Assam, which also include the only ape of India, the Hollock Gibbon (*Hylobates Hoolock*). Moreover, Assam holds the entire known world population of Pygmy hog (*Sus salvanius*), 75 per cent of the world population of the Indian Rhinoceros (*Rhinoceros unicornis*), wild water buffalo (*Bubalus bubalis*), a sizeable population of Asian elephant (*Elephus maximus*) and tigers (*Panthera Tigris*).

Of the 18 WS, five NPs and two Bio-sphere reserves in Assam, the following are the major wildlife areas in the State. The area covered and major species housed are given in the following Table.

Table 5.2

Name of the NP/WS	Area (in sq km)	Major animals	Total count of the major animals (as per latest data)
Kaziranga NP	858.92	Rhinos, elephants, buffalos and Tigers	5,537 ³
Manas NP	500		1,207 ⁴
Orang NP	79.27	Rhinos, Tigers and buffalos	138 ⁵
Nameri Tiger Reserve	195	Tigers and elephants	239 ⁶
Pobitora WS	38.81	Rhinos	93 ⁷

In order to examine the issues and challenges being faced by the major Wildlife areas in the State, a Performance Audit on ‘Kaziranga National Park – Issues and Challenges’ was conducted during 2013-14 and presented as a standalone Report⁸ in the Assam Legislative Assembly on 31 March 2015. Of the issues emerging out of the study conducted last year, financial management of the wildlife areas was found to be the major bottleneck for effective management and sustainable development of the wildlife areas of Assam. The present Report thus includes the audit findings on the planning and financial management of the four major wildlife areas⁹ in the State (other than Kaziranga) and its impact on conservation effort in these areas. The deficiencies are brought out in succeeding paragraphs.



³ Rhinos – 2,329 (2013 census), Elephants – 1,165 (2011 census), Buffalos – 1,937 (2008 census) and Tigers – 106 (2010 census).

⁴ Rhinos – 31 (2013 census), Elephants – 945 (2011 census), Buffalos – 213 (2008 census) and Tigers – 18 (2012 census).

⁵ Rhinos – 100 (2013 census), Buffalos – 14 (2008 census) and Tigers – 24 (2013 census).

⁶ Elephants – 231 (2011 census) and Tigers – 8 (2012 census).

⁷ 2012 census.

⁸ http://www.saiindia.gov.in/english/home/Our_Products/Audit_Report/Government_Wise/state_audits/recent_reports/Assam/2014/Report_3/Report_3.html.

⁹ Manas, Orang, Pobitora and Nameri.

5.4.2 Audit Objectives

The objective of this Audit was to ascertain whether:

- There was long/short term planning for effective management of the habitat, infrastructure and human resources;
- Funds were adequate to meet the planned activities; and
- Funds were allocated in time to the wildlife managers.

5.4.3 Scope and methodology of Audit

The records of the Secretariat, Environment and Forests Department, Office of the Principal Chief Conservator of Forests, Wildlife (PCCF, Wildlife) and the selected wildlife areas pertaining to the period 2009-10 to 2013-14 were test checked. The field audit was carried out in two phases between March and mid-July 2014 and June – July 2015. Discussions were held with the Divisional Forest Officers (DFO)/Assistant Conservators of Forests (ACF)/Range Officers (RO) (**hereinafter referred as the Wildlife Officers**) on various issues and challenges.

Audit findings

5.4.4 The long term planning sets out approaches and goals of an organisation together with the framework for decision making process. It clearly identifies the different components required to be undertaken during the plan period. The annual plans of operations (APOs) flow from the long term plans and are framed keeping in view availability of funds.

Financial management refers to the efficient and effective management of money (funds) in such a manner as to accomplish the objectives of the organization.

Financial Inadequacy can render all proposed measures and plans ineffective. The Wildlife Conservation Strategy 2002 of Ministry of Environment and Forests (MoEF), Government of India (GoI) prescribes that Wildlife and Forests shall be declared priority sector at the national level for which funds

should be earmarked. The High Power Committee on Prevention of Poaching in Kaziranga in their Report had also highlighted (2008) the need for adequate and

Good practices in other States

- *In Karnataka, the PCCF discusses the APOs with the DFOs/Field Directors prior to commencement of the year and finalises the budget.*
- *In Uttar Pradesh, the following system is installed for optimum utilization of finances and better management of parks:*
 - *Funds are allocated quarterly;*
 - *Timely release of funds is monitored by a Cell in CM's Office;*
 - *Quarterly submission of utilization certificate is mandatory;*
 - *Expenditure made during the quarter is monitored by the Cell in CM's Office;*
 - *In case of failure to release/spend funds or diversions – explanations are sought from the concerned authorities.*

timely flow of fund for ensuring effective management of the wildlife areas. The Committee had also suggested that funds allocated should be made available to the wildlife managers in the beginning of the financial year for ensuring timely flow of funds as per management requirement and meet the contingencies.

Audit scrutiny of the records of selected NPs and WS revealed major deficiencies in the planning and financial management as discussed in the succeeding paragraphs.

5.4.5 Planning

The Guide to management planning issued by the Wildlife Institute India, Dehradun highlights that APO should flow from the schedule of operations incorporated in the management plans which are prepared for the long term.

Audit observed that none of the selected NPs and WS had a long term management plan for the period covered by Audit. Instead, annual plans of operations were only prepared on year to year basis. In Nameri, Orang NPs and Pobitora WS the park authorities had prepared management plan for 2013-18 (approved) while no such plan was prepared in Manas NP. This denied the park authorities the scope of identifying the long term strategies which could be implemented through short term plans. Thus, during 2009 – 2013, the activities carried out through preparation of annual APOs did not have synergy with an approved long term perspective plan.

5.4.5.1 Annual Plans of Operations vis-à-vis fund management

The projection of requirement of funds in the APOs vis-à-vis actual allocation, in the four NPs/WS test checked during the period 2009-10 to 2013-14, was as mentioned in the table below:

Table 5.3

Manas NP: The park authorities had initially proposed for allocation of ₹ 43.58 crore under the Central scheme – ‘Project Tiger’ against which ₹ 26.13 crore (or 60 *per cent*) was received by the park authorities. Further, analysis of APOs and the allotment of funds during each of the years under audit would reveal wide

Year	Financial impact of APO	Actual allocation/ expenditure	Variation	Percentage of variation
(₹ in crore)				
2009-10	5.40	7.48	(-) 2.08	(-) 39
2010-11	8.18	4.59	3.59	44
2011-12	10.74	5.56	5.18	48
2012-13	15.54	3.53	12.01	77
2013-14	3.72	4.97	(-) 1.25	(-) 34
Total	43.58	26.13	17.45	40

Variation in actual allocation vis-à-vis APOs during 2009-10 and 2013-14 was due to allocation of State Plan which were not included in the APOs.

variations as during the years 2010-11 to 2012-13, ₹ 13.68 crore (about 40 *per cent*) was allocated against the APO of ₹ 34.46 crore while during 2009-10 and 2013-14

the allotment of fund was more than the planned fund. The overall shortfall worked out to ₹ 17.45 crore or 40 per cent.

Table 5.4

Orang NP: Against a total APO of ₹ 3.31 crore prepared by the park authorities, an amount of ₹ 80.80 lakh had been allocated to it. The percentage of fund allocated *vis-à-vis* amount included in the APOs on year to

Year	Financial impact of APO (CSSS)	Actual allocation/ expenditure	Variation	% of variation	Amount allocated under State Plan Schemes (₹ in crore)
2009-10	0.16	0.04*	0.12	75	0.24
2010-11	0.85	0.008	0.84	99	0.24
2011-12	0.91	0.46	0.45	49	0.30
2012-13	0.57	0.14	0.43	75	0.32
2013-14	0.82	0.16	0.66	80	0.26
Total	3.31	0.808	2.50	76	1.36

* In addition, a one-time central assistance of ₹ 2.85 crore was allocated.

year basis ranged between 49 – 99 per cent while the overall percentage worked out to 76 per cent with a total shortfall of ₹ 2.50 crore. However, the park authorities received ₹ 1.36 crore through State Plan Schemes with different items of works to be carried out. Thus, the items planned by the park authorities under CSS remained incomplete and the State Government also did not come forward to allocate the balance funds for meeting the planned activities.

