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Report of the Comptroller and Auditor General of India on Revenue Sector for the year ended 31 March 2013

Government of Madhya Pradesh

Report No. 1 of the year 2014

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PREFACE

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

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

The cases mentioned in the Report are among those which came to notice in the course of test audit of accounts during the year 2012-13 as well as those which had come to notice in earlier years but could not be reported in previous Audit Reports; matter relating to the period subsequent to 2012-13 have also been included, wherever necessary.

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

OVERVIEW

OVERVIEW

This Report contains 35 paragraphs including one review relating to non/short levy of tax, interest, penalty, etc. involving ₹ 343.19 crore. Some of the major findings are mentioned below:

I General

The total receipts of the State Government for the year amounted to ₹ 70,427.28 crore against ₹ 62,604.08 crore for the previous year. Fifty three *per cent* of this was raised by the State through tax revenue (₹ 30,581.70 crore) and non-tax revenue (₹ 7,000.22 crore). The balance 47 *per cent* was received from the Government of India as State's share of divisible union taxes (₹ 20,805.16 crore) and grants-in-aid (₹ 12,040.20 crore).

(Paragraph 1.1.1)

Test check of records of 378 units of Commercial Tax, State Excise, Taxes on Vehicles, Stamps and Registration Fees, Land Revenue, Entertainment Duty, Taxes and duty on Electricity and Mining receipts conducted during the year 2012-13 revealed under-assessment/short levy/loss of revenue amounting to ₹ 764.89 crore in 8,98,782 cases.

(Paragraph 1.9.3)

II Commercial Tax

Audit of **"Refund under Section 37 of Madhya Pradesh Value Added Tax (VAT) Act, 2002"** revealed that:

Outstanding amount of refund cases at the end of 2012-13 compared to that of 2011-12 indicated an increase of 74.07 *per cent*.

(Paragraph 2.8.6)

Inaction of the Department in initiating refund proceedings resulted in undue accumulation of refund amounting to ₹ 91.79 lakh in 20 cases.

(Paragraph 2.8.7.2)

The AAs surpassed the limit of sanctioning the refund in 21 cases, amounting to ₹ 2.57 crore.

(Paragraph 2.8.7.5)

Tax of ₹ 4.37 crore was short realised from 37 dealers due to application of incorrect rate of tax in 42 cases in 27 offices.

(Paragraph 2.9)

Tax of ₹ 3.70 crore was short realised from 12 dealers in 12 cases due to irregular allowance of input tax rebate in 12 offices.

(Paragraph 2.11.1 to 2.11.3)

There was non-levy of tax amounting to ₹ 3.35 crore including interest and penalty of ₹ 1.10 crore from 25 dealers in 25 cases due to incorrect determination of turnover in 18 offices.

(Paragraph 2.12)

There was non/short levy of entry tax amounting to ₹ 2.67 crore including interest and penalty of ₹ 1.14 crore against 37 dealers in 43 cases in 27 offices.

(Paragraph 2.13)

III State Excise

Audit of **"Wastage of liquor during export, transport and manufacturing"** revealed that:

Penalty of ₹ 9.56 crore had not been imposed due to delay in sending the cases for competent authority's approval by the Office-in-charge.

(Paragraph 3.7.9.2)

There was non-levy/realisation of penalty amounting to ₹ 1.24 crore on excess wastages of bottled country liquor.

(Paragraph 3.7.10.1)

Non-levy/realisation of penalty amounted to ₹ 1.03 crore on excess wastages of foreign liquor.

(Paragraph 3.7.10.2)

Penalty of ₹ 3.76 crore was not recovered after a lapse of eight to 64 months in 2,699 cases.

(Paragraph 3.7.12)

Irregular issue of export/transport permits by the Department and export/transport against which Excise verification certificates were not received resulted in non realisation of revenue of ₹ 4.58 crore.

(Paragraph 3.9)

In six foreign liquor bottling units of four districts, supervision charges of ₹ 54.80 lakh were not recovered.

(Paragraph 3.12)

IV Taxes on Vehicles

There was lack of co-ordination and inadequate monitoring between the Transport Commissioner Office and unit offices in respect of Public service vehicles/Goods vehicles of other states plying on Bi-lateral Agreements in Madhya Pradesh with the possibility of escapement from payment of tax.

(Paragraph 4.7.6)

Short-realisation of consolidated fee for grant of authorisation in respect of National Permits and non-compliance of orders of Government of India Ministry of Road Transport and Highways (May 2010) amounted to ₹ 5.87 lakh.

(Paragraph 4.7.8)

Non-realisation of tax and penalty on goods vehicles plying on National permits amounted to ₹ 68.78 lakh.

(Paragraph 4.7.9)

Vehicle tax and penalty of ₹ 148.26 lakh on goods vehicles of other states plying on Bi-lateral Agreement in Madhya Pradesh was not realised.

(Paragraph 4.7.10)

Tax and penalty of ₹ 12.83 crore was not realised in respect of 2,487 vehicles in 27 offices.

(Paragraph 4.8.1)

There was non/short realisation of trade fees of ₹ 3.95 crore from the dealers in 17 offices.

(Paragraph 4.11)

V Land Revenue

Non-levy of interest on belated payment in one *nazul* resulted in non realisation of revenue of ₹ 26.41 crore.

(Paragraph 5.8)

Land revenue and *upkar* of ₹ 85.28 lakh collected by seven Tahsil offices between October 2011 and September 2012 was deposited in *Panchayat Nidhi* rather than in the treasury under Major Head '0029' Land Revenue.

(Paragraph 5.9)

VI Stamps and Registration Fees

Stamp duty and registration fees of ₹ 82.17 crore was short levied on development/builder agreement in 180 cases.

(Paragraph 6.8.3)

There was short levy of stamp duty and registration fees of ₹ 5.48 crore due to misclassification of documents in 155 cases.

(Paragraph 6.8.4)

Non/short levy of stamp duty and registration fees on mortgage deeds executed by colonisers/developers resulted in non realisation of revenue of ₹ 59.05 crore in 845 cases.

(Paragraph 6.8.5)

Short levy of stamp duty and registration fees on instruments of lease deeds and non levy of penalty resulted in non realisation of revenue of ₹ 15.17 crore in five cases.

(Paragraph 6.9)

Delay in execution and registration of lease deed of *Nazul* land resulted in loss of stamp duty and registration fees of ₹ 15.09 crore.

(Paragraph 6.10)

Non finalisation of cases referred by Sub-registrar to the Collector of stamp for determination of market value and incorrect determination of market value resulted in short levy/non realisation of stamp duty and registration fee of ₹ 4.33 crore in 340 cases.

(Paragraph 6.11)

VII Mining Receipts

Review of "**Mining Receipts in Madhya Pradesh**" revealed that:

Unauthorised excavation and extraction of minerals beyond the approved mining plan led to non- recovery of cost of minerals ₹ 8.01 crore by seven lease holders.

(Paragraph 7.6.17)

Irreparable damages were caused to environment due to illegal mining.

(Paragraph 7.6.18)

There was non/short realisation of contract money of ₹ 1.43 crore and interest of ₹ 1.94 crore on belated payments of royalty and dead rent.

(Paragraph 7.6.19 and 7.6.20)

Inaction of the Department resulted in short realisation of royalty and dead rent of ₹ 6.88 crore.

(Paragraph 7.6.21 and 7.6.22)

There was short levy and collection of Rural Infrastructure and Road Development Tax and Stamp Duty and Registration Fees of ₹ 28.97 crore.

(Paragraph 7.6.23 and 7.6.24)

CHAPTER – I
GENERAL

EXECUTIVE SUMMARY

What we have highlighted in this Chapter	In this Chapter, we present the trend of Revenue Receipts of the State Government, variations between budget estimates and actual receipts, response of the Government towards audit, position of the Departmental audit committee meetings, position of compliance made by the Government/Departments to deal with issues raised by Audit, position of outstanding paragraphs in Inspection Reports and impact of audit conducted during the year 2012-13.
Trend of revenue receipts of the State Government	The revenue receipts of the Government of Madhya Pradesh comprises of tax and non-tax revenue raised by the State Government, the State's share of net proceeds of divisible Union taxes and duties assigned to State and Grants-in-aid received from the Government of India. During the year 2012-13, the revenue raised by the State Government was ₹ 37,581.92 crore which was 53 *per cent* of the total receipts. The balance 47 *per cent* of receipts amounting to ₹ 32,845.36 crore during 2012-13 were from the Government of India.
Non-compliance of observations included in the Inspection Reports (IRs)	Inspection Reports issued up to December 2012 disclosed that 17,653 paragraphs relating to 4,239 IRs involving ₹ 7,953.5 crore remained outstanding at the end of June 2013 for want of compliance. The first replies required to be received from the Heads of offices within one month from the date of issue of the IRs were not received (30 June 2013) for 327 IRs issued up to December 2012. This pendency of the IRs due to non-receipt of the replies is indicative of the fact that the Heads of Offices and Heads of Departments did not initiate action to rectify the defects, omissions and irregularities pointed out by the Accountant General in the IRs.
Non-production of records to audit	124 offices of five Departments (Commercial Tax, Registration and Stamps, Revenue, Mines and Geology and State Excise) did not furnish 2,331 tax assessment records during 2012-13.
Departmental Audit Committee Meetings (ACMs)	We noticed that during 2012-13, only Commercial Tax Department had convened two Audit Committee Meetings (ACMs) wherein

	224 paragraphs involving money value of ₹ 11.82 crore were settled, while other Departments did not take any initiative to hold ACMs. It is recommended that the Government may ensure convening of periodical ACMs by all the Departments for effective and expeditious settlement of outstanding paragraphs.
Status of compliance to Audit Reports (2007-08 to 2011-12)	In respect of Audit Reports pertaining to the years 2007-08 to 2011-12, the Government/ Departments accepted audit observations involving money value of ₹ 1,146.13 crore, of which ₹ 253.57 crore had been recovered till March 2013.
Our Conclusion	Audit observations involving financial effect of ₹ 764.89 crore were issued during the period 2012-13. The Departments/Government accepted observations involving ₹ 372.31 crore. The Department recovered ₹ 3.18 crore in 293 cases during 2012-13. It is recommended that the Government may make efforts to recover the amounts involved in the accepted cases at the earliest. The amount outstanding as arrears of revenue for more than five years was 13.90 *per cent* of the total outstanding amount. The State Government may make efforts to ensure the recovery of the outstanding amount at the earliest. The Government may take suitable steps to introduce an effective procedure for prompt and appropriate response to audit observations as well as taking action against the officials for failure to send the replies to the IRs/paragraphs as per the prescribed time schedule and also for not taking action to recover loss/outstanding revenue in a time bound manner.

CHAPTER - I
GENERAL

1.1 Trend of revenue receipts

1.1.1 The tax and non-tax revenue raised by the Government of Madhya Pradesh during the year 2012-13, the State's share of net proceeds of divisible Union taxes and duties assigned to States and grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are mentioned in the table no. 1.1:

Table No. 1.1

(₹ in crore)

Sl. No.	Particulars	2008-09	2009-10	2010-11	2011-12	2012-13
1.	2.	3.	4.	5.	6.	7.
1.	**Revenue raised by the State Government**					
	• Tax revenue	13,613.50	17,272.77	21,419.33	26,973.44	30,581.70
	• Non-tax revenue	3,342.86	6,382.04	5,719.77	7,482.73	7,000.22
	Total	**16,956.36**	**23,654.81**	**27,139.10**	**34,456.17**	**37,581.92**
2.	**Receipts from the Government of India**					
	• Share of net proceeds of divisible Union taxes and duties	10,767.14	11,076.99	15,638.52	18,219.14	20,805.16[1]
	• Grants-in-aid	5,853.71	6,662.87	9,076.56	9,928.77	12,040.20
	Total	**16,620.85**	**17,739.86**	**24,715.08**	**28,147.91**	**32,845.36**
3.	**Total receipts of the State (1 and 2)**	**33,577.21**	**41,394.67**	**51,854.18**	**62,604.08**	**70,427.28**
4.	**Percentage of 1 to 3**	**50**	**57**	**52**	**55**	**53**

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

The revenue of the state government has increased at compounded annual growth rate (CAGR) of 16.90 *per cent* over past 5 years.

The above table indicates that during the year 2012-13, the revenue raised by the State Government was 53 *per cent* of the total receipts (₹ 70,427.28 crore) against 55 *per cent* in the preceding year. The balance 47 *per cent* of receipts during 2012-13 was from the Government of India.

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[1] For details please see statement No. 11: "Detailed accounts of revenue by minor heads" in the Finance Accounts of the Government of Madhya Pradesh for the year 2012-13. Figures under the head "Share of net proceeds assigned to States" booked in the Finance Accounts under A-Tax revenue have been excluded from the revenue raised by the State and included in the State's share of divisible Union taxes in this statement.

1.1.2 The table no. 1.2 presents the details of tax revenue raised during the period from 2008-09 to 2012-13:

Table No. 1.2

(₹ in crore)

Sl. No.	Head of revenue	2008-09	2009-10	2010-11	2011-12	2012-13	Percentage of increase (+)/ decrease (-) in 2012-13 over 2011-12
1.	2.	3.	4.	5.	6.	7.	8.
1.	Taxes on sales, trade etc.	6,842. 99	7,723.82	10,256.76	12,516.73	14,856.30	(+) 18.69
2.	State excise	2,301. 95	2,951.94	3,603.42	4,316.49	5,078.06	(+) 17.64
3.	Stamps and Registration fees	1,479.29	1,783.15	2,514.27	3,284.41	3,944.24	(+) 20.09
4.	Taxes on goods and passengers	1,332. 57	1,332.88	1,746.20	2,047.46	2,395.03	(+) 16.98
5.	Taxes on vehicles	772. 56	919.01	1,198.38	1,357.12	1,531.25	(+) 12.83
6.	Taxes and duties on electricity	343. 06	2,146.49	1,476.32	1,773.32	1,477.71	(-) 16.67
7.	Land revenue	338. 84	180.03	360.81	279.06	443.59	(+) 58.96
8.	Other taxes on income and expenditure - taxes on professions, trades, callings and employments	172. 29	203.92	217.89	248.90	254.52	(+) 2.26
9.	Other taxes and duties on commodities and services	20. 28	19.21	29.42	52.29	188.10	(+) 259.72
10.	Hotel receipts	9. 67	12.20	15.85	18.33	-	-
11.	Taxes on immovable property other than agricultural land	-	0.12	0.01	1,079.33	412.90	(-) 61.74
	Total	**13,613. 50**	**17,272.77**	**21,419.33**	**26,973.44**	**30,581.70**	

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

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

Taxes on sales, trade etc. - The increase of 18.69 *per cent* was due to better tax compliance.

State excise - The increase of 17.64 *per cent* was attributed to the increase in execution amount realised through auction of liquor shops.

Stamps and Registration fees - The increase of 20.09 *per cent* was due to registration of more documents and rise in the market value of immovable properties.

Taxes on vehicles – The increase of 12.83 *per cent* was due to speedy adoption of computerisation.

Taxes and duties on electricity – The decrease of (-) 16.67 *per cent* was stated due to realisation of arrears of electricity duty and interest pertaining to the previous years in 2011-12.

The other Departments did not inform the reasons for variation (January 2014), despite being requested (July 2013).

1.1.3 The table no. 1.3 presents the details of major non-tax revenue raised during the period 2008-09 to 2012-13:

Table No. 1.3

(₹ in crore)

Sl. No.	Head of revenue	2008-09	2009-10	2010-11	2011-12	2012-13	Percentage of increase (+)/ decrease (-) in 2012-13 over 2011-12
1.	2.	3.	4.	5.	6.	7.	8.
1.	Non-ferrous mining and metallurgical industries	1,361.08	1,590.47	2,121.49	2,038.31	2,443.39	(+) 19.87
2.	Forestry and wildlife	685.60	802.00	836.61	878.81	910.38	(+) 3.59
3.	Miscellaneous general services	380.17	399.12	143.00	145.44	30.40	(-) 79.10
4.	Interest receipts	163. 29	1,284.03	298.56	1,571.41	301.47	(-) 80.82
5.	Other administrative services	55.58	80.94	85.14	106.05	239.15	(+) 125.51
6.	Major and medium irrigation	37.08	56.75	194.89	263.15	137.74	(-) 47.66
7.	Police	23.63	41.98	62.55	63.19	83.59	(+) 32.28
8.	Public works	21.74	27.37	36.77	47.92	33.22	(-) 30.68
9.	Medical and public health	20.88	21.84	22.77	30.16	44.83	(+) 48.64
10.	Co-operation	13.25	9.08	17.05	11.65	13.02	(+) 11.76
11.	Other non-tax receipts	580.56	2,068.46	1,900.94	2,326.64	2,763.03	(+) 18.76
	Total	**3,342.86**	**6,382.04**	**5,719.77**	**7,482.73**	**7,000.22**	

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

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

Non-ferrous mining and metallurgical industries – The increase of 19.87 *per cent* was attributed to the increase in the royalty of coal and recovery of amount outstanding with large companies in the financial year 2011-12.

Forestry and wildlife – The increase of 3.59 *per cent* was attributed to increase in sale price.

Co-operation – The increase of 11.76 *per cent* was attributed to increase in recovery of interest on loan.

The other Departments did not inform the reasons for variation (January 2014), despite being requested (July 2013).

1.2 Variations between the budget estimates and actual receipts

According to para A-15 read with para 6.6.1 of Madhya Pradesh Budget Manual (Manual), the estimates of revenue receipts should include/project the actual demand including arrears due for the past years and probability of their realisation during the year. According to Rule 192 of Madhya Pradesh Financial Code, the Finance Department is required to prepare the estimates of revenue after obtaining necessary information/data from the respective Department/Government.

The variations between the budget estimates and actual receipts for the year 2012-13 in respect of the principal heads of tax and non-tax revenue are mentioned in the table no. 1.4:

Table No. 1.4

(₹ in crore)

Sl. No.	Head of revenue	Revised budget estimates	Actual receipts	Variation excess (+) or shortfall (-)	Percentage increase (+)/ decrease (-)
1.	2.	3.	4.	5.	6.
Tax revenue					
1.	Taxes on Sales, Trade etc.	14,500.00	14,856.30	(+) 356.30	(+) 2.46
2.	State Excise	5,000.00	5,078.06	(+) 78.06	(+) 1.56
3.	Stamps and Registration fees	3,450.00	3,944.24	(+) 494.24	(+) 14.33
4.	Taxes and duties on electricity	1,370.00	1,477.71	(+) 107.71	(+) 7.86
5.	Taxes on vehicles	1,500.00	1,531.25	(+) 31.25	(+) 2.08
6.	Land Revenue	550.00	443.59	(-) 106.41	(-) 19.35
7.	Taxes on goods and passengers	2,400.00	2,395.03	(-) 4.97	(-) 0.21
Non-tax revenue					
1.	Non-ferrous mining and metallurgical industries	2,350.00	2,443.39	(+) 93.39	(+) 3.97
2.	Interest receipts	201.78	301.47	(+) 99.69	(+) 49.41
3.	Forestry and wild life	960.32	910.38	(-) 49.94	(-) 5.20

The reasons for variation were intimated only by the Stamps and Registration Department:

Stamps and Registration fees - The increase of 14.33 *per cent* was mainly due to registration of more documents and rise in the market value of immovable properties.

1.3 Analysis of arrears of revenue

The arrear of revenue as on 31 March 2013 in respect of some principle heads of revenue amounted to ₹ 913.47 crore of which ₹ 126.95 crore was outstanding for more than five years as mentioned in the table no. 1.5:

Table No. 1.5

(₹ in crore)

Sl No.	Heads of revenue	Amount outstanding as on 31 March 2013	Amount outstanding for more than five years as on 31 March 2013	Amount pending under Court
1.	2.	3.	4.	5.
1.	Taxes on sales, trade etc.	557.75	--	56.93
2.	State Excise	71.08	63.40	5.25
3.	Stamps and registration	85.32	34.25	32.67
4.	Non-ferrous mining and metallurgical industries	14.19	14.19	--
5.	Taxes and Duties on Electricity	185.13	15.11	39.72
Total		**913.47**	**126.95**	**134.57**

The position of arrears of revenue at the end of 2012-13 in respect of other Departments was not furnished by the Government/Department despite being requested (July 2013).

1.4 Arrears in assessment

The details of assessments relating to Sales tax/VAT, Profession tax, Entry tax, Luxury tax, Tax on works contracts pending at the beginning of the year, additional cases becoming due for assessment during the year, cases disposed of during the year and pending cases at the end of each year during 2010-11, 2011-12 and 2012-13 as furnished by the Commercial Tax Department are mentioned in the table no. 1.6:

Table No. 1.6

Name of tax	Year	Opening balance	New cases due for assessment during the year	Total assess-ments due	Cases disposed of during the year	Balance at the end of the year	Percent-age of column 6 to 5
1	2.	3	4	5	6	7	8
Sales tax/ VAT	2010-11	2,44,922[2]	2,53,990	4,98,912	3,74,824	1,24,088	75.13
	2011-12	1,24,088	2,94,265	4,18,353	3,30,229	88,124	78.94
	2012-13	88,124	2,32,539	3,20,663	2,00,552	1,20,111	62.54
Profession tax	2010-11	1,06,678	88,196	1,94,874	1,27,626	67,248	65.49
	2011-12	67,248	1,19,154	1,86,402	1,22,991	63,411	65.98
	2012-13	63,411	89,708	1,53,119	1,05,945	47,174	69.19

[2] The figure was not tallying with last year's closing balance where it was shown as 2,47,922. Now the Department had reconciled the figures and reported that the figures of opening balance as 2,44,922.

1	2.	3	4	5	6	7	8
Entry tax	2010-11	1,51,732	2,00,164	3,51,896	2,62,535	89,361	74.61
	2011-12	89,361	2,27,878	3,17,239	2,55,173	62,066	80.44
	2012-13	62,066	1,93,494	2,55,560	1,64,443	91,117	64.35
Luxury tax	2010-11	638	3,619	4,257	3,234	1,023	75.97
	2011-12	1,023	308	1,331	911	420	68.44
	2012-13	420	1,337	1,757	871	886	49.57
Tax on works contracts	2010-11	2,631	6,704	9,335	6,593	2,742	70.63
	2011-12	2,742	5,328	8,070	5,450	2,620	67.53
	2012-13	2,620	7,371	9,991	6,305	3,686	63.11

Thus, there has been decrease in disposal of assessment cases relating to sales tax/VAT, entry tax and luxury tax during 2012-13 as compared to the previous year.

1.5 Evasion of tax

The details of evasion as reported by the Departments are mentioned in the table no. 1.7:

Table No. 1.7

Sl. No.	Name of the tax/duty	Cases pending as on 31 March 2012	Cases detected during 2012-13	Total	No. of cases in which assessments/ investigations completed and additional demand including penalty etc. raised		No. of pending cases as on 31 March 2013
					No. of cases	Amount of demand (₹ in crore)	
1.	2.	3.	4.	5.	6.	7.	8.
1.	Taxes on sales, trade etc.	253	239	492	220	122.81	267[3]
2.	State Excise	29	NIL	29	NIL	NIL	29
3.	Stamps and Registration fees	13,685	10,734	24,419	8,025	32.20	16,394

Thus, there was increase in the number of pending cases relating to taxes on sales, trade etc, and stamps and registration fees.

1.6 Refunds

The number of refund cases pending at the beginning of the year 2012-13, claims received during the year, refunds allowed during the year and cases pending at the end of the year 2012-13 as reported by the Departments are mentioned in the table No. 1.8:

[3] The Department did not furnish any reason for difference in opening and closing balance.

Table No 1.8

(₹ in crore)

Sl. No.	Category	Sales Tax/VAT		Taxes and duties on electricity		Stamps and Registration Fees		State Excise	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
1.	2.	3.	4.	5.	6.	7.	8.	9.	10.
1.	Claims outstanding at the beginning of the year	548	8.74	129	2.58	1,676	2.97	22	0.28
2.	Claims received during the year	5,462	438.07	111	3.25	845	4.13	18	0.73
3.	Refunds made during the year	5,350	352.12	39	2.58	779	2.61	26	0.91
4.	Balance outstanding at the end of the year	660	94.69	200	2.81[4]	1,742	4.49	14	0.11

Thus, there was an increase in the number and amount of refund cases at the end of the year in all the Departments except State Excise Department.

1.7 Response of the Departments/Government towards audit

The succeeding paragraphs 1.7.1 to 1.7.5 discuss the response of the Departments/Government towards audit observations/recommendations.

1.7.1 Compliance to audit observations

The Accountant General (Economic and Revenue Sector Audit), Madhya Pradesh (AG) conducts periodical inspection of the Government/Departments to test check the transactions and verify the maintenance of the important accounts and other records as prescribed in the rules and procedures. These inspections are followed up with the inspection reports (IRs), incorporating irregularities detected during the inspection and not settled on the spot, which are issued to the heads of the offices inspected with copies to the next higher authorities for taking prompt corrective action. The heads of the offices/Government are required to report compliance through initial reply to the AG within one month from the date of issue of the IRs. Serious financial irregularities are reported to the heads of the Departments and the Government.

We reviewed inspection reports issued up to December 2012 and found that 14,752 paragraphs involving ₹ 6,783.96 crore relating to 3,695 IRs remained outstanding at the end of June 2013 as mentioned in the table no. 1.9 along with the corresponding figures for the preceding two years:

[4] Difference between sl. no.1 and 4 of Taxes and duties on electricity due to reconciliation reported by the Department (August 2013).

Table No. 1.9

	June 2011	June 2012	June 2013
Number of outstanding IRs	3,690	3,465	3,695
Number of outstanding audit observations	13,285	13,506	14,752
Amount involved (₹ in crore)	9,355.55	6,834.02	6,783.96

The Department-wise details of the IRs and audit observations outstanding as on 30 June 2013 and the amounts involved are mentioned in the table no. 1.10:

Table No. 1.10

(₹ in crore)

Sl. No.	Name of the Department	Nature of receipts	Number of outstanding IRs	Number of outstanding audit observations	Money value involved
1	2	3	4	5	6
1.	Commercial Tax	Taxes/VAT on sales, trade *etc.*	1038	5172	1012.21
2.	Energy	Taxes and duties on electricity	48	161	309.95
3.	State excise	Entertainment tax	200	392	19.41
		State excise	224	850	675.91
4.	Revenue	Land revenue	1070	3374	2534.35
5.	Transport	Taxes on vehicles	425	2264	361.18
6.	Registration and Stamps	Stamps and Registration fees	471	1422	211.08
7.	Mines and Geology	Nonferrous mining and metallurgical industries	219	1117	1659.87
Total			**3695**	**14752**	**6783.96**

Year-wise and age-wise breakup of the outstanding Inspection Reports, Paras as on June 2013 are mentioned in the table no. 1.11:

Table No. 1.11

Period of Inspection Reports	Number of Inspection Reports	Number of Paras	Outstanding Inspection Reports (Age wise)
1.	2.	3.	4.
Up to 2005-06	1219	3656	7 years
2006-07	289	920	6 years
2007-08	352	1047	5 years
2008-09	387	1599	4 years

1.	2.	3.	4.
2009-10	403	1968	3 years
2010-11	397	1988	2 years
2011-12	339	1782	1 year
2012-13	309	1792	-

Even the first replies required to be received from the heads of offices within one month from the date of issue of the IRs were not received for 327 IRs issued up to December 2012. This large pendency of the IRs due to non-receipt of the replies is indicative of the fact that the heads of offices and heads of the Departments failed to initiate action to rectify the defects, omissions and irregularities pointed out by the AG in the IRs. Although this was pointed out in the earlier report for the year ended 31 March 2012, no corrective measures were taken in this regard.

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

1.7.2 Departmental audit committee meetings

The Government sets up audit committees to monitor and expedite the progress of the settlement of paragraphs in the Inspection Reports. Details of two audit committee meetings held in respect of Commercial Tax Department during the year 2012-13 are mentioned in the table no. 1.12:

Table No. 1.12

(₹ in crore)

Period of IRs	IRs settled	Paras settled	Amount
1.	2.	3.	4.
up to 2005-06	8	18	0.69
2006-07	1	7	0.15
2007-08	1	35	0.33
2008-09	-	64	5.80
2009-10	-	70	3.93
2010-11	-	21	0.73
2011-12	-	9	0.19
Total	**10**	**224**	**11.82**

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

1.7.3 Non-production of records to audit for scrutiny

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

During 2012-13, as many as 2331 assessment files, registers and other relevant records relating to 124 offices were not made available to audit. The tax effect could not be computed in all the cases. Department-wise break up of such cases are given in the table no. 1.13:

Table No. 1.13

(₹ in crore)

Name of Department/ No. of offices	Nature of receipts	Number of assessment cases not audited	Number of cases in which revenue involved could be ascertained	Revenue involved
1.	2.	3.	4.	5.
Commercial Tax/64	Sales tax/VAT	1951	-	-
Registration and Stamps/10	Stamps and Registration fees	22	-	-
Revenue/32	Land revenue	315	-	-
Mines and Geology / 15	Non-ferrous mining and metallurgical industries	37	-	-
State Excise/ 03	State Excise	6	-	-
Total		**2331**	-	-

1.7.4 Response of the Departments to the draft audit paragraphs

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

50 paragraphs (clubbed into 35 paragraphs) included in this Report were sent to the Principal Secretaries/Secretaries of the concerned Departments between April and July 2013. Their replies have not been received (January 2014).

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

1.7.5 Follow up on Audit Reports-summarised position

As per the instructions issued (November 1994) by the State Legislative Affairs Department, Action Taken Reports (ATR) on the recommendations of the Public Accounts Committee (PAC) should be submitted within six months from the date of recommendations by the PAC.

Paras related to Audit Report for the year 2007-08 have been discussed and 46 paragraphs are still pending for discussion at PAC level, departmental replies relating to 76 paragraphs are still awaited. The details are given in the table no. 1.14:

Table No. 1.14

Year of Audit Report	No. of Paras in which replies are awaited	No. of Paras pending for discussion
1.	2.	3.
2006-07	-	1
2007-08	2	-
2008-09	10	20
2009-10	12	18
2010-11	52	7
Total	**76**	**46**

ATRs on the PAC recommendations up to 1992-93 have been received. ATRs from 1993-94 to 2007-08 have been partly received and thereafter ATRs have not been received from the concerned Departments. Status of ATRs submitted and not submitted is mentioned in the table no. 1.15:

Table No. 1.15

Year of AR	Paras included in AR	No. of Paras for which recommendations made by PAC	No. of Paras for which ATRs submitted	No. of Paras for which ATRs not submitted
1	2	3	4	5
1993-94	54	39	24	15
1994-95	70	70	37	33
1995-96	83	83	52	31
1996-97	93	93	53	40
1997-98	77	77	21	56
1998-99	69	67	29	38
1999-00	65	65	23	42
2000-01	64	55	13	42
2001-02	49	49	13	36
2002-03	58	58	21	37
2003-04	42	42	23	19
2004-05	38	13	7	6
2005-06	47	8	0	8
2006-07	41	3	1	2
2007-08	55	1	1	0
Total	**905**	**723**	**318**	**405**

1.8 Analysis of the mechanism for dealing with the issues raised by audit in respect of Stamps and Registration Department

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

The succeeding paragraphs 1.8.1 to 1.8.2.2 discuss the performance of the Stamp Duty and Registration Department to deal with the cases detected in the course of local audit conducted during the last six years and also the cases included in the Audit Reports for the years 2002-03 to 2011-12.

1.8.1 Position of Inspection Reports

The summarised position of inspection reports issued during the period 2008-09 to 2012-13, paragraphs included in these reports and their status as on 31 March 2013 are mentioned in the table no. 1.16:

Table No. 1.16

(₹ in crore)

Year	Opening balance			Addition during the year			Clearance during the year			Closing balance during the year			Inspection reports outstanding (Age wise)
	IRs	Para-graphs	Money Value	IRs	Para-graphs	Money Value	IRs	Para-graphs	Money Value	IRs	Para-graphs	Money Value	
1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.	13.	14.
upto 2008-09	769	1864	85.63	80	315	26.03	133	397	15.95	716	1782	95.72	more than 4 years
2009-10	716	1782	95.72	88	290	33.76	223	643	27.83	581	1429	101.65	3 years
2010-11	581	1429	101.65	65	264	62.16	237	477	20.41	409	1216	143.39	2 years
2011-12	409	1216	143.39	53	203	60.13	53	232	28.78	409	1187	174.73	1 year
2012-13	409	1187	174.73	98	344	49.01	69	169	10.88	438	1362	212.86	

1.8.2 Assurance given by the Departments/Government on the issues highlighted in the Audit Report

1.8.2.1 Recovery of accepted cases

The position of paragraphs included in the Audit Reports of the last 10 years, those accepted by the Stamps and Registration Department and the amount recovered as reported by the Department are shown in the table no. 1.17:

Table No. 1.17

(₹ 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	No. of paragraphs against which recovery made	Amount recovered upto 31.03.13	Percentage of recovery to amount accepted 7 to 5
1.	2.	3.	4.	5.	6.	7.	8.
2002-03	06	17.17	05	2.79	05	2.79	100.00
2003-04	04	1.86	02	1.36	02	1.36	100.00
2004-05	05	8.65	02	2.87	02	2.87	100.00
2005-06	03	1.32	03	0.53	03	0.53	100.00
2006-07	06	2.45	04	0.55	04	0.51	92.73
2007-08	01	91.57	01	45.76	01	8.58	18.75
2008-09	11	16.81	08	16.35	08	2.15	13.15
2009-10	09	14.72	07	14.11	07	2.06	14.60
2010-11	13	34.22	07	11.21	04	0.14	1.25
2011-12	10	32.71	10	28.11	01	0.08	0.28

The percentage of recovery as compared to the accepted cases has been extremely low over the last five years.

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

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

Performance audit on **"Assessment and levy of Stamp duty and registration fee"** featured in the Audit Report for 2007-08 contained five recommendations. No specific comments on any of the recommendations have been furnished by the Department.

1.9 Impact of audit

1.9.1 Status of Compliance to Audit Report 2007-08 to 2011-12

During the period from 2007-08 to 2011-12, the Departments/Government accepted audit observations involving ₹ 1,146.13 crore, of which only ₹ 253.57 crore was recovered till 31 March 2013 as mentioned in the table no. 1.18:

Table No. 1.18

(₹ in crore)

Year of the Audit Report	Total money value of the Report	Accepted money value	Recovery as per AR	Cumulative Recovery	Percentage of recovery to amount accepted
1.	2.	3.	4.	5.	6.
2007-08	623.43	367.16	4.89	82.32	22.42
2008-09	1,339.50	134.32	2.88	12.80	9.53
2009-10	1,469.91	418.83	2.67	156.13	37.28
2010-11	291.79	110.29	1.99	1.99	1.80
2011-12	247.82	115.53	0.33	0.33	0.29
Total	**3,972.45**	**1,146.13**	**12.76**	**253.57**	

The percentage of recovery as compared to the accepted cases has been low over the last five years.

We recommend that the Government should take appropriate steps to improve the recovery position at least in the accepted cases.

1.9.2 Status of Compliance to Inspection Reports (2007-08 to 2011-12)

During the period 2007-08 to 2011-12, we had audited 2,053 units of Commercial Tax, Registration, Land Revenue, Transport, State Excise, Mineral Resources, Taxes and duties on Electricity and Forest Departments. Through our Inspection Reports, we had pointed out 18,65,709 cases with revenue implication of ₹ 9,540.65 crore. The Department/Government had accepted audit observations of ₹ 4,146.97 crore of which an amount of ₹ 234.28 crore had been recovered in 36,548 cases (as on 31 March 2013). The details are shown in the table no. 1.19:

Table No. 1.19

(₹ in crore)

Year of Inspection Report	No. of units audited	Objected		Accepted		Recovered	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
1.	2.	3	4.	5.	6.	7.	8.
2007-08	508	4,48,574	1,069.85	3,16,179	327.83	456	135.61
2008-09	377	2,96,745	2,342.15	77,791	804.20	1,426	18.95
2009-10	449	28,674	3,366.12	18,071	1,738.52	1,940	4.64
2010-11	398	4,36,829	1,955.06	1,75,021	737.07	31,204	70.50
2011-12	321	6,54,887	807.47	24,385	539.35	1,522	4.58
Total	**2,053**	**18,65,709**	**9,540.65**	**6,11,447**	**4,146.97**	**36,548**	**234.28**

1.9.3 Status of Compliance to Inspection Reports (2012-13)

Test check of the records of 378 units of Commercial tax, State excise, Taxes on Vehicles, Land Revenue, Stamps and Registration Fees and Mining Receipts conducted during the year 2012-13 revealed underassessment/short levy/loss of revenue aggregating ₹ 764.89 crore in 8,98,782 cases. During the

course of the year, the Departments accepted underassessment and other deficiencies of ₹ 372.31 crore involved in 36,183 cases which were pointed out in audit during 2012-13. The Departments collected ₹ 3.18 crore in 293 cases during 2012-13.

1.9.4 This Report

This Report contains 35 paragraphs (selected from the audit detections made during the local audit referred to above and during earlier years which could not be included in earlier reports) including one review of "Mining receipts in Madhya Pradesh" relating to short/non-levy of tax, duty and interest, penalty etc., involving financial effect of ₹ 343.19 crore. The Departments/ Government have accepted audit observations involving ₹ 181.88 crore out of which ₹ 2.62 crore has been recovered. The replies in the remaining cases have not been received. These are discussed in the succeeding Chapters II to VII.

CHAPTER – II

COMMERCIAL TAX

EXECUTIVE SUMMARY

What we have highlighted in this Chapter	In this Chapter we present a paragraph on **Refund under Section 37 of Madhya Pradesh VAT Act, 2002** and other irregularities involving revenue implication of ₹ 23.75 crore selected from observations noticed during our test check of records relating to assessment and collection of Commercial Tax in the office of the Commercial Tax Officers (CTOs) and Regional Assistant Commissioners (RACs), where we found that the provisions of the Acts/Rules were not observed. It is a matter of concern that similar omissions have been pointed out by us repeatedly in the Audit Reports for the past several years, but the Department has not taken corrective action.
Trend of receipts	In 2012-13, the collection from Taxes on sales, trade etc. increased by 18.69 *per cent* over the previous year which was attributed by the Department to better tax compliance.
Status of compliance to outstanding Inspection Reports (2007-08 to 2011-12)	During the period from 2007-08 to 2011-12, through our Inspection Reports we had pointed out non/short levy, non/short realisation, underassessment/loss of revenue due to incorrect exemption, concealment/suppression of turnover, application of incorrect rate of tax, incorrect computation etc., with revenue implication of ₹ 920.05 crore in 5,360 cases. Of these, the Department/ Government has accepted audit observations in 2,478 cases involving ₹ 239.57 crore and had since recovered ₹ 3.98 crore in 434 cases.
Status of Compliance to Inspection Reports 2012-13	In 2012-13 we test checked the records of 115 units relating to Commercial Tax and found underassessment of tax and other irregularities involving ₹ 91.56 crore in 1,067 cases and an amount of ₹ 7.53 lakh recovered in three cases. The Department accepted underassessment and other deficiencies of ₹ 55 lakh in 14 cases, which were pointed out by us during the year 2012-13.
Our conclusion	The Department needs to initiate immediate action to recover non/short levy of entry tax/purchase tax, incorrect grant of exemption, non recovery of tax from closed units, non-realisation of professional tax, non/short levy of penalty, non-levy of tax on transporters, non/short levy of tax on sale without declaration forms etc., pointed out by us.

CHAPTER – II
COMMERCIAL TAX

2.1 Tax administration

The Principal Secretary, Commercial Tax Department is the administrative head of the Department at the Government level. The Commercial Tax Department functions under overall control of the Commissioner of Commercial Tax (CCT) assisted by a Director. The Department is divided in four zones, each headed by a Zonal Additional Commissioner. Each zone comprises of divisional offices headed by 15 divisional Deputy Commissioners (DCs). Under these divisions, there are 80 circle offices and 33 Regional assistant commissioner offices headed by the Commercial Tax Officers/Assistant Commissioners (CTOs/ACs). Levy and collection of Commercial Tax which includes Sales Tax/Value Added Tax, Central Sales Tax, Entry Tax, Profession Tax and Luxury Tax is administered under the provisions of the following Acts and Rules and notifications issued thereunder:

- Madhya Pradesh Value Added Tax (MPVAT) Act, 2002;
- Madhya Pradesh Value Added Tax (MPVAT) Rules, 2006;
- Madhya Pradesh *Vanijyik Kar Adhiniyam,* 1994 (No. 5 of 1995);
- Madhya Pradesh Commercial Tax Rules, 1995;
- Central Sales Tax (CST) Act, 1956;
- CST (Registration and Turnover) Rules, 1957;
- Madhya Pradesh Sales Tax (Central) Rules, 1957;
- Madhya Pradesh *Sthaniya Kshetra Me Mal Ke Pravesh Par kar Adhiniyam,* 1976;
- Madhya Pradesh *Sthaniya Kshetra Me Mal Ke Pravesh Par kar Niyam,* 1976;
- Madhya Pradesh Profession Tax Act, 1995;
- Madhya Pradesh Profession Tax Rules, 1995;
- Madhya Pradesh Luxury Tax Act, 1988; and
- Madhya Pradesh Luxury Tax Rules, 1988.

2.2 Trend of revenue from taxes on sales, trade etc.

According to para A-15 read with para 6.6.1 of Madhya Pradesh Budget Manual (Manual), 2012 the estimates of revenue receipts should include/ project the actual demand including arrears due for the past years and probability of their realisation during the year. According to Rule 192 of Madhya Pradesh Financial Code, the Finance Department is required to prepare the estimates of revenue after obtaining necessary information/data from the respective Department/Government.

Actual receipts from Taxes on Sales, Trade etc. during the period 2008-09 to 2012-13 along with the total tax receipts during the same period are exhibited in the table no. 2.1:

Table No. 2.1

(₹ in crore)

Year	Revised budget estimates	Actual receipts	Variation excess (+) / shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual VAT/Taxes on sales, trade receipts vis-a-vis total tax receipts
2008-09	6,700.00	6,842.99	(+) 142.99	(+) 2.13	13,613.50	50.27
2009-10	7,894.11	7,723.82	(-) 170.29	(-) 2.16	17,272.77	44.72
2010-11	10,020.00	10,256.76	(+) 236.76	(+) 2.36	21,419.33	47.89
2011-12	12,000.00	12,516.73	(+) 516.73	(+) 4.31	26,973.44	46.40
2012-13	14,500.00	14,856.30	(+) 356.30	(+) 2.46	30,581.70	48.58

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

It may be seen that there was an increasing trend in actual receipts during the years from 2008-09 to 2012-13, the percentage of variation between the Revised Estimates and the actual ranged between (-) 2.16 *per cent* and 4.31 *per cent*.

In 2012-13, the collection from Taxes on Sales, Trade etc. increased by 18.69 *per cent* over the previous year which was attributed by the Department to better tax compliance.

2.3 Analysis of Arrears

Position of arrears of Taxes on Sales, Trade etc., during the period 2008-09 to 2012-13, as furnished by the Commercial Tax Department, is given in the table no. 2.2:

Table No. 2.2

(₹ in crore)

Year	Opening balance	Addition during the year	Total	Recovery during the year	Closing balance	Target of recovery
2008-09	571.54	1,086.23	1,657.77	1,111.73	546.04	The Department stated that the recovery officers were being instructed to recover the previous year arrear.
2009-10	546.04	1,206.32	1,752.36	1,165.41	586.95	
2010-11	586.95	1,214.02	1,800.97	1,271.17	529.80	
2011-12	529.80	1,667.19	2,196.99	1,679.06	517.93	
2012-13	517.93	1,748.39	2,266.32	1,708.57	557.75	

(Source : Information furnished by the Department)

Out of ₹ 557.75 crore pending as on March 2013, an amount of ₹ 56.93 crore was pending in the courts and ₹ 5.05 crore was pending in appeals. We observed that there is no system of fixing recovery target to the Assessing Authorities for liquidation of arrears.

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

2.4 Arrears in assessment

The details of assessments relating to Taxes on sales, trade etc., Profession Tax, Entry Tax, Luxury Tax, Tax on works contracts pending at the beginning of the year, additional cases becoming due for assessment during the year, cases disposed of during the year and pending cases at the end of each year during 2010-11, 2011-12 and 2012-13, as furnished by the Commercial Tax Department, are mentioned in the table no. 2.3:

Table No. 2.3

Name of tax	Year	Opening balance	New cases due for assessment during the year	Total assess-ments due	Cases disposed during the year	Balance at the end of the year	Percent-age of column 6 to 5
1	2	3	4	5	6	7	8
Taxes on sales, trade etc.	2010-11	2,44,922[1]	2,53,990	4,98,912	3,74,824	1,24,088	74.68
	2011-12	1,24,088	2,94,265	4,18,353	3,30,229	88,124	78.94
	2012-13	88,124	2,32,539	3,20,663	2,00,552	1,20,111	62.54
Profession tax	2010-11	1,06,678	88,196	1,94,874	1,27,626	67,248	65.49
	2011-12	67,248	1,19,154	1,86,402	1,22,991	63,411	65.98
	2012-13	63,411	89,708	1,53,119	1,05,945	47,174	69.19
Entry tax	2010-11	1,51,732	2,00,164	3,51,896	2,62,535	89,361	74.61
	2011-12	89,361	2,27,878	3,17,239	2,55,173	62,066	80.44
	2012-13	62,066	1,93,494	2,55,560	1,64,443	91,117	64.35

[1] The figure was not tallying with last year's closing balance where it was shown as 2,47,922. Now the Department had reconciled the figures and reported that the figures of opening balance is 2,44,922.

1	2	3	4	5	6	7	8
Luxury tax	2010-11	638	3,619	4,257	3,234	1,023	75.97
	2011-12	1,023	308	1,331	911	420	68.44
	2012-13	420	1,337	1,757	871	886	49.57
Tax on works contracts	2010-11	2,631	6,704	9,335	6,593	2,742	70.63
	2011-12	2,742	5,328	8,070	5,450	2,620	67.53
	2012-13	2,620	7,371	9,991	6,305	3,686	63.11

Thus, there has been decrease in disposal of assessment cases relating to taxes on sales, entry tax and luxury tax during 2012-13 as compared to the previous year.

We recommend that the Department should take appropriate steps to increase the disposal of the cases.

2.5 Cost of collection

The gross collection from Taxes on Sales, Trade etc., expenditure incurred on its collection and the percentage of expenditure to gross collection during the years 2010-11, 2011-12 and 2012-13 along with the relevant all-India average percentage of expenditure on collection for the relevant preceding year are mentioned in the table no. 2.4:

Table No. 2.4

(₹ in crore)

Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage of expenditure on collection for the previous year
2010-11	10,256.76	98.10	0.96	0.96
2011-12	12,516.73	111.36	0.89	0.75
2012-13	14,856.30	129.32	0.87	0.83

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

During the year 2011-12 and 2012-13, the percentage of expenditure on collection in respect of taxes on Sales, trade etc. was marginally higher than the all-India average percentage.

2.6 Impact of audit

2.6.1 Status of compliance to Audit Reports (2007-08 to 2011-12)

In the Audit Reports 2007-08 to 2011-12, we had pointed out non/short levy, non/short realisation, underassessment/loss of revenue due to incorrect exemption, concealment/suppression of turnover, application of incorrect rate of tax, incorrect computation etc., with revenue implication of ₹ 377.05 crore in 72 paragraphs. Of these, the Department/Government had accepted audit observations in 55 paragraphs involving ₹ 70.05 crore and had since recovered ₹ 9.18 crore in 32 paragraphs. The details are shown in the table no. 2.5:

Table No. 2.5

(₹ in crore)

Year of Audit Report	Number of paragraphs	Money value	No. of accepted paragraphs	Money value of accepted paragraphs	No. of paragraphs against which recovery made	Amount recovered up to March 2013
2007-08	16	98.69	13	11.10	11	4.43
2008-09	16	19.48	13	5.90	11	2.62
2009-10	15	112.71	11	4.00	8	2.02
2010-11	14	85.11	10	1.53	Nil	Nil
2011-12	11	61.06	8	47.52	2	0.08
Total	**72**	**377.05**	**55**	**70.05**	**32**	**9.18**

The percentage of recovery as compared to the accepted cases has been very low during the last five years.

We recommend that the Government should take appropriate steps to improve the recovery position at least against the accepted cases.

2.6.2 Status of compliance to outstanding Inspection Reports (2007-08 to 2011-12)

During the period 2007-08 to 2011-12, through our Inspection Reports (IRs), we had pointed out non/short levy, non/short realisation, underassessment/loss of revenue due to incorrect exemption, concealment/suppression of turnover, application of incorrect rate of tax, incorrect computation etc., with revenue implication of ₹ 920.05 crore in 5,360 cases. Of these, the Department/ Government had accepted audit observations in 2,478 cases involving ₹ 239.57 crore and had since recovered ₹ 3.98 crore in 434 cases (as on 31 March 2013). The details are shown in the table no. 2.6:

Table No. 2.6

(₹ in crore)

Year of Audit Report	No. of units audited	Objected		Accepted		Recovered		Percentage of recovery to amount accepted
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	
2007-08	106	1,002	55.99	519	12.12	27	0.51	4.20
2008-09	102	1,234	181.03	497	39.97	20	0.87	2.17
2009-10	90	1,237	365.51	551	122.70	111	2.14	1.74
2010-11	100	1,015	189.50	570	59.48	272	0.44	0.74
2011-12	102	872	128.02	341	5.30	4	0.02	0.38
	Total	**5,360**	**920.05**	**2,478**	**239.57**	**434**	**3.98**	

The percentage of recovery as compared to the accepted cases has been very low over the last five years. We brought (August 2013) this issue to the notice of the Head of the Department as well as the Finance Secretary of the Government. Their reply had not been received (January 2014).

2.6.3 Status of compliance to Inspection Reports 2012-13

Test check of the records of 115 units involving total revenue ₹ 12,552.38 crore out of 133 units relating to Commercial Tax during the year 2012-13 revealed underassessment of tax and other irregularities involving ₹ 91.56 crore in 1,067 cases which fall under the following categories in the table no. 2.7:

Table No. 2.7

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
1.	**Refund under section 37 of Madhya Pradesh VAT Act, 2002**	1	4.14
2.	Non/Short levy of tax	262	14.83
3.	Application of incorrect rate of tax	232	15.03
4.	Incorrect determination of taxable turnover	134	7.19
5.	Incorrect grant of exemption/deduction	158	13.10
6.	Other irregularities	280	37.27
	Total	**1,067**	**91.56**

During the course of the year, the Department accepted underassessment and other deficiencies of ₹ 55 lakh in 14 cases, which were pointed out in audit during the year 2012-13 and realised ₹ 7.53 lakh in three cases.

A paragraph on "**Refund under Section 37 of Madhya Pradesh VAT Act, 2002**" and other irregularities involving financial impact of ₹ 23.75 crore are mentioned in the following paragraphs.

2.7 Audit observations

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

2.8 "Refund under Section 37 of Madhya Pradesh VAT Act, 2002"

2.8.1 Introduction

Disposal of refunds is a key indicator for measuring the operational performance of tax administration in providing quality services to the dealers, dimensions of quality being accuracy of advice and timeliness in receipt of refund. Prompt disposal of refunds reduces the interest liability of the Government and by instilling confidence in the dealers, encourages them to greater tax compliance.

2.8.2 Mechanism for refund

The provisions of refund are contained in Section 37 of Madhya Pradesh VAT Act, 2002 (Act) enacted with effect from 01 April 2006. As per the provisions of the Act, if the Commissioner is satisfied that the tax or penalty or both or interest paid by or on behalf of a dealer for any year exceeds the amount of the tax to which he has been assessed or the penalty imposed or the interest payable under this Act for that year or that a registered dealer [or person other than a registered dealer] is entitled to the refund or rebate under Section 14, he shall, in the prescribed manner, refund any amount found to have been paid in excess in cash or by adjustment of such excess towards the amount of tax rebate due in respect of any other year from him.

The individual assessing officer is responsible for submission of the cases, assessed to refund, to the authorities competent to sanction refunds.

The Commercial Tax Officer (CTO), Assistant Commissioners (AC), Deputy Commissioners (DC), Additional Commissioners (Adl. Com.) of Commercial Tax and Director have been vested with the powers to sanction of refunds.

2.8.2.1 Monetary limit of sanction

The Commissioner of Commercial Tax vide circulars dated 8 May 2007 and 4 August 2009 fixed the monetary limit of power to sanction the refunds as shown in the table no. 2.8:

Table No. 2.8

Sanctioning Authority	Monetary limit
Commercial Tax Officer	Not more than ₹ one lakh
Assistant Commissioner	Not more than ₹ five lakh
Deputy Commissioner	Not more than ₹ 10 lakh
Additional Commissioner	Not more than ₹ 1.5 Crore
Director	In all remaining cases

2.8.3 Audit Objectives

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

- Whether the system of refund of tax is effective and efficient;
- Whether the rules and procedures prescribed in the Act, Rules and directives regarding timeliness and accuracy of refund were scrupulously followed; and
- Whether adequate internal control and monitoring mechanism exists for prompt exercise of constraints and checks prescribed for refunds.

2.8.4 Scope of audit and methodology

An audit covering a period of three years from 2010-11 to 2012-13 was carried out to ascertain the adequacy and effectiveness of the system and procedure prevailing in the Department for timely and assured refund in randomly selected 31 units[2] out of total 121 units. An Entry Conference was held on 18 June 2013 with the Commissioner, Commercial Tax in which the executive was informed about the selection of units as well as scope and methodology of Audit. The exit conference with the Commissioner, Commercial Tax was held on 4 September 2013 in which the Department accepted almost all the issues raised in the paragraph and assured to take remedial and preventive steps and stated that the weakness would be overcome through computer based module.

2.8.5 Acknowledgement

The Indian Audit and Accounts Department acknowledges the co-operation of the Commercial Tax Department in appointing a nodal officer for providing necessary information and records for the purpose of audit of refunds.

2.8.6 Trend of revenue and refund

As per the directives of the CCT, the assessing authorities, assessing the case to refund, would send the case to the Competent authority directly for sanction within seven days of date of such assessment order and the competent authority within 15 days of its receipt return the case to concerned assessing authority either with sanction of refund or with its directions for further action by the AAs. The table no. 2.9 presents the collection under Value Added Tax (VAT)/Commercial Tax, refund under the Act/MP *Vanijyik Kar Adhiniyam* and its revenue position during the period 2010-11 to 2012-13. This information has been collected by audit from selected units. The CCT was requested on 27 May 2013 followed by six reminders[3] for this information with respect to whole Department. The CCT has informed vide his letter dated

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2 17 Circle offices- Bhind, Bhopal(3), Dewas, Gwalior(2), Harda, Indore(4), Itarsi, Jabalpur, Rewa, Sagar and Satna, Nine Regional offices- Bhopal, Chhindwara, Dewas, Dhar, Indore(2), Khandwa, Sagar and Satna, Five Divisional offices- Gwalior(2), Indore, Satna and Ujjain

3 Up to 20 September 2013

10 July 2013 that the information was being collected from subordinate offices and audit would be intimated as soon as it is received. This information is still awaited (January 2014).

Table No. 2.9

(₹ in lakh)

Year	Total no of units	Total no of assess ment	Total revenue of the year	No. of refund cases at the beginning of year	Amount of OB of Refund cases	No. of refund cases generated during the year	Amt. of Ref cases generated during the year	Total Column 5 & 7	Total Column 6 & 8	No of refund case in which refund is made	Total amount of refund paid	No. of refund cases Outst-anding	Amount of refund cases Outstan-ding
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)
2010-11	**31**	66138	606890	42	38	1646	5024	1688	5062	1585	4633	103	429
2011-12	**31**	66424	862030	103	429	1478	3897	1581	4326	1486	4002	95	324
2012-13	**31**	49127	407848	55	41	1718	8266	1773	8307	1664	7743	109	564

We observed following from the table above:

- While the revenue has declined sharply from ₹ 8620.30 crore in 2011-12 to ₹ 4078.48 crore in 2012-13, there was a substantial increase in the number and amount of refund cases during the same period.
- the amount of refund cases pending at the end of 2011-12 was 75.52 *per cent* of that of the year 2010-11 and the amount of refund cases pending at the end of 2012-13 was 174.07 *per cent* of that of 2011-12. A substantive upsurge in the trend of outstanding amount of refund cases at the end of 2012-13, in percentage terms could be noticed.

One of the reasons contributing to the increase in refund, as observed in audit was steady increase in export of goods from the state on which input tax suffered on raw material was eligible for refund.

2.8.7 System Deficiencies

The observations arising out of the audit are discussed in succeeding paragraphs:

2.8.7.1 Delay in initiating refund proceedings

The CCT vide circular dated 8 May 2007 directed that the assessing authorities would send the case of refund to the Competent authority directly for sanction within seven days of date of such assessment order and the competent authority within 15 days of its receipt return the case to concerned assessing authority either with sanction of refund or with its directives for compliance.

Of the 4620 cases of refund in the 31 selected units during the period from 2010-11 to 2012-13, the Department produced 4455 cases for audit scrutiny. We noticed delay in initiation of refund proceedings in 1307 cases. While in 45 cases[4], the delay was in excess of one year in sending cases to competent authority for sanction of refund, the delay in sending back the cases to assessing authority by sanctioning authority exceeded one year in 69 cases. Besides, there is delay in sending the Refund Payment Order (RPOs) to treasuries for making payment to the dealer, of which the delay exceeded one year in 118 cases and the delay exceeded five year in three cases.

The Department may consider taking remedial measures for regular maintenance of prescribed registers and regular submission of returns to enable monitoring of timely and accurate disposal of refund cases.

2.8.7.2 Inaction of the Department in initiating refund proceedings

Due to inaction of the Department, refund proceedings was not initiated in 20 cases.

In compliance of the CCT's direction, contained in the circular dated 8 May 2007, the whole process of Refund has to be completed within 60 days.

During test check of 4455 cases in selected units, we noticed that in three units[5] in 20 cases of 20 dealers the cases were assessed/ re-assessed to refund of ₹ 91.79 lakh between May 2010 and November 2012 for the period between 2005-06 and 2009-10.

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4 Range of delay in days in sending the cases to the sanctioning authorities

Up to 15	15 to 30	30 to 90	90 to 180	180 to 365	1 year to 2 years	2 years to 5 years	Above 5 years
3	**7**	**18**	**53**	**56**	**24**	**19**	**2**

Range of delay in days in sending the cases back to AAs concerned by the sanctioning authorities

Up to 15	15 to 30	30 to 90	90 to180	180 to 365	1 year to 2 years	2 years to 5 years	Above 5 years
8	11	45	40	45	44	24	1

5 Gwalior (2), and Indore.

Due to inaction of the Department, the refund proceedings could not be initiated and these cases remained unattended. This resulted in undue accumulation in refund cases to the tune of ₹ 91.79 lakh as detailed in **Annexure-II.**

In exit conference, the Department agreed to the fact and stated that a computer based module for taking timely initiative was being put in place which would help in ensuring timely and correct refund.

There is a need to sensitise the departmental staff to perceive themselves as service providers. This may be integrated into the training programmes and seminars/ workshops organised by the Department.

2.8.7.3 Non-adjustment of dues before payment of refund

As per provisions contained in the Act, the authority empowered to grant refund shall apply the refundable amount in respect of any year towards the recovery of any tax, penalty, interest or part thereof due under this Act or under the Act repealed by this Act or under the Central Sales Tax Act, 1956 or under the *Madhya Pradesh Sthaniya Kshetra Me Mal Ke Pravesh Par kar Adhiniyam, 1976* and shall then refund the balance remaining, if any.

Issue of refund payment order without adjusting the demand pending in other cases of the dealers resulted in excess refund.

During test check in selected units, we noticed in one regional office[6] and two circle offices[7] that in five cases of four dealers, the cases were assessed to refund of ₹ 2.39 lakh between April 2010 and March 2013 for the period between 2007-08 and 2010-11. The AA incorrectly issued Refund Payment Order (RPO) without adjusting the demand pending in other cases of the dealers for either same period or block period. This was irregular and led to excess refund.

In the exit conference, the Department agreed to the fact of non-adjustment of dues before payment of refund and stated that the weakness would be overcome through computer based module.

The Department may consider to devise a system to ensure adjustment of pending demands towards the dealer before making refund.

6 Sagar
7 Sagar and Itarasi.

2.8.7.4 Irregular re-assessment of the cases already accepted as self-assessed

Where a registered dealer has furnished, all returns or revised returns for any period of a year in the prescribed manner and within prescribed time or before, 31 July of the subsequent year, in case of such dealer whose annual turnover does not exceed ₹ 40 lakh; has paid the tax payable according to such returns or revised returns as also interest payable, if any, and has furnished the statement within the prescribed time; The returns or the revised returns furnished by such dealer for the year, subject to compliance of requirements made in the notice shall be accepted and his assessment shall be deemed to have been made, provided that the assessment of every such registered dealer, who is required to furnish audit report, shall be deemed to have been made only after such dealer has furnished the audit report. Further, as provided in Section 20-A (2) of the MP VAT Act, 2002, the Commissioner shall select for re-assessment a number of such dealers, as he deems fit, whose assessment for a year is deemed to have been made under the provision of self-assessment.

During test check of CTO Jabalpur and the AC Indore in June 2013, we noticed that in case of four dealers the cases were re-assessed to refund while the dealers had already applied for self assessment and accepted by the Department. This resulted in undue surge in refund.

The dealers were not taken up under selection for re-assessment. Hence, the cases should not have been re-assessed by the AA.

In the Exit conference, the Department agreed to the fact and assured to look into the matter and to take remedial steps wherever necessary.

2.8.7.5 Irregular sanction of refund by surpassing the limit of sanction

The CCT, vide its directives in May 2007 and August 2009, has fixed the monetary limits of power to sanction the refunds by different refunding authorities i.e. for CTO not more than ₹ one lakh for AC not more than ₹ five lakh, for DC not more than ₹ 10 lakh for Addl. Com. not more than ₹ 1.5 crore and for Director in all remaining cases.

During test check of the refund cases in one regional office[8] and seven circle offices[9] out of selected 31 units, we noticed that in 21 cases, involving refund amounting to ₹ 2.57 crore, out of 4455 cases produced to audit, the AA's surpassed the limit of sanctioning the refund. The refunds were sanctioned by authorities lower

[8] Dhar

[9] Gwalior (2), Harda, Indore (3) and Jabalpur.

than those authorised to sanction the refunds as per the directives of limit of sanction of refunds. This resulted in irregular sanction of refund to the tune of ₹ 2.57 crore detailed in **Annexure-III**.

In exit conference, the Department agreed to the fact and stated that the post-facto sanction had already been obtained in the cases and assured to develop a system for proper sanction of assessed refund. The reply of the Department is not convincing as it is not the question of post facto sanction but surpassing the limit of sanction.

2.8.7.6 Inordinate delay in adjustment of refund

In compliance of the CCT's direction, contained in the circular dated 8 May 2007, the whole process of Refund has to be completed within 60 days.

There was inordinate delay of three years in making adjustment of assessed refund.

During test check of the office of the Divisional office I, Gwalior, we noticed that the cases of a dealer[10] for the financial year 2005-06 and 2006-07 were assessed to refund for ₹ 5.50 lakh and ₹ 10.81 lakh respectively in March 2009 for the period 2005-06 and in April 2009 for the period 2006-07. Both the refunds were adjusted in May 2012 in the case of financial year 2009-10. Thus, assessed refunds remained to be adjusted for more than three years. This resulted in inordinate delay of three years in making adjustment of assessed refund. This indicates lack of monitoring of refund cases.

2.8.8 Internal Control of the Department

2.8.8.1 Internal Audit

There is no Internal Audit Wing in the Department Even the Finance Department had not carried out audit of refund.

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

The CCT was requested to provide information about the establishment and function of the Internal Audit Wing (May 2013). The CCT stated (July 2013) that there was no separate Internal Audit Wing in the Department and audit of refund had not been carried out by the Finance Department of Government of Madhya Pradesh during the period 2010-11 to 2012-13.

In exit conference, the Department agreed to the concerns of audit regarding absence of separate audit wing in the Department and stated that efforts would be made to strengthen the mechanism that existed in the Department for audit of refunds.

[10] Gwalior Distilleries

The Government may consider establishing an Internal Audit Wing in the Department.

2.8.8.2 Non-maintenance/irregular maintenance of prescribed registers

In compliance to the direction of the CCT regarding procedures and timelines of Refund the AA's and/or Refund sanctioning authorities are required to maintain Register of Refund cases in prescribed form, Disposal of Refund cases registers, Refund case sent for sanction register, Register of interest paid on Refund, Register for deferred Refund, Process server* register. Register of Refund Payment Order (RPO) sent to treasury and monthly diary, besides file of order of interest payable on Refund and Form DD (4) and 4(a).

* A person responsible to deliver assessment orders and demand notes to the dealer.

We reviewed the position of maintenance of prescribed registers/ files during the period from May to July 2013 in each of 31 units selected for audit.

We observed that while the register of refund cases is being maintained by all the 31 units test checked such registers were not maintained in the prescribed proforma in 29 of the units. Besides, out of selected 31 units, Register for RPO sent to treasury and Process server register was not being maintained in 23 and 30 units respectively. As these registers are crutial to monitor the timely refund of dues to the dealers after sanction by the competent authority, failure to ensure proper maintenance of the registers could result in dalayed release of refund even after sanction. Similarly, monthly diary and form DD (4) /DD 4 (A) were also not being maintained in 15 and 9 units respectively.

Prescribed registers crucial for monitoring timely refund were not maintained as prescribed.

In exit conference, the Department agreed to the fact and stated that a computer based module for taking timely initiative was being put in place which would help in ensuring timely and correct refund.

Non-maintenance of register/records in the proforma prescribed would handicap monitoring and control for timely disposal of refunds.

2.8.8.3 Absence of control over maintenance of registers and returns

There was no mechanism in the Department to monitor proper maintenance of registers/returns prescribed for ensuring timely refund.

There is no separate refund machinery in the Department to ensure timely and assured refund. In present refund machinery, the assessing authority, assessing the case to refund, has to send the case to the competent authority directly for sanction of assessed refund within seven days of date of assessment order and the competent authority within 15 days of its receipt has to return the case to the concerned assessing authority either with sanction of refund or with its directives in the case for compliance. For monitoring timely disposal of refund claims, registers and returns have been prescribed by the Department for maintenance by the assessing authorities. We, however, noticed that there

was no mechanism within the Department to monitor proper maintenance of prescribed registers and timely submission of returns and compliance of provisions in assessing the cases to refund. As a result, the purpose of prescribing control registers and returns to monitor timely disposal of refund cases remained largely unfulfilled.

In exit conference, the Department agreed to the fact of absence of separate refund machinery in the Department.

The Government may consider putting in place a mechanism to monitor implementation of its orders/instructions on maintenance of registers/returns.

2.8.9 Compliance deficiencies

2.8.9.1 Application of incorrect rate of tax resulting in inadmissible refund

The Madhya Pradesh *Vanijyik Kar Adhiniyam*, 1994 (*Adhiniyam*) and the MP VAT Act, 2002 read with the Central Sales Tax (CST) Act, 1956 and notifications issued thereunder specify the rates of commercial tax and VAT leviable on different commodities.

We observed in one regional office[11] and three circle offices[12] between May and July 2013 that in five cases of five dealers assessed to refund of ₹ 2.73 lakh, between April and November 2012 for the period 2009-10 to 2010-11, tax on the sales turnover of ₹ 1.63 crore was levied at incorrect rates. This not only resulted in short levy of tax of ₹ 28.20 lakh including interest/penalty of ₹ 20.68 lakh but also in payment of inadmissible refund of ₹ 2.73 lakh which otherwise would not have been due as detailed in **Annexure-IV**.

Levy of tax levied at incorrect rates resulted in short-levy of tax and also inadmissible refund.

After we pointed out the cases, the assessing authorities (AAs), in case of three dealers stated that action would be taken after verification. In one case the AA stated that sand and stone metal were also used along with cement and cement had ample closing stock. The reply is not relevant as the consumption of cement as per trading account and purchase list clearly indicates that the tax on cement consumed was levied at incorrect rates.

In the remaining one case, the AA stated that the goods, used in the units of Defence Department, a central government concern in Madhya Pradesh, were taxable at the rate of five *per cent*. The reply does not address the levy of incorrect rate of tax on remaining sale, after considering the deduction for use by Defence Department.

11 Satna

12 Gwalior, Indore, Jabalpur

2.8.9.2 Incorrect determination of turnover

As per Section 2 of the Madhya Pradesh VAT Act, 2002, turnover in relation to any period means the aggregate of sale prices received and receivable by a dealer in respect of any sale or supply of goods made during that period, excluding the amount of sales return within the prescribed period. For the purpose of determining taxable turnover (TTO), the Section provides for deductions of the sale price of tax paid goods and the amount of tax from turnover, if included in the aggregate of sale prices. Packing material is liable to tax at the same rate as applicable to the goods packed therein.

There was irregular refund in 22 cases due to incorrect determination of turnover.

We observed between May and July 2013 in two regional offices[13] and seven circle offices[14] from assessment files of 22 cases of 22 dealers, out of 1621 cases, assessed between April 2012 to March 2013 for the periods between 2008-09 and 2011-12, the amount of assessed refund was ₹ 56.39 lakh. Further, we observed under determination of turnover to the tune of ₹ 22.56 crore against the aggregate turnover of the dealers recorded in their audited books of accounts/ sale list/ relevant records. The aggregate turnover of ₹ 63.92 crore was determined by the AAs in those 22 cases. Thus, turnover aggregating ₹ 22.56 crore was not assessed to tax and resulted in non-levy of tax of ₹ 1.61 crore including interest and penalty of ₹ 31.20 lakh. This rendered the assessed refund of ₹ 56.39 lakh irregular in those 22 cases.

After we pointed out the cases in May and July 2013, in case of 17 dealers, the AAs stated in May 2013 and July 2013 that action would be taken after verification. In case of one dealer, the AA did not furnish relevant reply while in the remaining case of four dealers, the replies of the AAs are detailed in **Annexure-V**.

2.8.9.3 Non/short levy of entry tax

Applicable tax was either not levied or levied at incorrect rate on goods entering local area, resulting in irregular refund.

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

We observed in divisional office Satna, two regional offices [15] and five circle offices[16] between May and June 2013 that in nine cases of nine dealers, assessed/ re-assessed between April 2012 and February 2013 for the periods 2008-09 to 2010-11, ET on goods like Cold drink, Iron and Steel and telecommunication tower material, Cement and sand etc. valued at ₹ 19.35 crore was either not levied or levied at incorrect rate on their entry into local

13 Indore, Satna
14 Dewas, Gwalior(2), Harda, Indore (2), Jabalpur
15 Dhar and Satna.
16 Bhopal, Gwalior, Harda, Jabalpur and Sagar.

area. This resulted in non/short realisation of ET of ₹ 67.48 lakh including interest and penalty of ₹ 45.65 lakh.

We further observed that refund of ₹ 0.47 lakh, ₹ 53.48 lakh and ₹ 1.28 lakh was sanctioned towards ET, VAT and CST, respectively to these nine dealers during the same period. Had entry tax been levied at applicable rates from the dealers and the refund payble to the dealers would have been lower by ₹ 55.23 lakh, as detailed in **Annexure-VI**.

The AAs in all nine cases stated that action would be taken after verification.

2.8.9.4 Allowance of inadmissible refund on input tax

As per Section 14 of the Madhya Pradesh VAT Act, 2002, where a registered dealer purchases any goods specified in Schedule II of the Act, other than those specified in part III of the said Schedule, from another registered dealer after payment of input tax, he shall be allowed input tax rebate (ITR) of the amount of such input tax. Further, the input tax rebate which remains unadjusted shall be carried over for adjustment towards tax payable in the subsequent year.

We observed in one regional office[17] and two circle offices[18] in June 2013 that inadmissible refund was allowed in case of four dealers, assessed between 2009-10 and 2012-13 for the period between 2006-07 and 2010-11. The details are given below:

- In two cases, the AA instead of carrying forward the unadjusted ITR of ₹ 1.04 lakh against the tax payable in the subsequent year, allowed refund of input tax of ₹ 1.19 lakh.
- In another case, instead of complying to the directive of the competent refund sanctioning authority to verify the claimed ITR ₹ 20.11 lakh, issued RPO of ₹ 16.44 lakh on the very next day of receiving the directive, after adjusting ET dues of ₹ 3.66 lakh.
- In one case, the AA assessed the case to refund ₹ 1.47 lakh by allowing ineligible ITR ₹ 40,761 on import purchase.

Incorrect allowance of input tax rebate resulted in payment of inadmissible refund.

The irregular grant of refund on ITR in respect of the four dealers worked out to ₹ 4.67 lakh. The cases are detailed in **Annexure VII**.

In all the four cases, the AAs stated that action would be taken after verification.

[17] Dhar

[18] Bhind and Gwalior.

2.8.9.5 Grant of deduction on the basis of irregular declarations 'E-I and C'

As per provision contained in Section 6 (2) of the Central Sales Tax Act, 1956 where a sale of any goods in the course of inter-State trade or commerce has either occasioned the movement of such goods from one State to another or has been effected by a transfer of documents of title of such goods during their movement from one State to another, any subsequent sale during such movement effected by a transfer of documents of title to such goods to a registered dealer shall be exempt from tax under this Act. Further, as per provisions of Rule 12(1) of CST (R and T) Rules, a single declaration may cover all transactions of sales, which take place in a quarter of a financial year between the same two dealers.

During test check of circle offices at Jabalpur and Sagar in June 2013, we noticed that

- the AA allowed deduction of subsequent sale on the basis of declaration forms 'E-I and C[19]'. As per list of sale on which deduction was claimed and relevant declarations E-I and C forms, the sale was made on date prior to the date of purchase. As deduction was admissible only if the sale was subsequent to purchase, the turnover was not eligible for deduction. The AA, however, incorrectly, assessed the case of refund of ₹ 62,638 as against the assessable tax of ₹ 4.36 lakh including penalty ₹ 3.27 lakh.
- The AA allowed levy of tax at concessional rate against the "C" form that contained transactions of more than a quarter which was incorrect in terms of Section 6(2) of the CST Act. This resulted in short levy of tax amount to ₹ 7,050. The assessed refund in the ET case of the dealer for the same period was ₹ 10,108.

There was irregular refund due to grant of deduction on the basis of irregular declarations.

The AA stated in the case relating to sale prior to purchase that the date of purchase was wrongly mentioned as 30.06.2006 as against the correct date of 30.05.2006 and hence there was no short levy of tax. The reply is not correct as the purchase made on 30.05.2006 was sold to another dealer against another 'C' form and therefore deduction granted to the dealer was irregular. In other case, the AA replied that action would be taken after verification of facts.

[19] As per requirement of Section 6 (2) of The Central Sales Tax Act, 1956, 'E-I' is a certificate duly signed by the registered dealer from whom the goods were purchased and 'C' is a certificate duly signed by the registered dealer to whom the goods were sold.

2.8.9.6 Adjustment of irregular TDS against assessed tax

As per provisions of Section 26 of the Act, the purchaser shall before crediting such sum of work done in pursuance of a work contract to the account of the dealer or before payment thereof in cash or by issue of a cheque or draft or by any other mode, deduct an amount equal to the amount payable by the purchaser to the dealer by way of tax and shall deposit such amount into the government treasury in such manner and within such period as may be prescribed. Further, as per provisions of Section 26-A of the Act the purchaser of notified goods, Mustard, shall issue a certificate of deduction of tax to the seller in Form 31-A. The certificate may cover the transaction effected during a period of one calendar month.

Adjustment of irregular TDS (Tax deducted at source) against assessed tax resulted in irregular refund.

During test check in two regional offices[20] and two circle offices[21] out of selected units in June 2013, we observed that the AA allowed adjustment of TDS that did not pertain to the financial year for which adjustment was made in three cases. We further observed that in three cases, the TDS did not bear the proof of payment of tax into Government treasury and in one case, the TDS certificate, for the sale of Mustard, was used for transactions of more than one calendar month in violation of the relevant provisions. As a result, on the basis of irregular TDS certificates amounting to ₹ 61.37 lakh against assessed tax, refund of ₹ 58.99 lakh was allowed by the AA, as detailed in the **Annexure-VIII**.

In all the cases, the AAs stated that action would be taken after verification.

[20] Bhopal and Satna.

[21] Gwalior and Sagar.

2.8.9.7 Non-imposition of penalty

As per provisions contained in Section 21 of the Act, where an assessment or re-assessment of a dealer has been made under this Act or the Act repealed by this Act and for any reason any sale or purchase of goods liable to tax under this Act or the Act repealed by this Act during any period, has been under assessed or has escaped assessment, or a rebate if input tax has incorrectly been allowed while making the assessment, the Commissioner may assess or re-assess the dealer to tax. Further, the Commissioner shall, where the omission leading to assessment is attributable to the dealer, impose upon him a penalty not exceeding 3.5 times the amount of tax so assessed or re-assessed but shall not be less than three times the amount of tax assessed.

There was irregular refund due to non imposition of penalty in four cases.

During test check in circle offices Gwalior and Sagar out of selected units in June 2013, we observed that in four cases of four dealers, the AA reassessed the cases to refund of ₹ 61.32 lakh between April and August 2012 for the period from 2007-08 to 2009-10. During reassessment, the AA noticed irregularities in three cases as the dealers were found to be guilty of claiming incorrect ITR. In one case, the dealer was found to be guilty of concealing the import purchase. The AA however failed to impose penalty of ₹ 70.07 lakh as detailed in the **Annexure-IX**.

In all four cases, the AAs stated that action would be taken after verification.

2.8.10 Conclusion

Disposal of refunds is a key indicator for measuring the operational performance of tax administration. The CCT has been given the powers to make refund if a case is assessed to refund, under the rules. For this, the CCT has issued directives. We observed that there was need for control over the mechanism of refund to prevent accumulation of the pending cases. The Department did not have a separate Internal Audit wing. We observed that the Department did not adequately monitor the refund cases through proper maintenance of prescribed Registers and timely initiation of refund proceedings. We noticed cases of non-adjustment of dues before payment of refund, irregular sanction of Refund by surpassing the limit of sanction and inordinate delay in adjustment of Refund. We also observed instances of non-compliance to the relevant provisions while assessing cases to refund. These aspects reflect weakness in the system which requires strong machinery for refunds with effective monitoring at appropriate level.

2.9 Application of incorrect rate of tax

The MP Value Added Tax (VAT) Act, read with the Central Sales Tax (CST) Act, and notifications issued thereunder specify the rates of VAT leviable on different commodities. Under the MP VAT Act, a dealer is liable to pay interest at the rate of 1.5 *per cent* per month under section 18(4), if he fails to pay tax payable by him according to the periodic returns and liable to pay penalty under Section 21(2) of the Act ibid at minimum 3 times but not exceeding 3.5 times of assessed tax where omission leading to assessment is attributable to dealer.

We test checked records such as assessment orders, audited accounts, purchase list etc. between September 2010 and February 2013 in two divisional offices[22], 11 regional offices[23] and 14 circle offices[24] and found that in 42 cases of 37 dealers, assessed between January 2009 and March 2012 for the period 2006-07 to 2009-10, the Assessing Authorities (AAs) levied tax at incorrect rates on sale turnover of ₹ 33.95 crore. This resulted in short levy of tax of ₹ 4.37 crore including interest of ₹ 17.19 lakh and penalty of ₹ 1.38 crore. A few instances are mentioned in the table 2.10:

Table No. 2.10

Sl. No.	Name of auditee unit	Assessment period Month of assessment	Name of commodity	Turn-over (₹ in crore)	Rate of tax applicable (*per cent*)	Rate of tax applied (*per cent*)	Amount of short levy of tax (₹ in lakh)
1.	CTO-I,Bhopal	2009-10 January 2011	Flush Doors	2.31	12.5	4/5	72.11 {including penalty of ₹ 54.08 lakh (three times of assessed tax)}
2.	RAC-II Satna	2009-10 November 2011	Plant & Machinery and truck	3.17	12.5	5/1.5	25.97
3.	RAC-III, Indore	2009-10 February 2012	Aluminium, FRP Sheet,Steel Sheet and refractories	4.32	12.5/4/1.5	4/5/Nil	33.15
4.	RAC-II,Gwalior	2008-09 June 2011	Radial crest Gate	3.32	12.5	4	39.39 (including interest of ₹ 11.16 Lakh)

22 Gwalior, Indore

23 Bhopal, Dewas, Gwalior, Indore (2), Jabalpur, Morena, Satna, Sagar, Shajapur and Ratlam.

24 Bhopal (2), Dewas, Gwalior, Indore (4), Jabalpur (2), Morena, Neemuch, Shahdol, and Ujjain.

After we pointed out the cases, the AAs in five cases[25] raised demand of ₹ 18.41 lakh (between November 2012 and June 2013). In two other cases, the AAs accepted (in February 2012 and in July 2012 respectively) the audit observations involving ₹ 30.68 lakh. In 17 cases of 14 dealers, AAs agreed to take action after verification/examination (between September 2010 and February 2013).

In 18 cases of 17 dealers, departmental replies and our comments thereon are in the table no. 2.11:

Table No. 2.11

Sl. No.	Name of auditee unit/No. of dealers	Amount involved (₹ in lakh)	Rate of tax applicable/ applied	Commodity	Departmental reply	Our comments
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	CTO-II,Ujjain 1(2 cases)	48.87	12.5 4/5	Aquasheild	Materials used in water proofing were liable to tax at the rate of four and five *per cent.*	We do not agree with the reply as Aquasheild is a water proofing compound/treatment material and no specific entry of the same is available in schedule and hence is liable to tax at the rate of 12.5 *per cent.*
2.	RAC-II Gwalior 1	39.39	12.5 4	Radial Crest Gate	The tax was levied at the rate at which transfer of goods was done under contract.	We do not agree with the reply as the reply does not address audit objection regarding application of incorrect rate of tax.
3.	CTO, Neemuch 1 CTO-V,Bhopal 1	36.68	12.5 4	Home UPS	The dealer had sold UPS (IT Goods) and hence taxable at the rate of four *per cent.*	We do not agree with the replies of the AAs in view of the facts recorded in audited accounts, purchase list, quantative details of sales etc. which clearly establish the sale of UPS invertors rather than IT goods and as per circular no. 292 dated 31st July 2006, the same is taxable at the rate of 12.5 *per cent.*
4.	CTO Neemuch 3	17.36	12.5 4	Felt Component	The AA referring CCT, MP order dated 31st August 2010[26] stated that Felt Component is liable to tax at the rate of four *per cent*	We do not agree with the reply as referred order relate to fabrics. Felt Component is a machinery part as per CCT, MP order dated 29th March 1995[27]and thus liable to tax at the rate of 12.5 *per cent.*
5.	CTO-I, Ujjain 2	13.89	12.5 4	Paper Dona and Plates	The donas and plates were made up of khakra leaves and thus taxable at the rate of four *per cent.*	We do not agree with the reply as the documents like audited accounts, declaration form (Form 88) etc. clearly show that dealer had sold paper donas and paper plates.

25 RAC Jabalpur (2), RAC Dewas (2), CTO-III Jabalpur

26 M/s Shanti Textile (2010)-17 STJ,485

27 . M/s Sealwell Neemuch (1995) 14 TLD-237

(1)	(2)	(3)	(4)	(5)	(6)	(7)
6.	RAC-II Indore 1 DC-II,Gwalior 1	9.68	12.5 4	Plant & Machinery	The AA, Indore stated that dealer had sold scrap of Plant & Machinery whereas the AA Gwalior initially stated that dealer had sold C I Mould. Later on he stated that the dealer had sold the scrap of machinery.	We do not agree with the replies in view of the audited accounts in which sale of old Plant & Machinery is clearly shown.
7.	CTO-VI Indore 1	8.56	12.5 4	CRGO, Lamination	CRGO Lamination is a part of transformer and hence tax was levied at correct rate.	We do not agree with the reply in view of the CCT circular no. 292 dated 29 July 2006 according to which CRGO Lamination is liable to tax at the rate of 12.5 *per cent*.
8.	RAC-Ratlam	6.48	12.5 4	Invertors	The dealer had sold UPS, which is taxable at the rate of four *per cent*.	We do not agree with the reply in view of the documents such as balance sheet, purchase list etc., which clearly establish sale of Invertors.
9.	RAC-Shajapur 1 RAC-Sagar 1	4.54	12.5 4/5	Tractor accessories	The AA Shajapur stated that goods sold were tractor parts whereas the AA Sagar stated that dealer had to provide tractor parts as accessories on warranty claim and did not purchase it for trading and hence levied tax was correct.	We do not agree with the replies in view of the facts available in the documents like purchase list, audited account which clearly show the sale of tractor accessories.
10.	CTO-V, Indore 1	2.75	12.5 4	Hoarding	The tax was levied at correct rate after verification.	We do not agree with the reply as there is no specific entry of Hoardings and hence is liable to tax at the rate of 12.5 *per cent*.
11.	RAC-I,Bhopal 1	0.89	12.5 4/5	Adhesives	Adhesive is a chemical component. Hence levied tax was correct.	We do not agree with the reply as there is no specific entry of adhesives in schedule and as per CCT circular no. 292 dated 29 July 2006 adhesives is liable to tax at the rate of 12.5 *per cent*.

We reported the matter to the Department and the Government between February and April 2013; their replies have not been received (January 2014).

2.10 Short imposition of penalty

According to Section 21 (2) of the MP VAT Act, 2002, where the omission leading to assessment or re-assessment made under Sub-section (1) is attributable to the dealer, penalty not exceeding 3.5 times and not less than 3 times the amount of tax so assessed or re-assessed is leviable.

2.10.1 We test checked the records such as assessment orders, audited accounts, purchase list etc. between June and October 2012 in divisional office Chhindwara and two regional Offices[28] and found that four dealers had either concealed their taxable turnover or paid tax at lower rate for the period 2006-07 to 2008-09. The AAs, while finalising the re-assessment between May 2011 and March 2012, imposed penalty of ₹ 26.52 lakh only at different rates[29] against minimum leviable penalty of ₹ 2.06 crore. This resulted in short imposition of penalty of ₹ 1.80 crore.

After we pointed out the cases (between June and October 2012), the AA in one case raised (May 2013) additional demand of ₹ 67.86 lakh. In remaining three cases the AAs stated (between June and October 2012) that action would be taken after verification. Further report has not been received (January 2014).

We reported the matter to the Department and the Government (between February and April 2013); their replies have not been received (January 2014).

As per provision of the Section 52 of the MP VAT Act, 2002, if the commissioner or the appellate authority or appellate board is satisfied that a dealer has concealed his turnover or has furnished false particulars of his sales, he may impose by way of penalty a sum which shall not be less than three times but shall not exceed by 3.5 times of the amount of tax evaded. As per provisions contained in Section 13 of *Sthaniye kshetra me mal ke pravesh par kar Adhiniyam*-1976 the provision of Section 52 of MP VAT Act, 2002 shall apply *mutatis-mutandis* to a dealer for the purpose of penalty.

2.10.2 We test checked the records such as assessment orders, audited accounts, purchase list etc. in circle-9, Indore in June 2012 for the period 2007-08 and found that in two cases the dealer had furnished false particulars of sales under VAT assessment and Entry tax (ET) assessment. However, the AA while re-assessing the case in April 2011, assessed the tax leviable at ₹ 8.80 lakh instead of ₹ 88 lakh leviable on the concealed turnover of ₹ 22 crore at the rate of four *per cent*. Further, the penalty was levied at equivalent amount instead of levying three times of the amount due in terms of MP VAT Act. This resulted in the short imposition of penalty of ₹ 2.55 crore.

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28 Chhindwara and Indore

29 In two cases penalty was imposed equal to tax, in one case penalty was imposed after adjusting the amount of input tax rebate and in another case lump sum penalty was imposed

In ET case of same dealer, penalty was imposed equal to the assessed tax of ₹ 21 lakh instead of ₹ 63 lakh being the minimum three times of assessed tax. This resulted in short imposition of penalty of ₹ 42 lakh.

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

2.11 Allowance of Inadmissible Input Tax Rebate

According to Section 14 of the MP VAT Act, 2002, where a registered dealer purchased any goods specified in Schedule II of the Act, other than those specified in Part III of the said Schedule within the state of Madhya Pradesh, from another registered dealer after payment of input tax, he shall be allowed input tax rebate (ITR) of the amount of such input tax for the same year.

2.11.1 We test checked records such as assessment orders, audited accounts, purchase list etc. between March and November 2012 in three regional offices[30], circle office, Indore and found that in four cases of four dealers assessed between April 2010 and February 2012 for the period 2008-09 to 2009-10, the AAs allowed inadmissible ITR of ₹ 3.19 crore as shown in the table no. 2.12:

Table No. 2.12

Sl. No	Name of auditee unit No. of dealers	Period of assessment Month of assessment	Our observation
(1)	(2)	(3)	(4)
1	RAC-II, Satna 1	2008-09 April 2011	The dealer was allowed ITR of ₹ 5.06 crore on purchase value of ₹ 71.82 crore. However, in this purchase of ₹ 42.94 crore pertained to period 2006-07 & 2007-08. This resulted in excess grant of ITR of ₹ 3.14 crore.
After this was pointed out, the AAs raised (May 2013) demand of ₹ 4.50 crore including interest of ₹ 1.49 crore.			
2	CTO-X, Indore 1	2009-10 February 2012	The dealer purchased sanitary goods and tiles valued at ₹ 21.50 lakh from out of MP. However, the AA allowed inadmissible ITR ₹ 2.69 lakh on the same.
After this was pointed out, the AA stated (September 2012) that action would be taken after verification. Further reply has not been received (January 2014).			
3	RAC-I, Bhopal 1	2008-09 April 2010	The dealer got trade discount of ₹ 16.12 lakh on which ITR is not admissible. The AA allowed ITR on total purchase including amount of trade discount. This resulted in excess grant ITR of ₹ 2.01 lakh.
After this was pointed out the AA stated (March 2012) that action would be taken after verification.			

[30] Bhopal, Jabalpur and Satna

(1)	(2)	(3)	(4)
4	RAC-I Jabalpur 1	2009-10 October 2011	The dealer purchased mobile and SIM card valued at ₹ 71.46 lakh after paying input tax of ₹ 5.74 lakh. The AA allowed ITR of ₹ 6.39 lakh, resulting in grant of inadmissible ITR of ₹ 65,470.
After this was pointed out, the AA raised (January 2013) additional demand of ₹ 34,395 after adjusting ₹ 31,075 deposited by the dealer through challans. Report on recovery has not been received (January 2014)			

We reported the matter to the Department and the Government between February and March 2013; their replies have not been received (January 2014).

Section 26-A (4) of the MPVAT Act, 2002, provide that no input tax rebate shall be claimed or be allowed in respect of the goods notified for Tax Deducted at Source (TDS) under sub-section (1) of the said section. Mustard and cotton have been notified for TDS under the provision of aforesaid sub-section under notification dated 4 January 2008 and dated 3 August 2009 respectively. Further under Section 21(1) (d) and (2) of said Act, if rebate of input tax has incorrectly been allowed while making the assessment and it is attributable to the dealer, penalty not exceeding 3.5 times but not less than 3 times of the amount of assessed tax shall be imposed.

2.11.2 We found during test check of records such as assessment orders, audited accounts, purchase list of Regional office Gwalior and Jabalpur between February 2011 and November 2012 and found that in two cases of two dealers assessed between February 2010 and February 2011 for the period 2007-08 and 2009-10, the AAs incorrectly allowed ITR of ₹ 10.45 lakh on purchase value of cotton bales (January to March 2010) and mustard. As these commodities were notified for TDS, ITR was not admissible in these cases. This resulted in inadmissible grant of ITR of ₹ 38.71 lakh including minimum penalty of ₹ 28.26 lakh[31]

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

[31] Three times of inadmissible rebate of input tax of ₹ 9.42 lakh in one case, in another case having tax effect of ₹ 1.03 lakh, penalty was not leviable.

In terms of Section 14 of the MP VAT Act, 2002, where a registered dealer purchases any goods specified in Schedule II of the Act, other than those specified in part III of the said Schedule, for use or consumption in the manufacture of other goods or manufacturing goods declared tax free under Section 16 of the Act, and the dealer has claimed ITR (Input tax rebate) towards the tax payable by him, in the event of disposal of the goods otherwise than by way of sale within the State ITR shall be allowed only to the extent by which the amount paid in the State exceeds four *per cent*.

2.11.3 We test checked the records such as assessment orders, audited accounts, purchase list etc. between October 2012 and January 2013 in two divisional offices[32] and three regional offices[33] and circle office, Dewas. We found that in six cases of six dealers assessed between April 2010 and June 2011 for the period 2007-08 to 2008-09 and April to December 2009, the AAs allowed ITR of ₹ 27.62 lakh though the rebate admissible to the dealer being in excess of four *per cent* on goods disposed of otherwise than by way of sale or sale of tax free goods, worked out only to ₹ 15.12 lakh. This resulted in inadmissible grant of ITR of ₹ 12.50 lakh.

After we pointed out the cases, the AA, Chhindwara in one case stated (May 2013) that additional demand of ₹ 3.20 lakh has been raised. In remaining five cases of five dealers, the AAs stated (between November 2012 and January 2013) that action would be taken after verification/ examination of cases. Further reply has not been received (January 2014).

We reported the matter to the Department and the Government between February and April 2013; their replies have not been received (January 2014).

32 Chhindwara, Sagar.
33 Khandwa, Khargone, Satna.

2.12 Incorrect determination of turnover

According to Section 2 of the Madhya Pradesh VAT Act, 2002 turnover in relation to any period means the aggregate of sale prices received or receivable by a dealer in respect of any sale or supply of goods made during that period, excluding the amount of sales return within the prescribed period. For the purpose of determining taxable turnover (TTO), the Madhya Pradesh VAT Act provides for deduction from turnover the sale price of tax paid goods and the amount of tax, if included in the aggregate of sale prices.

We test checked the records such as assessment orders, audited accounts, purchase list etc. between March 2012 and February 2013 in divisional offices Sagar, six regional offices[34], 11 circle offices[35] and found that in 25 cases of 25 dealers, assessed between December 2008 and March 2012 for the period between 2006-07 and 2010-11, the AAs while finalising the assessment determined the taxable turnover as ₹ 174 crore. We, however, noticed that the aggregate turnover as recorded in the audited accounts of these dealers was ₹ 216 crore. Thus, the turnover was determined short by ₹ 42 crore which was not subjected to tax. This resulted in non-levy of tax of ₹ 3.35 crore including interest/penalty of ₹ 1.10 crore.

A few instances are mentioned in the table no. 2.13:

Table No. 2.13

Sl. No.	Name of auditee unit	Our observation	Department's reply
1.	RAC-V, Bhopal	The AA allowed deduction of ₹ 15.32 crore on account of Inter-state sale from gross turnover. However, the assessment order of the central case of the dealer for the same period revealed that the gross turnover under Central sales tax (CST) Act was Nil. This resulted in non levy of tax of ₹ 61.28 lakh.	The AA stated (November 2011) that action would be taken after verification of cases. Further reply has not been received (January 2014)
2.	CTO-I, Jabalpur	The AA determined the taxable turnover ₹ 8.30 crore against taxable turnover of 10.91 crore as shown in audited accounts. Further, the AA allowed incorrect deduction of ₹ 19.23 lakh on account of sale returns whereas in audited accounts the net sale was recorded. This resulted in non levy of tax of ₹ 34.98 lakh at the rate of 12.5 *per cent*.	The AA stated (July 2012) that action would be taken after verification of cases.
3.	CTO-Waidhan	In a self-assessed case the dealer determined his TTO of ₹ 4.07 crore as against the actual turnover of ₹ 5.05 crore as shown in audited accounts Further the AA accepted the self-assessment in December 2011. Thus there was under determination of TTO by ₹ 98 lakh, which resulted in short-levy of tax of ₹ 12.74 lakh at the rate of 13 *per cent*. Besides, minimum penalty of 38.22 lakh at three times of the tax so evaded was also leviable.	The AA stated (July 2012) that action would be taken after verification from challans.