Table 5.5

Pobitora WS: Against the APO of ₹ 13.33 crore prepared by the park authorities for 2010-11 to 2013-14, an amount of ₹ 1.74 crore had been allocated to it through Centrally Sector /State Plan Schemes. The

Year	Financial impact of APO	Actual allocation/ expenditure	Variation	% of variation
2009-10	NA	7.25*	--	--
2010-11	0.83	0.09	0.74	89
2011-12	0.78	0.73	0.05	6
2012-13	0.89	0.30	0.59	66
2013-14	10.83	0.62	10.21	94

* Of this, there was a one-time central assistance of ₹ 7.09 crore.

percentage of fund allocated *vis-à-vis* amount included in the APOs on year to year basis ranged between 6 – 94 per cent while the overall percentage worked out to 87 per cent on the total shortfall of ₹ 11.59 crore (total of column 4).

Table 5.6

Nameri NP: The park authorities had initially proposed for allocation of ₹ 7.64 crore through their APOs against which, ₹ 1.62 crore was allocated through the Central as well as State sector schemes. The percentage of fund allocated *vis-à-vis* amount included in

Year	Financial impact of APO (CSS)	Actual allocation	Variation	Percentage of variation (in %)
2009-10	0.58	0.37	0.21	36
2010-11	1.35	0.23	1.12	83
2011-12	1.51	0.52	0.99	66
2012-13	2.10	0.07	2.03	97
2013-14	2.10	0.43	1.67	80
Total	7.64	1.62	6.02	80

the APOs on year to year basis ranged between 36 to 97 *per cent* while the overall percentage worked out to 80 *per cent* on the total shortfall of ₹ 6.02 crore. Of the above years, it was observed that though the GoI had sanctioned ₹ 1.39 crore in August 2012, the State Government did not release the fund to the Park authorities. Besides, there were inordinate delays in release of funds by the Government of Assam and most of the funds reached the Park at the fag end of the year.

Table 5.7

Year	Months during which no transaction was recorded in the Cash Book	No of Months during which no fund was available	Sanction of funds by Central Government	Release by State Government
2009-10	April 2009 to November 2009	8 months	Information was not readily available	--
2010-11	April 2010 to January 2011	10 months	September 2010	February 2011
2011-12	April 2011 to February 2012	11 months	September 2011	March 2012
2012-13	April 2012 to October 2012	7 months	September 2012	November 2012
2013-14	April 2013 to October 2013	7 months	November 2013	November 2013

Further Audit scrutiny revealed that there were substantial delays in release of funds by the State Government in respect of the NPs/WS test checked. In

Manas NP, it was observed that there was major delay in allotment of funds as evidenced from the fact that there was no fund during first 7 to 11 months of the years 2009-10 to 2013-14. Similar was the position in the remaining NPs/WS which also suffered adversely due to financial mis-management at the State Government level. The delay in allotment of funds in Manas happened despite sanction of funds from the GoI specifically for Manas. These funds released by the Centre were held by the State Government for periods ranging between two to six months. Due to delay as discussed above, major chunk of the funds ultimately reached the park during the fag end of the year having tremendous detrimental impact on management of the park and also reduced the working time available for maintenance/construction work which became impossible from mid-June onwards due to monsoons.

Against an audit query regarding how the activities of the wildlife areas were managed in view of inconsistent funding by the GoI/Government of Assam to the NPs/WS, the replies of the wildlife managers were as mentioned below.

Manas: Adequate funds not being received for Wildlife management is a disturbing factor/hindrance, more so when funds have been provided but do not reach the management authority in the field. This hampers functioning of the park in every way and the morale of the staff is shattered. It was further stated that since 2009, no funds had been allocated for restoration of areas affected by elephant depredation/damage. This had raised hostility levels among the fringe villagers and their relation with the wildlife guards was worsening day by day.

Orang: Wages are delayed, fuel is purchased on credit, intelligence gathering suffers for want of funds in time and elephant feed and upkeep is also adversely affected.

Pobitora : Belated receipt of fund against obligatory activity like payment of wages (monthly) to armed Home Guards deployed on protection duty, purchase of fuel for the vehicles engaged on anti-poaching duty, supply of free ration to the frontline staff affect the normal functioning of the sanctuary adversely.

Nameri : Shortage of fund affect the management in a highly adverse way as for performing effective patrolling of duties, maintenance and fuel of vehicle is needed. Infrastructure like anti-poaching camps and network of patrolling paths are to be maintained, supply of ration and logistics to field formation to be ensured. As a result of neglect of these vital activities, the benefits of years of protection work carried out by the park management can be lost quite rapidly.

Lesser allocation of funds had compelled the wildlife managers to scale down the activities envisaged in the original APOs. Interestingly, as a result of lower allocation of funds, the original APOs were recast by scaling down the approved activities envisaged in the original APOs. Besides, due to increased instances of poaching, proportionately more funds were diverted to anti-poaching activities than to other planned activities such as habitat management, intelligence gathering etc. Due to paucity of funds coupled with delay in its release there was an adverse impact on all major activities of wildlife management some of which are discussed (NP/WS wise) in the succeeding paragraphs.

Manas NP



5.4.6 Infrastructure facilities

5.4.6.1 Anti-poaching camps

There are 68 anti-poaching camps¹⁰ inside the Manas NP. During physical verification and interaction with the Wildlife Officers/guards it was ascertained that some of these camps were facing operational difficulties ranging from dearth of water to dilapidated condition of building/building without roof/floor to absence of toilet/kitchen. Some of these were in strategic location where wildlife guards had to perform round the clock duties due to its proximity to the border and the nearby habitat being frequented by the Rhinos. In this regard, the Division replied that reconstruction of anti-poaching camps in remote areas was required in Manas to ensure its full protection; however, the same could not be taken up due to shortage of funds. The departmental authorities also highlighted the need for more wireless systems as the entire park was not covered by communication system which hampered fool proof protection.



Clockwise: (i) Mora Giati Camp – good construction but do not have water facilities; (ii) Barabari Jhar camp – no floor, roof leaked, (iii) Maozi camp – without roof and (iv) Palsiguri camp – just behind the border where Rhinos come closer - without kitchen/bathroom forcing the wildlife guards to cook on the verandah and use natural habitat for toilet.

Camps at sl. (i), (ii) and (iv) are under Bansbari Range while sl (iii) is under Bhuyanpara Range. The condition of other camps under Bhuyanpara range are similar to the one depicted here. 12 of the 15 camps under Panbari Range has no wildlife guards.

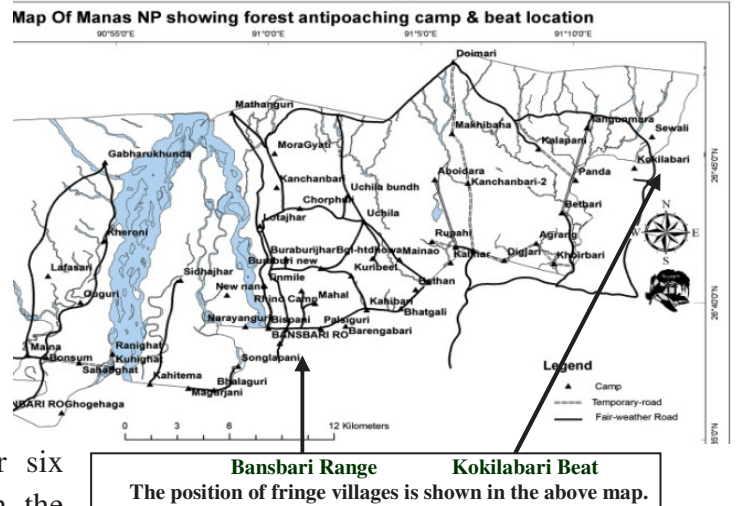
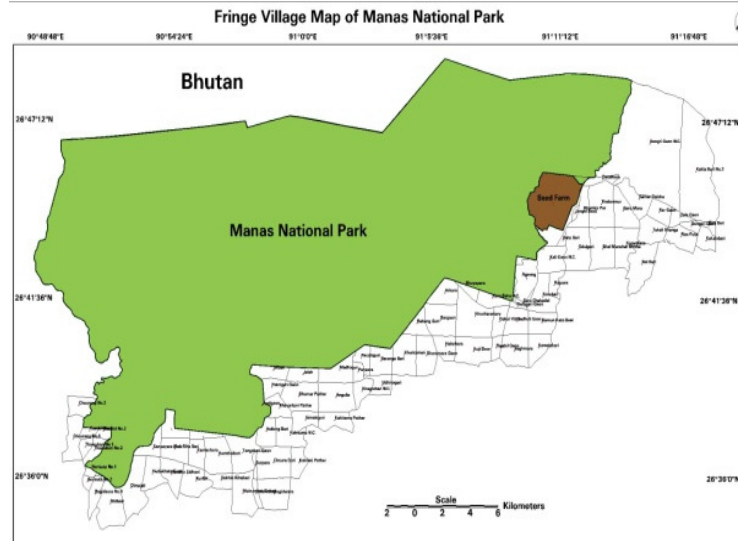


Mother and calf Rhino can be seen coming close to the fence behind this Camp.