34 Bhopal, Gwalior (2), Morena, Khandwa and Jabalpur

35 Bhopal (2), Gwalior (2), Indore (3), Jabalpur, Satna, Rewa and Waidhan.

After we pointed out the cases (between March 2012 and February 2013), the AA raised (March 2013) additional demand of ₹ 45.13 lakh in two cases related to RAC- Jabalpur. In other 21 cases of 21 dealers, AAs stated (between March 2012 and February 2013) that action would be taken after verification/examination of cases while in the remaining two cases of two dealers, the reply of the AAs are in the table 2.14:

Table No. 2.14

Sl. No.	Name of auditee unit	Period Month of assessment	Our observation in brief	Department reply/ our comments
(1)	(2)	(3)	(4)	(5)
1	CTO-III, Bhopal	2010-11 March 2012	In self-assessed case, accepted by the AA in March 2012, the taxable turnover was determined as ₹ 6.28 crore against the actual turnover of ₹ 6.60 crore as per audited accounts. Thus the TTO was determined short by ₹ 31.41 lakh This resulted in short levy of tax of ₹ 1.57 lakh.	The AA stated that the determined turnover was gross sales turnover and not the net turnover. We do not agree in view of the fact that VAT on sales has been shown separately and therefore ₹ 6.60 crore mentioned as sales in the audited accounts represents only the net sales.
2.	DC-Sagar	2009-10 November 2011	The AA while finalising the assessment did not include the import purchase of fertilisers of ₹ 47.86 lakh in total import purchase and accordingly under determined the total sale to that extent. This resulted in non levy of tax of ₹ 9.57 lakh including penalty of ₹ 7.18 lakh	The AA replied that in import list all import purchase was included. The reply is not acceptable as purchase of fertiliser of ₹ 47.86 lakh from Jhansi (UP) was not included in total import purchase list.

We reported the matter to the Department and the Government between February and April 2013, their replies had not been received (January 2014).

2.13 Non/Short levy of entry tax

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

We test checked records such as assessment orders, audited accounts, purchase list etc. between August 2011 and February 2013 in seven divisional offices[36], eleven regional offices[37], nine circle offices[38] and found that in 43 cases of 37 dealers assessed/re-assessed between March 2009 and March 2012 for the period 2005-06 to 2009-10, ET on goods like iron & steel, motor parts, high speed diesel (HSD), coal, furnace oil, Hexane, HDPE/PP woven bags etc., valued at ₹ 86.14 crore was either not levied or was levied at incorrect rate on their entry into local area. This resulted in non/short realisation of ET of ₹ 2.67 crore including interest of ₹ 11.09 lakh and penalty of ₹ 1.03 crore.

After we pointed out the cases (between August 2011 and February 2013), the assessing authorities (AAs) in 13 cases raised additional demand of ₹ 1.19 crore (between March 2012 and July 2013) out of which in three cases ₹ 7.53 lakh was deposited (between June 2012 and May 2013) through challan. In other 28 cases, the AAs stated (between August 2011 and February 2013) that action would be taken after verification/examination. In remaining two cases, the Department's reply and our comments are in the table no. 2.15:

Table No. 2.15

Sl. No.	Name of auditee unit/No. of dealers	Assessment period/ month of assessment	Name of Commodity/ Cost of goods (₹ in lakh)	Rate of tax applicable/ applied	Departmental reply	Our comments
1.	2.	3.	4.	5.	6.	7.
1.	DC-I, Bhopal 1	2008-09 April 2011	Limestone 326	10 Nil	The AA stated that the dealer had mined out clay alongwith limestone which was liable to tax at the rate of one *per cent.*	We do not agree with the reply in view of the annexure XI of the audited account where the Limestone was shown as purchased and not mined.

36 Bhopal (2), Gwalior, Jabalpur, Sagar, Satna and Ujjain.

37 Bhopal (2), Gwalior (2), Indore (2), Jabalpur, Khandwa, Morena, Sagar and Satna.

38 Dhar, Dewas, Gwalior (2), Indore, Ratlam, Satna, Ujjain and Waidhan.

1.	2.	3.	4.	5.	6.	7.
2.	DC-II-Bhopal 1	2007-08 July 2010	Furnace oil/ 23.44 Refrigerator 37.10	1 nil 2 1	The AA stated that it was actually purchase of light diesel oil and not furnace oil, which is schedule –II goods and purchased from registered dealer. Hence did not attract ET. Further, the AAs raised additional demand of ₹ 37,105 in respect of Refrigerator's sale.	We do agree with the reply in view of the facts available in relevant documents like purchase list and tax calculation sheet etc. which clearly establish purchase of furnace oil.

We reported the matter to the Department and the Government between February and March 2013; their replies have not been received (January 2014).

2.14 Non/short levy of tax under the Central Sales Tax Act

Under Section 8 of the CST Act, every dealer, who in the course of inter-state trade or commerce, sells to a registered dealer, goods of the classes specified in the registration certificate of the purchasing dealer shall be liable to pay tax at the concessional rate of four *per cent* (three *per cent* with effect from 1 April 2007 and two *per cent* with effect from 1 June 2008) of such turnover provided such sales are supported by declarations in form 'C'. Further, the said section provides that every selling dealer who fails to furnish declaration, duly filled and signed by the purchasing registered dealer in form 'C' obtained by the latter from the prescribed authority, shall be liable to pay tax in respect of inter-State sale of declared goods at twice the specified rate and in respect of other goods at the rate of ten *per cent* or at the specified rate, whichever is higher up to 31 March 2007 and at schedule rate from 1 April 2007, instead of concessional rates of tax.

2.14.1 We test checked the records such as assessment orders, audited accounts, purchase list etc. between March and November 2012 in three regional offices[39], three circle offices[40] and found that in 10 cases of eight dealers assessed between January and December 2011 for the period 2006-07 to 2009-10, 'C' form in respect of interstate sale of ₹ 3.15 crore were not furnished. However, the AAs while finalising the assessment either levied tax at concessional rate or did not levy tax at all. This resulted in non/short levy of tax of ₹ 36.42 lakh, including interest of ₹ 6.94 lakh. After we pointed out the cases, in one case the AA raised (November 2013) demand of ₹ 1.18 lakh relating to RAC Dewas and in other two cases of one dealer, the AA stated that the case would be reopened and tax would be levied

39 Jabalpur, Dewas, Ujjain.
40 Morena, Neemuch, Ujjain.

accordingly. In other two cases of two dealers, the AAs stated that action would be taken after verification/examination of cases.

In the remaining five cases of four dealers, the reply of the AAs and our comments are in the table 2.16:

Table No. 2.16

Sl. No.	Name of auditee unit No. of dealers	Period Month of assessment	Commodity Turnover (₹ in lakh)	Rate of tax applicable (*per cent*)	Rate of tax applied (*per cent*)	Amount of non/ short levy of tax (₹ in lakh)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	CTO-I ,Ujjain, 2	2008-09 January 2011 2008-09 February 2011	Paper donas and plates 38.06	12.5	4	3.24
The dealer had not furnished C form in respect of Inter State Sale (ISS). However, the AA levied tax at concessional rate of four *per cent*. After we pointed out the AA stated that donas and plates were sold on declaration form. The contention of the AA is not acceptable as the sale was not supported with form 'C' as mentioned in assessment order.						
2.	CTO-Neemuch 2 (3cases)	2008-09 & 2009-10 April 2011 & November 2011 2009-10 November 2011	Felt component 25.59 9.24	12.5 12.5	4 5	2.18 0.69
The dealer had not furnished 'C' form in respect of ISS. However, the AA levied tax at rate of four and five *per cent*. After we pointed out the AA stated that felt component is liable to tax at the rate of four *per cent* as per the Commissioner Commercial tax (CCT) MP order dated 31 August 2010. We do not agree with the reply of the AA as the referred order relates to fabrics and as per CCT, MP order dated 29 March 1995 M/s Sealwell Neemuch (1995)14 TLD-237, felt component is a machinery part .						

We reported the matter to the Department and the Government (between February and April 2013); their replies have not been received (January 2014).

As per Notification No.1/2007-CST-F.No.34/ 135/2005 dated 29 March 2007 effective from 1 April 2007 every dealer shall be liable to pay tax at the rate of three *per cent* in respect of inter-State sale of goods supported by 'C' form. The rate of tax was reduced to two *per cent* by the notification 1277 dated 30 May 2008 with effect from 1 June 2008.

2.14.2 We test checked the records such as assessment orders, audited accounts, purchase list etc. between February and August 2012 in divisional office Satna, regional office, Bhopal and circle office Satna and found that in three cases of three dealers assessed between January and June 2011 for the period 2008-2009, tax on inter State sale of ₹ 5.65 crore (supported with 'C' form), was either not levied or levied at incorrect rate. This resulted in non/short levy of tax of ₹ 8.75 lakh, including interest of ₹ 1.22 lakh as shown in the table no. 2.17:

Table No. 2.17

Sl. No.	Name of auditee unit No. of dealers	Period Month of assessment	Commodity Turnover (₹ in lakh)	Rate of tax applicable (*per cent*)	Rate of tax applied (*per cent*)	Amount of non/short levy of tax (₹ in lakh)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	CTO, Circle-II Satna 1	2008-09 July 2011	limestone 73.02	3	-	2.19
The dealer had furnished 'C' form in respect of ISS up to 31 May 2008 on which tax was leviable at the concessional rate of three *per cent*. However, the AA did not levy the tax on the same. After we pointed out the case the AA stated that action would be taken after verification.						
2.	RAC-I Bhopal 1	2008-09 January 2011	Copper strips 41.94 79.93	3 2	1 1	0.83 0.80
The AA levied tax at the rate of one *per cent* on ISS supported with 'C' form. After we pointed out the case the AA stated that action would be taken after verification.						
3.	DC Satna 1	2008-09 June 2008	Heavy machinery 3.70	3	2	3.70 1.21 (Interest)
The dealer had furnished 'C' form in respect of ISS up to 31 May 2008 but the AA levied the tax on the same at rate of two *per cent* instead of three *per cent*. After we pointed out the case the AA raised demand of ₹ 6.48 lakh, including interest of ₹ 2.78 lakh in September 2012. Further details of recovery has not been received (January 2014)						

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

2.15 Short levy of tax due to allowing incorrect deduction

According to Section 2(x) (iii) of MP VAT Act, 2002 taxable turnover is determined after deducting amount of tax included in aggregate of sale price.

We test checked the records such as assessment orders, audited accounts, purchase list etc. between May 2012 and January 2013 in regional office, Ujjain and nine circle offices[41] and found that in 11 cases of 10 dealers, assessed between April 2009 and January 2012 for the period from 2006-07 to 2009-10, the AAs while determining the turnover allowed deduction of ₹ 22.14 lakh towards amount of tax included in the aggregate sale of price. We, however, noticed that tax was not included in the sale price and therefore no deduction should have been made. This irregular grant of deduction resulted in short levy of tax of ₹ 22.14 lakh alongwith interest/penalty of ₹ 6.41 lakh.

After we pointed out the cases (between May 2012 and January 2013), in one case of CTO-IV, Jabalpur the AA raised additional demand of ₹ 81,142 in July 2012. In other 10 cases of 9 dealers, the AAs stated (between May 2012 and January 2013) that action would be taken after verification of cases. Further reply has not been received (January 2014).

[41] Bhopal(2), Dewas, Indore(2),Gwalior, Jabalpur, Khargone and Morena.

We reported the matter to the Department and the Government between February and April 2013; their replies have not been received (January 2014).

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

The Madhya Pradesh VAT Act, and notifications issued thereunder prescribe rates of tax leviable on different commodities except those which are specified under Schedule I of the Act or exempted through notifications.

We test checked the records such as assessment orders, audited accounts, purchase list etc. between July and December 2012 in divisional office Indore and regional office, Sagar and found that two dealers had sold taxable commodities like pesticides, readymade garments and hosiery valued at ₹ 1.59 crore. However, the assessing authorities (AAs) while assessing the cases between November 2011 and January 2012 for the period 2009-10 did not levy tax on the same by incorrectly treating them as tax free goods. This resulted in non-levy of tax of ₹ 7.60 lakh.

After we pointed out the cases (between July and December 2012), in one case, the AA stated (July 2012) that action would be taken after verification. In another case, the AA claimed (December 2012) that assessment was done after proper verification of book of accounts and invoices of purchase and sale list. We do not agree with the reply as sale of pesticides is clearly mentioned in the audited accounts and it is taxable at the rate of four *per cent* under entry no. 24 of schedule II of the VAT Act.

We reported the matter to the Department and the Government between February and March 2013; their replies have not been received (January 2014).

We recommend that the Department needs to initiate immediate action to recover non/short levy of entry tax/purchase tax, incorrect grant of exemption, non recovery of tax from closed units, non-realisation of professional tax, non/short levy of penalty, non-levy of tax on transporters, non/short levy of tax on sale without declaration forms etc., pointed out by us.

CHAPTER – III

STATE EXCISE

EXECUTIVE SUMMARY

What we have highlighted in this Chapter	In this Chapter we present a draft paragraph on**"Wastage of liquor during export, transport and manufacturing"** involving revenue implication of ₹ 16.15 crore and other illustrative cases involving an amount of ₹ 26.32 crore selected from observations noticed during our test check of records relating to assessment and collection of state excise revenue in the office of the District Excise Officers (DEOs)/Assistant Excise Commissioners (AECs), where we found short realisation of basic license fee, irregular export/transport of foreign/ country liquor, Non/short recovery of supervision charges etc., in which the provisions of the Acts/Rules were not observed. It is a matter of concern that similar omissions have been pointed out by us repeatedly in the Audit Reports for the past several years, but the Department has not taken corrective action.
Trend of receipts	In 2012-13 the collection of taxes from State excise increased by 17.64 *per cent* over the previous year which was attributed by the Department to the increase in execution amount.
Status of compliance to Inspection Reports (2007-08 to 2011-12)	During the period from 2007-08 to 2011-12 we had pointed out non/short levy, non/short realisation, underassessment/loss of revenue etc., with revenue implication of ₹ 675.38crore in 53,092 cases. Of these, the Department/Government had accepted audit observations in 38,633 cases involving ₹ 440 crore and had recovered ₹ 2.92 crore in 4,568 cases.
Status of compliance to Inspection Reports 2012-13	In 2012-13 we test checked the records of 36 units relating to State excise receipts and found under assessment, loss of revenue, non-levy of penalty etc. involving ₹ 191.78 crore in 29,979 cases. The Department accepted non/short realisation, non levy of penalty and loss of revenue etc. of ₹ 43.20crore in 19,810 cases, which were pointed out by us during the year 2012-13. An amount of ₹ 2.83crore was recovered in 160 cases during the year 2012-13.
Our conclusion	The Department needs to initiate immediate action to recover duty, penalty and annual fees not recovered/short recovered, more so in those cases where it has accepted our contention.

CHAPTER – III
STATE EXCISE

3.1 Tax administration

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

Receipts from State Excise are regulated under the provisions of the following Acts, Rules and notification issued thereunder:

- Madhya Pradesh Excise Act, 1915 (Excise Act)
- Madhya Pradesh Foreign Liquor Rules, 1996 (MPFL Rules)
- Madhya Pradesh Distillery Rules, 1995 (MPD Rules)
- Madhya Pradesh Country Spirit Rules,1995 (MPCS Rules)
- Madhya Pradesh Breweries and Wine Rules (MPB&W Rules)
- Medicinal and Toilet Preparation (Excise Duties) Act, 1955 (M&TP (ED) Act)

3.2 Trend of receipts

According to para A-15 read with para 6.6.1 of Madhya Pradesh Budget Manual (Manual), 2012, the estimates of revenue receipts should include/project the actual demand including arrears due for the past years and probability of their realisation during the year. According to Rule 192 of Madhya Pradesh Financial Code, the Finance Department is required to prepare the estimates of revenue after obtaining necessary information/data from the respective Department/Government.

Actual receipts from State Excise during the years 2008-09 to 2012-13 along with the total tax receipts during the same period are exhibited in the table no. 3.1:

Table No. 3.1

(₹ in crore)

Year	Revised budget estimates	Actual receipts	Variation excess (+)/ shortfall (-) Between (3-2)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
1	2	3	4	5	6	7
2008-09	2,150.00	2,301.95	(+) 151.95	(+) 7.06	13,613.50	16.91
2009-10	2,850.00	2,951.94	(+) 101.94	(+) 3.58	17,272.77	17.09
2010-11	3,525.00	3,603.42	(+) 78.42	(+) 2.22	21,419.33	16.82
2011-12	4,200.00	4,316.49	(+) 116.49	(+) 2.77	26,973.44	16.00
2012-13	5,000.00	5,078.06	(+) 78.06	(+) 1.56	30,581.70	16.60

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

As seen from the foregoing table, the revenue collection increased from ₹ 2,301.95 crore in 2008-09 to ₹ 5,078.06 crore in 2012-13 at a Compounded Annual Growth Rate (CAGR) of 17.67 *per cent*. The collection from State excise increased by 17.64 *per cent* in 2012-13 over previous year. The Department attributed the growth to increase in execution amount[1] through auction of liquor shops. The percentage of contribution of State Excise receipts to the total tax revenue of the State ranged between 16.00 *per cent* and 17.09 *per cent* during the period 2008-09 to 2012-13.

3.3 Cost of collection

The gross collection in respect of state excise, expenditure incurred on collection and the percentage of expenditure to gross collection during the years 2008-09, 2009-10, 2010-11, 2011-12 and 2012-13 along with the all India average percentage of expenditure on collection to gross collection for the previous year are mentioned in the table no. 3.2:

Table No. 3.2

(₹ in crore)

Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage for the previous year
1	2	3	4	5
2008-09	2,301.95	442.74	19.23	3.27
2009-10	2,951.94	685.12	23.21	3.66
2010-11	3,603.42	819.44	22.74	3.64
2011-12	4,316.49	973.88	22.56	3.05
2012-13	5,078.06	1,187.68	23.39	2.98

(Source: Finance Accounts of the Government of MP)

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

On being pointed out earlier in audit, the Excise Commissioner stated (May 2012) that the cost on collection after deduction of cost of liquor paid to the manufacturers remained between 1.61 and 1.90 *per cent* during the last five years which was less than the all India average.

The Government may consider opening a separate sub-head 'collection charges' as is being done for other taxes for effectively monitoring the functioning and the performance of the Department. Although this was pointed out in the Audit Report for the year ended 31 March 2011 and 2012, corrective measures are yet to be taken in this regard.

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[1] The annual settlement value of retail liquor shops

3.4 Arrears of revenue

The arrears of Excise revenue was ₹ 58.75 crore as on 1 April 2008. The Department recovered only ₹ 3.70 crore[2] during the period 2008-09 to 2012-13. Audit observed that the Department did not fix any target for recovery of arrears and arrears increased up to ₹ 71.08 crore as on 31 March 2013 given in the table no. 3.3, of which an amount of ₹ 5.25 crore is pending in courts.

Table No. 3.3

(₹ in crore)

Year	Opening balance	Addition during the year	Total	Recovery during the year	Closing balance
1	2	3	4	5	6
2008-09	58.75	0.57	59.32	0.40	58.92
2009-10	58.92	4.76	63.68	1.18	62.50
2010-11	62.50	3.90	66.40	0.34	66.06
2011-12	66.06	0.98	67.04	0.37	66.67
2012-13	66.67	5.82	72.49	1.41	71.08

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

3.5 Impact of audit

3.5.1 Status of compliance to Audit Reports (2007-08 to 2011-12)

In the Audit Reports 2007-08 to 2011-12, we have pointed out non/short levy, non/short realisation, underassessment/loss of revenue with revenue implication of ₹ 122.77 crore in 48 paragraphs. Of these, the Department/ Government had accepted audit observations in 25 paragraphs involving ₹ 13.45 crore and had since recovered only ₹ 80.50 lakh (as on 31 March 2013). The details are shown in the table no. 3.4:

Table No. 3.4

(₹ in crore)

Year of Audit Reports	No. of paragraphs included	Money value of the paragraphs	No. of paragraphs accepted	Money value of the paragraphs accepted	No. of paragraphs against which recovery made	Amount recovered during the year
1	2	3	4	5	6	7
2007-08	11	7.95	6	2.26	3	0.21
2008-09	18	21.68	10	1.71	5	0.23
2009-10	9	5.09	7	0.51	5	0.35
2010-11	8	38.74	1	6.73	1	0.007
2011-12	2	49.31	1	2.24	1	0.008
Total	**48**	**122.77**	**25**	**13.45**	**15**	**0.805**

[2] Information furnished by the Department.

The amount recovered out of the accepted cases has been extremely low over the last five years.

We recommend that the Government should take appropriate steps to improve the recovery position, at least in the accepted cases.

3.5.2 Status of compliance to Inspection Reports (2007-08 to 2011-12)

During the period from 2007-08 to 2011-12, we have pointed out through Inspection Reports non/short levy, non/short realisation, underassessment/loss of revenue with revenue implication of ₹ 675.38 crore in 53,092 cases. Of these, the Department/Government had accepted audit observations in 38,633 cases involving ₹ 440 crore and had since recovered ₹ 2.92 crore (as on 31 March 2013). The details are shown in the table no. 3.5:

Table No. 3.5

(₹ in crore)

Year of Inspection Reports	No. of units audited	Objected		Accepted		Recovered		Percentage of recovery to amount accepted
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	
1	2	3	4	5	6	7	8	9
2007-08	40	12,185	88.06	9,520	24.73	513	0.41	1.66
2008-09	50	12,489	115.01	10,677	99.14	1,971	0.65	0.66
2009-10	36	10,606	201.88	7,566	167.51	1,280	0.74	0.44
2010-11	20	14,151	155.25	9,079	99.46	665	0.90	0.90
2011-12	26	3,661	115.18	1,791	49.16	139	0.22	0.45
	Total	**53,092**	**675.38**	**38,633**	**440.00**	**4,568**	**2.92**	

The amount recovered out of the accepted cases has been extremely low over the last five years.

The Government needs to take necessary steps for prompt recovery of the amounts involved at least in the accepted cases.

3.5.3 Status of compliance to Inspection Reports 2012-13

Test check of the records of 36 units relating to State Excise receipts during the year 2012-13 revealed non/short realisation, non levy of penalty and loss of revenue etc. amounting to ₹ 191.78 crore in 29,979 cases which can be categorised in the table no. 3.6:

Table No. 3.6

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
1	2	3	4
1.	**"Wastage of liquor during export, transport and manufacturing"**	**1**	**16.15**
2.	Non realisation of duty in case of non receipt of verification report	658	16.03
3.	Non levy of penalty/duty on excess wastage of spirit/liquor	10,977	10.72
4.	Non/ short realisation of licence fee from liquor shops	2,473	35.87
5.	Irregular issue of country/foreign liquor	487	3.07
6.	Non levy of penalty due to breach of licence conditions	4,268	0.57
7.	Other observations	11,115	109.37
	Total	**29,979**	**191.78**

During the course of the year, the Department accepted short/ non realisation, non levy of penalty and loss of revenue etc. of ₹ 43.20 crore in 19,810 cases, which were pointed out in audit during the year 2012-13. An amount of ₹ 2.83 crore was realised in 160 cases during the year 2012-13.

A paragraph on **"Wastage of liquor during export, transport and manufacturing"** involving an amount of ₹ 16.15 crore and a few illustrative audit observations involving ₹ 26.32 crore are mentioned in the following paragraphs.

3.6 Audit observations

We scrutinised the assessment records of excise duty, fee and other charges in EC, DECs, AECs and DEOs and found cases of non-levy of duty, fee and penalty and found several cases of non observance of the provisions of the ACT/Rules and Circular mentioned in the succeeding paragraphs of this chapter. These cases are illustrative and are based on a test check carried out by us. Such omissions on the part of the executing authorities have been pointed out in earlier Audit Reports. Reference to paragraphs included in this Report and having similar observations raised earlier is given in **Annexure-I**, but not only do these irregularities continue to persist, these remain undetected till audit is conducted. There is need for the Government to improve the internal control system so that such omissions can be avoided.

3.7 "Wastages of liquor during export, transport and manufacturing"

3.7.1 Introduction

The manufacture, distribution and sale of liquor is controlled by the Excise Commissioner under the provisions of the Madhya Pradesh Excise Act, 1915 (Excise Act) through annual licenses granted by him. Licenses are renewable annually on payment of the prescribed fee under the provisions of the Excise Act and the Rules made thereunder. Levy and collection of various kinds of duties and fees on production, possession, sale, export, import and transport of liquor in the State is governed under the Excise Act and Rules made thereunder. During manufacture, transport and export of liquor, a percentage of wastage of liquor is allowed in the rules. In case of wastages of liquor beyond the admissible wastages, penalty is leviable.

"Liquor" means intoxicating liquor and includes spirits, wine, *tari*, beer, all liquids consisting of or containing alcohol and any substance which the State Government may by notification, declare to be liquor.

The Deputy Excise Commissioner, Divisional Flying Squad at divisional level is empowered to impose the penalty on the wastages beyond permissible limit during export, transport and manufacturing.

We reviewed "Wastages of liquor during export, transport and manufacturing", which revealed a number of system and compliance deficiencies.

3.7.2 Organisational Set up

The Principal Secretary, Commercial Tax Department is the administrative head of the Department at the Government level. The Excise Commissioner (EC) is the Head of the Department and is assisted by one Additional Excise Commissioner (Addl. EC), three Deputy Excise Commissioners (DEC) at the headquarter at Gwalior, seven DEC divisional flying squad in divisions, 15 Assistant Excise Commissioners (AEC) and 54 District Excise Officers[3] (DEO) in districts. In the district, the Collector heads the Excise Administration and is empowered to settle shops for retail vending of liquor and other intoxicants and is also responsible for realisation of excise revenue.

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

3.7.3 Audit objectives

We conducted the audit with a view to ascertain whether:

- Excise Verification certificates (EVC) of export/transport of liquor were received from the importing State/State of MP and submitted to

[3] Including four DEOs posted in distilleries

the Department by the exporter/transporter and quantity of liquor received and wastages recorded properly.

- The wastages of liquor during export/transport and manufacture were under the prescribed limit and cases of excess over the prescribed limit were sent to competent authority to impose penalty and the penalties have been recovered accordingly.
- Proper compliance of provisions of the Act/Rules and circulars issued by Excise Commissioner in respect of wastage of liquor is made by the Department.
- An internal control mechanism is in existence in the Department and is adequate and effective.

3.7.4 Audit criteria

Audit criteria were derived from the following:

- Madhya Pradesh Excise Act, 1915 (Excise Act);
- Madhya Pradesh Foreign Liquor Rules, 1996 (MPFL Rules);
- Madhya Pradesh Distillery Rules, 1995 (MPD Rules);
- Madhya Pradesh Country Spirit Rules,1995 (MPCS Rules);
- Madhya Pradesh Breweries and Wine Rules (MPB&W Rules) and
- Notifications and circulars issued by the Government/Excise Commissioner.

3.7.5 Scope of Audit

We test checked the records for the years 2008-09 to 2012-13, in 13[4] out of 50 Districts Excise offices in the state, four[5] out of seven DEC offices at divisional level and the E.C. office between October 2012 and June 2013. For the test check, we selected six[6] out of eight distilleries, five[7] out of seven breweries, 15[8] out of 20 foreign liquor bottling units, four[9] out of 10 foreign

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4 Balaghat, Betul, Bhind, Bhopal, Dhar, Gwalior, Indore, Khargone, Raisen, Satna, Shajapur, Shivpuri and Vidisha

5 Bhopal, Gwalior, Indore and Ujjain

6 M/s Gwalior Alcobrew Pvt. Ltd., Gwalior, M/s Associated Alcohol and Breweries Ltd., Khargone, M/s Agrawal Distillery Ltd., Khargone M/s Great Galleon Ltd., Dhar, M/s Oasis Distillery Ltd., Dhar, and M/s Som Distillery Pvt. Ltd., Raisen,

7 M/s Lilasons Breweries Ltd., Bhopal, M/s M P Beer Products Pvt., Ltd. Indore, M/s Mount Everest Breweries Ltd., Indore, M/s Som Distillery & Breweries Ltd., Raisen and M/s Regent Beer and Wine Ltd., Shajapur.

8 M/s Gwalior Alcobrew Pvt. Ltd., Gwalior, M/s Parnard Record India Pvt Ltd., Gwalior, M/s Vinayak Distillery Pvt. Ltd., Gwalior, M/s Associated Alcohol and Breweries Ltd., Khargone, M/s Silver Oak India Ltd., Dhar M/s Great Galleon Ltd. Dhar, M/s Oasis Distillery Ltd., Dhar, M/s Som Distillery Pvt. Ltd., Raisen, M/s Som Distillery & Breweries Ltd., Raisen, M/s Gwalior Distillery Pvt. Ltd., Bhind, M/s Gold Water Brewerages Pvt. Ltd., Bhind, M/s United Spirit Ltd., Sarvar Bhopal, M/s United Spirit Ltd., Govindpura Bhopal, M/s Jublee Brewerage Ltd., Bhopal, and M/s Narmada Distillery Pvt. Ltd., Satna.

9 Bhopal, Gwalior , Indore and Ujjain

liquor warehouses and 33[10] out of 107 country liquor warehouses in the state. Besides, we also included the cases of wastage of liquor during transport, export and manufacturing etc. of other units which came to notice during audit conducted in 2012-13.

3.7.6 Audit Methodology

Audit methodology includes preparing guidelines, conducting field visits for examination of records, collection of data from the Department, issue of audit memos, questionnaires and obtaining replies from audited entities to arrive at the audit conclusions.

An entry and exit conference for the review was held on 14 May and 4 September 2013 respectively with the Principal Secretary/Secretary (Commercial Tax Department), EC and other executives of the Department.

3.7.7 Acknowledgment

The Indian Audit and Accounts Department acknowledges the co-operation of the Commercial Tax Department and its subordinate offices for providing necessary information and records for Audit.

3.7.8 Working of Internal Audit Cell

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

The details of units planned, audited and number of observations raised, settled and outstanding are given in the table no. 3.7

Table No. 3.7

Year	No. of units as per roster	Number of units audited	Shortfall with reference to roster	Percentage of shortfall	No of paras included	No of paras settled	Out standing paras at the end of year
1	2	3	4	5	6	7	8
2008-09	48	38	10	20.83	50	-	50
2009-10	48	26	22	45.83	14	-	64
2010-11	50	41	09	18.00	60	07	117
2011-12	50	16	34	68.00	64	12	169
2012-13	50	16	34	68.00	111	10	270

(Information furnished by the Department)

Thus, the targets fixed were not achieved by the IAC of the Department in any of the five years between 2008-09 and 2012-13. In addition, the details about the money value involved in the objections raised by the internal audit and amount recovered etc. were not available with the IAC. The Department

[10] Agar, Badnawar, Balaghat, Barwaha, Bareli, Betul, Bhensdehi, Bhind, Bhopal, Dabra, Dhar, Dharampuri, Gairatganj, Ganjbasoda, Gwalior, Indore, Karera, Khargone, Kukshi, Lahar, Mhow, Multai, Obedullahganj, Pichhore, Raisen, Satna, Sardarpur, Shajapur, Shujalpur, Shivpuri, Sironj, Susner and Vidisha.

during the exit conference stated (September 2013) that due to preoccupation with other work, internal audit could not be conducted as planned. We do not agree as the internal audit being the primary work of IAC should not have been overlooked on the pretext of preoccupation with other work.

The Department may strengthen internal control mechanism to ensure better performance of the internal audit cell and ensure that the audit roster is followed.

Audit findings:

System deficiencies:

3.7.9 Lack of control over excess wastages of liquor during export, transport and manufacturing

Under the circular of the EC dated 15 May 2008, all the excise officers in charge (OICs) of distilleries, foreign liquor manufacturing units, breweries, wineries and country/ foreign liquor warehouses were instructed to maintain a register in regard to excess wastages of liquor during export, transport and manufacturing in the prescribed proforma. The OICs were required to send the cases of excess wastages (with all records and information) which came to their notice, to competent authority and also send the monthly information in this regard on the 5th of next month after completion of a month to EC office and concerned divisional DEC office under their signature.

Failure of the Department and IAC to monitor maintenance of records o wastages.

3.7.9.1 We observed from the records of the test checked units[11] between October 2012 and June 2013 that 63 OICs of manufacturing units and warehouses neither maintained the prescribed register nor did they send the monthly information of excess wastages in the prescribed proforma to DECs and EC office during the last five years. Further, no action was initiated by DECs/EC office also to call for the desired information. We also noticed that there was no mechanism prescribed for monitoring the receipt of cases from OICs in DEC offices. Therefore, the details of cases received, disposed and balances during last five years could not be verified in audit except in the DEC office Ujjain, which maintained registers to monitor the receipt of cases. **Thus due to the failure of the DEC's offices and EC office along with Internal Audit Cell (IAC) to ensure regular submission of information by the manufacturing units and warehouses, complete information regarding the position of imposition and recovery of penalty on the excess wastages and also overdue amount was not available either with the DEC's and EC offices.** The IAC had also

[11] Balaghat, Betul, Bhind, Bhopal, Dhar, Gwalior, Indore, Khargone, Raisen, Satna, Shajapur, Shivpuri and Vidisha district offices, Bhopal, Gwalior, Indore and Ujjain DEC offices and EC office

not checked the records relating to excess wastages and no observation was found in this regard in the reports of the districts test checked by the IAC.

We also observed that there is no mechanism to monitor the prompt disposal of cases of excess wastage received in excise offices and a system to keep a watch over recovery in cases of wastage through monthly returns/ registers in DEC/ EC Offices. In the absence of such mechanism, the Department could not exercise necessary control over wastages during export, transport and manufacturing.

The Department may consider prescribing the time limit for disposal of cases by the DEC and submission of periodical returns to EC. The Department may also consider prescribing a register to be maintained in DECs and EC office for better monitoring in regard to maintenance of register and submission of monthly returns by the subsidiary units.

3.7.9.2 Delay in sending the cases of excess wastages of liquor for imposition of penalty

Penalty of ₹ 9.56 crore had not been imposed due to delay in sending the cases by the OICs.

We observed from the case files of excess wastage submitted to audit in DEC office Gwalior (April 2013) that 4109 cases of excess wastages for the period up to March 2012 were received by DEC office from the OIC till March 2013, on which penalty of ₹ 9.56 crore was leviable. The cases of excess wastage after March 2012 had not been received in DEC office till March 2013. We further observed that the cases were sent by the OICs of four manufacturing units[12] and two warehouses[13] to DEC office for imposition of penalty after a lapse of seven to 32 months and show-cause notices were issued to the licensees by DEC office after three to 20 months from the date of receipt of the cases. As such the penalty of ₹ 9.56 crore had not been imposed even after a lapse of 10 to 52 months.

The Department during exit conference stated (September 2013) that out of 4109 cases, the penalty amounting to ₹ 6.78 crore in 3176 cases has been imposed out of which an amount of ₹ 34.93 lakh in 2024 cases has been recovered after being pointed out by audit. The Department further stated that action was under progress in remaining cases.

The Department may prescribe time limit for imposition of penalty from date of receipt of the cases of wastages and also prescribe the maintenance of records/register showing the details of receipt, disposal and recovery of penalty.

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12 OIC of M/s Skoll Breweries Ltd., sub lessee at M/s Trapti Alcobrew Ltd., Morena, OIC M/s Pernod Ricord India Ltd., Gwalior, OIC Foreign Liquor Warehouse Gwalior and OIC M/s Gwalior Alcobrew Pvt., Ltd., Gwalior.

13 OIC Country Liquor Warehouse Gwalior and Dabra

Compliance deficiencies:

3.7.10 Non-levy of penalty on excess wastages due to not sending the cases to competent authority

The Excise Act and Rules made thereunder provide that the maximum wastage allowance for all exports of bottled foreign liquor/beer shall be 0.25 *per cent* irrespective of the distance. For all transports, it shall be 0.1 *per cent* if the selling and purchasing licensees belong to the same district and 0.25 *per cent* if they belong to different districts. In case of transport of bottled country liquor it shall be 0.5 *per cent* irrespective of the distance. Further according to the amendment made by the State Government dated 12 January 2012 it shall be 0.1 *per cent* in case of transport in pet bottle and 0.25 *per cent* in glass bottle with effect from 1 April 2011. In case of RS/ENA, the Rules allow wastage of 0.1 to 0.2 *per cent* on account of leakage or evaporation of spirit/ENA transported or exported in tankers from a distillery/ warehouse to another distillery/warehouse according to their distance. In case of wastage beyond the permissible limit the licensee shall be liable to pay penalty at a rate prescribed by the Government from time to time.

3.7.10.1 Excess wastages of country liquor during transport

Non levy/ realisation of penalty of ₹ 1.24 crore on excess wastages of bottled country liquor.

The Excise Commissioner vide instructions issued on 28 July 2011 reduced the permissible limits for wastages in transportation of country liquor from 0.5 *per cent* to 0.1 *per cent* for pet and 0.25 *per cent* for glass bottles. Government vide its notification dated 12 January 2012 approved the revised wastage limits with effect from April 1, 2011. We observed from the Excise Verification Certificates of country liquor warehouses of 21 AEC's/ DEO's[14] office between May 2012 and May 2013 that highest of the actual wastages or wastage allowed as per prescribed limits viz. 0.5 *per cent* till 31 July 2011 and 0.1 and 0.25 *per cent* on pet and glass bottle respectively from 01 August 2011, was recorded as the actual wastage. This indicates that the OICs were recording the wastages as per limits prescribed, whenever the actual wastages were less than prescribed limits. This defeated the intent of departmental instructions to record the actual wastages during transportation of country liquor and resulted in loss to Government, where actual wastages were below the limits prescribed by Government.

[14] Barwani, Bhind, Bhopal, Chhindwara, Damoh, Dewas, Guna, Indore, Jabalpur, Jhabua, Narsinghpur, Panna, Raisen. Rajgarh, Sagar, Shajapur, Shivpuri, Sidhi, Tikamgarh, Ujjain and Umaria

We further observed that minimum penalty was leviable in 3,451 cases on wastages of 54,487.14 PL bottled country liquor beyond permissible limit during transport from eight bottling units[15] to 52 country liquor warehouses[16] during the period April 2011 to December 2012. The penalty, however, could not be imposed as the cases were not sent to competent authority for imposition of penalty by the OIC's of country liquor warehouses. This resulted in non-levy/realisation of penalty of ₹ 1.24 crore as mentioned in the table no. 3.8

Table No. 3.8

Nature of Liquor	Quantity Transported PL	Quantity Received at other end PL	Wastages PL	Permissible wastage PL	Excess wastage PL	Penalty leviable (₹)
1	2	3	4	5	6	7
Country Spirit	17331583.25	17255581.59	76001.66	21514.52	54487.14	1,23,88,421

After we pointed this out, the EC stated (September 2013) that out of 3451 cases, the penalty amounting to ₹ 48.89 lakh in 1328 cases had been imposed and in remaining cases, action was under process.

3.7.10.2 Excess wastages of foreign liquor and beer during export/transport

Non levy/ realisation of penalty of ₹ 1.03 crore on excess wastages of foreign liquor.

We observed from the Excise Verification Certificates (EVC) of foreign liquor warehouse, Bhopal and Jabalpur, three foreign liquor bottling units[17], two breweries[18] and one FL-6 licensee[19] of four districts[20] between October 2012 and June 2013 that the wastages of 57433.005 PL foreign liquor (Spirit) and 36840.12 BL beer was found in excess of the admissible limit during export/transport between October 2011 and May 2013 in 4747 cases on which the penalty of ₹ 1.03 crore was leviable as mentioned in the table no. 3.9

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15 M/s Gwalior Alcobrew Pvt., Ltd., Gwalior, M/s Associated Alcohol and Breweries Ltd., Khargone, M/s Great Galleon Ltd. Dhar, M/s Cox India Ltd., Chhatarpur, M/s Som Distillery Pvt., Ltd., Raisen, M/s Som Distillery Pvt., Ltd.,Chhindwara, M/s Vindhyachal Distillery Pvt., Ltd. Rajgarh and M/s Oasis Distillery Ltd., Dhar.

16 Agar, Amanganj, Amarwara, Barnagar, Barwani, Bareli, Bhind, Bhopal, Byawara, Damoh, Dewas, Gadarwara, Gairatganj, Guna, Hatta, Indore, Jamai, Jatara, Jhabua, Jirapur, Kannaud, Karera, Khachrod, Khetia, Khurai, Lahar, Mahidpur, Mhow, Narsinghgarh, Narsinghpur, Niwari, Obedullahganj, Panna, Parasia, Petlawad, Pichhore, Raisen, Rehli, Sagar, Sarangpur, Sendhwa, Shajapur, Shujalpur, Sidhi, Sihora, Sonkachh, Sounsar, Susner, Tarana, Tikamgarh, Ujjain and Umaria.

17 M/s Pernod Ricord India Pvt., Ltd., Gwalior, M/s Som Distillery & Breweries Ltd., Raisen and M/s United Spirit Ltd., Sarvar Bhopal

18 M/s Mount Everest Breweries Ltd., Indore and M/s Som Distillery & Breweries Ltd., Raisen

19 Military Canteen Wholesale Licence Jabalpur

20 Gwalior, Indore, Jabalpur and Raisen

Table No. 3.9

Nature of Liquor	Quantity Exported/ Transported PL/BL	Quantity received at other end PL/BL	Wastages PL/BL	Permissible wastage PL/BL	Excess wastage PL/BL	Penalty leviable (₹)
1	2	3	4	5	6	7
Foreign liquor (Spirit)	13871635.29	13781471.156	90164.134	32727.129	57437.005	95,13,993
Beer	8598223	8541457.86	56765.14	19925.02	36840.12	8,15,357
					Total	**1,03,29,350**

It was, however, seen that the OICs of the units did not send the cases to the competent authority for imposition of penalty even after a lapse of one to 18 months. Further, it was seen that an amount of ₹ 56.17 lakh as penalty was deposited (between January 2011 and June 2013) by the licensees in Bhopal, Gwalior and Jabalpur district. The period for which the amount related was also not known to the OICs of the units.

The Department during the exit conference accepted audit observation and stated (September 2013) that out of 4747 cases, the penalty amounting to ₹ 30.19 lakh in 2956 cases have been imposed, out of which an amount of ₹ 25.73 lakh in 2923 cases had been recovered. The Department further stated that action was in progress in remaining cases.

3.7.10.3 Excess wastages of Extra Neutral Alcohol (ENA) during export/transport

Non levy/ realisation of penalty of ₹ 16.77 lakh on excess wastages of ENA.

We observed from the EVC's of one distillery[21] and two foreign liquor bottling units[22] of three districts[23] between February and June 2013 that 4603741 PL of ENA was exported from distillery and transported to foreign liquor bottling units between August 2011 and June 2013 in 141 cases, out of which 4576355.64 PL was received. As such, wastage of 27385.36 PL ENA was shown in the EVC's, of which 18258.65 PL was in excess of the admissible limit of 9126.71 PL. Penalty of ₹ 16.77 lakh was leviable on the wastages in excess of admissible limit. It was, however, seen that the OICs of the units did not send the cases to the competent authority for imposition of penalty. This resulted in non realisation of revenue of ₹ 16.77 lakh.

The Department during the exit conference accepted audit observation and stated (September 2013) that out of 141 cases, penalty amounting to ₹ 31,367 in 18 cases had been imposed and recovered. The action in remaining cases is under process.

21 M/s Associated Alcohol and Breweries Ltd., Khargone

22 M/s Gwalior Distillery Pvt., Ltd., Bhind and M/s Jublee Brewarege Ltd., Bhopal

23 Bhind, Bhopal and Khargone.

3.7.11 Excess wastage, shortage of spirit and foreign liquor during storage

MPFL Rule provides that maximum permissible limit of losses of spirit due to racking, storage, evaporation, reduction and others for FL-9 and FL-9A licence shall be 1.5 *per cent* per quarter which is calculated on actual balance in hand at the end of previous quarter stock taking plus the quantity since manufactured and received and deducting that issued for re-distillation. Further, no wastage allowance on storage of bottled liquor stocked with FL-6, FL-10A, FL-10B and foreign liquor warehouses is permitted. On all deficiencies in excess of the limit allowed under rule, the licensee shall be liable to pay penalty as may be imposed by the EC or any other officer authorised by him at the rates prescribed by the Government from time to time.

Non levy/ realisation of penalty of ₹ 27.82 lakh on excess wastages of ENA/ foreign liquor.

3.7.11.1 We observed from the stock and issue of ENA and manufacturing registers of foreign liquor in one foreign liquor bottling unit[24] in February 2013 that the physical verification of stock was conducted by the OIC in December 2007 and August 2010 which revealed that there was shortage of 1644.5 PL of ENA/ Foreign liquor in excess of the permissible limit. As per rule, penalty of ₹ 27.82 lakh was to be imposed on these shortages. We, however, noticed that the OIC did not initiate any action regarding levy of penalty. This resulted in non-levy/ realisation of penalty of ₹ 27.82 lakh as mentioned in the table no. 3.10

Table No. 3.10

Date of verification	Kind of liquor	Opening book balance PL	Balance on verification PL	Shortage PL	Permissible limit PL	Shortage in excess of permissible limit (3-4)	Penalty to be imposed	
							@ ₹/ PL	Amount (₹)
1	2	3	4	5	6	7	8	9
1.12.2007	ENA	10718.8	10338.9	379.2	160.8	218.4	25	5,460
	Foreign liquor	3379.5	3293.25	86.25	16.9	69.35	65	4,508
10.8.2010	ENA	10338.9	8799.7	1539.2	458.4	1080.8	681x3	22,08,074
	Foreign liquor	3293.25	2968.1	325.15	49.2	275.95	681x3	5,63,766
Total		**14097.6**	**11767.8**	**2329.8**	**685.3**	**1644.5**		**27,81,808**

The Department during the exit conference stated (September 2013) that question of imposition of penalty did not arise as wastages were under permissible limit. We do not agree as wastages/shortages were beyond permissible limit as reported by OIC after carrying out physical verification. The penalty was therefore leviable on the excess wastage and shortage reported by the OICs.

[24] M/s Gold water Brewerages Pvt., Ltd., Bhind

Non levy/ realisation of penalty of ₹ 10.83 lakh on shortage of foreign liquor.

3.7.11.2 We observed from the stock and issue accounts of foreign liquor/beer in foreign liquor warehouse, Gwalior in May 2013 that the physical verification of stock of bottled liquor conducted in September 2012 and March 2013 indicated shortage of 1206.06 boxes of foreign liquor (spirit) and 242 boxes of beer. Of these, the case of shortages noticed in September 2012 was forwarded to the DEC after a lapse of six months in March 2013 and second case has not been forwarded till the date of audit (May 2013). As per rule, though penalty of ₹ 10.83 lakh was leviable on the shortage, it could not be imposed due to delay in submission/non-submission of the cases to the competent authority for levy of penalty. This resulted in non-levy/realisation of penalty as mentioned in the table no. 3.11

Table No. 3.11

Sl No.	Date of verification	No. of boxes found short		Penalty to be imposed (₹)
		Foreign liquor (Spirit)	Beer	
1	2	3	4	5
1	30.9.2012	1003.00	184	8,91,146
2	30.3.2013	203.06	58	1,91,534
Total		**1206.06**	**242**	**10,82,680**

The Department during exit conference accepted the audit observation and stated (September 2013) that departmental enquiry had been initiated against the OIC in case of shortage during stock verification at the end of September 2012 and the action would be taken as per result of enquiry. The Department further stated that action was under process in remaining cases.

3.7.12 Non recovery of penalty

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

An amount of penalty of ₹ 3.76 crore was not recovered after a lapse of eight to 64 months.

We observed from penalty recovery statements of foreign liquor warehouse Indore, one foreign liquor bottling unit[25], one brewery[26] and two DEC offices[27] of four districts[28] between February and June 2013 that an amount of penalty of ₹ 3.79 crore was imposed by the DEC, divisional flying squad of concerned division in 2699 cases during the period between July 2008 and March 2013.

25 M/s Pernod Record India Pvt. Ltd.,Gwalior
26 M/s Mount Everest Breweries Ltd., Indore.
27 Bhopal and Ujjain
28 Bhopal, Gwalior, Indore and Ujjain

Though demand notices were issued by the OICs on time, only an amount of ₹ 3.22 lakh was recovered from the licensees in 56 cases (between March 2010 and February 2013) in case of Indore district, leaving a balance amount of ₹ 3.76 crore unrecovered. The amount was not recovered even after a lapse of eight to 64 months (November 2013). The DEO's of the districts did not take any action to recover the dues as arrear of land revenue.

The Department during exit conference accepted the audit observation and stated (September 2013) that out of 2699 cases, an amount of ₹ 1.58 crore in 1227 cases had been recovered and action for recovery in remaining cases was in progress.

The Department may ensure recovery action after issue of demand notices to the person primarily liable to pay penalty.

3.7.13 Loss of revenue due to irregular waiving of the penalty imposable

MPFL Rule provides that in case of wastages of foreign liquor/ENA beyond the permissible limit, the licensee shall be liable to pay penalty at a rate prescribed by the Government from time to time. Further, if it be proved to the satisfaction of the EC or the authorised officer that such excess deficiency or loss was due to some unavoidable causes like fire or accident and its First Information Report (FIR) was lodged in concerned police station, he may waive the penalty imposable under the rule.