¹⁰ Bansbari – 33 Camps, Bhuyanpara – 20 Camps and Panbari – 15 Camps.

5.4.6.2 Accessibility

It was observed¹¹ that the villages in and around the park had been a breeding ground of poachers and anti-social elements. A number of poachers had been arrested from these villages from time to time. Thus, it was important and urgent that the illegal settlement inside the park was relocated immediately so as to ensure protection of the Rhinos available in the park. During interaction with the Wildlife Officers/guards it was ascertained that a substantial portion¹² of the boundary from Bansbari to Kokilabari beat does not have any periphery road which forces the Wildlife guards to enter six



portions of the park through the villages as shown in the map along side. This not only was time consuming but also took away the element of surprise during anti-poaching operations. During interaction with the Wildlife Officers and guards it was ascertained that of the 61 villages, Daurabari, Gotibari, Kanthalguri villages were known for sheltering poachers. It was observed that the park authorities had put up a proposal for construction of the periphery road with an estimated expenditure of ₹ 14 crore for the first time in 2015 only. However, the proposal was yet to be considered by the Government.

5.4.7 Habitat Management

Habitat management is one of the most vital elements of conservation of wildlife as the constant maintenance of the grassland, water-bodies are extremely important for the animals. In absence of a long term plan, the park authorities are yet to chalk out a long-term plan to be executed through the APOs.

¹¹ Report of the Director, Evaluation and Monitoring Division, Planning and Development Department, Government of Assam.

¹² Bhuyanpara to Kokilabari.

Consequently, the management of habitats continued to suffer adversely as discussed below.

5.4.7.1 Management of grassland

Physical verification and interaction with the wildlife Officers/guards revealed that the cover of grassland was diminishing day by day. The major reasons, *inter-alia*, were rapid increase in the numbers of *simul* trees and attack from invasive species of weed like *Lia Crispa* and *Empoterium*. It was observed that the park authorities were yet to carry out a study on the damage already caused by the simul trees and invasive species and to suggest means to retrieve the situation and making the habit congenial to wildlife conservation. Besides, due to lack of funds, no works relating to maintenance of habitat like clearance of simul trees/unwanted weeds could be carried out on a concerted basis.



Lia Crispa- an unwanted weed which multiples through the ground requiring major excavation effort to uproot them. Snap at the left is on *Lia-Crispa* invading grassland and on the right is the Assistant Conservator of Forests, in-charge Bansbari Range explaining the Audit Team how *Lia Crispa* expands base under the ground. The snap at the centre is on *Empoterium* invading grass fields which were best habitat for Bengal Florican.

5.4.7.2 Management of water holes

Another important aspect of the habitat management is maintenance of water bodies. The water bodies get filled up during the monsoon but almost all become dry during the other parts of the year. The volume of water in the rivers flowing through the park also depends on the water draining from the hills of Bhutan.



Rivers flowing through Manas - dried up during summer

During interaction with the Assistant Conservator of Forests, Bansbari Range it was learnt that in Bandhavgarh (Madhya Pradesh) and Rajaji National Park (Uttarakhand) constant flow of water in the water bodies inside the parks is ensured by laying underground pipes. Since Mothonguri has a permanent water

source and storage, constant supply of water in the water holes can be ensured if similar mechanism can be adopted in Manas NP as well. However, it was seen that neither did the plan of operations envisage any activity in this account nor was there any funds allocated.

5.4.8 Encroachment within park area

In the year 1995-96 an area of 1,550 hectare had been encroached under the Panbari Range. Audit scrutiny revealed that in 2006 about 520 families were residing in the encroached land. The encroachment had been increasing rapidly and 912 families were residing inside the park area in 2007-08 having population of 4,525. Further, other areas such as - Dihira funda¹³ and Betbari¹⁴ under Bhuyanpara Range were under encroachment for the past 20 years. However, the area could not be freed from the encroachers while the habitat continues to suffer adversely due to human settlement inside the NP.

As the first step to relocate the villages, the National Tiger Conservation Authority of the GoI, had sanctioned and released ₹ 6.46 crore during 2008-09 for relocation of the village under Panbari Range. The fund was placed at the disposal of the Deputy Commissioner, Chirang. It was, however, noticed that the park authorities had not been successful in relocating the village as the villagers were reluctant to vacate the land despite the offer of compensation of ₹ 10 lakh per family. Reasons for the reluctance of the villagers to accept the compensation was not on records.

Due to failure of the civil administration as well as the park authorities to relocate the village, the GoI withdrew the entire amount and directed the park authorities to utilize the funds against the APOs of 2012-13 (₹ 2.73 crore) and 2013-14 (₹ 3.73 crore). Thus, despite allocation of funds by the GoI, the

As per the 'threats classification list' of IUCN (International Union for Conservation of Nature)- housing inside the wildlife areas is listed as the first item under list of the threat types. Discussion with Wildlife Officers revealed that if such housing inside the wildlife area continues, the IUCN may reconsider withdrawal of 'in danger' tag and reinstate it again.

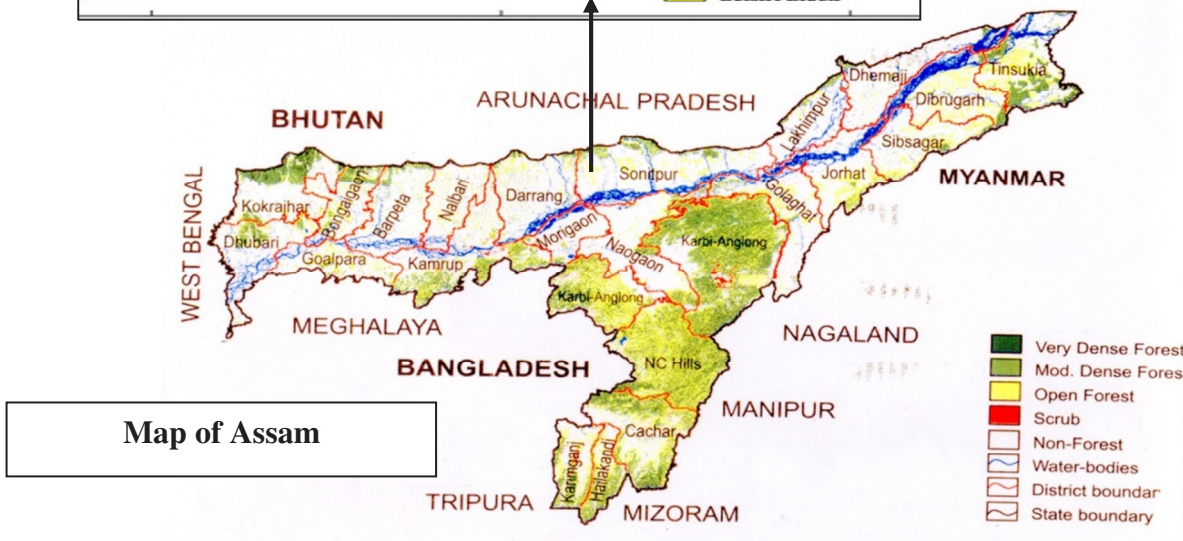
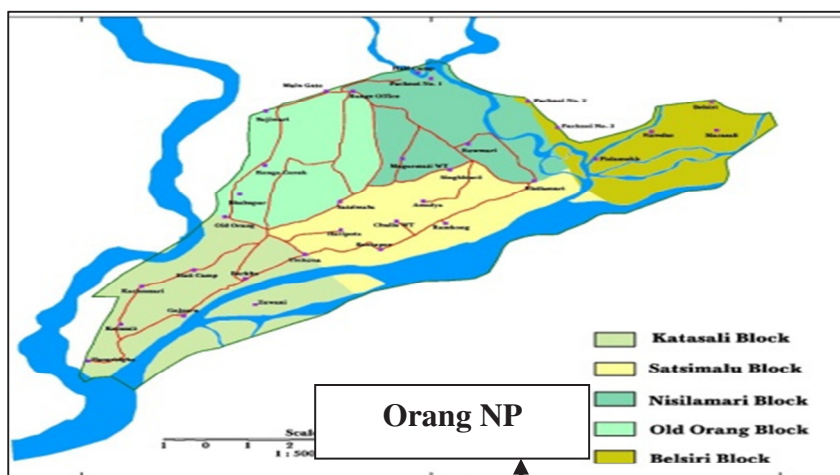
territory of the park could not be made free of the encroachers. Neither the park authorities nor the Department/GOA/GOI made any attempt during last 7-8 years in relocating the villages after the first attempt failed in 2008-09. During interaction with the Wildlife Officers/guards it was ascertained that no further initiative was shown from the State Government level for relocation of the villages. Consequently, the villagers continued to occupy the land inside the protected area otherwise earmarked for conservation of wildlife.