We observed from the records of DEC divisional flying squad, Bhopal in June 2013 that there was excess wastage of 1090.91 PL of bottled foreign liquor during transport from M/s United Spirit Limited, Bhopal in two cases and 8649.8 PL of ENA during transport from M/s Gwalior Alcobrew Pvt., Ltd., Gwalior to M/s United Spirit Limited, Bhopal in one case between May and November 2010, on which the penalty of ₹ 1.99 crore was leviable. It was, however, seen that the leviable penalty was waived by the DEC treating them as accident cases even though FIR had not been lodged in concerned police station as required under the rule. This resulted in loss of revenue of ₹ 1.99 crore.

Loss of ₹ 1.99 crore due to irregular waiving of the penalty.

The Department during the exit conference stated (September 2013) that the information of accident was given in the concerned police station by the drivers and penalty was waived on the basis of available records and evidence. We do not agree as filing of FIR was a condition that had to be fulfilled for waiver as per MPFL Rules and it was not within the powers of DEC to waive penalty in the absence of FIR.

3.7.14 Conclusion

Pilferage of penalty on excess wastages of liquor during transport, export and manufacturing is to be discouraged. To have effective control over the imposition of penalty on excess wastages, it is essential that the prescribed records are maintained properly by the Department. Audit scrutiny revealed that these were not maintained. Lack of monitoring by the EC/ DEC's offices

led to not sending the cases/delay in sending the cases to competent authority for imposition of penalty. There was no monitoring by the Department of the overdue amount of penalty imposed. Internal Audit, an important component of the internal control mechanism, was also rendered ineffective as the IAC had not checked the records relating to excess wastages and no observation was found in this regard in the reports of the districts test checked by the IAC. It is necessary for the Government to have a detailed look at the system and procedure for prompt recovery of the amount of penalty imposed as well as the action in cases other than those pointed out by audit.

3.8 Short realisation of basic licence fee

The condition for sale of liquor through shops for the year 2011-12 issued by the Excise Commissioner (EC) under notification dated 05 February 2011 provides that annual value of a liquor shop shall be the sum of Basic Licence Fee (BLF) and Annual Licence Fee (ALF). The BLF shall be fixed between 50 and 60 *per cent* of the annual value of the shop according to its location and the remaining amount shall be recovered as ALF. Both the BLF and ALF shall be recoverable in 24 fortnightly installments. The amount of duty deposited by the licensee to purchase the liquor shall be adjustable against the fortnightly demand of ALF of shop, issue of liquor will not be admissible on the amount paid by the licensee as BLF. Further, if a licensee purchases liquor in excess of the amount of ALF prescribed for any fortnight, the same shall be adjustable against the ALF of the subsequent fortnightly period. Further, letter dated 03 March 2005 of the Principal Secretary, Commercial Tax Department provides that DEC and AEC/DEO must conduct detailed inspection of the manufacturing units under their jurisdiction in the interval of every six months and a quarter respectively.

We observed (May 2012) from returns submitted by DECs in the EC office that ALF for 1668 country liquor and 600 foreign liquor shops in 26 districts for the year 2011-12 was ₹ 973.88 crore. The licensees had purchased the liquor by depositing duty of ₹ 994.71 crore, which was in excess of ALF fixed for the shops by ₹ 20.83 crore. Instead of adjusting the excess deposit towards payment of both BLF and ALF, the entire amount was allowed towards payment of duty for purchase of liquor. Reckoning the amount adjusted towards payment of duty against purchase of liquor, the amount of BLF recoverable from the shop owners worked out to ₹ 20.83 crore treating the minimum prescribed BLF of 50 *per cent*. We noticed that some licensees remitted a portion of BLF amounting to ₹ 40.81 lakh. Thus, the short collection of BLF from the licensees worked out to ₹ 20.42 crore.

Short realisation of revenue of ₹ 20.42 crore due to non recovery of BLF.

After we pointed out the cases, EC stated (May 2012) that under the policy prescribed by the Government, there is provision to issue liquor to the licensee after deposit of the amount of annual value of shop in the form of ALF and BLF on payment of duty only without payment of additional BLF. We do not agree as duty payments for issue of liquor were adjusted from the excess amount deposited by the licensees without recovering the corresponding portion of the BLF and the policy did not provide for issue of excess liquor without realising requisite BLF.

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

3.9 Irregular export/transport of foreign liquor/beer and non realisation of excise duty on unacknowledged liquor[29]

According to Rules 12, 13 and 14 of MPFL Rules, the exported/transport of foreign liquor/beer is permissible on payment of duty or on furnishing a bank guarantee or on executing a bond in form FL-23* with adequate solvent sureties for the amount of duty involved. Besides, the licensee shall obtain an Excise verification certificate (EVC) from the Officer In Charge (OIC) of the destination unit and furnish it to the authority, who issues the transport /export permit, within 40 days of the expiry of the permit. In case of default of licensee, the duty involved shall be recovered from the deposit made, bank guarantee furnished or the security bond executed by the licensee.

We observed from the export/ transport permits register and EVC received register in three bottling units[30] of foreign liquor (FL-9), two breweries (B-3)[31] and two central godowns[32] of outside manufacture (FL-10A) of four districts[33] between October 2012 and February 2013 that the licensees exported/ transported 50163 boxes of bottled foreign liquor (Spirit) and 55000 boxes of beer on 178 permits out of 9,243 permits issued between October 2011 and December 2012 involving duty of ₹ 4.58 crore. It was noticed that in violation of the provision, the Department issued the export/transport permits without recovering the prescribed duty or obtaining the bank guarantee or bond with adequate solvent sureties for the amount of duty involved. It was further noticed that though the verification certificate of receipt of quantity of liquor exported/transported were not submitted by the licensee even after a lapse of two to 399 days after the permissible period, the Department did not initiate any action for adjustment of duty against the bank guarantee or bond. This resulted in non-realisation of revenue of ₹ 4.58 crore.

Non-realisation of revenue of ₹ 4.58 crore due to irregular issued export/ transport permits by the Department and non receipt of EVC.

After we pointed out the cases (between October 2012 and February 2013), the AECs/DEOs stated that audit would be intimated after taking action as per rule and all the excise verification certificates would be submitted on their receipt. We do not agree as duty was recoverable in all the cases as EVC were not received within the prescribed period of 40 days and obtaining EVC after being pointed out by audit indicates that the procedure prescribed to safeguard

29 Liquor for which Excise Verification report had not been received from the officer incharge of the destination unit.

30 M/s Gold Water Breweries Pvt. Ltd., Malanpur, Bhind, M/s Som Distillery Pvt. Ltd.,Sehatganj, Raisen and M/s Som Distillery & Breweries Ltd., Rojrachak, Raisen.

31 M/s Som Distillery & Breweries Ltd., Rojrachak, Raisen and M/s Regent Beer & Wine Ltd., Makshi, Shajapur.

32 M/s Beam Global Spirit & Wine India Pvt. Ltd, Indore and M/s Ambar Distillery Ltd, Indore.

33 Bhind, Indore, Raisen and Shajapur.

* Form of bond to be executed on the removal of foreign liquor from the licensed premises of F.L.9/F.L.9A/F.L.10A/F.L.10B/B-3 licence at export/transport in bond.

the revenue interest of State was not being followed and compliance is being left to the will of licensees.

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

3.10 Irregular export and shortage of beer

According to Rule 12 of MPB & W Rules read with Rule 9 (6) of MPFL Rules, no label shall be used by any manufacturer unless it has been duly registered or renewed. In case of non-renewal of label/labels, the EC may pass suitable order regarding disposal of the stocks of the un-renewed labels held by any licensee and the State Government shall not be liable to pay any compensation to the licensee for any loss or damage.

Loss of revenue of ₹ 79.13 lakh due to stock shortage of beer.

We observed from the stock and issue register of beer in M/s Som Distillery and Breweries Ltd., Raisen (B-3 licence[34]) in October 2012 that the label for "Power 5000 Super Strong" beer was not got renewed for the year 2012-13 by the licensee and as such the export/transport of beer of this label should have been restricted during the year 2012-13. However, it was noticed that there was a stock of 64,000 boxes of beer of this label in the month of April 2012 of which the licensee exported 1,200 boxes, which was irregular. The OIC of unit did not check the label of the beer, which was exported by the licensee. Besides, the remaining stock of 62,800 boxes was not accounted for in the stock and issue register of the unit as on 30 September 2012. This resulted in loss of revenue of ₹ 79.13 lakh.

After we pointed out the cases, the AEC, Raisen stated (October 2012) that a letter would be sent to EC for disposal of beer. However, as pointed out by us as the beer was not available in the stock and issue register of the unit and in the absence of the beer in stock, the disposal thereof was not possible. The DEC and AEC/DEO did not also conduct physical verification of stock during their inspection.

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

[34] Licence for the manufacture of beer/wine

3.11 Short levy of license fee from Hotel Bar Licenses

The State Government vide notification dated 29 December 2010, prescribed the annual license fee for Hotel Bar License (FL-3) for the year 2010-11 on the basis of population of the city/town in which the bar was situated. Further, the notifications issued by the EC for sale of liquor for the years 2011-12 and 2012-13 provide that the annual license fee for FL-3 for the year 2011-12 shall be the same as in 2010-11 and for the year 2012-13, it shall be worked out by increasing 20 *per cent* off the license fee fixed for the year 2011-12 and rounding it to the next higher ₹ 10,000.

We observed from the license files of FL-3 in the EC Office and AEC Office, Ujjain between February and May 2012 that 25 Hotel Bar licenses were renewed in four cities/towns[35] for the years 2011-12 and 2012-13 on which license fees (LF) of ₹ 2.81 crore was levied against the leviable amount of ₹ 3.47 crore in accordance with the population of the cities/towns as per Census of 2011. This resulted in short realisation of licence fees of ₹ 66 lakh. The Department did not take any action to recover the differential amount.

Short realisation of licence fees of ₹ 66 lakh due to non realisation of the same on the basis of Census of 2011.

After we pointed this out, the EC stated (May 2012) that instruction to recover the license fee short realised was being issued. Further report has not been received (January 2014). The fact that the issue of change in license fee consequent to change in population data of the towns where licenses were issued was not pointed out by DEC and AEC/DEO during inspections shows ineffectiveness of the internal control system of the Department.

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

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35 Betul – As per Census (2001) LF was ₹ 3.65 lakh and as per Census (2011) ₹ 4.40 lakh for 2011-12 and ₹ 5.30 lakh for 2012-13
Gwalior - As per Census (2001) LF was ₹ 5.85 lakh and as per Census (2011) ₹ 7.30 lakh for 2011-12 and ₹ 8.80 lakh for 2012-13
Nagda - As per Census (2001) LF was ₹ 3.65 lakh and as per Census (2011) ₹ 4.40 lakh for 2011-12
Ujjain - As per Census (2001) LF was ₹ 5.10 lakh and as per Census (2011) ₹ 5.85 lakh for 2011-12

3.12 Non/short recovery of supervision charges

According to Rule 3(17) of MPFL Rules, the licensee shall pay in advance, supervision charges at the rate prescribed by the State Government to defray in full or part the expenditure incurred on the salary and other claims of the excise staff posted to bottling units exclusively for supervision work. Further, the State Government vide notification dated 28 July 2012, prescribed the supervision charges for foreign liquor bottling unit at the rate of ₹ 8.40 lakh per year which shall be recovered in the district where such bottling unit is situated.

Non-realisation of revenue of ₹ 54.80 lakh due to short recovery of supervision charges.

We observed from license files in five districts between October 2012 and January 2013 that the licensees of six foreign liquor bottling units[36] of four districts[37] did not pay the supervision charges of ₹ 50.40 lakh at the rate of ₹ 8.40 lakh each. One licensee[38] of Chhindwara district paid an amount of ₹ 4 lakh leaving the balance amount of ₹ 4.40 lakh unpaid for the year 2012-13. This resulted in short realisation of revenue of ₹ 54.80 lakh. The DEC and AEC/DEO also did not point out the short realisation in their inspection.

After we pointed out the cases, the AEC, Ujjain stated (April 2013) that an amount of ₹ 8.40 lakh had been recovered whereas AEC, Jabalpur and DEOs Chhindwara and Bhind stated (between December 2012 and January 2013) that the notices/letters to recover the amount of supervision charges have been issued to the licensees and would be intimated to audit after recovery. AEC, Raisen stated (October 2012) that the supervision charges would be recovered from the licensees and intimated to audit. Further report has not been received (January 2014).

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

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36 M/s Gold Water Breweries Pvt. Ltd., Malanpur, Bhind, M/s S.G. Distillery Jabalpur, M/s Redson Distillery Ltd. Jabalpur, M/s Som Distillery Pvt. Ltd., Sehatganj, Raisen, M/s Som Distillery & Breweries Ltd., Rojrachak, Raisen and M/s Mahakal Distillery Pvt. Ltd., Narwar, Ujjain

37 Bhind, Jabalpur, Raisen and Ujjain.

38 M/s Golden Orange Distillers, Borgaon, Chhindwara.

3.13 Loss of excise duty due to short accounting of spirit

According to Rule 4(3) and (37) of MPD Rules, a distiller shall establish his own laboratory within the distillery premises. Samples of every batch of spirit manufactured in the distillery shall be analysed in the laboratory before issue. The samples shall be drawn under the supervision of the Distillery Officer of the distillery. No spirit shall be issued until its quantity and strength have been verified by the Distillery Officer. Further, according to instructions issued by EC (April 1997), the OIC of the distillery shall send the samples of rectified spirit produced once in each quarter for their chemical test to a Department laboratory or a laboratory authorised or approved by the EC.

We observed from the spirit stock register and chemical analysis reports of two distilleries[39] of two districts[40] between March 2012 and March 2013 that 48,65,462.5 Bulk Litre (BL) of spirit was accounted for as 81,03,288.5 Proof Litre (PL) by the licensee. We, however, noticed that the actual quantity of spirit on the basis of chemical analysis report of the Government authorised laboratory as calculated by audit worked out to 81,31,005.59 PL. Thus there was short accountal of spirit of 27,717.15 PL. This resulted in loss of revenue of ₹ 29.60 lakh.

Loss of revenue of ₹ 29.60 lakh due to short accountal of spirit.

After we pointed out the cases, the DEO (Distillery) Rajgarh stated (March 2012) that the difference of strength might have occured due to having different instruments. We do not agree as accuracy of appliances and the measurement made by distillery were to be checked by the Excise officers. In another case, it was stated (March 2013) that the case would be sent to higher officers for further necessary action. DEO (Distillery) Dhar stated (April 2012) that difference being minor, action would not be taken. We do not agree as EC accepted (August 2013) that chemical analysis report of Government authorised laboratory should be the valid basis for determining the wastages. The DEC and AEC/DEO also did not point out the discrepancy during inspection and thus the internal control mechanism was also rendered ineffective.

We reported the matter to the Department and the Government in April 2013; their replies have not been received (January 2014)

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39 M/s Oasis Distillery Ltd., Dhar and M/s Vindhyachal Distillery Pvt., Ltd., Rajgarh.

40 Dhar and Rajgarh.

3.14 Non-recovery of transport fee

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

We observed from the records related to NOC and transport permits in three AECs[41] and DEO, Shajapur between October 2012 and February 2013 that foreign liquor on 11,162 permits was transported by the licensees of four districts[42] between April 2012 and February 2013. The transport fee of ₹ 11.16 lakh was, however, not deposited by the licensees. The Department did not take any action to recover the amount and issued the NOC/permits for transportation without charging any transport fee. The DEC did not see this aspect during their inspection. This resulted in non-realisation of revenue of ₹ 11.16 lakh.

Non-realisation of revenue of ₹ 11.16 lakh due to non recovery of transport fee.

After we pointed out the cases, the AEC Indore in regard to M/s M.P. Beer Products and DEO Shajapur stated (between October 2012 and February 2013) that according to instructions of EC, transport fee was recoverable on NOC or transport permit and the amount was deposited at the time of receipts of NOC. We do not agree as the transport fee was to be deposited separately for issue of NOC and for granting of transport permit. AEC, Indore in regard to M/s Mount Everest Breweries Limited and AEC, Raisen stated (between October 2012 and February 2013) that action for recovery would be taken on receipt of direction from higher offices. AEC, Jabalpur stated that letter had been issued for recovery to the FL-6 licensee and in case of FL-1 and FL-7 licensees, audit would be intimated after recovery of the amount from the concerned licensees at the earliest. AEC, Indore stated (February 2013) in regard to other licensees that the audit would be intimated after recovery from the concerned licensees. Further report has not been received (January 2014).

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

41 AEC Indore, Jabalpur and Raisen.

42 Indore, Jabalpur, Raisen and Shajapur.

CHAPTER – IV

TAXEX ON VEHICLES

EXECUTIVE SUMMARY

What we have highlighted in this Chapter	In this Chapter, we present a paragraph on **"Working of National Permit System and Bilateral Agreements Regulating Inter-state vehicular traffic including Information Technology Aspect"** involving revenue implication of ₹ 2.23 crore and a few illustrative cases of ₹ 19.71 crore selected from observations noticed during our test check of records relating to assessment and collection of tax/fee/penalty on motor vehicles in the office of the Transport Commissioner (TC) and the Regional Transport Officers (RTOs), where we found that the provisions of the Acts/Rules were not observed. It is a matter of concern that similar omissions have been pointed out by us repeatedly in the Audit Reports for the past several years, but the Department has not taken corrective action.
Trend of receipts	In 2012-13, the collection from taxes on vehicles increased by 12.83 *per cent* over the previous year which was attributed by the Department due to speedy adoption of computerisation.
Status of compliance to outstanding Inspection Reports (2007-08 to 2011-12)	During the period from 2007-08 to 2011-12, we had pointed out non/short levy, non/short realisation of tax, application of incorrect rate of tax etc., with revenue implication of ₹ 114 crore in 2,53,801 cases. Of these, the Department/Government had accepted audit observations in 16,676 cases involving ₹ 80.90 crore and had since recovered ₹ 12.19 crore in 5,266 cases.
Status of Compliance to Inspection Reports 2012-13	In 2012-13, we test checked the records of 36 units relating to taxes on motor vehicles and found under-assessment of tax and other observations involving ₹ 31.70 crore in 8,51,964 cases. The Department accepted under assessment and other deficiencies of ₹ 7.32 crore in 1,777 cases, which were pointed out by us during the year 2012-13. An amount of ₹ 23.75 lakh was recovered in 118 cases during the year 2012-13.
Our conclusion	The Department did not adhere to the roster fixed for internal audit. It needs to improve the internal control system including strengthening of internal audit so that weaknesses in the system are addressed and omissions of the nature detected by us are avoided in future. It also needs to initiate immediate action to recover non-realisation of tax and penalty pointed out by us, more so in those cases where it has accepted our contention.

CHAPTER-IV
TAXES ON VEHICLES

4.1 Tax administration

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

- The Motor Vehicles (MV) Act, 1988;
- Central Motor Vehicles (CMV) Rules, 1989;
- Madhya Pradesh *Motoryan Karadhan Adhiniyam (Adhiniyam),* 1991 and
- Madhya Pradesh *Motoryan Karadhan Niyam (Niyam),* 1991

4.2 Trend of receipts

According to para A-15 read with para 6.6.1 of Madhya Pradesh Budget Manual (Manual), 2012 the estimates of revenue receipts should include/project the actual demand including arrears due for the past years and probability of their realisation during the year. According to Rule 192 of Madhya Pradesh Financial Code, the Finance Department is required to prepare the estimates of revenue after obtaining necessary information/data from the respective Department/Government.

Actual receipts from taxes on vehicles during the period 2008-09 to 2012-13 along with the total tax receipts during the same period are exhibited in the table no 4.1:

Table No. 4.1

(₹ in crore)

Year	Revised Budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual tax receipts vis-a-vis total tax receipts
2008-09	1,000.00	772.56	(-) 227.44	(-) 22.74	13,613.50	5.68
2009-10	900.00	919.01	(+) 19.01	(+) 2.11	17,272.77	5.32
2010-11	1,130.00	1,198.38	(+) 68.38	(+) 6.05	21,419.33	5.59
2011-12	1,285.00	1,357.12	(+) 72.12	(+) 5.61	26,973.44	5.03
2012-13	1,500.00	1,531.25	(+) 31.25	(+) 2.08	30,581.70	5.01

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

It may be seen that though there was an increasing trend in receipts during the years from 2008-09 to 2012-13, the percentage of variation between the REs and the actual receipts ranged between (-) 22.74 *per cent* and (+) 6.05 *per cent.*

In 2012-13, the collection from taxes on vehicles increased by 12.83 *per cent* over the previous year which was attributed by the Department to speedy adoption of computerisation.

4.3 Cost of collection

The gross collection in respect of taxes on vehicles, expenditure incurred on its collection and the percentage of such expenditure to gross collection during the years 2010-11, 2011-12 and 2012-13 along with the relevant all-India average percentage of expenditure on collection for the previous year are mentioned in the table no. 4.2:

Table No. 4.2

(₹ in crore)

Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage of expenditure on collection for the year
2010-11	1,198.38	32.90	2.75	3.07
2011-12	1,357.12	40.40	2.97	3.71
2012-13	1,531.25	40.07	2.62	2.96

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

We appreciate that the cost of collection had been below the all-India average.

4.4 Working of internal audit wing

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

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

During the period (2009-10 to 2012-13) internal audit wing had planned audit of 236 units, out of which only 105 units were audited. The low percentage of inspection of units indicates that the Department does not have proper planning for the inspection of units and working of the IAW needs strengthening.

4.5 Impact of audit

4.5.1 Status of Compliance of Audit Reports (2007-08 to 2011-12)

In the Audit Reports 2007-08 to 2011-12, we had pointed out non/short levy, non/short realisation, application of incorrect rate of tax etc., with revenue implication of ₹ 72.86 crore in 37 paragraphs. Of these, the Department/ Government had accepted audit observations in 30 paragraphs involving ₹ 51.66 crore and had since recovered ₹ 12.11 crore. The details are shown in the table no. 4.3:

Table No. 4.3

(₹ in crore)

Year of Audit Report	Number of paragraphs	Money value	No. of accepted paragraphs	Money value of accepted paragraphs	No. of paragraphs against which recovery made	Amount recovered Upto 31.03.13
2007-08	11	21.18	9	18.28	6	2.89
2008-09	7	20.22	7	19.79	7	3.40
2009-10	8	11.49	8	6.21	8	4.86
2010-11	7	10.49	3	4.56	3	0.79
2011-12	4	9.48	3	2.82	2	0.17
Total	**37**	**72.86**	**30**	**51.66**	**26**	**12.11**

The percentage of recovery as compared to the accepted cases has been low during the last five years as the recoveries under high value objections have not been made.

We recommend that the Government should take appropriate steps to improve the recovery position at least against the accepted cases.

4.5.2 Status of Compliance of outstanding Inspection Reports (2007-08 to 2011-12)

During the period 2007-08 to 2011-12, through our Inspection Reports, we had pointed out non/short levy, non/short realisation, application of incorrect rate of tax etc., with revenue implication of ₹ 114 crore in 2,53,801 cases. Of these, the Department/Government had accepted audit observations in 16,676 cases involving ₹ 80.90 crore and had since recovered ₹ 12.19 crore (as on 31 March 2013). The details are shown in the table no. 4.4:

Table No. 4.4

(₹ in crore)

Year of Inspection Report	No. of units audited	Objected		Accepted		Recovered		Percentage of recovery to amount accepted
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	
2007-08	19	7,125	49.18	7,125	49.18	1,253	2.89	5.88
2008-09	28	5,962	21.88	4,851	19.09	1,422	3.48	18.23
2009-10	27	5,534	18.44	2,209	5.19	1,949	4.86	93.64
2010-11	26	3,845	11.46	1,849	4.56	534	0.79	17.32
2011-12	17	2,31,335	13.04	642	2.88	108	0.17	5.90
Total		**2,53,801**	**114.00**	**16,676**	**80.90**	**5,266**	**12.19**	

The percentage of recovery as compared to the accepted cases has been very low over the last five years except in 2009-10. We brought this issue to the notice of the Head of the Department as well as the Finance Secretary of the Government (August 2013).

4.5.3 Status of compliance to Inspection Reports (2012-13)

Test check of the records of 36 units involving total revenue of ₹ 1089.69 crore out of 51 units relating to taxes on vehicles during the year 2012-13 revealed underassessment of tax and other irregularities involving ₹ 31.70 crore in 8,51,964 cases which fall under the following categories in the table no. 4.5:

Table No. 4.5

(₹ in crore)

Sl. No.	Category	No. of cases	Amount
1.	**"Working of National Permit System and Bilateral Agreements Regulating Inter-state vehicular traffic including Information Technology Aspect"**	1	2.23
2.	Non/Short levy of vehicles tax and penalty on public service vehicles	1,928	12.59
3.	Non/Short levy of vehicle tax and penalty on goods vehicles	1,772	6.05
4.	Other	8,48,263	10.83
		8,51,964	**31.70**

During the course of the year, the Department accepted underassessment and other deficiencies of ₹ 7.32 crore in 1,777 cases, which were pointed out in audit during the year 2012-13 and reported realisation ₹ 23.75 lakh in 118 cases.

A paragraph on **"Working of National Permit System and Bilateral Agreements Regulating Inter-state vehicular traffic including Information Technology Aspect"** involving revenue implication of ₹ 2.23 crore and a few illustrative audit observations involving ₹ 19.71 crore highlighting important audit findings are mentioned in the following paragraphs.

4.6 Audit Observations

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

4.7 Working of National Permit System and Bi-lateral Agreements Regulating Inter-state vehicular traffic including Information Technology Aspect

4.7.1 Introduction

Inter-state Vehicular traffic of goods between States is regulated by National Permit Scheme and Bilateral Agreements under the provisions of Motor Vehicles Act, 1988 (MV Act) and the Rules made thereunder. With a view to expedite the economic development of the country, by encouraging long distance inter-State travel and transport of goods by road, the States are allowed to enter into Bilateral Agreements for vehicular traffic with other States, on reciprocal basis. The assessment and levy of taxes, fees and imposition of penalty on motor vehicles, plying on interstate routes in Madhya Pradesh is regulated by the provisions of Madhya Pradesh *Motoryan Karadhan Adhiniyam (Adhiniyam)* 1991 and the rules made thereunder.

Madhya Pradesh *Motoryan Karadhan Niyam,* 1991 rule 8(5) provides that a Motor vehicle covered with National Permit granted under sub-section (12) of section 88 of the MV Act 1988 by the Transport Authority of other States with a valid authorisation to ply in Madhya Pradesh, shall pay tax at the transport check-post at the time of entry in Madhya Pradesh. The payment shall be made in cash or through a crossed bank draft payable to the Transport Commissioner, Madhya Pradesh at Gwalior and the same shall be endorsed by the Officer in charge of the check-post in the authorisation and such endorsed authorisation shall always be carried with the goods carriage and produced for inspection on demand by any officer of the Transport Department not below the rank of an Assistant Transport Sub-Inspector. The drafts so received from different check posts/flying squads and taxation authorities in State Transport Authority (STA) on account of composite tax are to be deposited into Government account. Realisation of revenue under National Permit Schemes is watched by the STA of the State concerned, under the overall supervision and control of the Transport Department of the State Government. The types of vehicles normally covered under the scheme/agreements are stage carriages, contract carriages/tourist taxies and goods carriages.

A New national permit system introduced by Government of India, Ministry of Road Transport and Highways in May 2010 enabled the permit holders to operate throughout the country on payment of prescribed consolidated fee.

4.7.2 Audit objectives

We conducted the audit to ascertain whether:

- Adequate internal control and monitoring mechanism relating to levy/realisation of taxes/penalties in respect of vehicle plying on Bi-lateral Agreements existed and the enforcement wing has been strengthened to detect vehicles (plying on countersigned permits) without valid documents and tax liability;
- The New National Permit System implemented by the Department as per Central Motor Vehicle (Amended) Rules, 2010 and the guidelines issued by Ministry of Road Transport & Highways (May 2010) for

implementing electronic mode of grant/renew of National Permit for goods carriage have been followed; and

- Rules and procedures prescribed in the Act for issue of permits were followed.

4.7.3 Audit criteria

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

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

4.7.4 Scope of Audit and Methodology

For the study of the subject, we test checked the records between May 2013 and July 2013 for the year 2008-09 to 2012-13 in six[1]units out of 20 units selected in Audit Plan 2013-14 which were selected by way of random sampling. An entry conference was held on 21 June 2013 to discuss the objectives, scope and methodology of audit. The Department was represented by the Transport Commissioner and other executives. An exit conference with Additional Transport Commissioner was held on 29 October 2013 and the replies have been appropriately incorporated in the paragraphs.

4.7.5 Acknowledgement

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

[1] RTO-Indore, Jabalpur, Gwalior, Morena, ARTO-Dhar and Guna

Audit findings:

System deficiencies:

4.7.6 Lack of monitoring and co-ordination between the Transport Commissioner Office and unit offices in collection of tax in respect of Public Service Vehicles (PSVs[2]) of other States in Madhya Pradesh plying on Bi-lateral Agreements

Section 88(1) of the Motor Vehicles Act, 1988 (iv of 1988), provides that a permit shall be countersigned in accordance with the terms and conditions of the Bilateral Agreement concluded between the states. Further, section 69(2) of the MV Act 1988 specifies that vehicle owner shall apply for the countersignature of the permit to the State Transport Authority (STA) of that region along with the required documents. After, countersigning the permit, the STA has to direct the vehicle owner to pay tax in a specified destination (RTO/ARTO/ DTOs) in future and to report the matter to the taxation authority (TA) of that destination to ensure collection of tax.

We examined the documents[3] for the period (2008-09 to 2012-13) (June 2013) furnished by State Transport Authority (STA) in the Transport Commissioner office relating to payment of tax in respect of PSVs of other States plying in Madhya Pradesh on Bi-lateral Agreements. We found that STA had directed the taxation authorities i.e. RTO (Jabalpur, Morena) and ARTO (Guna) to ensure collection of taxes in respect of 13 vehicles plying on bilateral agreement, but on cross verification in these three field offices[4], it was observed that neither of these 13 vehicles owners were paying tax in these offices nor any record in respect of these vehicles was maintained. It clearly indicates lack of monitoring and co-ordination between transport commissioner office and field offices and failure of TC office to pursue the matter with the field offices.

Payment of tax on Public Service Vehicles plying on bilateral agreements could not be ensured due to lack of monitoring and co-ordination by Transport Commissioner Office and field offices.

The Department during exit conference agreed to the audit observation and assured that adoption of new software System Requirement Specification (SRS) would enable creation of database of tax payment by vehicle owners of other states and database under consideration/development /implementation and adoption of new SRS would ensure control over dues collection at district level.

Till such time the new software is put in operation, the Government may consider prescribing a mechanism for consolidating the centrally available data regarding plying of traffic under bilateral arrangements

[2] Public Service Vehicles (Commercial vehicles)
[3] List/Registers and case files of countersigned permits
[4] RTO Jabalpur, Morena and ARTO Guna

and effective coordination between the concerned units to avoid leakage of tax revenue.

4.7.7 Realisation of Bank Drafts collected by check posts

According to Rule 7(1) of Madhya Pradesh Treasury Code and instructions issued by Transport Commissioner (March 2000), bank drafts received by the taxation authorities/ check posts on account of composite tax are to be sent to the STA for depositing into Government account. STA is required to maintain a register in the prescribed form depicting the full particulars of bank drafts received from check posts/ flying squad and taxation authorities. The STA shall further examine all the bank drafts so received are regularly and promptly realised and duly credited in Government Account.

During test check in the office of Transport Commissioner, it was observed that STA wing had not complied with the Transport Commisioner's instructions (March 2000) in which STA was required to maintain bank draft register in the prescribed form depicting the full particulars of the bank draft received.

Non-reconciliation of deposits into bank on account of composite tax by the Department resulted in non realisation of ₹ 1.38 crore

We further noticed from challan registers of STA wing for the period from 2008-09 to 2009-10 (prior to indtoduction of New National Permits Scheme in May 2010) that drafts collected towards payment of composite tax by taxation authorities/check posts were shown remitted into the banks. During verification of the realisation of the drafts remitted with the treasury records, we found that drafts valued at ₹ 1.38 crore reported as remitted into the banks were not actually credited into the government account.

Had the Department undertaken reconcilation of the deposits into bank with actual credit given by banks, corrective action to realise the Government revenue could have been initiated.

The Department during exit conference agreed with the audit observation and stated that sufficient care would be taken during development of new software to ensure accounting and matching of demand drafts received at entry points for submission to banks for collection and also assured that MIS report would be generated by the computer to review drafts not deposited/credited to the Government Account.

4.7.8 Short-realisation of consolidated fee for grant of authorisation of National Permits and non-compliance of orders of Government of India, Ministry of Road Transport and Highways

Government of India, Ministry of Road Transport & Highways through notification dated 7 May 2010 introduced a New National Permit System. Electronic system of grant of national permit was developed in consultation with an NIC and implemented with effect from 15 September 2010 in the state. The new system enabled the permit holders to operate throughout the country on payment of ₹ 15000 towards consolidation fee, which was enhanced to ₹ 16500 per annum per vehicle w.e.f. 1 April 2012 and a consolidated report on number of National Permits issued and payment of consolidated fee was to be sent to Ministry by 5th of succeeding month by the Transport Commissioner which would facilitate early distribution of funds to the States.

As per Government of India Ministry of Road Transport and Highways notification dated 7 May 2010 relating to implementation of a new National Permit System, permit was to be given to vehicle owners on payment of ₹ 15,000. The fee was enhanced to ₹ 16,500 from 1 April 2012. The new system enabled the permit holder to operate throughout the country.

Failure of Department to update the software, resulted in short realisation of consolidated fees in 391 cases.

(i) We scrutinised (June 2013) the national permit registers, authorisation registers and computer database available in five offices[5] and found that the consolidated fee for authorisation of National Permits in respect of 391 vehicles/cases during the period April 1 to April 26, 2012 was realised short due to application of the pre revised rate of ₹ 15,000 instead of the applicable rate of ₹ 16,500. This resulted in short realisation of ₹ 5.87 lakh.

The Department during exit conference agreed to the audit observation and assured to recover the short consolidated fee.

Non-compliance of guidelines relating submission of monthly report to the Ministry.

(ii) We further noticed (July 2013) that the Department did not comply with the guidelines issued by the Ministry relating to sending of Monthly report on number of National Permits issued, payment of consolidated fee to the Ministry of Road Transport and Highways by 5th of the succeeding month.

The Department during exit conference stated that monthly returns were sent by the private agency entrusted with the responsibility of issuing permit. The reply is not in conformity with the guidelines issued by the Ministry of Road Transport and Highways (May 2010), under which the Department was required to send monthly consolidated report on number of national permits issued, payment of consolidated fee etc., to the Ministry by 5th of the succeeding month.

[5] RTO – Gwalior, Indore, Jabalpur, Morena and ARTO - Guna

Compliance deficiencies:

4.7.9 Non levy of tax and penalty in respect of goods vehicles plying on National Permits

According to the provisions of Madhya Pradesh *Motoryan Karadhan Adhiniyam (Adhiniyam)*, 1991, a tax shall be levied on every vehicle used or kept for use in the State at the quarterly rates for use in the State as specified in the first schedule of the *Adhiniyam*. If the owner of the vehicle defaults in making payment of advance quarterly tax, he shall be liable to pay penalty at the rate of four *per cent* per month on the unpaid amount of tax which shall not be more than twice the amount of tax.

We examined (June 2013) National Permit/ authorisation register, vehicle surrender register, NOC issuance register and computer database in five offices [6] where such registers were maintained. We observed that vehicle tax amounting to ₹ 40.75 lakh in respect of 145 cases, out of 437 vehicles test checked, for the period between April 2009 and March 2013 was neither paid by vehicle owners nor any action was taken by the Taxation Authorities (TA) to recover the unpaid tax. Besides, penalty of ₹ 28.03 lakh though leviable, was not levied. This resulted in non realisation of Government revenue of ₹ 68.78 lakh. The Department did not maintain Demand and Recovery Register which led to non-pursuance in recovery of outstanding dues. The Taxation Authorities also had not issued the demand notices as per Section (15)(1) of the *Adhiniyam*.

Non-pursuance by the Department in recovering outstanding dues resulted in non realisation of revenue in 145 cases.

The Department during exit conference stated (October 2013) that short recovery of tax was leviable only for remaining quarters of a particular financial year and not for entire permit period of five years as recovery is ensured before renewal of authorisation every year. It was further stated that in cases where renewal was not sought despite continuation of permit the tax default might not arise due to non-plying of vehicle.

The reply is not in conformity with the provisions of MP *Motoryan Karadhan Adhiniyam* 1991, which clearly provides payment of advance quarterly tax in respect of goods vehicles plying on National Permit. The Department justified its failure in recovery of tax due on the plea that the vehicle owners might not be plying their vehicle even though they had permit without providing any evidence in support of its reply. As tax was recoverable against permits even if renewal of annual authorisation was not sought by the vehicle owners, the Department should have taken action to recover the tax due.

[6] RTO – Gwalior, Indore, Jabalpur, Morena and ARTO - Guna

4.7.10 Non levy of vehicle tax and penalty on goods carriages of other states plying on Bi-lateral agreement in Madhya Pradesh

According to the provisions of the *Adhiniyam* 1991, a tax shall be levied on every goods carriage of other states plying in the state of Madhya Pradesh under bilateral agreement at the rate of 85 *per cent* of the rate specified in the *Adhiniyam*. If the tax due has not been paid to the designated authority, the owner shall be liable to pay a penalty at the rate of four *per cent* per month on the unpaid amount of tax which shall not be more than twice the amount of tax. Further, according to section 8 of the *Adhiniyam* vehicle owner is required to submit a declaration form in support of their payment of tax.

Department did not recover vehicle tax on goods carriages plying in Madhya Pradesh on bi-lateral agreements in 178 cases.

During examination of demand and collection register and information furnished by RTO Gwalior, we noticed that vehicle tax of ₹ 70 lakh was neither paid by the vehicle owners nor was recovered by TA in respect of 178 goods vehicles plying on bilateral agreements pertaining to four states[7] between October 2008 and March 2013. Besides, penalty of ₹ 78.26 lakh was also leviable. This resulted is non recovery of tax ₹ 148.26 lakh including penalty.

The Department during exit conference (October 2013) agreed to the audit observation and assured to propose to the Government to develop a system to obtain a one time tax.

4.7.11 Conclusion

Lack of co-ordination between STA and the unit offices was noticed resulting in non-payment of taxes relating to vehicles plying on Bi-lateral Agreements. Instances of non-maintenance of demand and recovery register led to non-pursuance in recovery of outstanding taxes on vehicles plying on Bi-lateral Agreement were also noticed. The Department failed to verify the realisation of bank draft collected from vehicle owners with treasury record. The Government did not follow the guidelines issued by Ministry of Road Transport and Highways (May 2010) regarding submission of monthly consolidated report on number of National Permits issued, payment of consolidated fee to the Ministry by 5th of succeeding month to facilitate the timely distribution of funds.

[7] Delhi, Haryana, Rajasthan and Uttar Pradesh

4.8 Non realisation of tax and penalty on vehicles

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

4.8.1 We scrutinised (between March 2012 and February 2013) the records[8] and found that tax amounting to ₹ 7.52 crore was not paid by the vehicle owners in respect of 2,487 vehicles out of 24,756 vehicles test checked, for the period between June 2005 and March 2012. There was nothing on record to show that the vehicles were declared off road or were transferred to any other district/State. No action was taken by the TAs to recover the tax from the defaulting vehicle owners according to the provisions of *Adhiniyam* and the Rules made thereunder. Further, penalty of ₹ 5.31 crore though leviable was not levied. We also observed that demand and collection registers were not maintained/updated in nine offices[9]. The inspection of all offices except Ujjain (2010-11) was conducted by the TAs, but the omission was not detected by them which indicated that the inspection was ineffective. This resulted in non-realisation of Government revenue of ₹ 12.83 crore as mentioned in the table no. 4.6:

8 Demand and collection register, NOC issuance register, vehicle surrender register, permit surrender register, as well as computerised database

9 RTO – Hoshangabad, Jabalpur, Morena, Rewa, Ujjain, ARTO – Guna, DTO - Bhind, Dewas and Sehore

Table No. 4.6

(₹ in crore)

Sl. No.	No. of offices	Category of vehicles No. of vehicles	Period involved	Tax not paid	Penalty leviable	Total
1	27[10]	Goods vehicles 1,144	4/06 to 3/12	2.43	1.76	4.19
2	26[11]	Public service vehicles kept as reserve 520	2/06 to 3/12	2.48	1.43	3.91
3	18[12]	Public service vehicles plying on regular stage carriage permits 173	6/05 to 3/12	1.31	1.16	2.47
4	25[13]	Maxicab/Taxicab 650	4/08 to 3/12	1.30	0.96	2.26
	Total	**2,487**		**7.52**	**5.31**	**12.83**

After we pointed out the cases (between March 2012 and February 2013), seven TA[14] stated (between September 2012 and May 2013) that an amount of ₹ 19.27 lakh had been recovered in 75 cases and demand notices had been issued to the defaulters in 478 cases.

4.8.2 We scrutinised (between December 2011 and September 2012) the records[15] in seven District/Regional Transport offices[16] and found that vehicle tax in respect of 93 motor vehicles out of 988 vehicles test checked, was paid by the owners during the period between December 2006 and March 2012 after delays ranging from one to 30 months. However, penalty was neither paid by the owners along with tax, nor was it demanded by the TAs. Further, we observed that demand and collection registers were not maintained/ updated by the RTO-Rewa. The inspection of all offices was conducted by the TAs, but the omission was not detected by them which indicated that the inspection was ineffective. This resulted in non-realisation of penalty of ₹ 10.42 lakh.

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10 Regional Transport Officer (RTO) - Hoshangabad, Jabalpur, Morena, Rewa, Shahdol and Ujjain (2), Additional Regional Transport Officer (ARTO) – Chhindwara, Dhar, Guna, Katni, Khandwa, Khargone, Mandsaur and Seoni and District Transport Officer (DTO) – Bhind, Dewas, Panna, Raisen, Rajgarh, Sehore, Shajapur, Sheopur, Shivpuri, Sidhi, Tikamgarh, Umaria, and Vidisha.

11 RTO - Hoshangabad, Jabalpur, Morena, Rewa, Shahdol and Ujjain, ARTO – Chhindwara, Dhar, Guna, Katni, Khandwa, Khargone, Mandsaur and Seoni and DTO – Bhind, Dewas, Panna, Raisen, Rajgarh, Sehore, Shajapur, Sheopur, Shivpuri, Sidhi, Umaria, and Vidisha.

12 RTO - Hoshangabad, Jabalpur, Morena, Rewa, Shahdol and Ujjain (2), ARTO – Guna, Katni, Khargone and Mandsaur and DTO – Bhind, Dewas, Panna, Raisen, Rajgarh, Shajapur, Sheopur and Shivpuri

13 RTO – Bhopal, Hoshangabad, Jabalpur, Morena, Shahdol and Ujjain (2), ARTO – Chhindwara, Dhar, Guna, Katni, Khandwa, Khargone, Mandsaur and Seoni and DTO – Bhind, Dewas, Panna, Raisen, Rajgarh, Sehore, Shajapur, Shivpuri, Sidhi, Tikamgarh and Vidisha.

14 RTO – Morena, Rewa ARTO – Chhindwara, Guna, Khargone, DTO – Sehore and Vidisha.

15 Demand and collection register, NOC issuance register, as well computerised database

16 RTO - Rewa, Shahdol, ARTO-Chhatarpur, DTO-Narsinghpur, Raisen, Sheopur, and Shivpuri

After we pointed out (between December 2011 and September 2012), the TA, Chhatarpur stated (March 2012) that an amount of ₹ 15,138 had been recovered in six cases and demand notices had been issued in three cases and three TAs[17] stated (between December 2011 and April 2012) that demand notices were being issued/recovery would be intimated/action for recovery was in progress.

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

4.9 Short realisation of tax and non-levy of penalty on motor vehicles

According to section 3(1) of the *Adhiniyam*, tax shall be levied on every motor vehicle used or kept for use in the State at the rates specified in the First Schedule. In case of public/private service vehicle, tax will be calculated on the basis of the seating capacity of the vehicle and distance of the route allowed. If the tax due has not been paid within the prescribed period, penalty is also leviable at the rate specified under section 13 of the *Adhiniyam* ibid.

We scrutinised (between March 2012 and February 2013) the records[18] in 22 District/Regional Transport offices[19] and found that tax in respect of 331 motor vehicles out of 3,842 vehicles test checked, for the period between July 2007 and March 2012 was paid short by the vehicle owners due to application of incorrect rate of tax. Further, we observed that demand and collection registers were not maintained/updated by seven TAs[20]. The inspection of all offices except Ujjain (2010-11) was conducted by the TAs, but the omission was not detected by them which indicated that the inspection was ineffective. This resulted in short realisation of tax of ₹ 37.37 lakh. Besides, penalty of ₹ 29.90 lakh leviable on the unpaid amount of tax was also not levied.

After we pointed out the cases (between March 2012 and February 2013), three TAs[21] stated (between September and May 2013) that an amount of ₹ 95,106 had been recovered in 29 cases and demand notices have been issued in 15 cases whereas nine TAs[22] stated (between March and August 2012) that action for recovery would be intimated/effort for recovery was in progress.

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

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17 DTO-Narsinghpur, Raisen and Sheopur

18 Demand and collection register, NOC issuance register, permit surrender register, vehicle surrender register, as well as computerised database

19 RTO-Hoshangabad, Jabalpur, Rewa, Shahdol and Ujjain, ARTO - Dhar, Katni, Khargone, Mandsaur, Seoni, DTO-Dewas, Panna, Raisen, Rajgarh, Sehore, Shajapur, Sheopur, Shivpuri, Sidhi, Tikamgarh, Umaria and Vidisha

20 RTO-Hoshangabad, Jabalpur, Rewa, and Ujjain, DTO-Dewas, Sehore, Tikamgarh,

21 ARTO–Khargone, DTO–Sehore and Vidisha.

22 RTO-Rewa, Shahdol, ARTO-Katni, Seoni, DTO-Panna, Raisen, Shajapur, Sheopur and Sidhi.

4.10 Non realisation of tax and penalty on Earthmover/Harvester

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

We scrutinised (between March 2012 and February 2013) the records [23] in 19 District/Regional Transport offices [24] and found that tax in respect of 370 vehicles (harvester, earthmover, crane etc.,) out of 2,455 vehicles test checked, for the period between April 2009 and March 2012 was not paid by the vehicle owners. Inspection of all the offices was conducted by the TAs, but the omission was not detected by them which indicated that the inspection was ineffective. This resulted non-realisation of tax of ₹ 77.69 lakh. Besides, penalty of ₹ 47.48 lakh leviable on the unpaid amount of tax was also not levied. Further, we observed that demand and collection registers were not maintained/ updated by seven offices[25].

After we pointed out the cases (between May 2012 and February 2013), six TAs [26] stated (between September and May 2013) that an amount of ₹ 2.63 lakh had been recovered in six cases and demand notices have been issued in 109 cases to the defaulters whereas six TAs[27] stated (between June and November 2012) that recovery would be intimated to audit/effort was in progress to recover the amount.

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

23 Demand and collection register, NOC issuance register, as well as computerised database

24 RTO - Hoshangabad, Jabalpur, Morena, Rewa, Shahdol and Ujjain, ARTO - Chhindwara, Dhar, Katni, Khandwa, Khargone, Mandsaur and Seoni, DTO - Bhind, Rajgarh, Sehore, Shivpuri, Sidhi and Vidisha

25 RTO-Hoshangabad, Jabalpur, Morena, Rewa, Ujjain, DTO – Bhind and Sehore

26 RTO – Morena, Rewa, ARTO - Chhindwara, Khargone, DTO - Sehore and Vidisha

27 RTO - Jabalpur, Shahdol, ARTO - Katni, Seoni, DTO - Bhind and Sidhi

4.11 Non/short realisation of trade fee

According to Rule 34 of the Central Motor Vehicles (CMV) Rules, 1989, an application for grant or renewal of a trade certificate shall be made by the dealer in form 16 and shall be accompanied by the appropriate fee (for motorcycle ₹ 50 and for others ₹ 200 per vehicle) as specified in Rule 81 *ibid*. The fee is chargeable for each vehicle sold by the dealer. Further, the Transport Commissioner issued an order dated: 27.01.2012 to recover trade fee as per rule.