¹³ N 26°74994' and E 091°16386'

¹⁴ N 26°72932' and E 091°15873'

It was further observed that interest of ₹ 79.71 lakh (as of February 2014) had accrued in the bank account in which ₹ 6.46 crore allocated by the GoI was deposited. However, neither the GoI nor the State Government/park authorities were aware of this fact till the district administration sought approval of the State Government to divert the money for other purposes. Till date of field visit (July 2015) the amount is still with the district administration despite the fact that the park authorities were facing acute financial crunch.

Orang National Park



5.4.9 Infrastructure facilities

5.4.9.1 There are 40 anti-poaching camps in Orang NP. During physical verification of the camps and interaction with the park authorities it was ascertained that 10 of the 40 camps were in proper condition, 20 camps needed repair while the remaining 10 camps are in dilapidated condition. Despite the fact that most of the camps needed major repair, it was observed that only ₹ 3 lakh had been allocated

during 2011-12 for repairing of 25 camps which was a meager amount when seen against the level of repairing required in these camps. However, the park authorities had constructed 10 sentry posts and a watch tower during 2013-14 which have provided better amenities to the wildlife guards on duty and are still in good condition as may be seen from the photographs below.



Sentry Post No. 1 on the boundary (total 10 posts built) and Watch Tower (height 50 feet) at Rangagorah Camp

5.4.9.2 Power fencing



The park authorities had erected solar powered fencing¹⁵ at two locations for 2 km and 3.5 km during 2009-10 and 2013-14 respectively. During interaction with the park authorities, it was

Good initiative

ascertained that fencing was working absolutely well and was effective in preventing entry of cattle from nearby villages and straying of

animals. These had multi-pronged benefits as the limited grassland could be preserved from cattle grazing while preventing animals from straying, thus saving them from poaching besides reducing cases of man-animal conflict. However, due to dearth of funds, extension of the fencing for another four km involving ₹ 20 lakh which was essential and planned for protection of the wildlife and reducing man-animal conflict could not be carried out.

5.4.9.3 Accessibility

River Pachnoi runs through the eastern part of the Orang National Park. During interaction with the Wildlife Officers it was ascertained that there was a requirement of a bridge over Pachnoi river due to which no road connectivity could be established towards the eastern part of the NP thus hampering regular patrolling. In absence of a road network, no patrolling could be carried out in the eastern part of

¹⁵ Electrified fencing run by solar power.

the NP. The guards posted at the anti-poaching camps only perform duty upto the extent possible on foot.

5.4.10 Habitat management

Similar to other NPs and WSs of the State, skewed funding had taken a toll on the habitat management in this park as well. During verification of records and interaction with wildlife officers it was ascertained that there were various problems. Desiltation of the water bodies could not be done sufficiently as funds were allocated for desiltation of only two water bodies during the last five years. This resulted in severe scarcity of drinking water for animals during the dry season. This forced the animals to stray towards the outer periphery of the park having rivulets thus exposing them to poachers. Moreover, the park authorities were facing strong challenge from profuse growth of invasive weeds like *Mimosa*, *Lantana camara* and also invasion of grassland by simalu trees.



From Top: Profuse growth of Mimosa and Simul trees damaging grassland

However, due to financial constraints, the physical habitat continues to deteriorate. It was further observed that the APOs were revised to match the funds allocated. As such the requirement of funds for habitat management projected in the original APOs was not ascertainable either by the park authorities or by Audit.

The Conservator of Forests, Orang National Park in his reply (October 2015) accepted the fact that de-siltation of adequate number of water bodies could not be taken up for the last several years due to paucity of funds and that invasive weeds had been damaging grassland of the NP.

5.4.11 Other issues

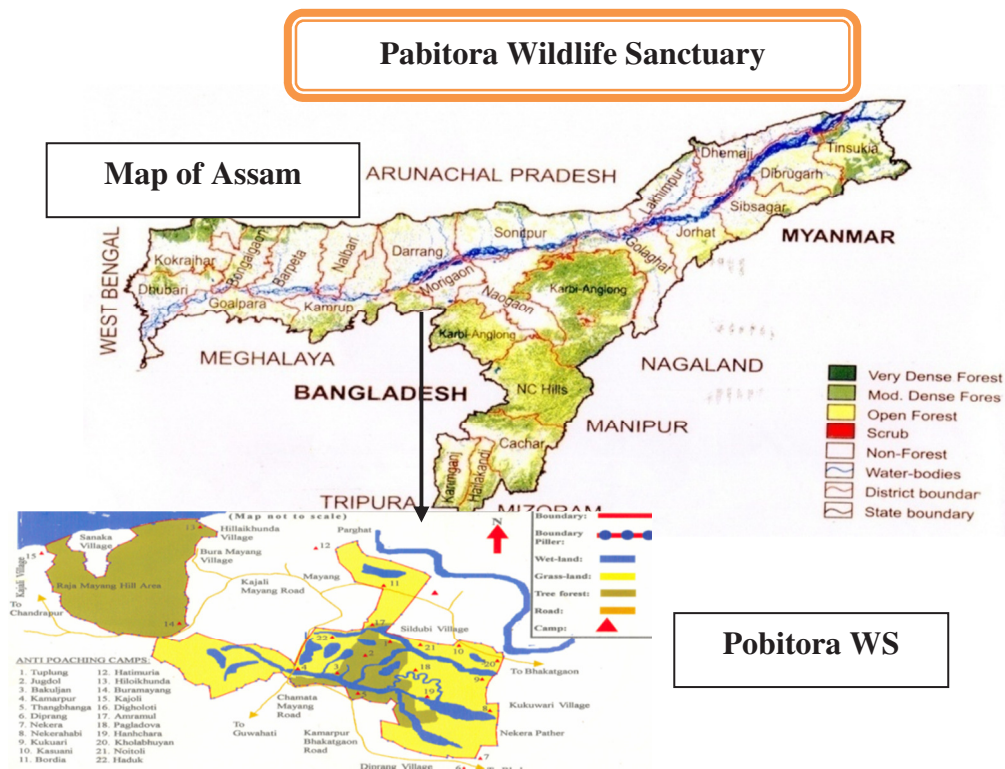
Audit observed that -

- The wildlife guards posted at the anti-poaching camps were entitled to a monthly ration allowance of ₹ 500 per personnel. During verification of records and interaction with the wildlife guards, it was observed that the Government did not allocate funds for ration allowance during the entire year 2014-15. Consequently, the Division could not provide ration allowance to the wildlife guards in the anti-

poaching camps. This was significant as the wildlife guards consist of fixed pay workers, casual labourers and home guards who did not even get monthly wages for months together due to delay in allotment of funds. Apathy of the Government in providing timely funds for minimum support like wages and ration would obviously be detrimental to the morale of the wildlife guards pressed into anti-poaching duties round the clock.