We scrutinised (between March 2012 and January 2013) the trade fee register and returns submitted by the dealer (wherever available) and from information furnished by the TAs in 17 District/ Regional Transport Offices [28] that 5,12,491 vehicles were registered under different categories between April 2008 and March 2012. However, the dealers had not deposited the requisite trade fee or deposited less trade fee than that prescribed. The TAs also did not ascertain the actual number of vehicles sold against which trade certificates were issued and recovered the correct amount on account of trade fee. This resulted in non/short realisation of revenue of ₹ 3.95 crore.

After we pointed out the cases (between March 2012 and January 2013), the TA, Seoni stated (June 2012) that trade tax is collected from the dealers under section 4 of *Adhiniyam* as per rates specified in the Third Schedule. The reply does not address the issue of non-recovery of trade fee prescribed under the CMV Rules, 1989 whereas 11 TAs[29] stated (between May 2012 and January 2013) that action would be taken after getting instruction from headquarters. We do not agree as the Transport Commissioner had issued an order that the trade fee would be recovered according to CMV Rules, 1989.

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

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28 RTO - Hoshangabad, Jabalpur, Morena, Shahdol and Ujjain(2), ARTO -Chhindwara, Guna, Katni, Khargone, Mandsaur and Seoni, DTO - Raisen, Rajgarh, Sehore, Sidhi, Tikamgarh and Vidisha

29 RTO - Hoshangabad, Jabalpur, Ujjain, ARTO - Chhindwara, Guna, Katni, Khargone DTO - Rajgarh, Sehore, Sidhi and Vidisha

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

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

We scrutinised (between November 2012 and March 2013) the offence register with MPTC-6 [30] in seven border check posts[31] for the period between April 2007 and March 2012 and found that 2014 goods vehicles had carried excess load from one to 51 tonne beyond the registered laden weight (RLW). The Officer-In-Charge (OIC) only levied and recovered composition fee of ₹ 29.68 lakh as against the recoverable fee of ₹ 69.96 lakh from vehicle owners. This resulted short-realisation of composition fee of ₹ 40.28 lakh.

After we pointed out the cases (between November 2012 and March 2013), five OIC[32] stated (between November 2012 and March 2013) that recovery would be made according to MV Act in future. Whereas OIC Malthon stated (March 2013) that provision of punishment lies in section 194(1) of the MV Act, 1988 which was beyond its jurisdiction and vests with the Honorable Court. OIC Badwani stated (March 2013) that composition fee has been recovered as per rule. Both replies are not acceptable as MV Act, 1988 prescribes the rates at which composition fee is to be levied by the TAs.

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

4.13 Non realisation of tax and penalty on public service vehicles plying on all India tourist permits

All India tourist permit is granted by the State Transport Authority (STA) under section 88(9) of the Motor Vehicles Act, 1988. Tax is payable at the rate prescribed in the First Schedule of the *Adhiniyam*. If the tax due has not been paid within the prescribed period, penalty is also leviable at the rate of four *per cent* as specified in the *Adhiniyam*.

We scrutinised (between March and December 2012) the records [33] in RTO, Jabalpur and DTO, Dewas and found that six operators did not pay vehicle tax in respect of nine public service vehicles out of 27 vehicles test checked, plying on all India tourist permits for the period between July 2008 and March 2012. These vehicles were not declared off road and the said permits were also

30 Madhya Pradesh Treasury Code - 6

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

32 Kaimaha (Chhatarpur), Majhgwa (Satna), Morena, Paharibandha and Sanjay Nagar (Chhatarpur)

33 Demand and collection register, NOC issuance register, vehicle surrender register, permit surrender, as well computerised database

not surrendered by the vehicle owners. The inspection of these offices was conducted by the TAs, but the omission was not detected by them which indicated that the inspection was ineffective. This resulted in non-realisation of tax of ₹ 17.37 lakh. Besides, penalty of ₹ 8.47 lakh was also leviable.

After we pointed out the cases (between March and December 2012), the TA, Jabalpur stated (December 2012) that an amount of ₹ 75,200 (only tax penalty due) had been deposited in two cases at the instance of audit.

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

4.14 Short realisation due to wrong assessment of seating capacity of sleeper/deluxe vehicles

According the Section 3(1) of the *Adhiniyam*, tax shall be levied on every motor vehicle used or kept for use in the State at the rates specified in the First Schedule. If the tax due has not been paid within the prescribed period, penalty is also leviable at the rate of four *per cent* specified under Section 13 of the *Adhiniyam ibid.*

We scrutinised (December 2012) the registration records in RTO, Jabalpur and found that the seating capacity of three deluxe/sleeper vehicles (RTO Jabalpur, ARTO, Seoni and DTO, Narsinghpur) were registered as 35 and 36 excluding driver. Cross checking with records *(Panchnama)* of inspection wing, the same vehicles seating capacity was found between 43 and 50. Irregular registration of seating capacity of these vehicles resulted in short realisation of revenue of ₹ 11.52 lakh. Besides, penalty of ₹ 12.73 lakh was also leviable.

After we pointed out the cases, the TA, Jabalpur stated (December 2012) that recovery would be made and intimated whereas reply is still awaited from other TAs (January 2014).

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

CHAPTER – V

LAND REVENUE

EXECUTIVE SUMMARY

What we have highlighted in this Chapter	In this Chapter, we present illustrative cases of ₹ 35.55 crore selected from observations noticed during our test check of records relating to non/short realisation of premium and ground rent, non remittance of land revenue and *upkar* in government account, non levy of service charges, etc. in the office of the Tahsildars and Collectors, where we found that the provisions of the Acts/Rules were not observed. It is a matter of concern that though similar omissions have been pointed out by us repeatedly in the Audit Reports for the past several years, the Department has not taken corrective action.
Trend of receipts	In 2012-13, the collection of taxes from Land revenue increased by 58.96 *per cent* over the previous year. The Department did not furnish reason for variation.
Status of compliance to outstanding Inspection Reports (2007-08 to 2011-12)	During the period from 2007-08 to 2011-12, through our Inspection Reports we had pointed out underassessment of premium, ground rent and diversion rent, non renewal of lease of *nazul* land, non levy of process expenses, non registering of revenue recovery certificate etc. with revenue implication of ₹ 2,177.38 crore in 6,00,616 cases. Of these, the Department/Government had accepted audit observations in 5,23,534 cases involving ₹ 1,314.57 crore and had since recovered ₹ 173.11 crore in 7,722 cases. The recovery position as compared to acceptance of objections was very low, ranging from 1.69 *per cent* to 37.10 *per cent*.
Status of compliance to Inspection Reports 2012-13	In 2012-13 we test checked the records of 55 units relating to land revenue and found underassessment of premium, ground rent, diversion rent and other irregularities involving ₹ 70.76 crore in 12,481 cases. The Department accepted underassessment and other deficiencies of ₹ 23.35 crore in 12,103 cases, which were pointed out by us during the year 2012-13.
Our conclusion	The Department needs to initiate immediate action to recover the amount on account of under assessment of premium and ground rent, under assessment of diversion rent and *upkar*, non recovery of process expenses etc. pointed out by us, more so in those cases where it has accepted our contention.

CHAPTER – V
LAND REVENUE

5.1 Tax administration

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

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

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

5.2 Trend of receipts

According to para A-15 read with para 6.6.1 of Madhya Pradesh Budget Manual, 2012 the estimates of revenue receipts should include/project the actual demand including arrears due for the past years and probability of their realisation during the year. According to Rule 192 of Madhya Pradesh Financial Code, the Finance Department is required to prepare the estimates of revenue after obtaining necessary information/data from the respective Department/Government.

Actual receipts from Land Revenue during the period 2008-09 to 2012-13 along with the total tax receipts during the same period is exhibited in the table no.5.1:

Table No. 5.1

(₹ in crore)

Year	Revised budged estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual tax receipts vis-a-vis total tax receipts
2008-09	156.01	338.84	(+) 182.83	(+) 117.19	13,613.50	(+) 2.49
2009-10	161.81	180.03	(+) 18.22	(+) 11.26	17,272.77	(+) 1.04
2010-11	182.46	360.81	(+) 178.35	(+) 97.75	21,419.38	(+) 1.68
2011-12	475.00	279.06	(-) 195.94	(-) 41.25	26,973.44	(+) 1.03
2012-13	550.00	443.59	(-) 106.41	(-) 19.35	30,581.70	(+) 1.45

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

It may be seen that in 2012-13, the collection from land revenue increased by ₹ 164.53 crore (58.96 *per cent*) over the previous year. The variation between revised budget estimates and actuals ranged between (-) 41.25 *per cent* and 117.19 *per cent* during the years 2008-09 to 2012-13. The Department did not furnish reason for variation.

5.3 Internal audit and inspection

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

We observed that no internal audit wing existed in the Department. In the absence of this, internal audit of all the units were pending.

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

5.4 Arrears of land revenue

The Department reported (July 2013) that office of the Principal Revenue Commissioner[1], Madhya Pradesh, Bhopal is newly created (2010-11). Thus the information of arrears of Land revenue is not available with the Department. The information is being collected from the districts.

5.5 Impact of audit

5.5.1 Status of compliance to Audit Reports (2007-08 to 2011-12)

In the Audit Reports 2007-08 to 2011-12, we had pointed out cases of underassessment of premium and ground rent, non remittances of land revenue and *upkar*[2] in Government accounts, non levy of service charges, non recovery of process expenses, underassessment of diversion rent and premium etc. with

1 Head of the Department of Tahsil offices

2 *Panchayat* cess which is 50 *per cent* of land revenue

revenue implication of ₹ 342.72 crore. While the Department accepted observations of ₹ 258.71 crore it recovered a sum of only ₹ 143.14 crore up to 31 March 2013, as shown in the table no. 5.2:

Table No. 5.2

(₹ in crore)

Year of Audit Report	No. of paragraphs	Money Value	No. of accepted paragraphs	Money Value of accepted paragraphs	No. of paragraphs against which recovery made	Amount recovered up to 31-03-13
2007-08	5	4.75	3	3.18	3	2.29
2008-09	7	5.22	7	3.52	6	0.86
2009-10	1	314.60	1	239.84	1	139.87
2010-11	6	3.90	2	1.95	1	0.12
2011-12	7	14.25	2	10.22	-	-
Total	**26**	**342.72**	**15**	**258.71**	**11**	**143.14**

The percentage of recovery as compared to the accepted cases has been low during the last five year except in the year 2007-08 and 2009-10.

We recommend that the Government should take appropriate steps to recover the amounts involved, at least in the accepted cases.

5.5.2 Status of compliance to Inspection Reports (2007-08 to 2011-12)

During the period 2007-08 to 2011-12, through our Inspection Reports we had pointed out underassessment of premium, ground rent and diversion rent, non renewal of lease of *nazul*[3] land, non levy of process expenses, non registering of revenue recovery certificate etc. with revenue implication of ₹ 2,177.38 crore in 6,00,616 cases. Of these, the Department/Government had accepted audit observations in 5,23,534 cases involving ₹ 1,314.57 crore and had since recovered ₹ 173.11 crore in 7,722 cases (as on 31 March 2013). The details are shown in the table no. 5.3:

Table No. 5.3

(₹ in crore)

Year of Inspection Report	No. of units audited	Objected		Accepted		Recovered		Percentage of recovery to amount accepted
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	
2007-08	110	2,37,557	110.81	2,37,557	110.81	7,021	11.69	10.55
2008-09	121	33,807	274.22	33,807	274.22	327	5.37	1.96
2009-10	94	1,36,783	628.68	72,803	378.94	21	140.60	37.10
2010-11	45	1,72,568	870.47	1,60,044	272.58	130	10.76	3.95
2011-12	66	19,901	293.20	19,323	278.02	223	4.69	1.69
Total		**6,00,616**	**2,177.38**	**5,23,534**	**1,314.57**	**7,722**	**173.11**	

The percentage of recovery as compared to the accepted cases has been very low over the last five years. We brought this issue to the notice of the Head of the Department as well as the Finance Secretary of the Government (August 2013).

[3] Government land situated within urban areas.

5.5.3 Status of Inspection Reports 2012-13

Test check of the records of 55 units relating to land revenue during the year 2012-13 indicated underassessment of revenue and other irregularities involving ₹ 70.76 crore in 12,481 cases which fall under the following categories in the table no. 5.4:

Table No. 5.4

(₹ in crore)

Sl. No.	Categories	No. of Cases	Amount
1.	Underassessment of premium and ground rent	2	0.02
2.	Non-registration of revenue recovery certificates	135	2.36
3.	Underassessment of diversion rent/premium	5,381	1.37
4.	Non-renewal of lease of *nazul* land	57	0.47
5.	Non-raising of demand of diversion rent/premium and penalty	4,187	0.56
6.	Non-levy/realisation of process expense	253	0.96
7.	Other observations	2,466	65.02
	Total	**12,481**	**70.76**

During the course of the year, the Department accepted underassessment and other deficiencies of ₹ 23.35 crore in 12,103 cases, which were pointed out in audit during the year 2012-13.

A few illustrative audit observations involving ₹ 35.55 crore highlighting important audit findings are mentioned in the following paragraphs.

5.6 Audit observations

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

5.7 Non-remittance of service charge in Government account

In order to grant incentives to the officers and staff engaged in land acquisition work and re-imburse the expenditure incurred in this regard, the Government decided in July 1991 to collect service charges at the rate of 10 *per cent* of the amount of award from the departments/ organisations on whose behalf land acquisition was to be done. Before starting the proceedings for land acquisition, 10 *per cent* of the estimated amount of award was to be got deposited from the concerned departments/organisations. After the final award, balance of service charges (calculated on the difference of final award and estimated award) was also to be recovered. The amount so recovered was to be remitted to Government account under the major head 0029-Land Revenue. Further, Rule 7(i) of Madhya Pradesh Treasury Code (MPTC) Volume-I also provides that money collected on behalf of Government should be remitted in Government account without undue delay. Further, para 34 of Revenue Book Circular II-1 provides that the Commissioner of the Division should inspect revenue courts of each Collectorate and Tahsil in two and three year respectively while the Collector should inspect each Tahsil of his district every year.

We observed (December 2012) during test check of the records relating to land acquisition in Collectorate, Dhar that in 86 cases, the land award of an aggregate amount of ₹ 79.33 crore had been finalised and service charges of ₹ 7.93 crore recovered between December 2010 and October 2012. According to the rule, the service charges were required to be remitted into Government account [4] without any delay. We, however, noticed that the same had been kept in personal deposit account (PDA) of the Land Acquisition Officer instead of remitting it into the Government account till the date of audit (December 2012). Thus, the exchequer was deprived of revenue of ₹ 7.93 crore due to non-remittance of service charges. The inspection of this office was also not conducted by the Commissioner of the Division as well as Collector of the district.

After we pointed out the cases, Land Acquisition Officer, Dhar stated (December 2012) that the service charges could not be remitted into Government account because the amount collected and kept in the PDA was seized by the District Court, Dhar. We do not agree as after collection, it should have been deposited immediately into the Government account. Besides, the PDA did not remain seized from 1 January to 14 March and 21 July to 5 November 2012 and the service charges could have been remitted to Government account during this period.

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

[4] Under the major head "0029"-Land Revenue

5.8 Non-levy/realisation of interest

Article 29.2 of the Development agreement executed (April 2008) between Government of Madhya Pradesh (GOMP), Madhya Pradesh Housing Board (MPHB) as Nodal agency and M/s Deepmala Infrastructure Private Limited (DIPL) provides that any sum which becomes payable under any of the provisions of this agreement by one party to the other party shall, if the same be not paid within the time allowed for payment thereof, be deemed to be a debt owned by the party responsible for payment thereof to the party entitled to receive the same. Such sum shall until payment thereof, carry interest at 15 *per cent* per annum from the due date for payment thereof until the same is paid to or otherwise realised by the party entitled to the same. Further, Rule 7 (i) of Madhya Pradesh Treasury Code (MPTC) Volume-I provides that money collected on behalf of Government should be remitted in Government account without undue delay.

We observed from the records (Development Agreement, allotment file and recovery related documents) of *Rajdhani Pariyojana* (*Nazul*) Bhopal (March 2013) that *Nazul* land measuring 15 acre was allotted in April 2008 to DIPL for ₹ 338 crore. The consideration was payable by DIPL in three installments and was to be revised according to actual measurement of land handed over to the allottee. Two installments of ₹ 101.40 crore each were paid by DIPL between April and August 2008 and the last installment of the premium was due in April 2009. As the possession of 14.88 acre against 15 acre was handed over to the company (November 2008), the premium was revised as ₹ 335.30 crore. We noticed that the last installment of ₹ 132.50 crore was paid by the lessee in July 2010 after a lapse of 469 days after the due date. As such, interest of ₹ 25.54 crore was also payable for the delayed period. We, however, noticed that neither the Department demanded any interest nor was it paid by the lessee which resulted in non-realisation of interest of ₹ 25.54 crore[5].

We also observed that the third installment of ₹ 132.50 crore mentioned above paid on 31 July 2010 to MPHB on behalf of the Government was remitted into the treasury on 18 August 2010 by MPHB after lapse of 16 days of its receipt, due to which the Government was deprived of interest of ₹ 87.12 lakh[6]. This was also not demanded from MPHB. Thus, non-levy of interest on belated payment of Government dues and delay in remittance thereof resulted in non-realisation of interest of ₹ 26.41 crore.

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5 The amount deposited for delay of 469 days (17.04.09 to 30.07.10) – 1,32,49,60,000
1,32,49,60,000 x 15 *per cent* (Annual interest) = 19,87,44,000
Interest of one day = 19,87,44,000/365 days = 5,44,504.10
Total interest = 5,44,504.10 x 469 days = 25,53,72,427 or ₹ 25.54 crore

6 The amount remitted for delay of 16 days (02.08.10 to 17.08.10) – 1,32,49,60,000
1,32,49,60,000 x 15 *per cent* (Annual interest) = 19,87,44,000
Interest of one day = 19,87,44,000/365 days = 5,44,504.10
Total interest = 5,44,504.10 x 16 days = 87,12,064 or ₹ 87.12 lakh

After we pointed out the case, the *Nazul* Tehsildar stated (March 2013) that action would be taken as per rule after scrutiny of relevant documents in the interest of Government. Further progress has not been received (January 2014).

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

5.9 Non-remittance of land revenue and *upkar* in Government Account

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

We observed between June and December 2012 during test check of statement of demand and collection and challans of seven Tahsil offices[7] that land revenue and *upkar* of ₹ 85.28 lakh collected between October 2011 and September 2012 by *Tahsil* offices was deposited in *Panchayat* Fund rather than in the treasury under Major head '0029'-Land revenue. Thus, the State exchequer was deprived of revenue of ₹ 85.28 lakh. The discrepancy was not pointed out by the Department, though the inspection of Tahsil, Kotma was conducted by the Commissioner of Shahdol Division in March and September 2012 which is indicative of ineffective inspection.

After we pointed this out between September and December 2012, four Tahsildars[8] stated (between September and December 2012) that land revenue and *upkar* would be deposited in Major Head '0029'-Land revenue. Tahsildar, Ashtha (Sehore) stated in September 2012 that on being pointed out by audit, a letter has been issued to Chief Executive Officer, *Jila Panchayat* Sehore to get the amount deposited in Government account. Tahsildar Dewas and Tahsildar Porsa (Morena) stated in June and November 2012 respectively that action would be taken to get the amount refunded from *Jila Panchayat* at the earliest. Further progress has not been received (January 2014).

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

5.10 Underassessment of *Nazul* Premium and Ground Rent

Clause 1 of the Market Value Guidelines 2010-11 for plots provides that corner plots shall be valued by adding 10 *per cent* to the normal value prescribed therein.

We observed from the records (Revenue case register and *nazul* cases) of Sub-Divisional Officer (City circle) Bhopal (March 2013) that a *nazul* plot measuring 2024.16 square meter was allotted by the Government on

7 Ashtha (Sehore), Dewas, Jaithari (Anuppur), Kotma (Anuppur), Manjholi (Sidhi), Porsa (Morena) and Sehawal (Sidhi)

8 Jaithari (Anuppur), Kotma (Anuppur), Manjholi (Sidhi) and Sehwal (Sidhi).

permanent lease (October 2010) to Madhya Pradesh Road Development Corporation (MPRDC). The recitals of the sanction for allotment of *nazul* plot revealed that premium was to be worked out in accordance with the provisions and at rates prescribed in the market value guidelines for the year 2010-11. Accordingly, premium of ₹ 3.67 crore and ground rent of ₹ 27.55 lakh per year was chargeable. We, however, noticed that the Department charged premium of ₹ 3.34 crore and ground rent of ₹ 25.05 lakh per year ignoring the fact that being a corner plot, it was to be valued by adding 10 *per cent* to the normal value. Thus, the underassessment of premium resulted in short levy/realisation of premium of ₹ 33.40 lakh and ground rent of ₹ 2.50 lakh per year totaling ₹ 35.90 lakh[9].

After we pointed this out (March 2013), Sub Divisional Officer (*Nazul*) stated (March 2013) that necessary action would be taken. Further progress in the matter has not been received (January 2014).

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

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9 The Guideline Commercial rates for the year 2010-11 are ₹ 16,500 per Square Meter.
2024.16 x 16,500 =3,33,98,640 x 10 *Percent* extra for corner *Nazul* land= ₹ 3,67,38,504
Loss Premium = 3,67,38,504 - 3,33,98,640= ₹ 33,39,864
Leviable ground rent @ 7.5% = 3,67,38,504 x 7.5%=27,55,388 per year
Loss ground rent = 27,55,388 -25,04,898= 2,50,490 per year
Total Loss= 33,39,864 + 2,50,490 = ₹ 35,90,354

CHAPTER – VI

STAMPS AND REGISTRATION FEES

EXECUTIVE SUMMARY

What we have highlighted in this Chapter	In this Chapter, we present a Paragraph on "**Levy of Stamp duty on development agreements and mortgage deeds of developing land**" and other illustrative cases involving revenue impact of ₹ 173.05crore selected from observations noticed during our test check of records relating tonon/short realisation of revenue, incorrect exemption etc. of Stamp duty and Registration fees in the office of the Sub Registrars (SRs) where we found that the provisions of the Acts/Rules were not observed. It is a matter of concern that though similar omissions have been pointed out by us repeatedly in the previous Audit Reports.The Department has not taken corrective action.
Trend of receipts	In 2012-13, the collection from Stamps and Registration fees increased by 20.09 *per cent* over the previous year due to registration of more documents and increase in the market value of immovable properties as reported by the Department.
Status of compliance to outstanding Inspection Reports (2007-08 to 2011-12)	During the period 2007-08 to 2011-12, through our Inspection Reports we had pointed out non/short levy, non/short realisation, underassessment of Stamp duty and Registration fees due to incorrect determination of market value of properties, misclassification of documents, irregular exemption, inordinate delay in finalisation of cases referred by SRs, etc. with revenue implication of ₹ 212.91 crore in 22,998 cases. Of these, the Department/Government had accepted audit observations in 16,738 cases involving ₹ 82.59 crore and had since recovered ₹ 13 crore in 1,681 cases.
Status of compliance to Inspection Reports 2012-13	In 2012-13, we test checked the records of 101 units relating to Stamps and Registration fees and found non realisation of revenue due to inordinate delay in finalisation of cases, short-realisation of stamp duty and registration fees, incorrect exemption and other observationinvolving ₹ 188.74crore in 2,299 cases. The Department accepted underassessment and other deficiencies of ₹ 154.99 crore in 1,578 cases, which were pointed out by us during the year 2012-13. An amount of ₹ 3.51 lakh had been recovered in 12 cases pointed out in audit during 2012-13.
Our conclusion	The Department needs to improve the internal control system including strengthening of internal audit so that weaknesses in the system are addressed and omissions of the nature detected by us are avoided in future. It also needs to initiate immediate action to recover the amount on account of non/short levy of Stamp duty and Registration fees pointed out by us.

CHAPTER-VI
STAMPS AND REGISTRATION FEES

6.1 Tax administration

Stamps and Registration Department is under the Commercial Tax Department headed by the Principal Secretary. The Inspector General, Registration and Superintendent of Stamps, Madhya Pradesh (IGR) is the head of the Department. Two Joint Inspectors General, Registration (JIGR), one Deputy Inspector General Registration (DIGR), one Senior District Registrar (SDR), one District Registrar (DR) and one Accounts officer (AO) are deployed at the headquarters. There are 50 Registration Districts notified in the State. There is a SDR in 15 Registration districts and a DR in the remaining districts. There are 233 Sub Registrar (SR) offices in the State. Instruments are registered in SR offices. Collector is the head of Registration administration at the district level. There are two major components of receipts of the Registration Department in Madhya Pradesh *viz:* Stamp duty and Registration fees, the collection of which is regulated under the provisions of the following Acts, Rules and notifications issued thereunder:

- Indian Stamp Act, 1899 (IS Act);
- The Registration Act, 1908;
- Indian Stamp (Madhya Pradesh Prevention of Undervaluation of Instruments) Rules, 1975;
- Madhya Pradesh Preparation and Revision of Market Value Guidelines Rules, 2000;
- Madhya Pradesh Stamp Rules, 1942;
- Madhya Pradesh Municipal Corporation Act, 1956;
- Madhya Pradesh Municipalities Act, 1961;
- Madhya Pradesh *Panchayat Raj Adhiniyam*, 1993; and
- Madhya Pradesh *Upkar Adhiniyam*, 1982.

6.2 Trend of receipts

According to para A-15 read with para 6.6.1 of Madhya Pradesh Budget Manual (Manual), 2012 the estimates of revenue receipts should include/ project the actual demand including arrears due for the past years and probability of their realisation during the year. According to Rule 192 of Madhya Pradesh Financial Code, the Finance Department is required to prepare the estimates of revenue after obtaining necessary information/data from the respective Department/Government.

Actual receipts from Stamps and Registration fees during the period 2008-09 to 2012-13 along with the total tax receipts during the same period are exhibited in the table no. 6.1:

Table No. 6.1

(₹ in crore)

Year	Revised budget estimates (REs)	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual tax receipts vis-a-vis total tax receipts
1.	2.	3.	4.	5.	6.	7.
2008-09	1700.00	1479.29	(-) 220.71	(-) 12.98	13613.50	10.87
2009-10	1650.00	1783.15	(+) 133.15	(+) 8.07	17272.77	10.32
2010-11	2200.00	2514.27	(+) 314.27	(+) 14.29	21419.33	11.74
2011-12	2800.00	3284.41	(+) 484.41	(+) 17.30	26973.44	12.18
2012-13	3450.00	3944.24	(+) 494.24	(+) 14.33	30581.70	12.90

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

It may be seen that though there was an increasing trend in receipts during the years from 2008-09 to 2012-13, the percentage of variation between the REs and the actual receipts ranged between (-) 12.98 *per cent* and (+) 17.30 *per cent*. The revenue under this head is growing at a compounded annual rate of 18.55 *per cent* over past five years. In 2012-13, the collection from Stamps and Registration fees increased by ₹ 659.83 crore (20.09 *per cent*) over the previous year, which was attributed by the Department to increase in market value of the immovable properties as well as in the number of registered documents.

6.3 Cost of collection

The gross collection from Stamps and Registration Fees, expenditure incurred on its collection and the percentage of expenditure to gross collection during 2010-11, 2011-12 and 2012-13 along with the relevant all India average percentage of expenditure on collection for the previous year are mentioned in the table no. 6.2:

Table No. 6.2

(₹ in crore)

Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage for the previous year
1.	2.	3.	4.	5.
2010-11	2,514.27	52.22	2.08	2.47
2011-12	3,284.41	63.71	1.94	1.60
2012-13	3,944.24	79.00	2.00	1.89

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

The percentage of expenditure on collection was considerably below the all India average during the year 2010-11. However, the same was higher than the all India average during the years 2011-12 and 2012-13.

The Government may take appropriate measures to bring down the cost of collection.

6.4 Working of internal audit wing

Four posts of Internal Audit Officer, one post of Accounts Officer and one post of Treasury Officer have been sanctioned for the internal audit wing (IAW) of the Department against which one Internal Audit Officer, one Accounts Officer and one Treasury Officer are working in the IAW. Internal Audit is conducted in accordance with the roster prepared for each year.

Out of 233 units of the Department, 73 units were planned for internal audit and 26 units could be inspected by the IAW. Objections related with misclassification of documents and undervaluation of properties were raised during the internal audit. The information regarding number of observations raised and amount involved was not furnished by the Department despite request. The Department issued instructions to the units to take action for rectification of discrepancies noticed by the IAW.

6.5 Arrears of revenue

Position of arrears of stamp duty and registration fees during the period 2008-09 to 2012-13, as furnished by the Registration Department, is given in the table no. 6.3:

Table No. 6.3

(₹ in crore)

Year	Opening balance	Addition during the year	Total	Recovery during the year	Closing balance
1.	2.	3.	4.	5.	6.
2008-09	49.59	25.78	75.37	12.63	62.74
2009-10	62.74	19.99	82.73	15.63	67.10
2010-11	67.10	23.35	90.45	18.28	72.17
2011-12	72.17	19.46	91.63	19.25	72.38
2012-13	72.38	33.44	105.82	20.50	85.32

*(**Source:** Information furnished by the Department)*

Arrears of ₹ 32.67 crore were pending in courts. Besides, ₹ 34.25 crore were in arrears for more than five years as at the end of March 2013. There was no time bound programme with the Department to reduce the arrears.

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

6.6 Impact of audit

6.6.1 Status of compliance to outstanding Inspection Reports (2007-08 to 2011-12)

During the period 2007-08 to 2011-12, through our Inspection Reports (IRs) we had pointed out non/short levy, non/short realisation, underassessment/loss of Stamp duty and Registration fees due to incorrect determination of market value of properties, misclassification of documents, irregular exemption, inordinate delay in finalisation of cases referred by SRs, etc. with revenue

implication of ₹ 212.91 crore in 22,998 cases. Of these, the Department/ Government had accepted audit observations in 16,738 cases involving ₹ 82.59 crore and reported recovery of ₹ 13 crore in 1,681 cases (as on 31 March 2013). The details are shown in the table no. 6.4:

Table No. 6.4

(₹ in crore)

Year of Inspection Reports	No. of units audited	Objected		Accepted		Recovered		Percentage of recovery to amount accepted
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	
1.	2.	3.	4.	5.	6.	7.	8.	9.
2007-08	66	3,021	16.10	1,607	5.40	537	1.49	27.59
2008-09	82	10,113	52.42	8,374	29.96	698	7.87	26.27
2009-10	64	5,809	31.95	4,415	8.05	154	0.85	10.56
2010-11	64	2,188	52.28	1,474	27.61	287	0.81	2.93
2011-12	51	1,867	60.16	868	11.57	5	1.98	17.11
	Total	**22,998**	**212.91**	**16,738**	**82.59**	**1,681**	**13.00**	

*(**Source:** Information furnished by the Department)*

The percentage of recovery as compared to the accepted cases has been low during the last five years. We brought this issue to the notice of the head of the Department as well as the Finance Secretary of the Government (August 2013).

We recommend that the Government should take appropriate steps to improve the recovery position at least against the accepted cases.

6.6.2 Status of compliance to Inspection Reports (2012-13)

Test check of the records of 101 units relating to Stamps and Registration fees during the year 2012-13 indicated non realisation of revenue due to inordinate delay in finalisation of cases, short realisation of Stamp duty and Registration fees, incorrect exemption and other observations involving ₹ 188.74 crore in 2,299 cases which fall under the following categories depicted in the table no. 6.5:

Table No. 6.5

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
1.	2.	3.	4.
1	**"Levy of stamp duty on development agreements and mortgage deeds of developing land"**	**1**	**138.23**
2.	Non realisation of revenue due to inordinate delay in finalisation of cases	765	10.01
3.	Short realisation of Stamp duty and Registration fees due to undervaluation of properties/incorrect exemption	933	13.33
4.	Incorrect exemption from payment of stamp duty and registration fee	67	0.24
5.	Short realisation of revenue due to misclassification of instruments	24	0.30
6.	Other observations	509	26.63
	Total	**2,299**	**188.74**

During the course of the year, the Department accepted underassessment and other deficiencies of ₹ 154.99 crore in 1,578 cases, which were pointed out in audit during the year 2012-13. An amount of ₹ 3.51 lakh had been recovered in 12 cases pointed out in audit during 2012-13.

A paragraph on **"Levy of stamp duty on development agreements and mortgage deeds of developing land"** and a few other illustrative audit observations involving revenue impact of ₹ 173.05 crore are mentioned in succeeding paragraphs.

6.7 Audit observations

We scrutinised the records of various Registration offices and found several cases of non observance of the provisions of the Acts/Rules/Government notifications/instructions leading to non/short realisation of Stamp duty and Registration fees and other cases as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and are based on a test check carried out by us. Such omissions on the part of the registering authorities have been pointed out in earlier Audit Reports. Reference to paragraphs included in this report and having similar observations raised earlier is given in **Annexure-I**, but not only do these irregularities continue to persist, these remain undetected till audit is conducted. There is need for the Government to improve the internal control system so that such omissions can be avoided.

6.8 "Levy of stamp duty on development agreements and mortgage deeds of developing land"

6.8.1 Introduction

Article 5(d) of Schedule 1-A under the Indian Stamp Act, 1899 (IS Act) provides for levy of stamp duty on the instruments of agreements relating to the development of land for construction of building on a land by a person other than the owner or lessee of such land at the rate prescribed from time to time.

Further, in terms of Rule 12 of Madhya Pradesh *Nagar Palika (Coloniser ka Registrikaran, Nirbandhan tatha Sharten) Niyam*, 1998 (MPNPN) and Madhya Pradesh *Gram Panchayat (Coloniser ka Registrikaran, Nirbandhan tatha Sharten) Niyam* 1999 (MPGPN), a coloniser has to develop the land in accordance with the norms prescribed therein and has to mortgage 25 *per cent* of the land/plot in favour of local authorities as a security against the expenditure on development of the land. Section 17 of the Registration Act, 1908, provides that registration of such mortgage deed and instruments of agreement relating to development/construction on a land by a person other than owner/lessee is compulsory.

We conducted an audit of **"Levy of stamp duty on development agreements and mortgage deeds of developing land"** to ascertain whether proper stamp duty and registration fees were levied on development agreements and mortgage deeds of developing land with reference to estimated development expenditure, provisions of Act/Rules/Notification/Orders issued by the Department have been followed and Internal Control mechanism was adequate to safeguard Government revenue with respect to development agreement/ mortgage deeds.

We examined the records relating to the period from 2008-09 to 2012-13 of SR offices, Municipal Corporations, Development Authority and offices of Sub Divisional Officer (Revenue) in six districts[1] based on major revenue receipts in Sub Registrar offices out of 14 Municipal Corporation districts between April and July 2013. An entry conference was held on 22 May 2013 with the IGR and Deputy Secretary (Commercial Tax Department). Exit conference to discuss the audit findings was held on 4 September 2013. The audit revealed a number of system and compliance deficiencies that have been mentioned in succeeding paragraphs. The Department during the exit conference accepted audit observation and stated (September 2013) that DRs had been instructed to register all the cases pointed out in audit and to decide

[1] **District/Municipal Corporation** Bhopal, Dewas, Gwalior, Jabalpur, Indore and Ujjain.
SDOs: Badnagar (Ujjain), Bagli (Dewas), Bairasia (Bhopal), Bhicholihapsi (Indore), Depalpur (Indore), Dewas, Ghatiya (Ujjain), Gwalior, Hatod (Indore), Huzur (Bhopal), Jabalpur, Kanadiya (Indore), Kasba Indore, Mahidpur (Ujjain), Mhow (Indore), Nagda (Ujjain), Patan (Jabalpur), Rau (Indore), Sanver (Indore), Sihora (Jabalpur), Sonkachh (Dewas) and Ujjain.
SR Offices: Bhopal, Dewas, Nagda (Ujjain), Navlakha (Indore), Sukhaliya (Indore) and Ujjain.
Development Authority, Indore.

these cases within three months. Further, all the DRs were instructed to inspect public offices[2] effectively and regularly and Regional DIGs to supervise the inspection of DRs every month.

6.8.2 Effectiveness of scrutiny of records of public offices and lack of co-ordination with other Departments

Section 33 of the IS Act provides that it would be obligatory on every public officer to impound instrument which are unduly stamped* and initiate action under Section 38 of the Act. As per para 469 of *Karyapalik Anudesh* (executive instructions) of Registration Department, the DR is required to inspect the records of public offices to see whether stamp duty was being paid correctly and the documents which require registration are submitted in SR offices.

* Instruments not stamped with proper value.

We observed during scrutiny of information provided by DR Indore that inspection of Municipal Corporation, Indore Development Authority and Tahsil office Indore were conducted in May 2010. The inspection note revealed that the objections of routine nature[3] only were raised and no case of loss of revenue was pointed out. Further, the information/details about inspection conducted of the Public offices was neither furnished by the respective DRs nor by the Public offices of five districts[4] despite request.

Similar observations were also pointed out in Para no. 5.2.9 of Audit Report 2007-08 in response to which the IGR and the Government had stated (between July and October 2008) that the DRs were directed to conduct more inspections of public offices. We, however, did not find any evidence that the DRs except DR, Indore, undertook inspection of the public offices.

We also observed that the Department did not prescribe any reports or returns detailing the documents presented to the public offices to be furnished by the Public Officers to the DRs to watch the timely and correct payment of stamp duty. As a result, substantial revenue remained unrealised which is highlighted in the subsequent paragraphs.

The Government may consider prescribing a periodic return by the public offices to the DRs which contain details of documents presented before them to safeguard the leakage of leviable stamp duty.

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2 Government Departments, Housing Boards, Local Bodies, Corporations and Banks were declared as public offices for the purpose of the IS Act vide notification no. 196-six-SR-80 dated 20 March 1980

3 During inspection of Municipal Corporation and IDA only instructions regarding necessity of registration of various type of instruments were issued by the DR while in *Tahsil* offices *namantaran* cases were pointed out. No revenue loss was pointed out.

4 Bhopal, Dewas, Gwalior, Jabalpur and Ujjain

6.8.3 Short levy of stamp duty on development/builder agreement

Article 5(d) of Schedule 1-A under the IS Act provides that stamp duty at the rate of two *per cent* of market value of land was leviable up to 31 March 2011 on the instruments of agreements relating to the development of land for construction of building on a land by a person other than the owner or lessee of such land.

The stamp duty was not levied in accordance with the market value of land to be developed.

6.8.3.1 In Municipal Corporation, Bhopal and Ujjain, two development agreements were incorrectly executed on stamp paper worth ₹ 100 and ₹ 500 in April 2008 and September 2010 respectively for development of land measuring 9.963 hectare. The market value of land according to market value guidelines of respective districts as worked out by audit amounted to ₹ 341.60 crore on which stamp duty at a rate of two *per cent* was leviable. This resulted in non realisation of stamp duty of ₹ 6.83 crore. We further, observed that these documents were also not got registered, which resulted in non realisation of registration fees of ₹ 2.73 crore.

From April 2011, stamp duty is charged at the rate prescribed under Article 5(d) of Schedule 1-A to the IS Act on the basis of estimated development and construction expenditure mentioned in the instrument. Rule 2 of *Madhya Pradesh Nagar Palika Niyam* and *Madhya Pradesh Gram Panchayat Niyam* provides that the development expenditure means the expenditure incurred on developing the land in accordance with the norms prescribed therein under the approval of the competent authority (Municipal Commissioner/Sub Divisional Officer).

Instruments were incorrectly executed on stamp paper worth ₹ 10 to ₹ 100 only without mention of estimated development/ construction expenditure in 145 cases.

6.8.3.2 During scrutiny of the instruments of development/ construction agreements[5] in 10 SDOs[6] and two Municipal Corporation offices[7], we noticed that in 145 cases involving land measuring 640.910 hectares, the instruments were incorrectly executed on stamp paper worth ₹ 10 to ₹ 100 only without mention of estimated development/ construction expenditure. The estimated development/ construction expenditure worked by audit on the basis of rates applicable[8] by respective Municipal Corporations and Madhya Pradesh Housing Board amounted to ₹ 1,514.77 crore. Failure to levy stamp duty on the basis of the estimated development/construction expenditure on these instruments resulted in short levy of ₹ 47.56 crore. We also noticed that these documents were not got registered. This resulted in non levy of registration fees of ₹ 13.99 crore.

5 Executed between April 2011 and March 2013

6 SDOs: Bhicholihapsi, Depalpur, Ghatiya, Hatod, Huzur, Indore, Kanadia, Kasba Indore, Mhow and Sanver

7 Municipal Corporation: Bhopal and Ujjain.

8 Development rates have been prescribed by Municipal Corporation Bhopal and Indore. Where there is no rate prescribed by Municipal Corporations and SDOs (revenue), rates of respective Housing Board have been applied. Construction rates have been taken from Market value guidelines of the district regarding market value of constructed properties.

According to Rule 8 of Madhya Pradesh *Nagar Palika* (Coloniser *ka Registrikaran, Nirbandhan tatha Sharten) Niyam*, 1998 (MPNPN) and Madhya Pradesh *Gram Panchayat* (Coloniser *ka Registrikaran, Nirbandhan tatha Sharten), Niyam* 1999 (MPGPN), a coloniser has to submit application for development of colony in the prescribed form. The developer/coloniser is required to submit details regarding title and interest in the property to which the permission about development is sought by him.

6.8.3.3 During scrutiny of the development permission files in Municipal Corporation, Bhopal, five SDOs[9] of Indore district and SR, Sukhaliya (Indore), we observed that in 16 cases permission for development of 147.155 hectare land was granted by Commissioner, Municipal Corporation, Bhopal and respective SDOs (Revenue) between April 2011 and February 2013. Of these, in 12 cases permission for development, in two cases permission for development as well as construction and in two cases permission only for construction was granted. In these cases, the estimated development and construction cost as worked out by audit was ₹ 251.59 crore on the basis of rates prescribed by MPHB and market value guidelines of respective districts. We, however, noticed that instruments regarding development and construction were neither executed nor got registered. This resulted in non levy/realisation of ₹ 8.11 crore (stamp duty of ₹ 6.09 crore and registration fee of ₹ 2.02 crore).

Development permission obtained but the development agreements neither executed nor got registered.

6.8.3.4 During scrutiny of records in five offices[10], we noticed that in 17 instruments of development agreements registered between April 2011 and March 2013, land measuring 28.487 hectare was to be developed. We observed that stamp duty of ₹ 43.04 lakh and registration fees of ₹ 13.75 lakh only was levied on ₹ 21.35 crore mentioned in the documents as development expenditure by the developers/colonisers. Since there is provision in the Act to levy stamp duty and registration fee on the basis of estimated development expenditure mentioned in the instruments, there is a possibility/tendency to understate the estimated development expenditure by the developers. The estimated development expenditure in the above 17 cases was worked out by audit to ₹ 129.63 crore on the basis of rates applicable in Municipal Corporation/MPHB which involved stamp duty of ₹ 2.29 crore and registration fee of ₹ 66 lakh. Audit observed that there is no prescribed provision in the Act or Rules to check the correctness of estimated expenditure even though it was a necessary requirement as the levy of stamp duty depends on such estimated expenditure.

There is no prescribed mechanism to check the correctness of estimated development expenditure mentioned in the instruments by the developers.

The Government may consider prescribing a periodic return on the number of documents presented and found not duly stamped by the public offices for submission to the DRs. Government may prescribe the

9 Bhicholi Hapsi, Hatod, Huzur, Mhow and Sanver.

10 Municipal Corporation Bhopal and Jabalpur, SDO Jabalpur, SR Bhopal and Ujjain.

rates for development of land in the 'Market Value guidelines'[11] of respective districts for the purpose of stamp duty and registration fee. Since the public offices grant permission for development/construction they may also be made accountable to ensure the correct payment of stamp duty. In addition, norms for regular inspection of public offices by the DRs may be laid down.

6.8.4 Misclassification of documents

In terms of amended Article 5(d) of IS Act effective from 1 April 2011, stamp duty was leviable at the rate of three *per cent* of the market value equal to the estimated cost of the proposed construction or development. Departmental instructions issued in April 2013 provide that where power to sell the land is given by owner to the developer, the instruments captioned under developer agreement shall be charged as conveyance on payment of stamp duty at rate of five *per cent*. The instructions further provides for review of all such instruments registered from April 2011. Section 33 of the IS Act provides that it would be obligatory on every Public Officer to impound cases which are unduly stamped and initiate action under Section 38 of the Act.

The instrument titled as development agreement were not got registered by the executant. Further, recital of these instruments indicated that right to sell was transferred in these cases and as such these were required to be classified as conveyance deed which has not been done.

6.8.4.1 We observed from the records of four offices[12] that 133 instruments styled as development agreement were incorrectly executed on stamp paper of ₹ 100 to ₹ 1000 between April 2011 and July 2012. The recitals of these instruments revealed that right to sell the land measuring 47.934 hectare were transferred by the owner of land to the developer. Therefore, these instruments were chargeable as conveyance and accordingly stamp duty of ₹ 3.28 crore was leviable. Further, these instruments were also not got registered though it was mandatory. Consequently registration fees of ₹ 52.78 lakh remained unrealised. Thus the Government was deprived of revenue of ₹ 3.81 crore. The Public Officers also did not exercise their duty for determination of proper duty leviable on these documents in accordance with provisions of the IS Act.

21 instruments were registered as development agreement. However, recital of these instruments indicated that right to sale was transferred in these cases and as such these were required to be classified as conveyance deed which has not been done.

6.8.4.2 We observed from the records of six offices[13] that 21 instruments were registered under caption of development agreement between October 2011 and February 2013, according to which the land measuring 46.909 hectare was to be developed by the developer. The recital of the instruments indicated that the owner of the land transferred the right to sell the land measuring 22.589 hectare in favour of the developer. As such, these instruments were chargeable

11 "Market value guidelines" means the set of values of immovable properties in different villages, Municipalities, Corporations and other local areas in the State, arrived at by the respective committee from time to time in terms of Madhya Pradesh Preparation and Revision of Market Value Guideline Rules, 2000

12 Indore Development Authority, SDO: Gwalior and Kasba Indore and SR, Ujjain.

13 Municipal Corporation: Jabalpur and Ujjain, SDO Huzur, SR Bhopal, Dewas and Nagda.

as conveyance and stamp duty of ₹ 1.56 crore and registration fee of ₹ 20.37 lakh was leviable. We, however, noticed that stamp duty of ₹ 36.64 lakh and registration fees of ₹ 10.07 lakh only was levied treating the instruments as development agreement instead of conveyance. This resulted in short levy of ₹ 1.30 crore (stamp duty of ₹ 1.19 crore and registration fees of ₹ 10.51 lakh).The Public Officers as well as respective SR's[14] failed in respect of levy of correct stamp duty and registration fees.

Departmental instruction issued in December 2011 regarding misclassification of document provide that where in an instrument of power of attorney, the rights of development or/and construction are given to the attorney, such instrument shall be charged as development agreement. It was further provided in the instructions of IGR dated 14 December 2011 that the instruments executed/registered from 1 April 2011 onwards were to be reviewed by the SRs/DRs.

An instrument titled as power of attorney was not got registered by the executant. Further, recital of the document indicated that right to develop the land was given and as such this was required to be classified as development agreement which has not been done.

6.8.4.3 We observed from the records of SDO, Mhow in June 2013 that in one instrument of power of attorney was executed (on stamp paper worth ₹ 100) in June 2012. The recitals of the instrument revealed that the right for development of land measuring 9.768 hectare and construction on 7551 square meter were given to the attorney and as such the instrument was required to be classified as development agreement on which stamp duty of ₹ 25.40 lakh was leviable which has not been done. The instrument was also not got registered though it was compulsory. The SDO in this case neither insisted the parties to get the document registered nor the SR initiated any action as per the instructions of the Department issued in December 2011. Consequently registration fees of ₹ 11.86 lakh also remained unrealised.

Five instruments were registered as power of attorney. However, recital of these instruments indicated that right to develop was given in these cases and as such these were required to be classified as development agreement which has not been done.

6.8.4.4 We observed from the records of three offices[15] that five instruments of power of attorney were registered (on stamp paper worth ₹ 1100 including registration fees of ₹ 100 in each case) between April 2011 and October 2012. The recitals of the instrument revealed that the right for development of land measuring 8.281 hectare were given to the attorney and as such the instrument was required to be classified as development agreement on which stamp duty of ₹ 34.38 lakh and registration fees of ₹ 10.36 lakh was leviable, which has not been done. The SR did not initiate any action as per the instructions of the Department issued in December 2011. This resulted in short levy of stamp duty and registration fees of ₹ 44.74 lakh.