- There were delays of upto 11 months in payment of wages of the home guards;
- Funds for elephant feed and upkeep were allocated without any norm. Despite the manifold increase in the cost of food items over last 5-6 years, the allocation had remained same. It was observed that no funds were allocated for elephant feed since September 2013 till date of Audit (July 2015). On being asked how the 38 departmental elephants were being fed without any funds for the last 23 months, the Wildlife Officers stated that the elephants were tied near the anti-poaching camps to help themselves to grass/other vegetation as available. This denied the departmental elephants the required source of protein, fibre¹⁶ which are required for their upkeep and good health. It was further observed that in the wake of immense poaching pressure, the mal-nourished and starving elephants were still pressed for day to day protection and other duties.

The Conservator of Forests, Orang NP accepted the audit observations regarding lack of funds hampering payments of wages, allowances to the wildlife guards and elephant upkeep.



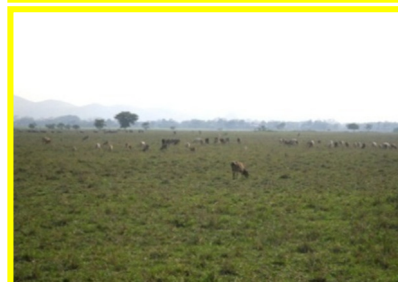
¹⁶ As per norm, the departmental elephants are fed with grams, wheat, salt and plantain.

5.4.12 Habitat Management

5.4.12.1 Cattle grazing

As the Pobitora WS is established on a land which was a perennial grazing reserve, large stock of cattle still graze inside the WS. Besides, the boundary also touches a public road on the eastern side. In order to prevent cattle grazing as well as human interference, power fencing was installed at strategic location for an amount of Rs. 45 lakh¹⁷. Both the works have since been completed and made operational during 2010-11 with the help of solar powered batteries.

During physical verification, it was noticed that there was no wire along the posts and no fencing existed in the entire stretch of 18 km and resultantly a huge number of cattle grazed within the Sanctuary area regularly. On being pointed out, the wildlife officer stated that the fencing materials had possibly been stolen by miscreants. Interaction with the wildlife guards revealed that at least 4,000 to 5,000 cattle grazed everyday inside the sanctuary. The guard also noted that such uncontrolled grazing by cattle inside the sanctuary undoubtedly results in pressure on the grassland which was otherwise limited for the increasing population of the Rhinos, buffalos and other herbivores housed in the WS. The lack of wiring indicated that enough attention was not being paid towards maintenance and replenishment activity relating to protection of the WS by the Department.



Cattle grazing inside Pabitora WS due to breach of power fencing

5.4.13 Other issues

Audit had carried out physical verification in six out of 22 camps and interacted with the staff posted in these camps wherein it was found that non/delayed allotment of funds also had adverse impact on the morale of the staff as discussed in the following paragraphs.

- There were huge delays in payment of wages of the casual labourers. Interaction with wildlife officers



Glimpse of malnourished elephants of Pabitora WS

¹⁷ ₹ 15 lakh during 2008-09 (8 Km stretch) and ₹ 30 lakh during 2009-10 (10 Km stretch).

revealed that there was a delay of minimum three months which had come down from the usual delay of five months.

- Absence of norms for elephant feed had been discussed under Orang NP. Similar observation on lack of funds for elephant feed and upkeep were noticed in Pabitora WS as well. This had adversely affected regular supply of feed, medicines etc for the elephants. Even basic items like chains, buckets for feeding were not available.

Interaction revealed that due to non-payment of dues against surgery of an elephant for considerable time, the Veterinary Surgeon threatened the mahut of recovering the dues from him, in cash.

It was observed that despite failure to ensure regular feed and other minimum requirements, the elephants were still put to overnight protection duties everyday; even the five year old elephant ‘Biswajit’ was forced into service. Besides, these animals also carried tourists in the morning during the tourism season.

The delay and dearth of funds had negative impact on the habitat management as well. Desiltation of the water bodies could not be done in any of the last five years covered by Audit causing severe scarcity of drinking water for animals during the dry season. Moreover, the grassland was shrinking rapidly due to increase in the numbers of wild buffalos and also annual floods which inundated the WS.

Nameri Tiger Reserve



5.4.14 Habitat Management

5.4.14.1 The main habitat types available within the core area of NTR are evergreen and semi evergreen forests, riverine grassland and wetland. A comparison of different land cover types and their pattern since inception revealed that in 1973 the extent of grassland in

Class	1973	1994	2011
	(In sq km)		
Water	16.5	11.2	10.5
Dense forest	55.1	81.37	131.11
Open forest	93.71	79.63	31.64
Grassland	29.93	21.20	16.36
River bed	17.48	19.32	24.24
Total	212.72	212.72	213.85

Nameri was nearly 30 sq km although the legal status of the area was that of reserve forest. Consequent to the formation of Nameri Wildlife Sanctuary and further elevation of its status to that of a NP, the decline of grassland continued and in 2011 the recorded area was only 16.4 sq km. The details are in the table in the inset.

5.4.14.2 Invasion of riverine grasslands by weeds

It was observed that atleast two species mainly *Chromolaena odoratum* and *Mikania micrantha* were found in most of the riverine grassland patches. These species have been included amongst world's 100 worst invasive alien species by Invasive Species Specialist Group of the International Union for Conservation of Nature.

Chromolaena Odorata - also known as Siam weed is a fast growing perennial shrub native to South America and Central America. It has attained the status of weed in the tropical regions of Asia, Africa and the Pacific where it was introduced in the past. ***Mikania micrantha*** - also known as American rope, Chinese creeper is weed affecting grassland as well as forests. The climber grows very vigorously and kills other plants by cutting light and smothering them. Owing to its preference for fertile soils with high organic matter, soil moisture and high humidity area, Mikania is fast spreading in NTR. Though a native of Central and South America, this species was introduced to India after Second World War to camouflage airfield.

5.4.14.3 Decline in grassland area

In NTR, the grassland exist in small patches of varying mainly confined to the riverine area and chapories. A comparison of satellite imageries gathered by the NTR authorities would show that while the areas under dense forest class has increased between 1973 to 2011, the area of grassland and open forest has showed a gradual decline. As much as 40 – 50 *per cent* grassland that existed in 1973 have more or less disappeared by 2011.

The decrease in grassland over the years was mainly attributable to taking over of grassland by uncontrolled invasive weeds and muptiying simul trees. Despite the declaration as WS and then as Tiger Reserve, allocation of funds by the Department to NTR remained a constant challenge as evident from the overall shortfall of

80 *per cent* between funds planned and allocated as pointed out in paragraph 5.4.6.1. The apathy of the Department in allocating funds for the NTR had hindered habitat management and consequent decrease in the grassland area which had direct bearing for obligate grassland herbivores like hog deer whose existence depended on these grassland.

5.4.14.4 Other issues

Audit had carried out physical verification in four out of 20 camps and interacted with the staff posted in these camps. Some of the issues emerging from the discussion are discussed below.

- In some camps, the ring well provided water only during the monsoon season forcing the staff to drink river water during dry season. Due to paucity of funds, fresh wells could not be dug.
- There was no rain coat issued to the staff conducting duty during monsoon. In some camps having four staff members there were only two umbrellas. Leech socks which were extremely required for carrying out duty during the monsoons were not available. The surface being rocky, atleast three pairs of shoes were essential, whereas the staff members get only one pair of shoes.
- None of the regular staff at the anti-poaching camps got ration allowances from April 2013 to May 2014. Last ration money was disbursed in March 2013. Further, casual labourers/fixed pay staff were not entitled to ration allowances. Under the circumstances, the wildlife guards were pooling funds on their own to arrange for the ration at the anti-poaching camps.

Lack of infrastructure, logistics and financial support has adverse impact on the morale of the staff members posted at the anti-poaching camps thereby hindering the protection mechanism.

5.4.15 Conclusion

National Parks and Wildlife Sanctuaries are extremely important for conservation of biodiversity, and for ensuring the survival of floral and faunal components, not only for the present but also for future. For sustainable conservation of habitats and protection of wildlife housed in the NPs/WS, it was a pre-requisite that the State Government supported the wildlife managers with the required funds to meet the planned maintenance activities. The audit analysis of planning and financing of the NPs/WS selected for test check revealed that though the Wildlife Institute of India prescribed that long term management plans should be prepared and annual plans of operations should flow from the same, none of the wildlife areas selected for Audit had a current and approved management plan. Thus, the wildlife managers did not have any guiding long term plan which would serve as the reference for chalking

out the annual plans of operations. Further there was no semblance between the fund requirement projected in the plans and allocation of funds, either by the Government of India or by the State Government. Apathy on the part of the Department to install a mechanism for monitoring the allotment of funds as per the demands of the wildlife areas resulted in tremendous financial crunch, unnecessary holding/curtailment of GoI funds by the State Government, delayed release of funds forcing the wildlife managers to cut short their annual plans hampering important functions like habitat management, intelligence gathering, protection measures to count a few. The financial mis-management by the State Government has created a difficult situation among the wildlife managers as they were finding it increasingly difficult to manage the day to day activities of the NPs/WS. Further, the challenges were multiplied due to the increasing human population around the protected areas, encroachment within the park area and constant threat of the poachers which required round the clock surveillance.

5.4.16 Revenue mobilization efforts

The shortage of funds hindered effective management of wildlife areas. Therefore there was a need for initiating revenue mobilization efforts by the Department/Wildlife managers. To overcome the perpetual shortage of funds, the following options could be explored for augmenting the flow of funds in the wildlife areas of the State, which the Government may consider -

- Allowing the WSs to plough back the revenue generated through miscellaneous activities such as entry fees and other measures like sale of minor forest produce wherever permissible into a fund to be spent to support the management and conservation of wildlife on the lines of Tiger Conservation Foundation in force in Tiger Reserves across the Country.
- Raising specific revenues for the wildlife areas through voluntary measures such as those taken up by Kanha National Park or through earmarked duties such as forest development tax or through sale of merchandise.
- Bringing in Public Private Partnership models of having fencing around the wildlife areas and also utilise the schemes being rolled out by the GoI in giving subsidy for erecting solar powered fencing and digging trenches¹⁸ along the periphery of the wildlife areas. This will also avoid man-animal conflict.

Good practices in other States

States like Maharashtra/Karnataka had introduced sale of merchandise for raising funds for Wildlife management.

Karnataka had introduced specific levies for generating additional revenues for Wildlife and also PPP models of having fencing around the wildlife areas.

¹⁸ The MoEF, GoI had initiated a programme of giving 50 per cent subsidy to villagers for solar powered fencing and for digging cattle-proof trenches along the periphery so as to secure the boundaries of the wildlife areas as well as preventing the wild animals from straying outside the protected areas.

- Reviewing the entry fees frequently for upward revision for additional revenue generation.

5.4.17 Summary of Recommendations

The Department may consider implementing the following recommendations.

1. *Management plan in respect of Manas NP needs to be prepared at the earliest.*
2. *The APOs should be prepared maintaining synergy with the items of works envisaged in the management plan/tiger conservation plan.*
3. *The Department/Directorate may ensure that funds matching the amounts proposed in the consolidated APOs are made available with the wildlife managers.*
4. *Funds may be allocated at the beginning of the year as suggested by the High Power Committee and best practices in other States like quarterly preparation of APOs/allocation of funds may be considered for implementation.*

Compliance Audit observations

5.5 Minimum royalty of ₹ 7.67 crore on unauthorised extraction of minerals by a contractor under National Highway Authority of India not recovered

[*Divisional Forest Officer (DFO), Kamrup (North) Division, Rangia*]

As per the laws governing issuance of permits by the E&F Department for extraction of minor minerals like stone/boulders/sand/earth etc effective from September 2009, the user Departments are required to intimate the names of the contractors working under them to the concerned Forest Division with the request for issuance of permits on payment of royalty. Upon submission of the bills by the contractors, the user Departments shall inform the concerned forest division about the volume of minor minerals billed for with the request to confirm the volume lifted as per the records of the Division. In case of any difference between the volume lifted and billed for, the forest Division shall levy monopoly fee upto 200 per cent which shall be collected by the user Department and remitted in the appropriate head of accounts of the E&F Department.

During verification of records pertaining to extraction of minor minerals by contractors under National Highway Authority of India (NHAI) in the above Office in March 2014, it was observed that the E&F Department of Government of Assam allowed (April 2006) M/s Punj Lloyd Ltd to extract required quantity of sand, earth and silt from the available sources under the jurisdiction of DFO, Kamrup (North)

Division for all the contract work for package¹⁹ AS – 04 and 05 of East West Corridor Project for four laning works. Scrutiny of the permit register maintained in the Office of the DFO indicated that as of March 2014, the contractor had lifted 5,000 cum sand on payment of royalty for utilization in AS – 5 package. Cross verification of the same with the records of the NHAI, Guwahati Regional Office revealed that as of 31 October 2013, M/s Punj Lloyd Ltd had consumed 11 lakh cum of sand. Neither did the NHAI authorities share the information with the concerned forest Division nor was any action taken by the DFO, Kamrup (North) Division to obtain the figures from the NHAI. Consequently, excess extraction of 10.95 lakh cum of sand by the contractor without payment of royalty remained undetected resulting in non-realisation of minimum royalty of ₹ 7.67 crore²⁰.

The case was reported to the Department/Government in June 2015; their replies have not been received (November 2015).

5.6 Demand notice for recovery of royalty of ₹ 12.05 lakh for unauthorised extraction of stone/boulders was not raised; besides, penalty of ₹ 48.20 lakh was additionally leviable

[Divisional Forest Officer, North Kamrup (NK) Division, Rangia; October – November 2013]

As per the system prevailing in the Environment and Forest (E&F) Department, minor minerals like sand, stone, boulders etc can be extracted by any individual from the designated areas on payment of full royalty in advance and on obtaining a permit from the concerned Forest Division. Rule 46 of the Assam Minor Minerals Concession Rules, 1994 prescribes for levy of penalty of upto four times the royalty in case of unauthorised extraction of minerals from any area without permit granted by the Forest Divisions of the E&F Department.

During test check of records in the above Office it was observed that as per the instruction of DFO, NK Division the Beat Officer, Deoduar Beat carried out physical verification of the crusher site of a contractor²¹ on 26 December 2012 and found 9,266.70 cum of boulders/stone dust. The Beat Officer issued a notice to the contractor on 27 December 2012 directing the latter to submit (within three days) relevant documents in support of the materials found during the physical inspection. It was also stated in the notice that in case of failure to produce the documents, legal action would be initiated as per law in force. Neither did the contractor submit any document nor was any action initiated against the contractor by the Beat Officer. The case was also left unattended in the Divisional Office till the date of Audit

¹⁹ Reference to the chainage of the road project.

²⁰ Considering minimum royalty of sand applicable between 2005 and 2009, i.e. ₹ 70/cum.

²¹ Project Manager, M/s DRA – BLA – BCL (IV).

(October – November 2013). On failure to submit the documents relating to the minor minerals, demand notice for payment of royalty aggregating ₹ 12.05 lakh should have been issued which was not done. Besides, penalty of ₹ 48.20 lakh was additionally leviable for illegal extraction of minerals.

The case was reported to the Department/Government in December 2013 and followed up in June 2015; their replies have not been received (November 2015).

5.7 Short realisation of revenue of ₹ 17.34 lakh due to application of lower rates of royalty while issuing permits

[Divisional Forest Officer (DFO), Kachugaon Forest Division, Gossaigaon; September 2013 and September 2014]

The Government of Assam, Environment and Forest Department in its notification²² dated 1 September 2009 had revised the rate of royalty in respect of various forest produces viz., sand, stone/gravel at the rate of ₹ 90 and ₹ 130 per cum respectively with effect from the date of notification. There is no clause in the conditions of permit requiring the permit holder to pay the balance amount in case of any upward revision of royalty by the Government.