14 Bhopal, Dewas, Jabalpur, Nagda (Ujjain) and Ujjain

15 SDO - Bairasiya and Huzur, and Municipal Corporation, Jabalpur.

6.8.5 Non/short realisation of stamp duty and registration fee on mortgage deeds executed by colonisers/developers

Article 38(b) of Schedule 1-A to IS Act read with Government Notification dated 24 September 2007 and Section 75 of the Madhya Pradesh *Panchayat Raj Adhiniyam*, 1993 provides for levy of duty on a mortgage deed (without possession) at the rate of one *per cent* of the amount secured by such deed. Further, under Rule 12 of *Madhya Pradesh Nagar Palika Niyam* and *Madhya Pradesh Gram Panchayat Niyam*, a coloniser has to develop the land in accordance with the norms prescribed therein and has to mortgage 25 *per cent* of the land/plot in favour of local authorities as a security against the expenditure on development of the land. In such cases, development expenditure on which two *per cent* supervision charge is recovered from the developers would be the secured amount. Further, Section 17 of the Registration Act, 1908, provides that registration of such mortgage deed is compulsory.

Stamp duty and Registration fees was levied on instruments of mortgage deeds on the basis of amounts mentioned in the instruments by the colonisers themselves instead of development expenditure on which supervision charges was recovered by these Municipal Corporations from the developers.

6.8.5.1 We observed from the records of Municipal Corporation, Bhopal and Indore that in case of 118 instruments of mortgage deed executed by the colonisers registered between April 2008 and March 2013, the registering authorities finalised the levy of stamp duty and registration fees on the basis of amounts mentioned in the instruments by the colonisers themselves instead of development expenditure on which supervision charges was recovered by these Municipal Corporations from the developers. This resulted in short realisation of stamp duty of ₹ 4.45 crore and registration fee of ₹ 5.21 crore.

Stamp duty was charged on the market value of 25 *per cent* of the land mortgaged instead of the entire estimated development expenditure.

6.8.5.2 We observed from the records of 19 offices[16] that in 301 instruments registered between May 2008 and March 2013, the stamp duty was charged on the market value of 25 *per cent* of the land mortgaged instead of the entire estimated development expenditure. The registered value of these instruments was ₹ 206.48 crore. However, the estimated total development expenditure was worked out to ₹ 2063.34 crore by audit on the basis of rates applicable in MPHB. This resulted in short realisation of stamp duty of ₹ 13.20 crore and registration fees of ₹ 14.87 crore.

6.8.5.3 We observed from the records and information collected in 19 offices[17] that permission for development of land was granted by Municipal Corporation and SDOs (Revenue) to the colonisers in 193 cases between April 2008 and May 2013, according to which land measuring 1092.04 hectare involving estimated development expenditure of ₹ 1012.61 crore based on rates applicable in MPHB was to be developed by the colonisers. Though the

[16] SDO - Badnagar, Bhicholihapsi, Depalpur, Gwalior, Huzur, Jabalpur, Kasba Indore, Mhow, Rau, Sanver and Ujjain, Municipal Corporation - Dewas, Gwalior, Jabalpur and Ujjain, SR Office - Bhopal, Mahidpur, Navlakha (Indore) and Sukhliya (Indore).

[17] Municipal Corporation, Jabalpur, SDO - Bairasiya, Bhicholihapsi, Depalpur, Dewas, Ghatiya, Gwalior, Hatod, Jabalpur, Kasba Indore, Kanadiya, Mahidpur, Mhow, Nagda, Patan, Rau, Sanver, Sihora and Ujjain.

Mortgage deeds were executed but not got registered.

colonisers had mortgaged 25 *per cent* of plots during this period, the instruments of mortgage deeds were incorrectly executed on the stamp paper worth between ₹ 10 and ₹ 100 without mention of development expenditure. Thus, neither was the applicable stamp duty paid by the colonisers nor did they get these instruments of mortgage deed registered. This resulted in short realisation of stamp duty of ₹ 7.25 crore and registration fees of ₹ 8.10 crore.

Development permission obtained but mortgage deeds neither executed nor got registered.

6.8.5.4 We observed in 33 cases that the permission of development of 575.890 hectare land was granted by the Municipal Corporation Ujjain, Indore and ten SDO (Revenue)[18], to the colonisers between October 2006 and March 2013.They also recovered the supervision charges in 26 out of 33 cases. We further noticed that instruments of mortgage deeds of 25 *per cent* of plots were not executed and got registered though it was required before granting the permission for development. The estimated total development expenditure was worked out to ₹ 489.26 crore by audit on the basis of rates applicable in MPHB. On these instruments, stamp duty of ₹ 2.06 crore and registration fee of ₹ 3.91 crore was leviable. Thus, non execution of instruments of mortgage deeds resulted in non-realisation of stamp duty and registration fee of ₹ 5.97 crore.

The Government may consider prescribing rates of development of land in the Market value guidelines for determining estimated development expenditure and a mechanism to ensure that the development expenditure is correctly assessed in mortgage deed, to avoid the leakage of Government revenue. It may also consider ensuring that mortgage deeds are registered and duly stamped before issuing permission for development.

[18] Badnagar, Bagli, Bhicholihapsi, Dewas, Jabalpur, Mhow, Nagda, Patan, Sanver and Sonkachh

6.9 Short levy of Stamp duty and registration fees on instruments of lease deeds/non-levy of penalty

According to the instructions issued (March 1993) by the Government of Madhya Pradesh, Mineral Resources Department, in case of agreement for mining leases, the royalty payable for expected quantity of minerals as shown in the application or in the mining plan, whichever is more, is to be considered for calculation of Stamp duty under Article 33 of Schedule 1-A of IS Act. Further, Section 23 of Registration Act provides that no document except will deed shall be accepted for registration unless presented for that purpose to the proper officer within four months from the date of its execution. If the delay in presentation is more than one month of the initial grace period of four months, but less than two months, penalty of four times of the leviable Registration fees shall be chargeable according to Article XV (b) of the table of Registration fees.

During scrutiny of documents registered in Sub Registrar office Katni and Satna and information collected from respective District Mining offices between October and November 2012, we observed that five mining leases executed between January 2011 and February 2012 were registered between October 2011 and March 2012. We noticed that the Stamp duty of ₹ 2.75 crore and Registration fees of ₹ 2.05 crore as against ₹ 12.49 crore[19] (Stamp duty of ₹ 7.29 crore and Registration fees of ₹ 5.20 crore) was levied on these instruments due to incorrect assessment of estimated royalty by taking the average of estimated royalty for five years only instead of the entire lease period by the Department. This resulted in short levy of Stamp Duty of ₹ 4.54 crore and Registration fees of ₹ 3.15 crore as mentioned in the table no. 6.6:

[19] Leviable Stamp duty on 30 years lease deeds executed before 1 April 2011 at the rate of 7.5 *per cent* of five times the average estimated yearly royalty, from 1 April 2011at the rate 5 *per cent* of five times the average estimated yearly royalty; *Cess* duty- 5 *per cent* of the amount of Stamp duty; and Registration fees : three-fourth of the amount of Stamp duty.

Table No. 6.6

(₹ in lakh)

Sl. No	Sub Registrar/ Period of audit	No. of Lease/ Period of lease	Date of registration/ execution of lease deed	Average estimated yearly royalty		Stamp duty/Cess/Registration Fees		
				As per Mining Plan	Determined by Department	Leviable	Levied	Short Levied
1.	2.	3.	4.	5.	6.	7.	8.	9.
1.	Katni October and November 2012	2 30 years	8-2-12 31-1-12	1394.88	581.49	348.72 17.44 261.54	152.65 Nil 114.48	196.07 17.44 147.06
			7-3-12 13-2-12	40.84	13.84	10.11 0.50 7.58	3.65 Nil 2.74	6.46 0.50 4.84
2.	Satna October 2012	3 30 years	21-10-2011 20-1-2011	665.15	210.92	249.43 12.47 187.07	83.05 Nil 62.29	166.38 12.47 124.78
			15-12-2011 5-9-2011	284.20	130.21	71.05 3.55 53.29	34.18 0.34 25.64	36.87 3.21 27.65
			4-2-2012 14-12-2011	58.31	1.86	14.58 0.73 10.93	0.78 Nil 0.58	13.80 0.73 10.35
						693.89 **34.69** **520.41**	**274.31** **0.34** **205.73**	**419.58** **34.35** **314.68**
					Grand Total	**1248.99**	**480.38**	**768.61**

Further, we also observed that one lease deed executed on 20 January 2011 was presented by the lessee for registration on 19 July 2011 in SR Satna. Though the lease deed was presented for registration after a lapse of one month and 29 days beyond the initial grace period of four months, yet the registering authority did not impose penalty of ₹ 7.48 crore being four times the leviable Registration fees of ₹ 1.87 crore.

Thus, Government was deprived of the revenue of ₹ 15.17 crore due to short levy of Stamp duty of ₹ 4.54 crore, Registration fees of ₹ 3.15 crore and non imposition of the penalty of ₹ 7.48 crore.

The inspection of these offices was also not conducted by the respective DRs.

After we pointed out the cases in October 2012, the Sub Registrar, Satna stated (October 2012) that the estimated royalty was assessed by the Collector, so the lease was registered and duty was charged in accordance with that estimated royalty. The reply was however silent about recovery of short levy of stamp duty and registration fee. In respect of delayed presentation and non levy of penalty, it was stated (October 2012) that the lease deed was registered in compliance of Section 24 of Registration Act, 1908. The reply is not in conformity with the facts on records of Registration and District Mining

Office which indicated that lease deed was executed on 20 January 2011 and presented for registration on 19 July 2011. As such the cases were required to be reviewed to recover the deficit amount from the lessees. In respect of case of Sub Registrar office, Katni, the District Registrar, Katni stated in February 2013 that the case had been registered and notice issued to the lessee. Further progress in the matter has not been received (January 2014).

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

6.10 Loss of revenue due to delay in execution and registration of lease deed of *Nazul* Land

The circular of the Government of Madhya Pradesh, Revenue Department issued in July 2009 provides for execution and registration of lease deed within 90 days from the date of the receipt of full payment of premium on account of the allotment of land. Rules are silent about action to be taken in cases of lease deed not executed within stipulated period. The rate of duty on conveyance deed was reduced from 7.5 *per cent* to 5 *per cent* of the market value with effect from 1 April 2011. Further, Section 9 of the Madhya Pradesh *Upkar Adhiniyam*, 1982 provides that the cess at the rate of five *per cent* of the Stamp duty is chargeable on lease deeds of 30 years or more. According to Article II of the table of Registration fees, the Registration fee is chargeable at three fourth of the stamp duty levied on the lease deed. Further, para 34 of Revenue Book Circular II-1 provides that the Commissioner of the Division should inspect revenue courts of each Collectorate and Tahsil in two and three year respectively while the Collector should inspect each Tahsil of his district every year.

During scrutiny of files regarding allotment of *Nazul* land[20] in *Rajdhani Pariyojna* (*Nazul*), Bhopal in March 2013, we observed that Government land measuring 14.88 acre was allotted (April 2008) to a lessee for commercial purpose in consideration of premium of ₹ 335.30 crore. The consideration was to be paid in three installments. The last installment was paid on 31 July 2010. As full payment of premium was received on 31 July 2010, the lease deed was required to be executed between Collector, Bhopal and the lessee within 90 days from 31 July 2010, on which Stamp duty of ₹ 26.40 crore and Registration fees of ₹ 18.86 crore would have been paid. We, however, observed that the lease deed was executed and registered on 22 September 2011 after a lapse of 10 months and 23 days beyond 90 days from the date of full payment of premium. Since, the rate of duty was reduced from 7.5 *per cent* to 5 *per cent* with effect from 1 April 2011, consequently Stamp

[20] *Nazul* land-Government land which is used for construction or public utility purpose *viz* bazar or entertainment places. This land has site value and not agricultural importance

duty of ₹ 17.60 crore and Registration fees of ₹ 12.57 crore was levied. Thus, benefit was given to lessee and the exchequer was deprived of revenue of ₹ 15.09 crore (Stamp duty of ₹ 8.80 crore and Registration fees of ₹ 6.29 crore). The reasons for delayed execution of lease deed were also not found on records. It is worth mentioning here that as per budget speech of the Finance Minister the rate of duty on conveyance was proposed to be reduced from 7.5 *per cent* to 5 *per cent* from the year 2011-12. The inspection of this office was also not conducted by the Commissioner of the Division as well as Collector of the district during the years 2009-10 to 2012-13.

After we pointed out the cases, the Tahsildar, *Rajdhani Pariyojana* (*Nazul*), Bhopal stated (March 2013) that action would be taken as per rule in the interest of Government revenue after scrutiny of the records. Further development has not been received (January 2014).

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

The Government may consider prescribing penal action against the person responsible for delayed execution of lease deed.

6.11 Non finalisation of cases referred by Sub Registrars/ Incorrect determination of market value

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

6.11.1 We observed in five Sub Registrar offices[21] between March 2012 and January 2013 from the register of cases referred by Sub Registrars that 436 cases were referred by the Sub Registrars to the Collector between August 2008 and March 2012 for determination of the market value of the properties. Out of these, 182 cases had not been finalised even after a period up to 20 months beyond prescribed period of three months. In these cases, the difference of Stamp duty of ₹ 2.25 crore was recoverable on the basis of market value worked out by the Sub Registrars. The registration fees of ₹ 37 lakh was recoverable on presentation of these documents for registration. Thus, non

[21] Chhindwara, Indore, Kareli (District Narsinghpur), Katni and Mandsour

finalisation of the cases resulted in non realisation of stamp duty and registration fees of ₹ 2.62 crore.

After we pointed out the cases, the Sub Registrar, Katni stated (May 2013) in respect of 25 cases that ₹ 2.88 lakh were recovered between May and December 2012 in 11 cases and revenue recovery certificate (RRC) of ₹ 10.02 lakh were issued in remaining 14 cases. The District Registrar, Narsinghpur stated in June 2013 in respect of eight cases of Kareli (Narsinghpur) that ₹ 62,500 had been recovered in July 2012 in one case at the instance of audit and remaining seven cases would be disposed as early as possible. In respect of the remaining 149 cases, the respective SRs stated between May 2012 and January 2013 that the Collector of Stamps would be requested for early disposal of the cases. Further progress in the matter has not been received (January 2014).

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

6.11.2 We observed in 16 Sub Registrar (SR) offices[22] between May 2012 and January 2013 that in 158 instruments registered between April 2008 and March 2012, the market value of properties according to market value guidelines for the respective years issued by the Department was ₹ 74.97 crore against the registered value of ₹ 51.63 crore. The SRs did not detect undervaluation of properties in these instruments. This resulted in short levy of Stamp duty of ₹ 1.52 crore and Registration fees of ₹ 18.67 lakh as mentioned in the table no. 6.7:

Table No. 6.7

(₹ in lakh)

Sl. No.	No. of SR offices/ instruments	Period of registration	Nature of irregularities	Stamp duty & Registration fees Leviable/ Levied	Short levy of Stamp duty & Registration fees
1.	2.	3.	4.	5.	6.
1.	9 36	Between 4/2011 and 3/2012	Non-observance of provisions prescribed in guidelines regarding property situated on roadside or corner plots	286.43 204.24	82.19
2.	12 97	Between 4/2008 and 3/2012	Non-observance of provisions prescribed in guidelines regarding land properties situated within municipal limit/ specified urban villages	170.81 112.34	58.47
3.	5 17	Between 5/2008 and 3/2012	Incorrect application of rates regarding House/plot properties	54.54 35.18	19.36
4.	5 8	Between 4/2011 and 2/2012	Irrigated land valued as unirrigated	24.57 14.09	10.48
Total	**16** **158**			**536.35** **365.85**	**170.50**

[22] Bairasia (Bhopal), Begumganj (Raisen), Betul, Bina (Sagar), Chhindwara, Chourai (Chhindwara), Gwalior, Indore, Jabalpur, Kareli (Narsingpur), Morena, Nasrullahganj (Sehore), Rajpur (Badwani), Sabalgarh (Morena), Ujjain and Vijaypur (Sheopur)

The inspection of 10 SR offices was not conducted by the respective DRs. Though the inspection of remaining six offices[23] was conducted by the respective DRs (between July 2011 and January 2012), the omission was not detected by them.

After we pointed out the cases, the SR Betul stated(August 2012) in respect of four instruments that rates of plots situated at the National Highway were not applied because the land was not situated on National Highway. The reply is not in conformity with the facts on records; it was clearly shown in the boundaries of the land mentioned in the documents that the land was situated at National Highway. SR Jabalpur did not accept the audit objection in respect of two instruments and stated (November 2012) that the land was situated on two different roads; therefore, the rates applicable for these roads were applied proportionately. He also stated that the document would be referred to the Collector of Stamps. We do not agree with the reply as the property was not divided between sellers (Who were also family members) and as such the whole property was to be treated as a single unit. Further, there was no provision in the market value guidelines about proportionate valuation. SR Ujjain stated in December 2012 in respect of one instrument that the land was unirrigated. The reply was not in conformity with the copy of *Khasra* enclosed with the document in which it was clearly indicated that the land was irrigated. As far as remaining 151 instruments are concerned, the respective SRs stated between May 2012 and January 2013 that the cases would be referred to the Collector of Stamps. Further progress has not been received (January 2014).

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

6.12 Short levy of stamp duty and registration fees on instruments of power of attorney

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

We observed in three Sub Registrar offices[24] between May and November 2012 that in eight instruments of POA registered /executed between July 2009 and August 2011, though the power to sell immovable property valued at ₹ 3.94 crore as per the market value guidelines of the

23 Betul, Bina (Sagar), Chourai (Chhindwara), Morena, Nasrullahganj (Sehore) and Ujjain

24 Badnawar (Dhar), Indore and Morena

respective years issued by the Department was given, there was no mention in the documents whether the POA was given for a period not exceeding one year. In these cases, Stamp duty of ₹ 20.04 lakh and Registration fees of ₹ 3.16 lakh was leviable in accordance with the above provisions. We, however, noticed that in all these cases, the instruments were treated as POA to sell without consideration for a period not exceeding one year. The stamp duty of ₹ 7100 and registration fees of ₹ 800 was charged by the Department. This resulted in short levy of ₹ 23.12 lakh (Stamp duty of ₹ 19.97 lakh and Registration fees of ₹ 3.15 lakh). The inspection of SR office, Indore was also not conducted by the DR, Indore while the omission could not be detected by the Department in cases of Morena and Badnawar (Dhar) though the inspection of SR office Morena and Badnawar (Dhar) was conducted between May 2010 and August 2011 which is indicative of ineffective inspection by higher authorities.

After we pointed out the cases, the Sub Registrar Morena and Badnawar stated in respect of seven cases between May and July 2012, that photocopy of documents would be referred to the Collector of Stamps. For remaining one case Sub Registrar, Indore accepted audit objection and stated in November 2012 that the failure to levy the correct duty was due to heavy workload. Further progress in the matter has not been received (January 2014).

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

CHAPTER – VII

MINING RECEIPTS

EXECUTIVE SUMMARY

What we have highlighted in this Chapter	In this Chapter we present Review of **"Mining receipt in Madhya Pradesh"** involving revenue implication of ₹ 46.43crore selected from observations noticed during our test check of records relating to non/short levy/realisation of dead rent/royalty, non/short levy of interest, non assessment of rural infrastructure and road development tax etc. in the office of the District Mining Officers where we found that the provisions of the Acts/Rules were not observed. It is a matter of concern that though similar omissions have been pointed out by us repeatedly in the Audit Reports for the past several years, the Department has not taken corrective action.
Trend of receipts	In 2012-13, the collection from mining receipts increased by 19.87 *per cent* over the previous year.
Internal audit not conducted	The Department reported that internal audit wing has not been established. In the absence of this, internal audit of all the mining units were pending.
Status of compliance to Inspections Reports (2007-08 to 2011-12)	During the period from 2007-08 to 2011-12, through our Inspection Reports we had pointed out non/short levy/realisation, underassessment, loss of mining receipts etc., with revenue implication of ₹ 3077.74 crore in 5,694 cases. Of these, the Department/ Government had accepted audit observations in 4,716 cases involving ₹ 2209.33 crore and had since recovered ₹ 316.60 crore in 764 cases.
Status of compliance to Inspection Reports 2012-13	In 2012-13 we test checked the records of 35 units relating to mining receipts and found non/short realisation of revenue and other irregularities involving ₹ 190.35 crore in 992 cases. The Department accepted non/short realisation/levy of revenue and other deficiencies of ₹ 142.90 crore in 901 cases, which were pointed out by us during the year 2012-13.
Our conclusion	The Department needs to initiate immediate action to recover the amount on account of non/short realisation of royalty, non-imposition of penalty, non levy of interest etc. pointed out by us, more so in those cases where it has accepted our contention.

CHAPTER - VII
MINING RECEIPTS

7.1 Tax administration

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

Mining Receipts are collected under the provisions of the following Acts and Rules and notifications issued thereunder:

- Mines and Minerals (Development and Regulation) Act, 1957;
- Mineral Concession Rules, 1960;
- Mineral Conservation and Development Rules, 1988;
- Marble Development and Conservation Rules, 2002;
- Madhya Pradesh Minor Mineral Rules, 1996;
- Madhya Pradesh Minerals (Prevention of Illegal Mining Transportation and Storage) Rules, 2006;
- Madhya Pradesh Rural Infrastructure and Road Development Act, 2005;
- The Colliery Control Rules, 2004; and
- Coal Bearing Areas Act, 1957.

7.2 Trend of receipts

Actual Mining Receipts during the period 2008-09 to 2012-13 along with the total non-tax receipts during the same period are exhibited in the table no. 7.1:

Table No. 7.1

(₹ in crore)

Year	Revised budget estimates	Actual receipts	Variation excess (+)/ shortfall (-)	Percentage of variation	Total non-tax receipts of the State	Percentage of actual mining receipts vis-a-vis total non-tax receipts
1.	2.	3.	4.	5.	6.	7.
2008-09	1225.00	1361.08	(+) 136.08	(+) 11.10	3342.86	40.72
2009-10	1566.00	1590.47	(+) 24.47	(+) 1.56	6382.04	24.92
2010-11	2250.00	2121.49	(-) 128.51	(-) 5.71	5719.77	37.09
2011-12	1500.00	2038.31	(+) 538.31	(+) 35.89	7482.73	27.24
2012-13	2350.00	2443.39	(+) 93.39	(+) 3.97	7000.22	34.90

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

In 2012-13, the collection from mining receipts increased by 19.87 *per cent* over the previous year. The variation between revised budget estimates and actual ranged between (-) 5.71 *per cent* and (+) 35.89 *per cent*. The reasons for variation between revised budget estimates and actual in 2012-13 were attributed by the Department to increase in royalty of coal.

7.3 Arrears of revenue

The arrears of revenue as on 31 March 2013 amounted to ₹ 14.19 crore. The position of arrears of revenue during the period 2008-09 to 2012-13 is depicted in the table no. 7.2:

Table No. 7.2

(₹ in crore)

Year	Opening balance	Addition during the year	Total	Recovery during the year	Closing balance	Target of recovery
1.	2.	3.	4.	5.	6.	7.
2008-09	11.68	0.51	12.19	0.12	12.07	Nil
2009-10	12.07	-	12.07	0.37	11.70	Nil
2010-11	11.70	0.72	12.42	0.43	11.99	Nil
2011-12	11.99	-	11.99	-	11.99	Nil
2012-13	11.99	2.40	14.39	0.20	14.19	Nil

The Department recovered only ₹ 1.12 crore during the period 2008-09 to 2012-13. The Department did not fix any target for recovery of arrears and consequently the arrears increased to ₹ 14.19 crore as on 31 March 2013.

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

7.4 Impact of audit

7.4.1 Status of compliance to Audit Reports (2007-08 to 2011-12)

In the Audit Reports of the years 2007-08 to 2011-12, we had pointed out cases of underassessment, non/short realisation of royalty/dead rent/contract money, non-levy of interest on belated payment, non-imposition of penalty etc. with revenue implication of ₹ 1142.38 crore in 43 paragraphs. While the Department accepted observations of ₹ 670.82 crore, it recovered a sum of only ₹ 69.05 crore (as on March 2013), as shown in the table no. 7.3:

Table No. 7.3

(₹ in crore)

Year of Audit Report	Number of paragraphs	Money value	No. of paragraphs accepted	Money value of accepted paragraphs	No. of paragraphs against which recovery made	Amount recovered up to 31.03.2013
1.	2.	3.	4.	5.	6.	7.
2007-08	1	395.76	1	318.83	1	63.33
2008-09	8	102.93	7	99.99	5	2.28
2009-10	11	447.89	8	144.41	6	2.63
2010-11	11	115.46	8	83.67	5	0.81
2011-12	12	80.34	3	23.92	-	-
Total	**43**	**1142.38**	**27**	**670.82**	**17**	**69.05**

The percentage of recovery as compared to the accepted cases has been low during the last five years except in the year 2007-08.

We recommend that the Government should take appropriate steps to recover the amounts involved, at least in the accepted cases.

7.4.2 Status of compliance to outstanding Inspection Reports (IRs) (2007-08 to 2011-12)

During the period 2007-08 to 2011-12, through our IRs we had pointed out cases of non/short levy/realisation, underassessment, loss of mining receipts etc. with revenue implication of ₹ 3077.74 crore in 5,694 cases. Of these, the Department/Government had accepted audit observations in 4,716 cases involving ₹ 2209.33 crore and had since recovered ₹ 316.60 crore in 764 cases (as on 31 March 2013). The details are shown in the table no. 7.4:

Table No. 7.4

(₹ in crore)

Year of Inspection Reports	No. of units audited	Objected		Accepted		Recovered		Percentage of recovery to amount accepted
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	
1.	2.	3.	4.	5.	6.	7.	8.	9.
2007-08	34	1474	513.88	1457	97.25	82	9.15	9.40
2008-09	34	433	333.73	368	240.07	221	40.76	16.98
2009-10	34	1384	1774.20	674	1431.55	156	165.11	11.53
2010-11	37	1087	283.98	1072	269.66	267	92.18	34.18
2011-12	32	1316	171.95	1145	170.80	38	9.40	5.50
	Total	**5694**	**3077.74**	**4716**	**2209.33**	**764**	**316.60**	

The percentage of recovery as compared to the accepted cases has been very low over the last five years. We brought this issue to the notice of the Head of the Department as well as the Finance Secretary of the Government (August 2013).

7.4.3 Status of Inspection reports (2012-13)

Test check of the records of 35 units (Revenue ₹ 1816.20 crore) out of 51 units relating to Mining Receipts during 2012-13 revealed non/short realisation of revenue and other irregularities involving ₹ 190.35 crore in 992 cases which fall under the following categories as depicted in the table no. 7.5:

Table No. 7.5

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
1.	2.	3.	4.
1.	**"Mining Receipts in Madhya Pradesh" A Review**	1	46.43
2.	Non/short levy of dead rent/royalty	300	25.98
3.	Non-assessment of rural infrastructure and road development tax	142	99.41
4.	Short realisation of contract money in trade quarries	104	1.23
5.	Other observations	445	17.30
	Total	**992**	**190.35**

During the course of the year, the Department accepted non/short realisation/levy of revenue and other deficiencies of ₹ 142.90 crore in 901 cases, which were pointed out in audit during the year 2012-13.

A review of **"Mining Receipts in Madhya Pradesh"** involving revenue implication of ₹ 46.43 crore including audit observations of transaction audit of previous year are mentioned in the following paragraphs.

7.5 Audit observations

We scrutinised application fee for lease/permit/prospecting license, royalty, dead rent, interest for belated payments of dues and road development tax in District Mining Offices and found several cases of non observance of the provisions of the Acts/Rules, non/short levy of dead rent/royalty/contract money/road development tax and other cases mentioned in the succeeding paragraphs of this chapter. These cases are illustrative and are based on a test check carried out by us. Such omissions on the part of the assessing authorities have been pointed out in earlier Audit Reports. Reference to paragraphs included in this Report and having similar observations raised earlier is given in **Annexure-I**, but not only do these irregularities continue to persist, these remain undetected till audit is conducted. There is need for the Government to improve the internal control system so that such omissions can be avoided.

7.6 A Review of "Mining Receipts in Madhya Pradesh"

Highlights

- Unauthorised excavation and extraction of minerals beyond the approved mining plan led to non-recovery of cost of minerals amounting to ₹ 8.01 crore from seven lease holders.

(Paragraph 7.6.17)

- Irreparable damages were caused to environment due to illegal mining.

(Paragraph 7.6.18)

- There was non/short realisation of contract money of ₹ 1.43 crore and interest of ₹ 1.94 crore on belated payments of royalty and dead rent.

(Paragraph 7.6.19 and 7.6.20)

- Inaction of the Department resulted in short realisation of royalty and dead rent of ₹ 6.88 crore.

(Paragraph 7.6.21 and 7.6.22)

- There was short levy and collection of Rural Infrastructure and Road Development Tax and Stamp Duty and Registration Fees of ₹ 28.97 crore.

(Paragraph 7.6.23 and 7.6.24)

7.6.1 Introduction

Madhya Pradesh is one of the rich mineral bearing State in the country. It has deposits of bauxite, coal, copper ore, diamond, limestone, manganese, rock phosphate etc. Minerals are divided into two categories i.e. major and minor mineral. Minor minerals includes stone, flag stone, gravel, ordinary clay, marble, sand, murrum and other mineral which the Central Government may by notification declare to be minor mineral. All other minerals such as bauxite, coal, copper ore, diamond, limestone, manganese, rock phosphate, diaspore, pyrophyllite and ochre as available in Madhya Pradesh are termed as major minerals.

Mining receipts comprise mainly of application fees for lease/permit/ prospecting license, royalty, dead rent, surface rent, fines and penalties, interest for belated payment of dues and road development tax.

Audit reviewed the functioning of the Mineral Resources Department regarding assessment, levy and collection of mining receipts. It revealed a number of system and compliance deficiencies which are mentioned in the succeeding paragraphs.

7.6.2 State Mineral Policy

For optimal utilisation of mineral resources and sustainable development of the mineral sector, the National Mineral Policy 2008 was framed by the Central Government. A Model State Mineral Policy, 2010 was circulated to all the State Governments requiring them to develop suitable mineral policy for their States within the ambit of the National Mineral Policy, keeping in view their local requirements. The Government of Madhya Pradesh, Mineral Resources Department formulated Mineral Policy, 2010 to ensure scientific, systematic and sustainable development of mineral resources and all environmental & ecological issues.

7.6.3 Audit scope and methodology

The review of Mining Receipts covering the period from 2008-09 to 2012-13 was conducted to examine the mechanism for assessment, levy and collection of Mining Receipts. We selected 13 units[1] of Mineral Resources Department out of 50. We test checked 224 out of 805 major mineral leases and 679 out of 2046 minor mineral leases (Quarry leases and Trade Quarries) in the 13 selected units between April and June 2013.

Besides, we have also included in this report, the irregularities noticed in previous years while conducting transaction audits of the 22 units[2]. The audit objectives, criteria and methodology were discussed with Secretary, Mineral Resources Department in the Entry Conference held in May 2013. The draft review report was forwarded to the Government and Department in August

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1 Alirajpur, Anuppur, Balaghat, Betul, Chhatarpur, Damoh, Indore, Jablapur, Katni, Satna, Shahdol, Sidhi and Tikamgarh

2 Ashoknagar, Bhind, Bhopal, Chhindwara, Dewas, Dhar, Diamond officer (Panna) Gwalior, Hoshangabad, Mandsaur, Narsinghpur, Neemuch, Panna , Raisen, Rewa, Sagar, Sehore, Seoni, Shivpuri, Ujjain, Umaria and Vidisha

2013 and discussed in the Exit Conference held in August 2013. The Secretary represented the Government while the Director represented the Department. The views of the Government have been incorporated wherever received.

7.6.4 Audit Objectives

The Review was conducted with a view to ascertain whether:

- The system for levy and collection of mining receipts was efficient and effective;
- Adequate provisions existed and were adhered to by the Department for determination and collection of mining receipts;
- Action taken in the cases of default or illegal excavation of minerals was effective; and
- An effective internal control and monitoring mechanism was in place in the Department to prevent leakage of revenue.

7.6.5 Audit criteria

The audit criteria were derived from the following:

- Mines and Mineral (Regulation and Development) Act, 1957;
- Mineral Conservation and Development Rules, 1988;
- Mineral Concession Rules, 1960;
- Madhya Pradesh Minor Mineral Rules, 1996;
- Madhya Pradesh Rural Infrastructure and Road Development Act, 2005;
- Madhya Pradesh Minerals (Prevention of illegal mining, transportation and storage) Rules, 2006.
- Indian Stamp Act, 1899
- Indian Registration Act 1908;
- Air (Prevention and Control of Pollution) Act, 1908; and
- Water (Prevention and Control of Pollution) Act, 1974

7.6.6 Acknowledgement

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

7.6.7 Working of Internal Audit Wing

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

Internal Audit Wing did not exist in the Department.

We observed that no internal audit wing existed in the Department. In the absence of this, internal audit of the mining units was not conducted during the period 2008-09 to 2012-13.

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

Audit Findings

System deficiencies

7.6.8 Human Resource Management

Shortage of man-power was about one third of the sanctioned strength which affected assessment and realisation of revenue.

To safeguard the realisation of revenue, there is a need to deploy sufficient man power as per sanctioned strength determined by the Government.

Information taken from Directorate, Geology & Mining indicated that the Department carried out its activity during last five years with insufficient man power. The shortfall in man power ranged between 31 *per cent* and 37.5 *per cent* and it was about one third of the sanctioned strength. This has adversely affected the assessment, maintenance of basic records, inspection of mines as per provisions, realisation of arrears of revenue etc. The Department has also failed to check the cases of illegal mining and transportation activities. The details of working strength vis-a-vis the sanctioned strength are shown in the table no. 7.6:

Table No. 7.6

Sl. No.	Year	Sanctioned Strength	Working Strength	Shortage	Shortfall in percentage
1.	2.	3.	4.	5.	6.
1.	2008-09	790	540	250	31.64
2.	2009-10	789	542	247	31.30
3.	2010-11	842	526	316	37.53
4.	2011-12	842	556	286	33.97
5.	2012-13	841	570	271	32.00

(Source: Information furnished by Directorate)

After we pointed this out (June 2013), the Department stated (June 2013) that the proposals for filling the vacant posts were sent from time to time to the Government and that the process of the same was pending at Government level.

7.6.9 Submission of returns

7.6.9.1 Prospecting licensee

Licensees did not submit returns on prospecting/ mining operations as prescribed. Department did not maintain records/ registers to monitor submission of returns.

Rule 16(1) (2) of the Mineral Concession Rules, 1960 provides that prospecting licensees shall submit to the State Government a six monthly report of the work done by them. The licensees shall also submit, within three months of the expiry of the license, a full report of the work done by him in the course of prospecting operations in the area covered by the license. Under Rule 8(1) of Mineral Conservation & Development Rules, 1988 a yearly report of the prospecting operation carried out shall be submitted by licensee in Form B. Further, Rule 15(2) Part III sub rule (1) of Mineral Concession Rules, stipulates that in the event of non-submission of returns Government may forfeit whole or any part of security deposit after giving thirty days notice.

Test check (between April and June 2013) of prospecting license[3] case files of 12 DMOs[4] indicated that no record/registers were maintained to monitor the receipt of six monthly/yearly reports. Only 10 six monthly returns were submitted against 200 returns due for submission during 2008-09 to 2012-13. Yearly return was not submitted by any licensee during the period.

We recommend that the Government may consider establishing a mechanism to ensure submission of prescribed returns by the prospecting licensees including imposition of penalty.

7.6.9.2 Quarry leases

According to Rule 30(20)(a)(b)(c) of the Madhya Pradesh Minor Mineral Rules, 1996 every lessee of quarry lease shall furnish monthly, six monthly and annual return to the DMOs in the prescribed forms at specified dates, failing which the lease sanctioning authority will impose penalty not exceeding an amount equivalent to twice the amount of annual dead rent.

We test checked (between January and June 2013) 459 case files of quarry lease[5] out of total number of 1410 quarry leases in 13 DMOs and found that as many as 459 yearly, 918 half yearly and 5508 monthly returns were due for submission. We noticed that 37 lessees in three DMOs[6] had not submitted 678 monthly, 111 half-yearly and 54 yearly returns for the period

[3] Prospecting license means a license granted for the purpose of undertaking prospecting operations

[4] Alirajpur, Anuppur, Balaghat, Betul, Chhatarpur, Damoh, Jabalpur, Katni, Satna, Shahdol, Sidhi and Tikamgarh

[5] Quarry lease means a mining lease for minor minerals

[6] Indore, Sidhi and Tikamgarh

2008-13 as per the requirement of above said rules. Neither did the Department pursue with lessees to ensure submission of the returns nor did the lessee submit the same. DMOs did not also impose penalty as per rule. The Government has also not prescribed any register for monitoring the receipt of prescribed returns from the lessees.

The Government may consider prescribing the maintenance of appropriate registers for monitoring the submission of returns by the lessees to ensure effective control on assessment of mining receipt. Government may also enforce penalty provision to ensure better compliance.

7.6.10 Non-maintenance of demand and collection register

According to the instructions issued (September 2005) by Director, Geology and Mining, the DMOs are required to maintain the demand and collection register (*Khatoni*) which contains details of fixed (dead rent) and fluctuating demand (royalty) for mining and quarry leases along with the details of surface rent, dead rent, total fixed demand, amount paid, date of payment, quantity extracted, royalty due, interest etc.

There was no system prevailing in the Department to monitor the proper maintenance of *Khatoni* and its timely submission to the higher authorities.

Basic records of demand and collection register were not maintained properly by nine of the 13 DMOs.

We test checked maintenance of *Khatoni* in 13 DMOs and found that while in four DMOs[7] demand and collection register were maintained properly, *Khatoni* register was not at all maintained in two DMOs (Alirajpur and Balaghat). In seven DMOs[8], the basic records were maintained but the entries related to demand and collection was not found recorded. As a result, the Department was not in a position to verify the details in respect of surface rent, dead rent, total fixed demand, amount paid, date of payment, quantity extracted, royalty and interest thereon and issue necessary demand notices.

7.6.11 Non maintenance of records for issue of Permits

According to Rule 68(1) of Madhya Pradesh Minor Mineral Rules, the collector shall grant permission for extraction, removal and transportation of minor minerals from specified quarry or land which may be required for the work of any Department. Further, permissions were to be issued only when advance royalty calculated at the rates specified in Schedule III is collected.

Records related to temporary permits for removal of minor minerals for Central and State Governments and their undertakings in 13 DMOs (between April and June 2013) indicated that no register/record had been maintained by the

7 Damoh, Katni, Satna and Shahdol

8 Anuppur, Betul, Chhatarpur, Indore, Jabalpur, Sidhi and Tikamgarh

Department to watch the number of temporary permits issued and the royalty paid. In the absence of non-maintenance of records the possibility of delay in receipt of royalty on removal of mineral cannot be ruled out.

7.6.12 Compliance to environmental norms

The National Mineral Policy, 2008 recognises the close linkage of mining with forest and environment issues. It emphasises upon development of a frame work for sustainable development taking care of bio-diversity issues and to ensure that mining activity takes place along with suitable measures for restoration of ecological balance.

7.6.12.1 Excess production over the Pollution Control Board (PCB) consent

According to Section 21 of Air (Prevention and Pollution Control) Act, 1981 and Water (Prevention and Pollution Control) Act, 1974, the permission regarding maximum production of mineral in a mine in a year is given by MP Pollution Control Board (MPPCB), considering all aspects relating to the protection of environment and it is the duty of Department to adhere to the instructions given in the PCB permission. The Government vide their circular issued in August 2011 directed all Collectors to forward the proposal for prosecution against such lease holders who had excavated the excess quantity than approved in the mining plan or beyond permitted quantity mentioned in environmental clearance consent given by MPPCB.

Mining in excess of quantity permitted by Pollution Control Board had an adverse impact on the environment. The Department did not recover mitigation cost from the lessee for the damages caused to environment.

During scrutiny of case files related to quarry lease in DMOs Sidhi and Tikamgarh, we noticed that four lessees out of 110 test checked were given the production permission of 85928 cum of *crushed stone (gitti)* and *boulder* by the MPPCB. The lessees, however, illegally produced 151228 cum material (*gitti* and *boulder*) between January and December 2012, which was in excess of permissible limit by 65300 cum. Mining in excess of permitted limits not only had an adverse impact on the environment but also could result in withdrawal of permission by PCB with resultant loss to the Department in the form of royalty. DMOs neither advised the lessees to restrict their mining within the permissible limits nor intimated the violation to the PCB for taking necessary action against the lessee. Besides, the case files also do not indicate any action taken by the Department for recovery of mitigation costs from the lessee for the damages caused to environment.

7.6.12.2 Operations of mines without environment consent

As per the notification (September 2006) of Ministry of Environment and Forest (MOEF), every lessee shall submit environment clearance in respect of lease of more than five hectares within six months from the date of receipt of sanction.

Mining operations were undertaken by two lessees without environment clearance from MOEF.

We noticed (May 2013) in DMO, Anuppur that the environment clearance from MOEF in case of two out of five lessees of bauxite mines were not on record. These lessees, however, continued their mining operations and the Department did not take any steps to ensure submission of the requisite certificate from the MOEF. Further, the lessees had produced 305630 MT and 311881.06 MT bauxite during 2011-12 and 2012-13 respectively. This indicated an indifferent attitude towards meeting environmental norms.

7.6.12.3 Non adherence to instructions of Pollution Control Board

As per the rule, every holder of a prospecting license or a mining lease shall take all possible precautions for the protection of environment and control of pollution while conducting prospecting, mining, beneficiation or metallurgical operations in the area.

Case files indicated that the lessee had taken No Objection Certificate (NOC) from Madhya Pradesh Pollution control Board (MPPCB) with the instructions to adhere the following:

- Mines shall install and operate appropriate air pollution control equipment at all points of emission and shall ensure that these are always kept in working order all the time;
- Mines shall do more tree plantation in and around the factory premises to improve the environmental conditions; and
- Mines shall submit ambient air quality monitoring report to the PCB once in three months regularly.

We observed in four DMOs out of the 13 test checked, that the instructions issued by MPPCB had not been adhered to by the lessees. DMOs also did not ensure compliance with the instructions issued by the MPPCB while granting NOC to the lessees. Despite this, renewal of clearance certificates had regularly been done. Thus, the respective DMOs did not enforce the provisions of the Act.

7.6.13 Non cancellation of leases of inoperative mines

According to Rule 28 (1) of Mineral Concession Rules, if any lessee does not commence mining operations within one year* from the date of execution of lease deed or the operation is discontinued for a continuous period of one year, after commencement of such operations, the State Government shall, by an order, declare the mining lease as lapsed.

*It was revised to two years with effect from July 2012.

The Department did not cancel the inoperative mines and resettle with the other willing persons for better mineral development.

During scrutiny of the mining lease[9] case files in two DMOs, (Balaghat and Betul), between May and June 2013, we observed that the Department did not apply the rule to declare the leases as lapsed in three cases. In DMO, Balaghat, one lessee had discontinued mining operation since 2001 and in other two cases one lessee did not commence operation after a lapse of 54 months and the other lessee discontinued mining operation in 2010. In these leases, mining operations remained inoperative for the period ranging between two and 11 years. The Department did not cancel the inoperative mines for discontinuance of the mining operation for a continuous period of two years and resettle with the other prospective lessees for better mineral development.

7.6.14 Issue of mineral dealers license

According to Rule 7(1) of Chapter-IV of Madhya Pradesh Mineral (Prevention of illegal mining, transportation and storage) Rules, 2006, mineral dealer licenses are to be issued to dealers intending to store minerals. However, no time limit has been prescribed by the Department to dispose of the applications.

Absence of provisions for timely disposal of applications resulted in huge accumulation of un-disposed applications for license.

We observed from information collected from 11 DMOs[10] (between April and June 2013) that out of 889 applications received during 2008-09 to 2012-13 for issue of mineral dealers license[11], only 469 applications were finalised and licences were issued. Details are given in the table no. 7.7:

9 Mining lease means a lease granted for the purpose of undertaking mining operations and includes a sub-lease granted for such purpose

10 Alirajpur, Anuppur, Balaghat, Betul, Chhatarpur, Damoh, Indore, Katni, Satna, Sidhi and Tikamgarh

11 Mineral dealer license are granted for the purpose of transporting, storing and trading of major mineral and for the purpose of transporting, storing, trading and for use in construction work of minor minerals

Table No. 7.7

Year	Opening Balance	Application received during the year	Application disposed of during the year	Closing balance Cumulative
1.	2.	3.	4.	5.
2008-09	19	120	101	38
2009-10	38	94	46	86
2010-11	86	109	52	143
2011-12	143	266	115	294
2012-13	294	281	155	420

(Source: Information furnished by Mining Offices)

Due to the absence of provision to monitor the timely disposal of application for license, there was a huge accumulation of un-disposed applications.

We recommend that the Government may consider prescribing time limit for disposal of dealer license applications in the interest of revenue as well as minimise scope of illegal transportation and storage of minerals.

7.6.15 Inadequate inspections by Mining Inspector

Inspection of mines was not undertaken once in every six months by Mining Inspector, though prescribed.

According to the instructions issued by the Director, Geology and Mining Madhya Pradesh in March 1978, Mining Inspector (MI) is required to inspect mines in his area once in every six months during April to September and October to March to ensure that terms and conditions laid down in lease deeds are observed by the lessees and extraction of minerals is not carried on outside the leased area.

Information regarding inspection of mines by Mining Inspector collected from test checked DMOs for the period 2008-09 to 2012-13 indicated that the short fall in inspection of mining lease in three districts Anuppur, Sidhi and Tikamgarh ranged between 50 *per cent* and 77.3 *per cent,* while in case of quarry lease, it was between 46 *per cent* and 79.2 *per cent*. We further noticed (June 2013) that no inspection was carried out by the MI in Damoh and Shahdol district for the period between 2008-09 and 2012-13.

The Government may consider prescribing a periodic report/return to be furnished by the MI to the higher authorities to ensure inspections of mines by the Mining Inspectors according to prescribed norms.

7.6.16 Non provision of e-auction

As per Rule 36(2) of MP Minor Mineral Rules, notice of auction shall be published in Form XV at least 15 days before the auction on the notice board or any conspicuous place by way of fixing the copy of such notice thereon in the office of the concerned *Gram Panchayat, Janpad Panchayat, Jila Panchayat* etc. and the village where the quarries are situated.

Absence of provision of e-auction deprived the Government of competitive rates.

We observed (between April and June 2013) in 13 DMOs that trade quarries[12] were not auctioned by way of e-auction. In the absence of specific provisions in the rules/instructions, the Government lost an opportunity to secure competitive rates that could accrue through wider publicity from e-auction. We further noticed that Western Coalfields Limited, a central public sector undertaking invites bids through e-auction with a view to obtain better rates.

We recommend that the Government may consider e-auction of trade quarries to obtain competitive rates in a transparent manner.

[12] Trade quarry means a quarry for which the right to work is auctioned.

Compliance issues

7.6.17 Non-levy/recovery of cost of minerals on unauthorised excavation

As per Rule 13(1) of Mineral Conservation and Development Rules, 1988, every holder of a mining lease shall carry out mining operations in accordance with the approved mining plan. If the mining operations are not carried out in accordance with the mining plan, the Regional controller, Indian Bureau of Mines (IBM) or the authorised officer may order suspension of all or any of the mining operations. Further, Section 21(5) of the Mines and Minerals (Development and Regulation) Act, 1957 envisages that whenever, any person raised without any lawful authority, any mineral from any land, the State Government may recover from such person the mineral so raised, or where such mineral has already been disposed of, the price thereof along with royalty.

Non recovery of cost of minerals to the tune of ₹ 8.01 crore due to non observance of MMDR Act in four districts.

We noticed (between April and June 2013) from the records relating to mining leases that in four DMOs[13] out of 13 DMOs test checked, seven mining lease holders excavated mineral in excess of limits prescribed in the approved mining plan[14] without the prior approval of revised mining plan. Though, the lease holders had paid the royalty applicable on excess excavation cost of minerals was neither worked out nor demanded by the Department. We further observed that the prescribed periodic returns were not found to be submitted in records. In the absence of returns the DMO is not in a position to detect excess excavation beyond approved quantity of minerals in the mining plan. Thus, the excess production over and above the allowed quantity was illegal, which attracted recovery of cost of mineral amounting to ₹ 8.01crore[15] as given in the table no. 7.8:

13 Anuppur, Balaghat, Jabalpur and Satna

14 Mining plan is prepared to regulate the production of the proposed minerals which includes legal and scientific mining, protection of environment etc. and it is prepared by IBM certified Geologist

15 The cost of minerals has been worked out on the basis of minimum rates published by IBM for that year

Table No. 7.8

Sl. No.	Name of DMO	Mineral	Period	Quantity as per mining plan (in MT)	Quantity actually excavated (in MT)	Excess quantity (in MT)	Value of minerals (in MT)	Recoverable amount (₹ in lakh)
1.	2.	3.	4.	5.	6.	7.	8.	9.
1.	Anuppur	Bauxite	2011-12	110745	181035	70290	115	80.83
2.	Satna	Lime stone	2011-12	9531	21600	12069	72	8.69
3.	Jabalpur	Iron ore	2010-11	60000	451030	391030	167	653.02
4.	Jabalpur	Iron ore	2010-11	81000	93625	12625	167	21.08
5.	Balaghat	Manganese	2009-10	400.80	2229.490	1828.69	960	17.55
6.	Balaghat	Manganese	2009-11	0.00	1190	1190	960	11.42
7.	Balaghat	Manganese	2009-10	900	1770.52	870.52	960	8.36
							Grand Total	**800.95** (Say ₹ 8.01 crore)

During Exit Conference (August 2013), the Government stated that the Department had already issued circulars (August 2011) to initiate action for cancellation of mining lease and prosecution proceedings against the defaulters.

7.6.18 Irreparable damages to environment due to illegal mining

Section 21(5) of the Mines and Minerals (Development and Regulation) Act 1957, envisages that whenever, any person raised without any lawful authority, any mineral from any land, the State Government may recover from such person the mineral so raised, or where such mineral has already been disposed of, the price thereof along with royalty. Further, Rule 53(5) of the MP Minor Mineral Rules, 1996 envisages that the cost of mineral, computed at 10 times the market value of mineral or 20 times of royalty so extracted whichever is higher is to be recovered from the person who raised and dispatched minor mineral illegally.

According to the Mineral Policy, 2010 a high level resolution satellite data shall be used to detect illegal mining. Grid based maps will be made compulsory at the time of sanctioning/renewing mining leases to ensure accurate location of the mining area.

Scrutiny of files related to illegal mining of minerals at Directorate, Geology and Mining indicated that 2920 cases of illegal excavation of minor minerals involving cost of ₹ 3.88 crore and 27820 cases of illegal transportation involving ₹ 34.47 crore were registered between period 2008-09 and 2012-13 as detailed in the table no. 7.9:

Table No. 7.9

Year	No. of cases registered			Amount of penalty recovered (₹ in lakh)		
	Illegal excavation	Illegal transportation	Total	Illegal excavation	Illegal transportation	Total
1.	2.	3.	4.	5.	6.	7.
2008-09	461	4066	4527	50.48	268.85	319.33
2009-10	528	5693	6221	36.09	406.88	442.97
2010-11	412	5227	5639	66.93	653.71	720.64
2011-12	879	6419	7298	91.66	972.99	1064.65
2012-13	640	6415	7055	142.38	1144.38	1286.76
Grand Total	**2920**	**27820**	**30740**	**387.54 Say ₹ 3.88 crore**	**3446.81 Say ₹ 34.46 crore**	**3834.35 Say ₹ 38.34 crore**

(Source: Information furnished by the Directorate)

Since the work was undertaken clandestinely with a view to evade payment of royalty and other charges, scientific mining had not been adopted. In such cases, irreparable damages were caused to environment but in absence of provisions, no compensation amount could be recovered. Further, we noticed (June 2013) in 13 DMOs that on detection of illegal mining/transport of minerals; *panchanamas* are prepared and got entered in a register to monitor the recovery of cost. The cases of illegal excavation and dispatch of minerals are either compounded by recovering cost of mineral or by lodging a case in the court through police. The registers prepared for monitoring the cases were incomplete, as no entries relating to cases of illegal mining registered, recovery of cost of mineral, the quantity of mineral seized, penalty imposed thereon and cases pending in Sub-Divisional Magistrate Court were not found recorded. No norms of inspection for prevention of illegal excavation/dispatch of minerals had been fixed by the Department. The Department also failed to set up high level resolution satellite data to detect illegal mining as per requirement of Mineral Policy, 2010.

During Exit Conference (August 2013), the Government stated that the meetings to set up high level resolution satellite data were conducted with National Information Centre and other concerned organisations.

We recommend that provision may be made for recovery of damages caused to environment and cost of reclamation of the area due to illegal excavation of minerals and a mechanism to ensure reclamation of affected areas may be put in place to avoid irreparable damage to the environment.

7.6.19 Non/short realisation of contract money

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

Inaction of Department to recover contract money of ₹ 1.43 crore.

We observed (between March 2012 and June 2013) during scrutiny of case files of 320 trade quarries test checked out of 935 trade quarries in 26 DMOs[16] that contract money of ₹ 1.78 crore from 149 contractors in 25 DMOs was due for payment. The contractors, however, had paid an amount of ₹ 35.33 lakh only. We also observed that demand and collection register was not maintained in these units. DMOs should have collected the contract money on installment dates falling due. Neither was the contract money collected nor was the action for forfeiting the security deposit or cancellation of trade quarries taken. This resulted in short realisation of contract money of ₹ 1.43 crore as detailed in ***Annexure-X.***

7.6.20 Non-levy/realisation of interest on belated payments

7.6.20.1 Mining Lease

According to Rule 64 (a) of Mineral Concession Rules, 1960, a lessee is liable to pay royalty, rent and rates by the prescribed date, failing which he is liable to pay simple interest at the rate of 24 *per cent* per annum from the sixtieth day of the expiry of the stipulated date till the date of payment of such royalty.

We observed (between June 2012 and June 2013) during scrutiny of case files related to mining lease in five DMOs[17] out of 14 DMOs test checked that five lessees of mining lease who had submitted monthly returns out of 73 lessees test checked had delayed the payment of royalty by 25 to 630 days during the period 2008-09 to 2012-13. The DMOs[18] did not initiate any action to levy the interest in these cases by scrutinising the returns. In the remaining 68 cases, interest if any leviable could not be ascertained as the lessees in

16 Alirajpur, Anuppur, Balaghat, Betul, Chhatarpur, Damoh, Indore, Jabalpur, Katni, Satna, Shahdol, Sidhi and Tikamgarh (₹ 61.50 lakh)
Bhopal, Chhindwara, Dewas, Hoshangabad, Mandsaur, Panna, Raisen, Rewa, Sagar, Sehore, Seoni, Shivpuri and Umaria (₹ 81.22 lakh)

17 Anuppur, Panna, Satna, Sagar and Sidhi

18 Anuppur, Satna and Sidhi (₹ 1.34 crore)
Diamond officer, Panna and DMO, Sagar (₹ 3.01 lakh)

these cases did not file the prescribed returns. This resulted in non realisation of interest of ₹ 1.37 crore as detailed in ***Annexure-XI.***

7.6.20.2 Trade Quarry

Under the Madhya Pradesh Minor Mineral Rules, 1996 and condition no. 5(i) of the contract agreement, contractors of trade quarries are required to pay contract money on or before the date indicated in their contract agreement failing which, the contractor is liable to pay in addition to the contract money, interest at the rate of 24 *per cent* per annum till the default continues.

We observed (between May 2012 and June 2013) during scrutiny of the case files and challans of contract money in respect of trade quarries of 18 DMOs[19] out of 23 DMOs that 98 out of 275 contractors had delayed the payment of contract money for the period ranging from six to 548 days. The DMO did not initiate action for levy of interest on the delayed payments. This resulted in non levy of interest of ₹ 29.22 lakh as detailed in ***Annexure-XII.***

7.6.20.3 Quarry Lease

As per Rule 30(i) (d) of Madhya Pradesh Minor Mineral Rules, 1996, every lessee of quarry lease is required to pay dead rent or royalty under sub rule (a) and (b) to State Government within time failing which the lessee is liable to pay interest at the rate of 24 *per cent* per annum till the default continues, besides any penal action to be taken under the rules. DMOs should issue demand letters to all lease holders in the beginning of January every year for the payment of dead rent in terms of Rule 30 (a) of the rules *ibid.*

We observed (between March 2012 and June 2013) during scrutiny of case files and challans in respect of 170 out of 828 quarry leases in 23 DMOs[20] out of 26 DMOs, the lessees had delayed the payment of dead rent and royalty by five to 1267 days. The DMOs did not take any action for realisation of interest in these cases by scrutinising the challans and returns. This resulted in non realisation of interest of ₹ 27.88 lakh as detailed in ***Annexure -XIII.***

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19 Anuppur, Balaghat, Damoh, Indore, Katni, Shahdol, Sidhi and Tikamgarh (₹ 17.38 lakh)
Ashoknagar, Bhopal, Hoshangabad, Panna, Rewa, Sagar, Sehore, Seoni, Ujjain and Umaria (₹ 11.84 lakh)

20 Anuppur, Balaghat, Chhatarpur, Damoh, Indore, Jabalpur, Katni, Satna, Shahdol and Sidhi (₹ 13.27 lakh)
Ashoknagar, Bhind, Bhopal, Chhindwara, Dhar, Gwalior, Mandsaur, Narsinghpur, Panna, Rewa, Sagar, Ujjain and Umaria (₹ 14.61 lakh)

7.6.21 Short realisation of royalty

7.6.21.1 Mining Lease

According to Section 9 (i) of Mines and Minerals (Development and Regulation) Act 1957, every lessee in respect of mining lease shall pay royalty for the minerals removed or consumed by him at the rates prescribed in the schedule.

Non scrutiny of returns by DMOs resulted in non realisation of royalty.

Case files related to mining lease of DMOs, Anuppur, Balaghat, Chhindwara, Dhar and Sagar indicated (November 2012 to March 2013) that five lessees out of 50 test-checked lessees had paid ₹ 10.75 crore for the period 2011-12 for consumption/transportation of manganese ore, iron ore, limestone, dolomite and coal against the payable amount of royalty of ₹ 10.90 crore. DMOs did not initiate action to recover the outstanding amount of royalty (March 2013). This resulted in non realisation of revenue of ₹ 14.95 lakh. Had the DMOs undertaken timely scrutiny of the returns, the delay in realisation of royalty could have been avoided. In the remaining 45 cases, royalty if any recoverable could not be ascertained as the lessees in these cases did not file the prescribed returns and furnished challans.

7.6.21.2 Trade Quarry

According to condition no. 5(2) of Rule 37 of M.P. Minor Minerals Rules, 1996 if the contractor extracts or carries away any quantity of mineral exceeding the prescribed quantity, he shall be liable to pay royalty at the prevalent rate for such excess quantity extracted or carried away.

Case files related to trade quarry of Mining Offices, Anuppur, Balaghat, Bhopal, Seoni and Shivpuri districts indicated (between March 2012 and May 2013) that 16 contractors out of 76 test-checked had paid royalty of ₹ 1.14 crore for removal of mineral against payable amount of ₹ 1.35 crore. In remaining 60 cases, short payment of royalty could not be ascertained as the contractors in these cases did not file the prescribed returns. This led to non realisation of revenue to the tune of ₹ 21.06 lakh to the Government. Case files further revealed that DMOs did not initiate any action to recover the royalty.

7.6.21.3 Quarry Lease

As per general conditions of quarry lease contained in Rule 30 (1) (b) of MP Minor Minerals Rules, 1996, lessee shall pay the dead rent or royalty in respect of each mineral whichever is higher in amount but not both. The lessee shall pay royalty in respect of quantities of mineral intended to be consumed or transported from the leased area, no sooner the amount of dead rent already paid equals the royalty on mineral consumed or transported by him.

Case files and returns related to quarry lease of nine DMOs[21] indicated (between June 2012 and June 2013) that 35 lessees out of 343 test-checked lessees had paid royalty of ₹ 1.45 crore in respect of minerals removed against payable amount of ₹ 1.98 crore which resulted in non-realisation of revenue to the tune of ₹ 52.43 lakh. DMOs did not initiate action to recover the balance amount of royalty in these cases by scrutinising the returns. In the remaining 308 cases, royalty if any recoverable could not be ascertained as the lessees in these cases did not file the prescribed returns.

7.6.22 Non/short realisation of dead rent

7.6.22.1 Mining Lease

Inaction of the Department to recover dead rent of ₹ 6 crore .

According to Section 9A (i) of Mines and Minerals (Development and Regulation) Act 1957, and rules made thereunder, every lessee of mining lease has to pay dead rent every year to the State Government at the rates prescribed in Schedule III of the Act in respect of all areas included in the lease provided that where the lessee becomes liable to pay royalty for any mineral removed or consumed, he shall be liable to pay either such royalty or the dead rent in respect of that area, whichever is greater. Further, according to Rule 27 (conditions) sub rule (5) of MCR, 1960, if the lessee makes any default in the payment of royalty or dead rent, the State Government shall give notice to the lessee requiring him to pay the royalty or dead rent within sixty days from the date of receipt of the notice and if the royalty or dead rent is not paid determine the lease and forfeit the whole or part of the security deposit.

From the information furnished by 12 DMOs[22] (between March 2012 and June 2013), we found that 195 lessees out of 231 lessees test checked in respect of mining leases had not paid dead rent against the payable dead rent of ₹ 3.46 crore for the period January 2011 to January 2013. However, the Department did not initiate any action either to get the outstanding dead

21 Alirajpur, Betul, Indore, Katni, Satna, Shahdol and Tikamgarh (₹ 46.14 lakh) Ashoknagar and Panna (₹ 6.29 lakh)

22 Anuppur, Balaghat, Chhatarpur, Jabalpur, Katni, Satna and Shahdol (₹ 3.14 crore) Chhindwara, Neemuch, Panna, Rewa and Umaria (₹ 32.38 lakh)

rent deposited or determine the lease and forfeit the security deposit. This resulted in non realisation of dead rent of ₹ 3.46 crore.

7.6.22.2 Quarry Lease

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

We observed (between March 2012 and June 2013) during scrutiny of individual files of lessees of 32 DMOs[23] that 299 lessees in respect of quarry leases out of 1211 test checked had paid dead rent of ₹ 33.70 lakh against the payable amount of ₹ 2.88 crore for the period January 2010 to January 2013. This resulted in short realisation of dead rent of ₹ 2.54 crore. DMOs did not initiate action under the rules for the levy of penalty and recovery of dead rent.

[23] Anuppur, Balaghat, Betul, Chhatarpur, Damoh, Indore, Jabalpur, Katni, Satna, Shahdol, Sidhiand Tikamgarh (₹ 1.39 crore)
Ashoknagar, Bhind, Bhopal, Chhindwara, Dewas, Dhar, Gwalior, Mandsaur, Narsinghpur, Neemuch, Panna, Raisen, Rewa, Sagar, Sehore, Seoni, Shivpuri, Ujjain, Umaria and Vidisha (₹ 1.15 crore)

7.6.23 Levy and collection of Rural Infrastructure and Road Development Tax

7.6.23.1 Delayed payment of Road Development tax on working mines in rural areas

Road Development Tax, as an additional resource is levied on the mines of minerals in rural areas specially in backward areas for the infrastructural and road development. It is recovered from the lessees on the basis of quarterly production. The Madhya Pradesh Rural Infrastructure and Road Development Tax Rules, however, did not provide for levy interest on belated payment of Road Development Tax. Whereas as per provision of Mineral Concession Rules 64(A) which regulates the major mineral, interest of 24 *per cent* per annum is leviable for delayed payment.

During examination of records of Road Development Tax in Anuppur and Shahdol, we observed (between May and June 2013) in two cases out of nine test checked cases that the lessees paid tax of ₹ 317.36 crore for the period 2005-06 to 2009-10, which was delayed by four months to five years. In the absence of provision to levy interest, the Government was deprived of substantial revenue.

Absence of provision to levy interest on delayed payment of Road Development Tax.

We recommend that the Government may consider prescribing levy of interest in cases of belated payment of Road Development Tax in the interest of revenue.

7.6.23.2 Non/short payment of rural infrastructure and road development tax

Inaction of the Department led to non-realisation of rural infrastructure and road development tax.

According to the provisions of Madhya Pradesh Rural Infrastructure and Road Development Act, 2005 and notification dated September 2005, rural infrastructure and road development tax is leviable at the rate of five *per cent* per annum of the market value of major minerals produced after deducting amount of royalty actually paid by the lessee. The Act further provides that the competent authority shall assess the sale value of minerals on the basis of returns/accounts submitted by the lessees and shall assess and demand the tax by the end of May each year. In case of non-payment of tax, competent authority shall, under section 4(2), impose penalty not exceeding three times of the tax payable, but not before giving a reasonable opportunity to the assesses of being heard. According to sub-section 5 of section 4 of the Act *ibid*, the competent authority shall recover the amount of tax and penalty, if not paid, as the arrears of land revenue.

We observed (between November and December 2012) during test check of production records of major minerals in respect of mining leases in DMOs Damoh, Katni, Neemuch, Satna, Shivpuri and Sidhi that eight lessees had paid road development tax of ₹ 2.33 crore against the payable amount of ₹ 4.97 crore. The DMOs had neither issued demand notices nor initiated action under the provisions of the Act. This resulted in short realisation of tax of ₹ 2.64 crore besides leviable penalty as detailed in ***Annexure-XIV.***

7.6.23.3 Non-payment of rural infrastructure and road development tax on idle mines

According to the provisions of Madhya Pradesh Rural Infrastructure and Road Development Act, 2005 and notification of September 2005, rural infrastructure and road development tax is leviable at the rate of five *per cent* per annum of the market value of major minerals produced after deducting amount of royalty actually paid by the lessee and ₹ 4,000 per hectare per year in case of idle mines is to be levied on lessees holding mining leases.

During scrutiny of records related to mining lease of major minerals at DMOs Anuppur, Balaghat, Chhatarpur, Katni, Neemuch, Rewa, Sagar, Satna, Seoni, Shahdol, Sidhi, Tikamgarh and Umaria, we observed (between October 2012 and June 2013) that 192 lessees had neither paid the road tax of ₹ 11.06 crore for the period 2008 to 2013 on idle mines nor the DMOs initiated action as per rule. This resulted in non realisation of revenue of ₹ 11.06 crore as detailed in ***Annexure-XV.***

7.6.24 Levy and Collection of Stamp Duty and Registration Fees

7.6.24.1 Short levy of Stamp Duty and Registration Fees due to incorrect determination of average annual royalty

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

During examination of case files of mining lease of DMO Katni, we noticed that while sanctioning mining leases for a period of 10 to 30 years, lease deed were executed /registered (between September 2011 and November 2012) on the basis of the average production of the first five years as shown in the mining plan instead of the average of the proposed production for the complete lease period as per the instruction *ibid*. The lessee of limestone and marbles had paid Stamp Duty and Registration Fees amounting to ₹ 4.09 crore as against the leviable amount of ₹ 12.89 crore. This resulted in short levy/recovery of Stamp Duty and Registration Fees of ₹ 8.80 crore as detailed in ***Annexure-XVI***.

The District Registrar and Sub Registrar did not also ensure correct realisation of stamp duty and registration fees at the time of registration of the lease agreements.

7.6.24.2 Loss of Stamp Duty and Registration Fee with reference to the production permission obtained from PCB

According to the instructions (March 1993) of GOMP, Mineral Resources Department, Stamp Duty and Registration Fees is leviable on average annual royalty on new quarry lease to be calculated on the basis of quantity of mineral to be extracted in terms of the application or the proposed production given in the mining plan, whichever is higher.

During examination of records related to quarry lease at DMO, Chhatarpur, we observed (April 2013) that five lessees had furnished the expected quantity of mineral to be extracted as per average annual production in application/mining plan as 10190 cum. The same lessees demanded for NOC from PCB for expected annual extraction 151717 cum of mineral. Though these documents were available with the Department, the DMO failed to demand the duty and fees on higher quantity. The lessee had paid Stamp Duty and Registration Fees amounting to ₹ 29.01 lakh as against the amount of ₹ 1.68 crore worked out on the basis of production permission obtained from PCB. Thus the Government was deprived of revenue of ₹ 1.39 crore in the shape of Stamp Duty and Registration fees as shown in ***Annexure -XVII***.

When we pointed out, DMO Chhatarpur stated (April 2013) that the quantity shown in PCB order is imaginary and that lessee applies for NOC from PCB after execution of contract deed. It was further stated that the quantity shown in PCB application was therefore not taken into consideration.

We do not agree with the reply as imaginary quantity of expected production may not be furnished in the application given by the lessee for obtaining NOC from PCB. We further observed in two cases at DMOs Sidhi and Tikamgarh, where the lessees had produced/extracted minerals of 151228 cum as against the permissible quantity of 85928 cum by PCB. It was evident that assessment of quantity by lessees in mining plan was not realistic and in the event of incorrect assessment of quantity, slippage of revenue in shape of Stamp Duty and Registration Fees also could not be ruled out. Mining activities in excess of mining plan and also PCB permission was hence illegal. Therefore, the Department should have taken action against the lessee for the excess production beyond the PCB permission.

We recommend that the Mineral Resources Department and MPPCB needs to coordinate with each other for granting permission to the lessee for annual production so that the issues of revenue leakage and environment concerns are duly addressed.

7.6.24.3 Short realisation of Stamp Duty and Registration Fees

Short realisation of stamp duty and registration fees due to non observance of instructions of GOMP.

According to the instructions issued by Mineral Resources Department, Government of Madhya Pradesh in March 1993, full amount of contract money shall be treated as premium for the purpose of levy of Stamp Duty. Besides, as per Indian Registration Act, 1908 Registration Fee shall be levied at the rate of 75 *per cent* of Stamp Duty.

Case files at DMOs Chhatarpur and Jabalpur regarding leases sanctioned to Madhya Pradesh State Mining Corporation Ltd. (MPSMCL) indicated that the corporation entered into an agreement with three contractors between May 2010 and January 2012 for two to 10 years for ₹ 47.23 crore. Stamp Duty of ₹ 2.90 crore and Registration Fees of ₹ 2.18 crore was leviable and recoverable in this contract. MPSMCL, however, executed a contract on a stamp paper of ₹ 100 in each case. This resulted in short realisation of ₹ 5.08 crore as detailed in ***Annexure-XVIII.***

7.6.25 Irregular issue of temporary permits

Non realisation of advance royalty on the quantity of minerals shown in permits led to short realisation of revenue.

According to Rule 68(1) of the MP MMR, the collector shall grant permission for extraction, removal and transportation of any minor mineral from any specified quarry. Further, such permission shall only be granted on payment of advance royalty worked out at the rates specified in schedule III.

We observed (between November 2012 and June 2013) during test check of 60 temporary permits from the case files of permits holders and challans in seven DMOs[24] that 21 temporary permits were issued to 17 contractors for construction work (2011-12). The DMOs had not realised advance royalty leviable on the quantity of minerals shown in the permits. The said contractors paid ₹ 54.25 lakh against payable royalty of ₹ 1.12 crore. This resulted in short realisation of revenue of ₹ 58.23 lakh.

7.6.26 Irregularities in use of Transit pass

Transit passes were not properly maintained as per rules.

To prevent leakage/evasion of revenue, Rule 3(1) of the MP Minerals (Prevention of Illegal Mining, Transportation and Storage) Rules, 2006 envisages that the lessee or any other person shall not dispatch the mineral from the leased area without a valid transit pass issued by the concerned DMO. Further, Rule 5(iv) & 6(3, 4) of the rules *ibid* stipulates that the original copy of the Transit pass (TP) shall be given to driver of the carrier and the carbon copy shall be retained in the TP book. The TP shall be signed by the person issuing the TP with date. Omission to write the date and time of presenting the TP at the check post or overwriting on the TP attracts penalty. Only one transit pass shall be issued to one carrier for each trip. At the mining check post, information furnished in the TP is required to be registered in the check post register to prevent leakage/evasion of revenue.

Records related to the transit passes indicated the following irregularities:

- In 51 TPs out of 250 TPs test checked in DMO Shahdol, the vehicle registration number was cross checked with the MP Transport Department official site and the vehicles were not registered with Transport Department,
- In five cases out of 100 TPs test checked in DMO Chhatarpur, overwriting was found in the TP,
- In 50 cases out of 250 TPs test checked in DMO Shahdol, the TP did not mention the name of lessee. No action was, however, initiated against the departmental official,
- In 100 cases out of 350 TPs test checked in DMO Anuppur, value of mineral was not mentioned in the TPs,
- In 91 cases out of 350 TPs test checked in DMO Anuppur and Shahdol, details like date and time (91 cases), vehicle number (9 cases) etc. were not mentioned in the TPs.

[24] Anuppur, Chhattarpur (₹ 33.37 lakh)
Panna, Raisen, Rewa, Sagar and Vidisha (₹ 24.86 lakh)

DMO is required to check original copies to be submitted by the lessee for the purpose of calculation of quantity of mineral transported/removed and other details at the time of assessment. But DMOs failed to comply with the checks as per rules.

7.6.27 Non initiation of action for re-auction of trade quarry

According to condition no. 9 of contract agreement for trade quarry and Rule 37 of MP MMR, 1996, every contractor has to pay contract money to the State Government on the scheduled date. If the contract money or any other dues remains unpaid for more than one month, the contract will be cancelled and quarry will be re-auctioned. Consequent upon re-auction of the quarry, if the Government sustains any loss, the same will be recovered from the defaulting contractor as arrears of land revenue.

We observed (May 2013) in DMO, Balaghat during scrutiny of contract case files that a contract was cancelled (June 2012) due to non-payment of the installment of ₹ 2.25 lakh including interest by the contractor. After cancellation of the contract, it should have been re-auctioned for the remaining period of the contract. We, however, observed that neither was the trade quarry re-auctioned for the remaining period nor the DMO initiated action to recover the installment amount as per rule. The Government was therefore deprived of revenue of ₹ 5.76 lakh.[25]

7.6.28 Pending chemical and ceramic laboratory samples

A Government laboratory was established in Jabalpur for chemical analysis, ceramic tests and other types of analysis of material under the jurisdiction of Directorate, Geology and Mining.

We found that number of samples pending for chemical tests, ceramic analysis etc. has abnormally increased to 2775 (2012-13) from 1512 (2008-09). Pending chemical analysis/tests may adversely affect the finalisation/ settlement of royalty assessments and ultimately causing delay in revenue realisation.

Pending chemical analysis/tests should be conducted in time to avoid delay in revenue realisation.

[25] Recoverable amount on the date of cancellation ₹ 2.25 lakh in addition to outstanding three installments of ₹ 3.51 lakh

7.6.29 Conclusion

The systems instituted by the Mineral Resources Department for levy, assessment and collection of mining receipts were deficient. Monitoring of vital areas such as work done by prospecting licensees, submission of monthly, annual returns by the lessees, maintenance of demand and collection register and issue and surrender of transit passes was non-existent, rendering the system vulnerable to leakage of revenue. The system for collection of mining dues remained adhoc and the Department has been accepting the information as furnished by the lessees. Due to non-scrutiny of returns and improper maintenance of *Khatonis*, defects in the returns remained undetected leading to non/short realisation of revenue. Assessments were pending since long as internal audit wing did not exist in the Department to provide reasonable assurance. The Department failed to follow the various provisions of the Act/Rules resulting non realisation of significant amount of mining receipts. Points related to system deficiency were also pointed out in Audit Reports ending 31 March 2008 featuring reviews of the Mineral Resources Department. Although this report has been discussed in Public Account committee (PAC) meetings, the position of action taken by the Department and recommendations made are yet to be received.

7.6.30 Recommendations

The Government may consider:

- Setting up of an internal audit wing in the Department and ensure regular audit of the offices for strengthening levy and collection;
- prescribing the maintenance of appropriate records for monitoring the receipt of reports from prospecting licensees for effective control on prospecting activities;
- prescribing submission of the *Khatoni* to higher authorities at regular intervals for effective monitoring of its proper maintenance;
- prescribing mechanism for ensuring that the working of mines is strictly in accordance with the approved mining plan;
- introducing measures for recovery of damages caused to environment and cost of reclamation of the area due to illegal excavation of minerals;

- prescribing provision for levy of interest on delayed payments of Road Development Tax to ensure early receipt of Government revenue; and
- prescribing a system wherein the details entered in the transit passes are cross verified every month from the monthly returns furnished by the lessees.

(D.K. SEKAR)
Accountant General
(Economic and Revenue Sector Audit)
Madhya Pradesh

Bhopal,
The 05 MAR 2014

Countersigned

(SHASHI KANT SHARMA)
Comptroller and Auditor General of India

New Delhi,
The 14 MAR 2014

ANNEXURES

Annexure-I

Reference to the old paras related to Chapter-II : Commercial Tax

Para no. of this Report	Para no. and Year of earlier Audit Reports in which similar observation was made
2.9	2.6 (2007-08), 2.5 (2008-09), 2.12 (2010-11)
2.10	2.8 (2007-08), 2.15 (2011-12)
2.11	2.19 (2009-10), 2.13 (2010-11)
2.12	2.13 (2007-08), 2.17 (2009-10), 2.15 (2010-11)
2.13	2.9 (2007-08), 2.8 (2008-09), 2.15 (2009-10), 2.11 (2010-11)
2.14	2.17 (2007-08), 2.18 (2008-09), 2.25 (2009-10), 2.19 (2010-11)
2.15	2.14 (2007-08), 2.15 (2008-09), 2.17 (2011-12)
2.16	2.7 (2007-08), 2.7 (2008-09), 2.14 (2009-10),2.16 (2010-11)

Reference to the old paras related to Chapter-III : State Excise

Para no. of this Report	Para no. and Year of earlier Audit Reports in which similar observation was made
3.10	3.5.14.4 (2011-12)

Reference to the old paras related to Chapter-IV : Taxes on Vehicles

Para no. of this Report	Para no. and Year of earlier Audit Reports in which similar observation was made
4.8	4.2 (2007-08), 4.3.1 (2008-09), 4.7 (2009-10), 4.8 (2010-11)
4.9	4.4 (2007-08), 4.3.4 (2008-09), 4.9 (2009-10), 4.10 (2010-11)
4.11	4.9 (2011-12)
4.13	4.3 (2007-08), 4.3.2 (2008-09), 4.14 (2009-10), 4.13 (2010-11)

Reference to the old paras related to Chapter-V : Land Revenue

Para no. of this Report	Para no. and Year of earlier Audit Reports in which similar observation was made
5.7	5.2.26 (2009-10)
5.8	5.2.18 (2009-10)
5.9	5.7 (2011-12)
5.10	5.6 (2011-12)

Reference to the old paras related to Chapter-VI : Stamps and Registration Fees

Para no. of this Report	Para no. and Year of earlier Audit Reports in which similar observation was made
6.9	5.2.12 (2007-08), 5.8 (2008-09), 6.4.1 (2009-10)
6.11.1	5.4 (2006-07), 5.2.20 (2007-08),5.7 (2008-09)
6.11.2	5.2.16 (2007-08)
6.12	5.2.13 (2007-08)

Reference to the old paras related to Chapter-VII : Mining Receipts

Para no. of this Report	Para no. and Year of earlier Audit Reports in which similar observation was made
7.6	7.2 (2007-08)

Annexure-II

Para No. 2.8.7.2 (Inaction of the Department in the cases assessed to Refund)

Sl. No.	Name of auditee unit/ Dealer, TIN	Case no, Period/ month of assessment	Amt. Of Refund (₹)	Audit Observation	Department Reply	Audit Remark
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	CTO-III, Gwalior M/s M.P.S Jadon, Gwalior, 23825307888	2075/10(VAT), 2009-10, 20.03.2012	103210	The up to date position of the dealer regarding payment of refund to the dealer	As per rules action of payment of refund to the dealer would be taken	No action was taken by the Department regarding payment of refund
2	CTO-III Gwalior M/s M.M.Constraction, Gwalior 23775307576	2013/10(VAT), 2009-10, 16.02.2012	95992	The up to date position of the dealer regarding payment of refund to the dealer	As per rules action of payment of refund to the dealer would be taken	No action was taken by the Department regarding payment of refund
3	CTO-III, Gwalior M/s Shriman Narayana Sharma, Bhind road, 23575304507	2258/10(VAT), 2009-10, 30.06.2012	25235	The up to date position of the dealer regarding payment of refund to the dealer	As per rules action of payment of refund to the dealer would be taken	No action was taken by the Department regarding payment of refund
4	CTO-III, Gwalior M/s Pawan Kumar Budamal Girwai Naka, Gwalior, 23985104876	60/10(VAT), 2009-10, 30.06.2012	371273	The up to date position of the dealer regarding payment of refund to the dealer	As per rules action of payment of refund to the dealer would be taken	No action was taken by the Department regarding payment of refund
5	CTO-III, Gwalior M/s K. Gupta and Co. Lashkar 23825306259	2262/10(VAT), 2009-10, 30.06.2012	72635	The up to date position of the dealer regarding payment of refund to the dealer	As per rules action of payment of refund to the dealer would be taken	No action was taken by the Department regarding payment of refund
6	CTO-X, Indore M/s KHK Pressings Forging P. Ltd. 23741003654	257/2010(VAT) 2009-10 28.06.2012	996459	The up to date position of the dealer regarding payment of refund to the dealer	The AA stated that action to makes refund could not be taken in the cases pertain to AC's monitory limit, as there was no AC posted in this circle. However an AC has been deputed to look after such cases and the refund cases would be disposed of in seven days	The fact remains the same that no action was taken by the Department to ensure timely refund
7	CTO-X, Indore M/s Twenty First Century Techno Products Pvt. Ltd. 23591001748	231/2010(ET), 2009-10 31.05.2012	34336	The up to date position of the dealer regarding payment of refund to the dealer	The AA stated that action to makes refund could not be taken in the cases pertain to AC's monitory limit, as there was no AC posted in this circle. However an AC has been deputed to look after such cases and the refund cases would be disposed of in seven days	The fact remains the same that no action was taken by the Department to ensure timely refund

(1)	(2)	(3)	(4)	(5)	(6)	(7)
8	CTO-X, Indore M/s Synergy India Marketing Pvt. Ltd., 23491002579	93/2010(VAT), 2009-10 25.06.2012	427215	The up to date position of the dealer regarding payment of refund to the dealer	The AA stated that action to makes refund could not be taken in the cases pertain to AC's monitory limit, as there was no AC posted in this circle. However an AC has been deputed to look after such cases and the refund cases would be disposed of in seven days	The fact remains the same that no action was taken by the Department to ensure timely refund
9	CTO-X, Indore M/s Synergy India Marketing Pvt. Ltd., 23491002579	94/2010(VAT), 2009-10 25.06.2012	16981	The up to date position of the dealer regarding payment of refund to the dealer	The AA stated that action to makes refund could not be taken in the cases pertain to AC's monitory limit, as there was no AC posted in this circle. However an AC has been deputed to look after such cases and the refund cases would be disposed of in seven days	The fact remains the same that no action was taken by the Department to ensure timely refund
10	CTO-X, Indore M/s Amrit Agencies Indore Pvt. Ltd. 23541000757	68/2009(VAT), 2008-09 20.04.2011	67034	The up to date position of the dealer regarding payment of refund to the dealer	The AA stated that action to makes refund could not be taken in the cases pertain to AC's monitory limit, as there was no AC posted in this circle. However an AC has been deputed to look after such cases and the refund cases would be disposed of in seven days	The fact remains the same that no action was taken by the Department to ensure timely refund
11	CTO-X, Indore M/s Amrit Agencies Indore Pvt. Ltd. 23541000757	210/2010(VAT) 2009-10 30.04.2012	67974	The up to date position of the dealer regarding payment of refund to the dealer	The AA stated that action to makes refund could not be taken in the cases pertain to AC's monitory limit, as there was no AC posted in this circle. However an AC has been deputed to look after such cases and the refund cases would be disposed of in seven days	The fact remains the same that no action was taken by the Department to ensure timely refund
12	CTO-X, Indore M/s Fortune Marketing Pvt. Ltd. 23601004022	99/2009(ET) 2008-09 19.05.2010	19607	The up to date position of the dealer regarding payment of refund to the dealer	The AA stated that action to makes refund could not be taken in the cases pertain to AC's monitory limit, as there was no AC posted in this circle. However an AC has been deputed to look after such cases and the refund cases would be disposed of in seven days	The fact remains the same that no action was taken by the Department to ensure timely refund
13	CTO-X, Indore M/s Fortune Marketing Pvt. Ltd. 23601004022	267/2010(ET), 2009-10 29.05.2012	34663	The up to date position of the dealer regarding payment of refund to the dealer	The AA stated that action to makes refund could not be taken in the cases pertain to AC's monitory limit, as there was no AC posted in this circle. However an AC has been deputed to look after such cases and the refund cases would be disposed of in seven days	The fact remains the same that no action was taken by the Department to ensure timely refund
14	CTO-X, Indore M/s Govind Steel Agency, 23961403464	338/2010(ET), 2009-10 23.05.2012	1285	The up to date position of the dealer regarding payment of refund to the dealer	The AA stated that action to makes refund could not be taken in the cases pertain to AC's monitory limit, as there was no AC posted in this circle. However an AC has been deputed to look after such cases and the refund cases would be disposed of in seven days	The fact remains the same that no action was taken by the Department to ensure timely refund
15	CTO-X, Indore M/s G.S.P. Crop Science Pvt.Ltd., 23521004357	192/2010(ET), 2009-10 26.06.2012	16466	The up to date position of the dealer regarding payment of refund to the dealer	The AA stated that action to makes refund could not be taken in the cases pertain to AC's monitory limit, as there was no AC posted in this circle. However an AC has been deputed to look after such cases and the refund cases would be disposed of in seven days	The fact remains the same that no action was taken by the Department to ensure timely refund
16	CTO-X, Indore M/s Jaydeep Glass Works Pvt.Ltd. Unit 2 23481004185	177/2010(CST), 2009-10 27.06.2012	8336	The up to date position of the dealer regarding payment of refund to the dealer	The AA stated that action to makes refund could not be taken in the cases pertain to AC's monitory limit, as there was no AC posted in this circle. However an AC has been deputed to look after such cases and the refund cases would be disposed of in seven days	The fact remains the same that no action was taken by the Department to ensure timely refund

(1)	(2)	(3)	(4)	(5)	(6)	(7)
17	CTO-X, Indore M/s Admanum Packaging, 23411001459	72/2010(CST), 2009-10 30.06.2012	8792	The up to date position of the dealer regarding payment of refund to the dealer	The AA stated that action to makes refund could not be taken in the cases pertain to AC's monitory limit, as there was no AC posted in this circle. However, an AC has been deputed to look after such cases and the refund cases would be disposed of in seven days	The fact remains the same that no action was taken by the Department to ensure timely refund.
18	CTO-X, Indore M/s Makay Pauls, 2318000373	Jul-10 (VAT Remanded) 2005-06 30.11.12	34572	The up to date position of the dealer regarding payment of refund to the dealer	The AA stated that action to makes refund could not be taken in the cases pertain to AC's monitory limit, as there was no AC posted in this circle. However, an AC has been deputed to look after such cases and the refund cases would be disposed of in seven days	The fact remains the same that no action was taken by the Department to ensure timely refund.
19	A.C,Khandwa M/s V.C.Viyadi, Projects, Sanawad, Khandwa 23962106520	Mar-12 2006-07 24/Re-open/10/Vat,	2133735	No action was taken by the Department after the case was assessed to refund on 31.03.12 as the deptt. Could not produce issue of RAO or RPO.	The AA stated that audit would be intimated after examining the case.	
20	CTO, Circle II,Gwalior, M/s Simplex Infrastrutures, Gwalior 23205404647	June-12 2009-10 13/10 VAT,	4642872	No action was taken by the Department after the case was assessed to refund on 06.06.12 as the deptt. Could not produce issue of RAO or RPO.	The AA stated that audit would be intimated after examining the case.	
		Total	**9178672**			

Annexure-III

Para No. 2.8.7.5 (Irregular Sanction of refund by surpassing limit of sanction)

Sl. No.	Name of auditee unit/ Dealer	Period/Date of assessment order	Amount of Refund (₹)	Competent authority to sanction the Refund	Refund sanction by	Observation in brief	Reply of the Deptt.	Remark of Audit
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1	Circle-XIII, Indore M/s R Barkale & Company, 23641303148, 1592/10(VAT)	2009-10 13.04.12	657502	DC	CTO	IR/HM-06/ 5.13	No Reply	CTO sanctioned (self) refund
2	Circle-XIII, Indore M/s Gangotri Construction, 23401302504, CS3191/10-11	2009-10 24.01.13	559755	DC	CTO	IR/HM-08/ 5.13		CTO sanctioned (self) refund
3	CTO-I, Jabalpur M/s Jainson Industries,0832,481/10, 09-10 VAT	2009-10 1.6.12	138967	AC	CTO	HM-63/ 30.06.01 (Not sent to higher authority)		CTO sanctioned (self) refund'
4	CTO-XI Indore M/s Mann India Ltd, 23471101336, 2001-2002,110/2002	2001-02 12.1.04, 14.6.12	685274	DC	AC	Informatory Memo (Not send to competent authority)		AC sanctioned (self) refund
5	Smt. Preeti Shrivastav, AC, Dhar M/s Krishna Profiles Pvt. Ltd., 23681604020, 2009-10, 137/10 VAT	2009-10 23.12.11	2437835	Additional Commissioner	AC	Informatory Memo	-	AC sanctioned (self) refund
6	CTO-X, Indore M/s Mittal Udhyog, 2351404388, 73/09(VAT) (2012-13)	2008-09 31.05.11	1817340	Additional Commissioner	AC	Informatory Memo	-	AC sanctioned (self) refund
7	CTO-X, Indore M/s Mittal Udhyog, 2351404388, 73/09(ET) (2012-13)	2008-09 31.05.11	1020480	Additional Commissioner	AC	Informatory Memo	-	AC sanctioned (self) refund
8	CTO-X, Indore M/s Ramesh Textiles India Pvt. Ltd., 23700300524, 01/10-11(VAT)	2010-11 18.04.11	551318	DC	AC	Informatory Memo		AC sanctioned (self) refund
9	CTO-X, Indore M/s Ramesh Textiles India Pvt. Ltd., 23700300524, 01/10-11	2010-11 30.08.11	756372	DC	AC	Informatory Memo		AC sanctioned (self) refund
10	CTO-X, Indore M/s Ramesh Textiles India Pvt. Ltd., 23700300524, 01/10-11	2010-11 30.08.11	641023	DC	AC	Informatory Memo		AC sanctioned (self) refund

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
11	CTO-III, Gwalior M/s Bharat Petrolium Corporation Limited, 23411001168, 98-99, 01/05	14.01.08	8998452	Additional Commissioner	AC	Informatory Memo		AC sanctioned (self) refund
12	CTO-III, Gwalior M/s Bharat Petrolium Corporation Limited, 23411001168, 01/05 (CST)	14.01.08	2505148	Additional Commissioner	AC	Informatory Memo		AC sanctioned (self) refund
13	CTO-III, Gwalior M/s Hakim Singh Builders & contractors, 23435304077, 08-09, 06/12 VAT	2008-09 25.2.11	1737838	Additional Commissioner	AC	Informatory Memo (Not sent to higher authority)		AC sanctioned (self) refund
14	CTO-III, Gwalior M/s N H K Spring India Ltd., 23685304085,	23.9.08	708005	DC	AC	Informatory Memo		AC sanctioned (self) refund
15	CTO-III, Gwalior M/s Bhawani Prasad Sharma Madhavganj, Gwalior, 23045101804	2009-10	100151	AC		HM-76/ 03.07.13		
16	CTO-III, Gwalior M/s Siyaram (Contractor) Lashkar, Gwalior 23305304003	2009-10	263008	AC		HM-76/ 03.07.13		
17	CTO Harda M/s Sayad Ali, 23914602018, 120/08-09	2008-09 2.6.11	219924	AC	CTO	Informatory Memo		CTO sanctioned (self) refund
18	CTO Harda M/s Gongotri Construction,23054602685,726/09-10	2009-10 25.05.12	109115	AC	CTO	Informatory Memo		CTO sanctioned (self) refund
19	CTO Harda M/s Amritlal Jain Thekedar,23684602193,521/09-10	2009-10 11.06.12	206513	AC	CTO	Informatory Memo		CTO sanctioned (self) refund
20	CTO-II, GWALIOR M/s Lokhpat Singh Contractor, Gwalior, 23985203525, 203/08(VAT)	2007-08 8.2.10, 26.4.12	805178	DC	AC	23/472-497, HM-07/DT.20.06.13	The AA Stated that as per rule action would be taken	AC sanctioned (self) refund
21	CTO-II, GWALIOR M/s A.K.Traders, Gwalior, 23115204343, 1291/10(VAT)	2009-10 27.4.12 & 1.7.12	736586 (487694+ 248892)	DC	AC	23/445-451, HM-08/DT.20.06.13	The AA Stated that as per rule action would be taken	AC sanctioned (self) refund
			25655784					

Annexure-IV

Para No. 2.8.9.1 (Application of incorrect rate of tax)

Sl. No.	Name of auditee unit/Dealer.	Assessment period month of assessment	Taxable turnover (₹)	Rate of tax applicable/ applied(%)	Amount of short levy of tax (₹)	Amount of Refund (₹)	Observation in brief	Reply of the Deptt.	Remark of Audit
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
1.	CTO,Circle-I Jabalpur M/s Badrinath Construction and associates, Siddh Nagar, Jabalpur, 23915809377, 845/10(VAT)	2009-10 June 12	710025	12.5 5	53252 Penalty 159756 213008	111441	Tax on the sale price of Cement of ₹ 710025 was levied at the rate of five *per cent* instead of 12.5 *per cent*. Hence tax at differential rate of 7.5 *per cent* of ₹ 53252. Hence, a demand of ₹ 213008 (Tax ₹ 53252 and Penalty ₹ 159756) was attracted.	On being pointed out the Department stated sand and stone metal were also used along with Cement. Besides this there was a closing stock of ₹ 6705650 in the trading account in which such commodities are also included which are taxable at the rate of 12.5 *per cent*.	The reply does not interpret the fact correctly as trading account and purchase list clearly show purchase and consumption of Cement taxable at the rate of 12.5 *per cent*. And closing stock is much less than opening stock put to consumption.
2.	CTO, Circle-I Jabalpur M/s Jainson Industries, Bedi Nagar, Jabalpur, 23755800832, 481/10(VAT)	2009-10 June 12	8481355	12.5 5	636102 Penalty 1908306 2544408	138967	Tax on Motor parts and spare parts was incorrectly levied at the rate of 5 *per cent* instead of 12.5 *per cent*. Therefore, tax at differential rate of 7.5 *per cent* (12.5-5) on taxable turnover of ₹ 8481355 was attracted the extra demand of ₹ 2544408 (Tax ₹ 636102 and Penalty ₹ 1908306) renders the refund, to this extent, irregular.	On being pointed out the Department stated that in pursuance of Entry no. II/II/71-A the goods, used in the units of Central Government in Madhya Pradesh are taxable at the rate of 5 *per cent*. Amount sale of ₹7469209 has been made to Defence Department.	The reply does not correctly interpret the fact as the Department has not furnished any reply regarding sale of ₹1956820(8481355 -7469209+944674) and there is no entry of the nomenclature II/II/ 71-A in the period of transaction in VAT Schedule.