During test check of records in the above Division it was observed that the revised rates were intimated (October 2009) to the Forest Divisions by the Council Head of Forests, Bodoland Territorial Council, Kokrajhar with the request to implement the same from the date as notified by the State Government. It was, however, noticed that while issuing permits for extraction of 83,151.84 cum of minerals²³ between September 2009 and July 2014 royalty at lower rates was levied instead of the rates notified by the State Government effective from 1 September 2009. This resulted in short realisation of revenue of ₹ 17.34 lakh. Value added tax at prevalent rates was also leviable on the differential royalty.

After this was pointed out, the DFO stated during the exit conference that the short realization was due to non-receipt/delay in receipt of Government notification of September 2009. The reply was silent regarding action taken/proposed to be taken to recover the balance amount.

The case was reported to the Department/Government in October 2013 and October 2014 and followed up in June 2015; their replies have not been received (November 2015).

²² Notification No. FRS.1/2004/Pt/47 dated 1 September 2009.

²³ 5,111 cum sand and 78,040.84 cum boulders/sand gravel etc.

5.8 Procurement of battery operated vehicles without carrying out feasibility study and not backing it up with a maintenance contract led to idling of the vehicles and expenditure of ₹ 11.96 lakh becoming unfruitful

[Divisional Forest Officer (DFO), Assam State Zoo, Guwahati; May 2014]

During test check of the records in the above Office, it was observed that drawing inspiration from the use of battery operated vehicles in Mysore Zoo, the DFO of the Assam State Zoo procured (April 2009) two battery operated vehicles from a Bengaluru based firm²⁴ at an expenditure of ₹ 11.96 lakh (@ ₹ 5.98 lakh per vehicle). The vehicles were delivered in April 2009. The vehicles were intended to be used in carrying physically challenged; elder citizens etc. visiting the State Zoo in Guwahati.

However, both the vehicles started giving problems immediately after the procurement and the DFO took up (February 2010) the matter with the manufacturer for repairing the vehicles. The technicians attending the broken down vehicles observed that the battery chargers were not working and opined that the same needed to be sent to Bengaluru for repairing. The DFO accordingly sent (March 2010) the battery chargers to the manufacturer. However, despite replacement of the chargers the vehicles did not become operational and the DFO had to spend further ₹ 1.78 lakh to bring the vehicles back to running condition. After running for a while the vehicles again broke down. Thereafter, the vehicles mostly remained inoperative till the date of Audit. It was further noticed that the manufacturer offered (November 2010) annual maintenance contract at ₹ 25,000 per vehicle but the same was not processed by the Division for acceptance. Audit scrutiny of the procurement of the vehicles and subsequent correspondences revealed the following:

- The Division did not carry out any feasibility study before proceeding to procure the vehicles;
- Though battery operated vehicles were being introduced for the first time in Guwahati Zoo coupled with the fact that the procurement was being made without a feasibility study, the Division went ahead to procure two vehicles at a time involving substantial government money;
- There was no service back up of the manufacturer in Guwahati and for any repairing the manufacturer at Bengaluru had to be contacted;

²⁴ M/s Maini Materials Movement Pvt Ltd.

- Despite proposal of the manufacturer for annual maintenance contract @ ₹ 25,000 per vehicle in November 2010, the Division did not take action to obtain the same;
- The Division neither took up the matter with the manufacturer nor did they analyse, in-house, the reasons as to why the vehicles were repeatedly breaking down even though the same were running successfully in Mysore Zoo as evidenced by the DFO.

Thus, though the battery operated vehicles were procured with an innovative idea to attract visitors to the Assam State Zoo, yet due to the above deficiencies, the objective of the procurement was defeated and resulted in expenditure of ₹ 11.96 lakh becoming unfruitful.

After this was pointed out, the DFO stated (August 2015) that feasibility study was not carried out as such vehicles were successfully plying in other zoos across the country. The DFO however, agreed that the same vehicle could not run in Guwahati because of the hilly terrain.

The case was reported to the Department and the Government in January 2015 and followed up in June 2015; their replies had not been received (November 2015).

5.9 Irregular acceptance of plea of the *mahaldar* coupled with failure to put the *mahal* on risk sale resulted in loss of revenue of ₹ 11.38 lakh

[*Divisional Forest Officer (DFO), Kamrup East Division, Guwahati; March 2012*]

Accumulation and depletion of sand/stone in the riverine *mahal*²⁵ due to river current is a constant process and failure to extract these minerals within the stipulated time frame results in these washing away, leading to loss of revenue. Clause 7 of the Sale Notice prescribed under the Assam Sale of Forest Produce and *Mahal* Rules, 1977 (ASFPMP) provided that the tenderers should fully satisfy themselves about the availability of the *mahal* materials before quoting their bids and no complaint whatsoever is to be entertained later on. Further, the terms and conditions of the agreement form *inter alia* stipulate the periodicity of extraction, quantity of forest material, total amount to be paid and the dates of payment of instalments, security deposits etc. As per Clause 5 of the agreement form, failure to pay any instalment(s) on time would result in the *mahal* being sold at the risk of the *mahaldar* and loss suffered by the Government, if any, would be recovered from the

²⁵ A well defined area from where certain types of forest produce are sold.

mahaldar. There is no provision for reduction of quantity of forest produce once the operation of the *mahal* commences.


During test check of records in the above Division, it was observed that the Digaru Sand *Mahal* No. 2 (A) was settled (January 2008) for two years with a *mahaldar*²⁶ for extraction of 10,000 cum sand at an agreed price of ₹ 16.55 lakh payable in eight equal instalments starting from 25 January 2008. As per the terms of the agreement entered into between the Department and the *mahaldar*, the latter deposited security deposit of ₹ 1.03 lakh and first instalment of ₹ 2.07 lakh by the due dates and work order was issued by the DFO on 11 March 2008. As the *mahaldar* failed to pay the second instalment due on 21 April 2008, a reminder was issued by the DFO. The *mahaldar* requested for re-scheduling the installment dates from the date of handing over of the *mahal* which was agreed to by the DFO and the payment schedule was accordingly revised. The *mahaldar* however, failed to pay the second installment on the rescheduled date and consequently the *mahal* was put (28 July 2008) to risk sale as per Clause 5 of the agreement. Subsequently, the *mahaldar* deposited the second instalment of ₹ 2.07 lakh on 6 August 2008 and the risk sale tender was withdrawn by the DFO on the same date. Thereafter, the *mahaldar* submitted (January 2009) a plea to the Department of Environment and Forests, Government of Assam for reduction in extraction of *mahal* materials due to non-availability of sand which was admitted by the Department despite clear provisions (clause 7 of the AFSPMR²⁷) against it. On being requested (February 2009) by the Department to furnish a Report, the Chief Conservator of Forests (Territorial) opined (September 2009) against reduction of quantity of the *mahal* and stated that the *mahal* may be put on fresh sale. In the meantime the period of *mahal* ended in January 2010. However, till the date of Audit no decision was taken by the Department on the matter. As per the provisions governing *mahal* operations, on failure to pay the instalment on the due dates the *mahal* should have been put to risk sale and the loss accrued should have been recovered from the original *mahaldar*. Thus, irregular acceptance of the plea of the *mahaldar* in violation of the contractual provisions led to loss of revenue of ₹ 11.38 lakh²⁸ as against the original settlement value of ₹ 16.55 lakh payable by the *mahaldar*. The Department also lost the opportunity to recover the loss by failing to put the *mahal* on risk sale.

²⁶ Shri Ratan Boro.

²⁷ Which absolved the Department of any responsibility in case of any complain on shortage of *mahal* materials after commencement of the working period.

²⁸ Original settlement ₹ 16.55 lakh minus ₹ 2.07 lakh (1st instalment), ₹ 2.07 lakh (2nd instalment) and ₹ 1.03 lakh (Security deposit).

The case was reported to the Department/Government in April 2012 and followed up in June 2015; their replies have not been received (November 2015).



(C H KHARSHIING)
Accountant General (Audit),
Assam

Guwahati

Dated :

Countersigned



(SHASHI KANT SHARMA)
Comptroller and Auditor General of India

New Delhi

Dated :



Appendix – I
(Reference paragraph 1.7.3)

Action taken by the Transport Department on the recommendations suggested through Audit Paragraphs incorporated in last five years' Audit Reports

Year of Audit Report	Name of the performance audit	Recommendations	Action taken by the Department/ Government
2010-11	Computerisation in the Transport Department	The Government may consider taking appropriate steps for early implementation of both the software in all the DTOs through a dedicated action plans so that the desired results can be delivered.	The core functions of <i>Vahan</i> and <i>Sarathi</i> are implemented in all the districts of Assam, except Kamrup (Rural) where the implementation of the projects is in process and in Chirang & Kokrajhar the implementation of <i>Vahan</i> and <i>Sarathi</i> have been stopped after commissioning due to administrative issues.
		The Department may formulate a well defined IT strategy/policy for effective and efficient implementation of the project.	The Department is contemplating to formulate a well defined IT strategy/policy for effective and efficient implementation of the projects and is taking up the matter with the NIC, Assam. Regarding failure to document the project {such as handing over of SRS and SDD prepared by system developer (NIC) to the department}, it is to be mentioned that all documents pertaining to the above project are maintained and kept in the Head Quarter office of the NIC, New Delhi and are still not available with the Department.
		The Department may formulate a specific target date for entering backlog data into the software and the work can be monitored properly to ensure timely completion.	The matter is under consideration.
		The Department may ensure that validation controls are built into the system to avoid entry of unauthorised and inconsistent data. The Department may investigate cases of duplicate registration, chassis, engine and insurance cover notes noticed in audit.	Validation controls are there in the Software.
		The registration numbers other than fancy/choice numbers should be generated automatically by the systems so that no number is left unused.	The option is now there in <i>Vahan</i> Software.
		The Government may ensure mapping and incorporating proper values in the columns/tables for inter-operability of the tables and automated calculations of correct rates of tax.	Tax rates are calculated automatically.
		The Department may consider ensuring the safety and security of data and restricting access only to the authorized persons.	Access to the <i>Vahan</i> and <i>Sarathi</i> is authorized by the user name and password. In some cases it checks the IP also to avoid unauthorized access.
		The Department may draw up an IT security policy with a credible threat assessment mechanism, disaster recovery and business continuity plan to derive optimum output from the system.	The Department is contemplating to draw up an IT security policy with a credible threat assessment mechanism, disaster recovery and business continuity plan to derive optimum output from the system and is taking up the matter with the NIC.
		Considering the importance of the data maintained in "VAHAN" and "SARATHI" training of staffs may be undertaken on priority with a strategy for eventual independent handling of all supporting functions of the project.	NIC is providing training on <i>Vahan</i> and <i>Sarathi</i> to the staff of Transport Department time to time.

Audit Report (Revenue Sector) for the year ended 31 March 2015

Year of Audit Report	Name of the performance audit	Recommendations	Action taken by the Department/ Government
		Steps may be initiated to ensure that the systems of the Commissionerate and the DTOs are interconnected on a real time basis through a specific action plan with timelines.	<i>Vahan/ Sarathi</i> i data of all replicated through VPNoBB to the National Register which can be accessed by the Commissioner's office. Process has already been started to convert the existing Client server-based <i>Vahan/ Sarathi</i> system at the DTOs to a centralised database. <i>Vahan</i> database of Kamrup had already been migrated to a centralised system.
		The Department may ensure that periodic internal audits are conducted and internal controls at various levels are strengthened.	The Department is contemplating to adopt an internal control mechanism to look into all aspects pertaining to detection the deficiencies and errors on the computerised system and to ensure that periodic internal audits are conducted and internal controls at various levels are strengthened.
2011-12	Overloading of Vehicles in violation of MV Act led to non-levy and non-realisation of fine.	The department may consider adopting more stringent measures like invoking of prevention of damage to public property Act as done in Bihar to eradicate the menace of overloading.	<p>A number of steps have been taken by the Department for strict enforcement of the provision of law to check overloading in the light of Hon'ble Supreme Court of India's judgment. As a part of implementing the judgment, several rounds of meeting were held with District Administration, Police Administration, DTO's as well as various Transport Associations/ Organisation on the issue of overloading of vehicles and urged for effective implementation of the judgement passed by the Hon'ble Supreme Court of India in letter and Spirit. Further, an appeal was made in prominent News papers in respect of overloading of goods vehicles wherein the truck owners/truck operators were asked not to violate the said Order of the Hon'ble Supreme Court of India. Further, in this connection, a number of instructions were issued to all District Transport Offices. In addition, all DC, SP and Commissioner of Police, Guwahati (City) have been requested to render all possible assistance to DTO's by providing manpower from their end. As a result of our efforts as many as 17,900 of MV offence cases have been detected <i>w.e.f</i> June 2015 to July 2015 of which 537 of overloaded cases have been detected and total imposition of fine (C.F) realised from the above MV cases is ` 1,89,62,044.</p> <p>As regards the implementation of the "Prevention of the Damage of Public Property Act 1984" is concerned, this Commissionerate has authorised enforcement officers to undertake a survey and collect report, materials of certain states such as Delhi, Punjab, Haryana, Chandigarh to prepare some modalities that has already been adopted in those states for effective implementation of the said Act in this State too. The Commissioner of Transport, Assam is also contemplating to move Government with a proposal for delegation of powers to the Transport Officers and codifying the same under "Prevention of Damage to Public Property Act 1984" as advised by Ministry of Road Transport and</p>

Year of Audit Report	Name of the performance audit	Recommendations	Action taken by the Department/ Government
			<p>Highways for complete eradication of menace of overloading of goods.</p> <p>Further, <i>i.e.</i> on 24.08.2015, the Commissioner of Transport, Assam vide letter no. CT.MV/150/2014/3152, has also directed all the DTOs including the i/c MV Check gates to register cases under the "Prevention of Damage to Public Property Act 1984" against the consignor/consignee and the owner of the vehicles carrying overload in addition to C.F, offloading of excess goods in compliance with the MV Act and Rules and the instructions issued in the Hon'ble Supreme Court's judgement.</p>

Appendix – II
(Reference paragraph 1.8)

Number of auditable and audited units

Sl. No.	Heads of revenue	Total number of auditable units	Total number of units due for audit during 2014-15	Units planned for audit during 2014-15	Units actually audited during 2014-15
1.	Taxes on Sales, trade etc	83	79	25	31
2.	Transport	52	48	10	12
3.	Stamp Duty & Registration	82	77	12	17
4.	State Excise	50	46	20	21
5.	Agricultural Income Tax	02	01	01	01
6.	Geology and Mining	01	01	--	--
7.	Forestry and Wildlife	89	82	24	31
Total		359	334	92	113

Appendix – III
(Reference paragraph - 3.9)

Name of SE	Type of licence	Number of licensees involved	Year	Licence fees involved (₹ in lakh)	Remarks	
SE, N Lakhimpur	Bonded warehouse and Wholesale	One (M/s R N BW)	2010-11 to 2013-14	15.50	Non-realisation	
	IMFL 'Off'	Four	Between 2011-12 and 2013-14	6.00		
SE, Karbi Anglong	Bottling, Compounding & blending, BW and wholesale and importing BW	One (M/s Sara Distillery)	2013-14	12.50		
	Bonded warehouse and Wholesale	One (M/s N K BW)	2013-14	3.50		
	IMFL 'On' and 'Off'	Two	2013-14	1.50		
SE, Kamrup	Wholesale licence fees	One (M/s Raizel Industries)	2014-15	2.00		
	Bottling fees		2013-14 and 2014-15	1.00		Short realisation of bottling licence fees by ₹ 50,000/year
	Wholesale licence fees	One (M/s N V Distilleries & Breweries (North East) Pvt Ltd)	Between 2011-12 and 2014-15	4.00		Short realisation of wholesale licence fees by ₹ 1 lakh/year
SE, Golaghat	IMFL 'Off'	43	2011-12	10.75		Short realisation at ₹ 25,000 per licensee
SE, Karimganj	-do-	15	Between 2011-12 and 2012-13	4.75		Short realisation ranging between ₹ 25,000 and ₹ 50,000 per licensee
Total				61.50		

**© COMPTROLLER AND
AUDITOR GENERAL OF INDIA
www.cag.gov.in**

<http://agasm.cag.gov.in>