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
3.	CTO, Circle-III, Gwalior M/s D.K. Associate Gandhi Nagar, Gwalior, 23845303609, 906/10(VAT)	2009-10 June 12	2468955	5 4	24690	11404	The assessing authority levied tax at the rate of 5 *per cent* on the sale of ₹ 365686 whereas as per returned the sale taxable at the rate of five *per cent* calculated to ₹ 2834641. The remaining sale of ₹ 2468955 (2834641-365686) was taxed at the sale of four *per cent*. Hence, tax ₹ 24690 at differential rate of one *per cent* (5-4) on the sale price of ₹ 2468955 is leviable.	On being pointed out the assessing authority state to take action after verification.	
4	CTO-XI, Indore M/s Himalaya Drug, Co., Indore, 23511104903, 322/10(VAT)	2009-10 April-12	3011056	5 4	30111	80090	The dealer deals in receiving the goods on stock transfer and selling the goods. It has been discussed in the Assessment Order that a consolidated accounts of the firm is prepared and is audited at its Registered office at Mangalore, Karnataka for branch office at Indore only stock received register, invoice, sales bills/registers are maintained. No trading account has been submitted by the dealer. The AA while assessing the dealer to tax in sale case, levied tax at the rate of four *per cent* on the taxable turn-over of ₹ 56647382 and at the rate of five *per cent* on the taxable of ₹ 118607720 but after deducting of stock sales return and stock transfer to other branches from stock received of the goods attracting tax at the rate of four *per cent*, it is concluded that the sale price of the same goods was ₹ 53636326. This resulted in application of lower rate of tax of four *per cent* on the sale of ₹ 3011056 (56647382 - 53636326). Consequently there was short levy of tax of ₹ 30,111 being at the rate of one *per cent* (5-4) on the sale of ₹ 3011056	On being pointed out the assessing authority state to take action after verification	

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
5	Sh. H.L. Ramtake, A.C.C.T, Dn.Satna M/s Jain Brothers, Maihar, 23257100519, 25/11(VAT)	2010-11 Nov.12	1593975	13 12.5	7970	11328	The AA while finalising the assessment levied tax at the rate of 12.5 *per cent* instead of 13 percent on the taxable turnover of ₹ 1593975. This resulted in short levy of tax amounting to ₹ 7970.	On being pointed out the AA stated to take action after verification.	
	TOTAL		**16265366**		**752125** **Penalty** **2068062** **2820187**	**273140**			

Annexure-V

Para No. 2.8.9.2 (Incorrect determination of turnover)

Sl. No.	Name of auditee unit/Dealer, TIN, Case no	Period/ month of assessment	Under determination of taxable turnover (₹)	Rate of tax applicable (%)	Amount of short realisation (₹)	Amount of Refund (₹)	Observation in brief	Reply of the Deptt.	Remark of Audit
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
1.	CTO, Circle, Dewas M/s Suresh Devliya Contractor, Dewas Pvt. Ltd., 23102304776, CS48802(VAT)	2010-11 March 2013	676363 732726 1409089	5 12.5	33818 91591 125409	21418	The AA levied tax on the turnover of ₹ 4736275 where as per audited accounts the taxable turnover calculates to ₹ 6145364. This resulted in under determination of turnover to the extent of ₹ 1409089 and short levy of ₹ 125409.	On being pointed out the AA referring to the judicial pronouncement already in the HM, held the assessment correct and stated that rebate of inter site material transportation fabrication work, labour charge, machine hire charges, vehicle expenses from gross turnover has rightly been allowed.	The reply does not correctly interpret the fact. In instant case the rebate of labour, wages, TDS, etc. has already been allowed.
2.	CTO, Circle, Dewas M/s Manish Agrawal, Dewas,2344230352 2,409/10(VAT)	2009-10 June 2012	1811094 579196 2390290	5 12.5	90555 72399 162954	201847	The AA levied tax on the taxable turnover of ₹ 11951456 where as audited accounts the taxable turnover calculates to ₹ 14341746. This resulted is under determination of turnover to the extent of ₹ 2390290 and levy of tax on such under determined turnover ₹ 162954.	On being pointed out the AA stated to take action after verification	
3.	CTO, Circle, Dewas M/s Rajneesh Agrawal, 23132304711, 436/10(VAT)	2009-10 June 2012	4141107 1774760 5915867	5 12.5	207055 221845 428900 Interest 173276 602176	336237	The AA levied tax on the taxable turnover of ₹ 17014123. No audited was produced before assessment though it was required under the rules. No returns too were submitted by the dealer. On account of the TDS amountsof ₹ 764333 was adjusted against the demand raised. On the basis of the TDS the GTO calculated to ₹ 38216650. This resulted in under determination of taxable turnover to the extent of ₹ 5915867 and short levy of tax along with interest of ₹ 602176	On being pointed out the AA stated that the turnover was determined as per the records available in the file and TDS provided to the dealer by government/ Departments.	The reply is not in consonance with the fact as the turnover revealed by audit is 50 times of the TDS submitted by the dealer and accepted by the Department.

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
4.	CTO-I, Jabalpur M/s Harsh Associate, Jabalpur, 23845809270, 839/10(VAT)	2009-10 June 2012	828893 1942397 2771290	12.5 4	103612 77696 181308	49011	The AA levied tax on the taxable turnover of ₹ 2729916. A rebate of ₹ 2395324 in turnover was giver on account of subletting the work but the required form 3, as per rules for the same purpose was not available in the file. Hence, the GTO as per audited account computesto ₹ 5501206. Resulted in under determination of turnover, after allowing the rebate of labour etc., of ₹ 2771290 and short levy of tax to the tune of ₹ 181308.	On being pointed out the AA stated that the dealer carried out canal work and earth work during the period under consideration and rebate of labour (68 *per cent* of turnover) as per rule.	The reply is not in consonance with the fact as amount of labour and labour welfare tax has clearly been mentioned in the audit accounts and accounts and rebate of same has already been considered at the tune of determining turnover by audit.
5.	CTO-I, Jabalpur M/s Arora Construction co., Jabalpur, 23175802606, 1011/10(VAT)	2009-10 April 2012	926904 272041 1198945	4 12.5	37076 34005 71081	34910	The AA levied tax on the turnover of ₹ 2619283 whereas according to the audited accounts the turnover calculate to ₹ 3818228. Resulting in under determination of turnover to the extent of ₹ 1198945 and short levy of tax ₹ 71081 thereon.	On being pointed out the AA stated that material purchased as per audited accounts is ₹ 2002493 and after adding freight and profit thereon turnover has been determined.	The reply is not acceptable as proposed turnover has been arrived at by allowing the rebate of labour and labour welfare tax from receipts at the audited accounts.

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
6.	CTO-III, Gwalior M/s Uttam Developers, Lashkar, Gwalior, 23945104898, 66/10(VAT)	2009-10 April 2012	8665600	5	433280	158800	The AA levied tax on the turnover of ₹ 2345811, while determination the taxable turnover in rebate of ₹ 8665600 on account of Bitumen Road expense paid to M/s Shaper Construction was given. The Sub-Contractor has neither submitted form 3, required as per rules no has certified in any other manner to under taken the responsibility of payment of commercial tax to the Government. This resulted in under determination of turnover to the extent of ₹ 8665600 and short levy of tax to the tune of ₹ 433280	On being pointed out the AA stated to take action after verification.	
7.	CTO-III, Gwalior M/s New R.K. Construction, Gwalior, 2369530694, 900/10(VAT)	2009-10 May 2012	130148 929816 818073 1878037	4 5 12.5	5206 46491 102259 153956	89069	The AA levied tax after determining the taxable turnover ₹ 9841240 according to consolidated audited accounts submitted by the dealer the quantum of labour is 28.55 *per cent* of total receipts. Similarly, after giving rebate of labour etc. i.e. 28.55 *per cent* of total receipts of work done in Madhya Pradesh, the taxable turnover of Madhya Pradesh calculate to ₹ 11719277. This resulted in under determination of taxable turnover to the extent of ₹ 1878037 and short levy of tax to the tune of ₹ 153956.	On being pointed out the AA stated to take action after verification.	
8.	CTO, Harda (2011-13) M/s H.C. Wishwashi, 23-14602607, 253/09(VAT)	2008-09 April 2011	1756997 596000 2352997	4 12.5	70280 74500 144780 Pen434340 579120	215652	The AA levied tax on the taxable turnover of ₹ 9199151 according to audited accounts total purchase was ₹ 8168103 after adding 41.43 *per cent* profit thereon, according to trading account the profit *per cent* was 41.43, the taxable turnover calculates to ₹ 11552148. This resulted in under determination of taxable turn over to the tune of ₹ 2352997 according there was a short levy of tax amounting to ₹ 144780 and penalty ₹ 434340	On being pointed out the AA stated to take action after verification.	

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
9	CTO, Harda (2011-13) M/s Amritlal Jain, Contractor, Harda, 23684602193, 521/10(VAT)	2009-10 June 2012	3230185 941988 4172173	4 12.5	129207 117748 246955 Penalty 740865 987820	206513	The AA levied tax after determining the taxable turnover of ₹ 11408781. According to assessment order non-composition work was 35.11 *per cent* to total receipts. The AA at the tune of finalising the assessment instead of allowing 35.11 *per cent* rebate towards labour, a rebate of ₹ 6765397 being 35.11 *per cent* of ₹ 19269146 the amount of labour and expenditure recorded in audited accounts, allowed rebate of ₹ 12068982 towards labour and expenses and profit. This resulted in under determination of taxable turnover to the tune of ₹ 4172173. This resulted short levy of tax ₹ 246955 and penalty ₹ 740865.	On being pointed out the AA stated to take action after verification.	
10	CTO, Harda (2011-13) M/s Goyal Construction Contractor, Harda, 23274600818, 1030/10(VAT)	2009-10 June 2012	212852 536101 748953	4 12.5	8187 59567 67754 Int.27166 94920	32188	The AA levied tax on the taxable turnover of ₹ 1783964. According to audited trading accounts of the dealer, the taxable turnover calculates to ₹ 2532917 after allowing deduction of labour, labour welfare tax and expenses from the receipt. This resulted in under determination of turnover to the tune of ₹ 748953. This resulted short levy of tax and interest thereon amounting to ₹ 94920.	On being pointed out the AA stated to take action after verification.	
11	CTO, Harda (2011-13) M/s Saiyed Ali, Contractor, Harda, 23914602018, 120/09(VAT)	2008-09 June 2011	5302060 2495087 7797147	4 12.5	212082 311886 523968	219924	The AA levied tax on the taxable turnover of ₹ 18956050. According to audited trading account the taxable turnover computing to ₹ 26753197. Resulting in under determination of taxable turnover to the extent of ₹ 7797147 on short levy of tax thereon to the tune of ₹ 523968.	On being pointed out the AA stated to take action after verification.	
12	CTO, Harda (2011-13) M/s M.H. Sons, Harda, 23094602760, 762/10(VAT)	2009-10 June 2012	230357 230358 460715	5 12.5	11518 28795 40313	67984	The AA levied tax on the taxable turnover of ₹ 23476778 after allowing deduction of ₹ 6068435. On account of labour charge. But the audited accounts of the showed labour expenses of ₹ 5607720. This resulted in under determination of turnover to the extent of ₹ 460715 and short levy of tax ₹ 40313.	On being pointed out the AA stated to take action after verification.	

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
13	CTO, Harda (2011-13) M/s Jyoti Constructions Co., Harda, 23154600884, 327/10(VAT)	2009-10 June 2012	2709946 2196761 1382331 6289038	4 5 12.5	104229 104608 153592 362429	4066	The AA levied tax on the taxable turnover of ₹ 2953372 after allowing deduction of labour charge twice ₹ 10481730 on account of Soil work and labour work at first stage and further 40 *per cent* of the gross turnover of non-composition work on account of labour charges. In this manner deduction on account of labour charges/labour work was allowed twice. The labour charges were not mentioned in the audited accounts of the dealer. This resulted in under determination of taxable turnover by ₹ 6289038 after deducting 40 *per cent* of ₹ 10481730 from it. Subsequently it resulted in short levy of tax to the tune of ₹ 362429.	On being pointed out the AA stated to take action after verification.	
14	CTO-XIII, Indore M/s Aashish Electricals, Indore, 23781301713, CS0000000029535 (VAT)	2011-12 December 2012	731703 870832 2612497 4215032	1.5 13 5	10976 113208 130625 254809 Pen 764427 1019236	1080233	The AA levied tax on taxable turnover of ₹ 29315703. As per audited account of the dealer gross turnover was ₹ 65231537 (sales accounts ₹ 28966460 + Contract Receipts ₹ 35533369 + sale of old car ₹ 731703). This resulted in under determination of taxable turnover ₹ 4215032 and subsequently short levy of the amounting to ₹ 254809 and penalty ₹ 764427	On being pointed out the AA stated to take action after verification.	
15	CTO-XIII, Indore M/s R. Barkalle & Co., Indore, 23641303148, 1592/10(VAT)	2009-10 April 2012	1648128 3708080 5356208	4 12.5	65925 463510 529435	657502	The AA levied tax after determining taxable turnover at ₹ 27081382. As per audited accounts material cast was ₹ 2581804. On adding to its freight, loading-unloading, transportation and fuel expenses and profit as per audited accounts it goes up to ₹ 35046923 after giving rebate of timber and VAT includes in the sale the taxable turnover calculates to ₹ 32437590. This resulted in under determination of taxable turnover to the extent of ₹ 5356208 and subsequently short levy of tax ₹ 529435	On being pointed out the AA did not furnish relevant reply.	
16	CTO-XIII, Indore M/s Gangotri Construction, Indore, 23401302504, CS000000003191 (VAT)	2010-11 January 2013	474472 828792 1303264	5 12.5	23724 103599 127323	559755	The AA levied tax after determination the taxable turnover at ₹ 23209078. As per audited accounts of the dealer the taxable turnover computes to ₹ 24512342. This resulted in under determination of taxable turnover of ₹ 1303264 and consequently short levy of tax the tune of ₹ 127323.	On being pointed out the AA stated to take action after verification	

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
17	CTO-XI, Indore M/s Himalaya Drug Co., Indore, 23511104903, 322/10(VAT)	2009-10 April 2012	2947562 7039968 9987530	5 12.5	147378 879996 1027374	80090	The AA levied tax after determination the taxable turnover at ₹ 217214126. It has been discussed in the assessment order that a Consolidated accounts of the firm is prepared by the registered office of the firm at Mangalore Karnataka. For Branch office at Indore ledger, stock received register, invoice sales bills and registered are kept. As per summary of stock receipt (inward) submitted by the dealer, showed total receipt of ₹ 235657269 of Cosmetics and Medicines. After following rebate of stock transfer to other branches, tax free sales and sales return from total receipts the taxable turnover computes to ₹ 227201656. This resulted in under determination of turnover to the extentof ₹ 9987530 and consequently short levy of tax amounting to ₹ 1027374.	On being pointed out the AA stated to take action after verification	
18	Shri Pradeep Dube, AC Indore M/s Netco Pharma Ltd., Indore, 23341300791, CS00000000791 (VAT)	2010-11 February 2013	117187856	5	5859393	9339	The AA levied tax after determination the taxable turnover at ₹ 173580600. Neither audited accounts nor any other trading account was submitted by the dealer. As per periodical return and assessment order of Entry tax case of the dealer for same period. Total purchase on stock transfer of medicines was ₹ 310603060. After giving deductions an account of tax free goods sales return, stock transfer to other branches and VAT collected in sales as per assessment order of VAT cases from total purchase the taxable turnover computes to ₹ 290768456. This resulted in under determination of taxable turnover to the extent of ₹ 117187856 and consequently short levy of tax to the tune of ₹ 5859393 at the rate of five percent.	On being pointed out the AA stated to take action after verification with respect to audit objection.	

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
19	Shri Pradeep Dube, AC Indore M/s Ganan Dunkrale & Co. Ltd. 23810901911, 44/09(VAT)	2008-09 June 2012	26764978 1408683 28173661	4 12.5	1070599 176055 1246684 Int. 729310 1975994	724062	The AA while re-assessing the case on 30.06.12 allowed deduction of ₹ 46956102 on account of work done by Sub-Contractor on behalf of the dealer. There was no form-3, required according to rules/ as proof of responsibility of payment of tax being undertaken by the Sub-Contractor, Non-availability of form-3 in the file was pointed out by refund sanctioning authority also. This rendered the deduction irregular and resulted in under determination of taxable turnover ₹ 28173661(60 *per cent* of amount of ₹ 46956102). Consequent upon this, there was short levy of tax to the extent of ₹ 1246684 and interest of ₹ 729310.	On being pointed out the AA stated to take action after verification.	
20.	Sh H.L. Ramtake, A.C., Dn.-Satna M/s A.K. Construction Satna, 23637004075, 44/09(VAT)	2009-10 June 2012	515401 907915 424775 1848091	4 5 12.50	20616 45395 53097 119108	409161 (amount of turnover already included in Them. Para no. TDS)	The AA levied tax at the taxable turnover of ₹ 18564842 at different rates. Where as according to audited accounts the taxable turnover calculates to ₹ 20412933. This resulted under determination of turnover to the tune of ₹ 1848091 and consiquently short levy of tax amounting ₹ 119108	On being pointed out the AA stated to take action after verification.	
21.	Sh H.L. Ramtake, A.C. Dn.-Satna M/s K.D. Singh, Contractor, Rewa, 23646905965, 64/10(VAT)	2009-10 20-6-11 (URD) & 12-6-12 (RD)	757152 6165381 3893925 10816458	4 5 12.50	30286 308269 486741 825296	451804	The dealer was assessed to tax in two phases, one for URD period by one authority (AC) and another for registers period another authority (AC), the total taxable turnover determined by the authority was when added together was less by ₹ 10816458 than the returns submitted by the dealer and audited accounts of the dealer. Thus resulted under determination of turnover to the extend of ₹ 10816459 and incidently short levy of tax amounting to ₹ 825296.	On being pointed out the AA stated to take action after verification.	

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
22	CTO-II, Gwalior M/.s Manish Goyal 23775207666 146/11	2010-11 / August 2012/ June 2013	643665	13	83676 Pen 251028 334704	438795	Scrutiny of the case revealed that the AA determined the taxable turnover of cement at ₹ 5329620 taxable at the rate of 13 *per cent* and levied tax turnover. There is no opening or closing balance rendered in the audited accounts of the dealer. As per purchase list of cement the dealer has purchased cement of ₹ 5914770 net of tax, and put to use in the process. This resulted in under determination of turnover to the time of ₹ 585150 (5914770-5329620). After adding 10 *per cent* of profit the under determination of turnover calculated to ₹ 643665. Consequently it concluded short levy of tax amounting to ₹ 83676 at the rate of 13 *per cent* on the above said under determined turnover and penalty ₹ 251028 thereon.	On being pointed out the AA stated that audit would intimated after making notes as per rule.	
		Total	**225581906**		**13016185** **Pen** **2190660** **Int. 929752** **16136597**	**5639199**			

Annexure-VI

Para No. 2.8.9.3 (Non/Short levy of Entry Tax)

Sl. No.	Name of auditee unit/Dealer	Assessment period Month of assessment	Amount of Refund (₹) In CT/ET/ CST case	TTO purchase value (₹)	Rate of tax (%) Differential Rates (%)	Amount of non/short levy of tax (₹)	Observation in brief	Reply of the Deptt.
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	CTO, Circle-I, Jabalpur M/s Pancham Trading Jabalpur, 23595808971, 161/10(ET)	2009-10 May 2012	6,950 ET case Refund	4576192	1	45762 Pen. 137286 183048	Entry tax on purchase value of Cold drink was incorrectly levied at the rate of one *per cent* instead of two *per cent*.	On being pointed out the AA stated to take action after verification.
2.	CTO, Harda (2011-13) M/s M.H. Sons, Harda, 23094602760, 762/10(ET)	2009-10 June-12	(67,984 VAT case (Adjustment)	146466	1.5	Int. 38442	The case was assessed to tax ₹ 146466 for purchase of Iron and Steel, Sand, Cement etc. and interest of ₹ 20877 was levied where as interest on ₹ 1,46,466 for a period of 27 months at the rate of 1.5 *per cent* per month calculates to ₹ 59319. This resulted in short levy of tax amounting to ₹ 38442 and less adjustment against refund in State case.	On being pointed out the AA stated to take action after verification.
3.	Smt. Preeti Shrivastava, AC, Dhar M/s Unichem Laboratories Ltd., 23981604340, 128/10(ET)	2008-09 June-12	29,660 ET case Refund	9237984	1	92380	The AA while assessing the case allowed a rebate of ₹ 9237984 on account of labour charges. Labour charges incurred while acquiring/purchasing goods is part of purchase price. The Audited accounts of the dealer also confirm the fact. This rendered the rebate irregular and consequently resulted into short levy of tax to the tune of ₹ 92380	On being pointed out the AA stated to take action after verification.
4.	Smt. Seema Pandey, A.C. Circle- 3, Bhopal M/s Technocon, Bhopal, 23113803178, 414/10(ET)	2009-10 June 2012	1,05,208 (VAT case adjustment ` 19,369)	2007211	2	40144 Pen. 140504 180648	The AA while finalising the assessment allowed deduction of Iron and steel of ₹ 2007211 purchased from Mandideep a manufacturing unit, treating it tax paid. The scrutiny of purchase list and purchase bills revealed that the purchase of Iron and steel was not tax paid. This resulted in short levy of entry tax amounting ₹ 40144 and penalty of ₹ 140505.	On being pointed out the AA stated to take action after verification.

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
5.	Dr. R.K. Gupta, D.C, Dn, Satna M/s Kamal Sponge Steel & Power LTD., Satna, 23697002889, 7/10(ET)	2009-10 April-12	(1,28,343 in CST case)	18368127 28373153	1 1	183681 283732 467413 Int. 168269 635682	The AA while finalising the assessment did not levy tax on purchase of Furnace oil of ₹ 18368127,a schedule III goods which was subjected to manufacturing of other goods. This resulted non levy of tax amounting to ₹ 183681. Further on Interstate purchase of coal, lubricant and iron amounting to ₹ 121165854. This attracted tax at the rate of 2 *per cent* but the purchase of ₹ 92792701 only out of this purchase was levied tax at the rate of 2 *per cent* and the remaining purchase of ₹ 28373153 was levied tax at the rate of 1 *per cent*. This resulted in short levy of tax amounting to ₹ 283732. The total of non-levy and short-levy of tax amounted to ₹ 467413 and interest of ₹ 168269 thereon.	On being pointed out the AA stated to take action after verification.
6.	Sh. H.L. Ramtake, A.C., Dn., Satna M/s A. K. Construction , Satna, 23637004075, 103/10(ET)	2009-10 June 2012	409161/ VAT Case (Adjusted amt. ₹ 157326 in ET case)	2632217 (iron & tower material)	1(2-1)	26322 Pen. 92127 118449	The AA levied tax on the URD purchase of Iron and Steel and telecommunication tower material, incorrectly at the rate of 1 *per cent* instead of 2 *per cent* as required under the provision. This resulted in short levy of tax amounting to ₹ 26322. As the dealer submitted returns and deposited the tax at rate of 1 *per cent* on that purchase. Hence penalty amounting to ₹ 92127 also leviable.	On being pointed out the AA stated to take action after verification
7	CTO Sagar/ M/s. Sahib Casting Works 23587502548 CS-18844 ET	2010-11/ February 2013/ June 2013	10,108 ET	3052811	2/1	30528 Pen 91584 122112	The AA levied tax on imported Iron & Steel at the rate of one *per cent* instead of two *per cent* in pursuance of Entry no II/3 of the Act. This resulted in short levy of tax amounting to ₹ 30528 and penalty of ₹ 91584 thereon.	The AA stated that action would be taken after verification.
8	CTO- II Gwalior/ M/s Simplex Infrastructures Ltd. 2320504647 14/10, ET	2009-10/ June 2012 /June 2013	4642872 (VAT)/ (after Adjusted in ET Case ₹ 609896)	(1.) (i)1545668 (ii)114084716 (2.) 9093198	10/Nil 1/Nil 2/Nil	154567 1140847 1295414 pen 3886242 5181656 181864	1- The AA levied tax after determining the taxable turnover ₹ 98224680 according to the declaration of purchase form 49 and relevant records total taxable turnover is ₹ 213855064. This resulted in non levy of tax on purchase of ₹ 115630384 (213855064-98224680) consequently it resulted in short levy of tax to the tune of ₹ 1295414 and penalty there on ₹ 3886242. The proposed levy of tax includes tax at the rate of 10 *per cent* on ₹ 1545668 as it a mobile crane and in the light of the judicial pronouncement in the case of M/s. Guru Moovers Pvt. Ltd., Peethampur, CCT MP Order No.24/08/70/XI Dt. 22.01.2009, and at the rate of one *per cent* on ₹ 114084716. 2- Further the AA allowed deduction of ₹ 9093198 on account of Interstate sales purchase value. As per the sale list the sale turnover of scrap net of Iron and steel. This resulted in short levy of entry tax tune of ₹ 181864 of two *per cent* on ₹ 9093198.	The AA stated that action would be taken after verification.

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
9	CTO Sagar/ M/s Manali Construction 23467504554 255/10 ET	2009-10/ April 2012 / June 2013	191135 (VAT)/ (after Adjusted in ET Case 33475)	342347	1/Nil	3423 Pen. 10269 13692	On re-assessment the AA felt to levy tax on purchase price of Bitumen ₹ 342347 which was not included in the purchase list, as it has been discussed in the assessment order of state case. This resulted in Non levy of tax of ₹ 3424 at the rate of one *per cent* on the turnover ₹ 342347 and penalty ₹10272.	The AA stated that action would be taken after verification.
		Total	**46718**	**193460140**		**2183250** **Penalty** **4358013** **Int.206711** **6747974**		

Note:-This renders the refund of ₹ 46718 in ET case, refund of ₹ 5348376 in State case and refund of ₹128343 in CST case in which the assessed demand of Entry Tax case under question has been adjusted.
₹ 4,85,386 [1,05,208 VAT (CTO III, Bhopal), ₹ 128343 CST (DC, Satna), ₹ 251835 VAT (AC, Dn. Satna)]

Annexure-VII

Para No. 2.8.9.4 (Allowance of inadmissible ITR)

Sl. No.	Detail of Unit & Dealer, TIN, Case No.	Period /Month of assessment	Amount of ITR objected (₹)	Amount of Refund (₹)	Audit Observation	Reply of the Department
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	Smt. Preeti Shrivastava, AC, Dhar M/s Ramesh Chandra Surajmal, Badnawar, Dhar, 23971600805, 16/10(VAT)	2009-10 June 2012	40651	55891	The AA assessed the dealer to tax and penalty ₹ 4007042. After adjusting the Tax deducted at source (TDS) ₹ 4022282 received against purchase of Soya been and Input Tax Rebate (ITR) allowed on purchase of packing material ₹ 40651, erroneously, allowed refund of ₹ 55891. This resulted in irregular refund of ITR to the tune of ₹ 40651.	On being pointed out the AA stated to take action after verification.
2.	CTO, Bhind M/s Kailash Agrawal, Bhind, 23684802207, 108/07(VAT)	2006-07/ June 2009	63234	63234	The dealer was granted Input Tax Rebate (ITR) of ₹ 1,66,423 and had submitted Tax deducted at source (TDS) ₹ 38147. The total of these two ₹ 204570 was adjusted against the assessed tax ₹ 103189. The AA adjusted the assessed tax and incorrectly ordered for a refund of ₹ 101381 instead of ordering for refund ₹ 38147 and carrying forward the excess of ITR ₹ 63234. This resulted in irregular refund of ITR to the extent of ₹ 63234.	On being pointed out the AA stated to take action after verification.
3	CTO-II, Gwalior/ M/s M Venkatrao Infrastructure(P)Ltd 23495208111 136/10(VAT)	2009-10/ May 2012	321980	2011065	The refund case period of 2009-10 was repatriated to the AA by the competent authority on 5.06.12 for verification of claimed ITR amount. No proof of verification of ITR was found in the file. However, the AA on very next day of above said instruction, The AA issued RPO on 6.06.12 for ₹ 1644243 after adjusting demand in ET cases of ₹ 366822) from the refund amount ₹ 2011065. As per refund file no efforts to verify the ITR was appear to have been made. This resulted in non-compliance of instructions of senior officers, and irregular payment of refund as it was not scrutiny by competent authority.	On being pointed out the AA stated that audit would intimated after making notes as per rule.
4	CTO-II, Gwalior M/s Sentury Construction, 23415208252 804/11(VAT)	2010-11/ June-12	40761	146705	The AA while finalising the assessment allowed ITR without verifying the purchaser and the tax paid thereon. As per purchase list there was to transactions of import consequently. There was purchase of ₹ 1014679 on which ITR of ₹ 40761 was allowed irregular allowance of ITR ₹ 40761 This resulted in irregular grant of ITR ₹ 40761 and penalty ₹ 122283 thereon.	On being pointed out the AA stated that audit would intimated after making notes as per rule.
	TOTAL		**466626**	**2276945**		

Annexure-VIII

Para No. 2.8.9.6 (Adjustment of irregular 'TDS')

Sl. No.	Name of auditee unit Dealer, TIN, Case no	Period/ month of assessment	Grant of deduction on irregular declaration (₹)	Amount of short realisation (₹)	Amount of Refund (₹)	Observation in brief	Reply of the Deptt.
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1.	Sh. H.L. Ramtake, A.C., Dn.-Satna M/s A.K. construction, Satna, 23637004075, 103/10(VAT)	2009-10 June 2012	251849	251849	409161	The AA while finalising the assessment allowed adjustment of irregular three T.D.S. amounting to ₹ 251849. Out of the three T.D.S. two T.D.S. amounting to ₹ 251849 did not contain the detail of depositing the amount of Government Treasury while the third T.D.S. pertain to the transaction of previous financial year.	On being pointed out the AA stated to take action after verification.
2	Sh. O.P.Verma, A.C., Circle-V, Bhopal M/s Zoom Computer System, Bhopal, 23934008658, 982/11(VAT)	2010-11 January 2013	-	19090	33458	The AA while finalizing the assessment allowed adjustment of such T.D.S. some of the transaction contained in the T.D.S. amounting to ₹ 19090 did not pertain to the financial year for which adjustment was allowed.	On being pointed out the AA stated to take action after verification.
3.	CTO, Sagar/ M/s Anand Agro, Sagar 23307502508 Remand,3/10(Vat)	2007-08 April 2012	17229	2481	2245	The AA allowed adjustment of the TDS issued for the transactions of previous year, against the assessed tax. This resulted in irregular allowance of deduction of ₹ 2481 against the assessed Tax.	The AA assured that action would be taken after verification.
4.	CTO, Sagar/ M/s Smiriti Traders, Sagar 23557402315 23957/Vat	2010-11 January 2013	232611	232611	5793	The AA allowed adjustment of the TDS issued for the transactions of more than one month. This resulted in adjustment of irregular TDS amounting to ₹ 232611 against the assessed Tax.	The AA stated to take action after verification.

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
5	CTO-II, Gwalior M/s A.N.S. Construction 23285205365 57/10VAT	2009-10 August 2011	1649381	1649381	1647381	The refund case was repatriated to the AA by the competent authority on 5.11.11 for verification of deposit of TDS in to govt. treasury. No proof of deposit of TDS into govt. treasury was found in the file. However, the AA on 08.11.11 of above said instruction, the AA issued RPO on 08.11.11 for ₹ 1645381 after adjusting demand in ET of ₹ 2000 from the refund amount ₹ 1647381 further the AA wrote a letter to the Executive Engineer Harsi irrigation division, Dabra, for details of deposits of the amount of TDS to govt. treasury on 21.11.11 i.e. the date when RPO was issued. As per refund file, no efforts to verify the TDS was appear to have been made. This resulted in non compliance of instructions of senior officers, and irregular payment of refund as it was not scrutiny by competent authority.	On being pointed out the AA stated that audit would intimated after making notes as per rule.
6	CTO-II, Gwalior M/s M Venkatrao Infrastructure (P) Ltd. 23495208111 136/10(VAT)	2009-10 May 2012	3799732	3799732	2011065	The refund case period of 2009-10 was repatriated to the AA by the competent authority on 5.06.12 for verification of deposit of TDS amount in to govt. treasury. No proof of deposit of TDS amount into govt. treasury was found in the file. However the AA on very next day of above said instruction, The AA issued RPO's on 6.06.12 for ₹ 1644243 after adjusting demand in ET cases of ₹ 366822 from the refund amount ₹ 2011065 further the AA wrote a letter to the project Officer, National highway Authority of India, Gwalior for details of deposits of the amount of TDS to govt. treasury on 13.06.12 i.e. the date when RPO was issued. As per refund file no efforts to verify the TDS was appear to have been made. This resulted in non compliance of instructions of senior officers, and irregular payment of refund as it was not scrutiny by competent authority.	On being pointed out the AA stated that audit would intimated after making notes as per rule.

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
7	CTO-II, Gwalior M/s M Venkatrao Infrastructure (P)Ltd 23495208111 231/11(VAT)	2010-11 May 2012	182039	182039	1788039	The refund case period of 2010-11 were repatriated to the AA by the competent authority on 5.06.12 for verification of deposit of TDS amount in to govt. treasury. No proof of deposit of TDS amount into govt. treasury was found in the file. However, the AA on very next day of above said instruction, The AA issued RPO's on 6.06.12 for ₹ 1788039 after adjusting demand in ET cases of ₹ 2000 from the refund amount ₹ 1790039 further the AA wrote a letter to the project Officer, National highway Authority of India, Gwalior for details of deposits of the amount of TDS to govt. treasury on 13.06.12 i.e. the date when RPO was issued. As per refund file no efforts to verify the TDS was appear to have been made. This resulted in non compliance of instructions of senior officers, and irregular payment of refund as it was not scrutiny by competent authority.	On being pointed out the AA stated that audit would intimated after making notes as per rule.
	TOTAL		**6151931**	**6137183**	**5899142**		

Annexure-IX

Para No. 2.8.9.7 (Non imposition of penalty)

(A)

Sl. No.	Name of Audittee Unit/Dealer/TIN/ Case No.	Assessment period Month of assessment	Refund Amount after Assessment under section 21 (₹)	Amount of disallowed ITR/TDS (₹)	Amount of Non levy of Penalty (₹)	Observation in brief	Reply of the Department
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1	CTO-II Gwalior M/s Lakhpati Singh Contractors 23985203525 203/08 VAT	2007-08 /February 2010 and April 2012 (section 21)	805178	352585 (ITR)	1057755	The Competent Authority ordered to look in to the matter of ITR and re-scrutinises that to the AA. The AA after carrying out necessary scrutiny denied to accept a part of ITR ₹ 352585. This was initially claimed by the dealer. Denial of the claimed ITR by dint of evidences invoked provision of section-21 of the Act and the dealer was liable to penalty. This resulted in imposition of penalty ₹ 1057755 and less assessment of demand to same extent. This rendered the refund of ₹ 805178 irregular in the case.	The AA stated that action would be taken after verification.
2	CTO-II Gwalior M/s NareshKatare Contractors 23285207305 130/08/VAT	2007-08 /July 2010 and June 2012 (section 21) / June 2013	492367	106354 (ITR) 1532 (TDS)	323658	The Competent Authority ordered to look in to the matter of ITR/TDS and re-scrutinise that to the AA. The AA after carrying out necessary scrutiny denied to accept a part of ITR and TDS ₹ 107886. Which was initially claimed by the dealer Denial of the claimed ITR by dint of evidences invoked provision of section-21 of the Act and the dealer was liable to penalty. This resulted in imposition of penalty ₹ 323658 and less assessment of demand to same extent. This rendered the refund of ₹ 492367 irregular in the case.	The AA stated that action would be taken after verification.
3	CTO- II Gwalior/ M/s Simplex Infrastructures Ltd. 2320504647 13/10 VAT	2009-10/ June 2012 and August 2012 (section 21)/ June 2013	4642872	1775682 (ITR)	5327046	The Competent Authority ordered to look in to the matter of ITR and re-scrutinises that to the AA. The AA after carrying out necessary scrutiny denied to accept a part of ITR ₹ 1775682.This was initially claimed by the dealer. Denial of the claimed ITR by dint of evidences invoked provision of section-21 of the Act and the dealer was liable to penalty. This resulted in imposition of penalty ₹ 5327046 and less assessment of demand to same extent. This rendered the refund of ₹ 4642872 irregular in the case.	The AA stated that action would be taken after verification.
	TOTAL (A)		**5940417**	**2234621 (ITR) 1532 (TDS)**	**6708459**		

(B.)

Sl. No.	Name of Audittee Unit/Dealer/Case No.	Assessment period Month of assessment	Refund Amount after Assessment under section 21 (₹)	Amount by which TTO was raised (₹)	Amount of Non levy of Penalty (₹)	Observation in brief	Reply of the Deptt.
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1	CTO Sagar/ M/s Manali Construction 23467504554 255/10 VAT	2009-10/ April and July 2012 (section 21) /June 2013	191135	588222	298047	The case was re-assessed at the instance of refund sanctioning authority. As per form-49, a purchase declaration, the dealer had purchase Bitumin amounting to ₹ 342347, which was not declared in the purchase list submitted by the dealer. The AA determine the sale of Bitumin and assessed it to tax of ₹ 99349 but did not levy the penalty. This resulted in non levy of penalty to the tune of ₹ 298047. This rendered the refund of ₹ 191135 irregular in the case.	The AA stated that action would be taken after verification.
	TOTAL- (B)		191135	588222	298047		
	Total (A+B)		**6131552**	**2824375**	**70,06,506**		

Annexure-X

Para referred in to the paragraph 7.6.19

Statement showing non/short realisation of contract money

Sl. No.	Name of Unit	No. of Contractors	Payable amount (₹)	Paid amount (₹)	Balance amount (₹)	Total (₹)
1.	2.	3.	4.	5.	6.	7.
1.	DMO, Alirajpur	6	60,000 25,000 49,750 77,250 83,250 78,750	-- -- -- -- ----	60,000 25,000 49,750 77,250 83,250 78,750	3,74,000
2.	DMO, Anuppur	4	1,26,000 1,43,750 1,21,000 65,000	50,400 76,680 -- 21,000	75,600 67,070 1,21,000 44,000	3,07,670
3.	DMO, Balaghat	2	1,27,500 1,29,710	-- --	1,27,500 1,29,710	2,57,210
4.	DMO, Chhatarpur	2	81,500 1,31,250	-- --	81,500 1,31,250	2,12,750
5.	DMO, Damoh	6	1,45,000 1,11,000 1,65,000 1,50,000 77,500 90,000	-- 44,400 66,000 -- -- --	1,45,000 66,600 99,000 1,50,000 77,500 90,000	6,28,100
6.	DMO, Indore	5	1,40,000 57,500 2,50,250 75,250 22,800	54,000 -- -- -- --	86,000 57,500 2,50,250 75,250 22,800	4,91,800

1.	2.	3.	4.	5.	6.	7.
7.	DMO, Jabalpur	2	8,50,000 2,00,000	7,17,500 1,54,000	1,32,500 46,000	1,78,500
8.	DMO, Katni	8	75,500 1,10,000 1,92,400 1,98,750 1,98,750 75,500 1,12,500 75,000	-- -- -- -- -- -- -- --	75,500 1,10,000 1,92,400 1,98,750 1,98,750 75,500 1,12,500 75,000	10,38,400
9.	DMO, Satna	5	13,750 15,000 12,000 65,334 20,000	-- -- -- -- --	13,750 15,000 12,000 65,334 20,000	1,26,084
10.	DMO, Shahdol 2011-12	15	12,890 24,036 12,018 2,53,731 40,666 14,635 25,005 11,750 1,73,317 51,800 13,956 17,000 17,000 19,333 1,21,000	-- -- -- 1,10,000 -- -- -- -- -- -- - -- - -- -	12,890 24,036 12,018 1,43,731 40,666 14,635 25,005 11,750 1,73,317 51,800 13,956 17,000 17,000 19,333 1,21,000	6,98,137

1.	2.	3.	4.	5.	6.	7.
11.	DMO, Shahdol 2012-13	3	3,00,000 25,000 22,500	-- 8,000 --	3,00,000 17,000 22,500	3,39,500
12.	DMO, Sidhi 2012-13	3	6,45,750 58,750	-- 29,250	6,45,750 29,500	6,75,250
13.	DMO, Sidhi 2011-12	7	30,000 2,51,000 1,01,000 75,500 36,500 40,500 3,45,000	-- -- -- -- -- -- 2,10,000	30,000 2,51,000 1,01,000 75,500 36,500 40,500 1,35,000	6,69,500
14.	DMO, Tikamgarh	2	1,09,125 3,25,000	-- 2,81,300	1,09,125 43,700	1,52,825
Total		**69**	**79,72,256**	**18,22,530**	**61,49,726**	**61,49,726**

Note: An amount of ₹ 81.22 lakh relates to the objection taken during transaction audit of DMOs Bhopal, Chhindwara, Dewas, Hoshangabad, Mandsaur, Panna, Raisen, Rewa, Sagar, Sehore, Seoni, Shivpuri and Umaria.

(Say ₹ 1.43 crore)

Annexure-XI

Para referred in to the paragraph 7.6.20. 1

Statement showing non levy/realisation of interest on belated payments on Mining Lease

Sl. No.	Name of Unit	Name of cement factory	Due royalty (₹ in lakh)/ (period)	Paid royalty (₹ in lakh)/ Challan no. & date	Delay in days	Interest leviable (₹ in lakh)	Interest levied (₹ in lakh)	Balance (₹ in lakh)
1.	2.	3.	4.	5.	6.	7.	8.	9.
1.	DMO, Anuppur	SECL, Sohagpur	329.30/ upto Jan. 2012	178.10 8/18.2.2012	--			
				151.20 57/16.8.2012	119	11.83	Nil	11.83
2.	DMO, Satna	Maihar Cement, Satna	594.15/ 4/ 2011 to 3/2012	619.59 67/15.5.2012	25 to 300	50.04	Nil	50.04
3.	DMO, Sidhi	Jaypee Sidhi Cement Plant, Majhgawan	108.52/ 1/2009 to 3/2011	291.88 66/4.1.2013	upto 630	52.07	Nil	52.07
			145.53/ 4/2011 to 3/2012		210	20.38	Nil	20.38
TOTAL						**134.32**	--	**134.32**

Note: An amount of ₹ 3.01 lakh relates to the objection taken during transaction audit of Diamond officer, Panna and DMO, Sagar.

(Say ₹ 1.37 crore)

Annexure-XII

Para referred in to the paragraph 7.6.20.2

Statement showing non levy/realisation of interest on belated payments on trade quarry

Sl. No.	Name of Unit	No. of Contractors	Contract period	Due contract money (₹)	Paid contract money (₹)	Delay in days	Interest leviable (₹)	Interest levied (₹)	Balance Amount (₹)	Total
1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.
1.	DMO, Anuppur	8	4/11 to 3/13	176250	176250	43 to 227	15645	--	15645	242301
			12/10 to 11/12	160000	160000	29 to 150	9563	--	9563	
			4/10 to 3/12	189000	189000	180 to 365	32508	--	32508	
			4/11 to 3/13	101000	101000	100 to 180	9380	--	9380	
			4/11 to 3/13	278000	278000	43 to 148	18964	--	18964	
			4/11 to 3/13	131250	131250	86 to 137	10126	--	10126	
			4/10 to 3/12	862500	862500	87 to 330	117888	--	117888	
			12/10 to 11/12	451000	451000	25 to 150	28227	----	28227	
2.	DMO, Balaghat	8	4/11 to 3/13	651292	651292	13 to 147	25373	--	25373	98439
			5/11 to 3/13	730354	730354	26 to 37	7816	--	7816	
			4/11 to 3/13	375750	375750	10 to 102	15071	--	15071	
			4/11 to 3/13	123520	123520	46 to 60	4305	--	4305	
			4/11 to 3/13	183104	183104	30	3662	--	3662	
			5/11 to 3/13	1913312	1913312	20 to 30	31714	--	31714	
			4/11 to 3/13	113750	113750	53	3964	--	3964	
			4/11 to 3/13	187500	187500	53	6534	--	6534	
3.	DMO, Damoh	2	4/11 to 3/13	232500	232500	80 to 230	22930	--	22930	49988
			4/11 to 3/13	232500	232500	107 to 257	27058	--	27058	
4.	DMO, Indore	6	10/11 to 3/13	220000	220000	39 to 112	10921	--	10921	61913
			4/11 to 3/13	140000	124000	95 to 126	8847	--	8847	
			4/11 to 3/13	230000	230000	62 to 243	21323	--	21323	
			4/11 to 3/13	250250	250250	64 to 120	12381	--	12381	
			4/11 to 3/13	75250	75250	45	2227	--	2227	
			4/11 to 3/13	218750	218750	32 to 52	6214	--	6214	

1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.
5.	DMO, Katni	1	4/11 to 3/16	37750	37750	260	6436	--	6436	6436
6.	DMO, Shahdol (2011-12)	5	4/11 to 3/13	57666	57666	187 to 307	9365	--	9365	23956
			4/10 to 3/12	75000	75000	75 to 165	5917	--	5917	
			11/11 to 3/13	253731	110000	54	3906	--	3906	
			4/11 to 3/13	53666	53666	45 to 109	2718	--	2718	
			4/11 to 3/13	20500	20500	150	2050	--	2050	
7.	DMO, Shahdol (2012-13)	1	10/11 to 3/13	177534	177534	45 to 92	8343	--	8343	8343
8.	DMO, Sidhi (2011-12)	6	4/11 to 3/13	645750	645750	30 to 231	33402	--	33402	108862
			4/11 to 3/13	182500	182500	169 to 259	11080	--	11080	
			4/11 to 3/13	162500	162500	262 to 352	23355	--	23355	
			4/11 to 3/13	131250	131250	29 to 83	5380	--	5380	
			4/10 to 3/12	66000	66000	52 to 321	8094	--	8094	
			4/10 to 3/12	345000	325000	82 to 252	27551	--	27551	
9.	DMO, Sidhi (2012-13)	6	4/11 to 3/13	117500	96010	117 to 392	15089	--	15089	1052186
			4/11 to 3/13	101250	101250	178	11850	--	11850	
			4/11 to 3/13	15003750	12201250	70 to 217	1000711	--	1000711	
			4/11 to 3/13	175000	175000	30 to 128	8831	--	8831	
			11/11 to 3/13	73500	67376	119 to 363	10185	--	10185	
			4/11 to 3/13	215250	215250	39	5520	--	5520	
10.	DMO, Tikamgarh	4	4/11 to 3/13	301500	301500	61 to 423	49695	--	49695	85955
			4/11 to 3/13	36375	36375	210	5023	--	5023	
			4/11 to 3/13	144000	144000	10 to 190	3569	--	3569	
			4/11 to 3/13	325000	314500	71 to 184	27668	--	27668	
Total		**47**					**1738379**	**--**	**1738379**	**1738379**

Note: An amount of ₹ 11.84 lakh relates to the objection taken during transaction audit of DMOs, Ashoknagar, Bhopal, Hoshangabad, Panna, Rewa, Sagar, Sehore, Seoni,Ujjain and Umaria.

(Say ₹ 29.22 lakh)

Annexure-XIII

Para referred in to the paragraph 7.6.20.3

Statement showing non levy/realisation of interest on belated payments on quarry lease

Sl. No.	Name of Unit	No. of Contractors	Lease period	Due Dead Rent/ Due Date (₹)	Paid Dead Rent (₹)	Delay in days	Interest leviable (₹)	Interest levied (₹)	Balance Amount (₹)	Total
1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.
1.	DMO, Anuppur	10	6.4.05 to 5.4.15	90000/Jan.11	52800	98 to 276	6492	--	6492	121632
			31.3.08 to 30.3.18	90000/Jan.11	89760	173 to 329	13270	--	13270	
			28.5.05 to 27.5.15	120000/Jan.11	105000	336 to 339	23335	--	23335	
			3.9.08 to 2.9.18	60000/Jan.12	60000	233	9190	--	9190	
			17.2.05 to 16.2.15	120000/Jan.12	26400	95	1649	--	1649	
			28.5.05 to 27.5.15	120000/Jan.11	67200	330	14784	--	14784	
				120000/Jan.12	52800	105	3635	--	3635	
			10.11.05 to 9.11.15	90000/Jan.12	50400	162	5369	--	5369	
			12.7.05 to 11.7.15	60000/Jan.11	60000	65 to 323	8261	--	8261	
				60000/Jan.12	60000	46 to 150	4196	--	4196	
			23.7.08 to 22.7.18	60000/Jan.11	60000	330	13200	--	13200	
				60000/Jan.12	60000	157	6177	--	6194	
			23.9.09 to 22.9.19	50000/Jan.11	48400	260 to 339	9417	--	9417	
				50000/Jan.12	26400	150	2640	--	2640	
2.	DMO, Balaghat	5	2.3.09 to 1.3.19	50000/Jan.11	30000	324	5691	--	5691	64741
			27.10.04 to 26.10.14	60000/Jan.11	60000	213	8403	--	8403	
			7.11.03 to 6.11.13	90000/Jan.11	90000	185	10948	--	10948	
				90000/Jan.12	90000	114	6746	--	6746	
			10.8.06 to 9.8.16	60000/Jan.11	60000	179	7062	--	7062	
			29.10.09 to 28.10.19	75000/Jan.11	75000	465	22932	--	22932	
				75000/Jan.12	45000	100	2959	--	2959	

1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.
3.	DMO, Chhatarpur (2011-12)	9	9.5.07 to 8.5.17	120000/Jan.11	45000	352	10415	--	10415	222102
				120000/Jan 12	120000	22 to 258	19173	--	19173	
				60000/Jan.11	60000	447	17635	--	17635	
				60000/Jan.12	60000	248	9784	--	9784	
			9.6.08 to 8.6.13	60000/Jan.12	60000	241	9508	--	9508	
			3.7.09 to 2.7.19	120000/Jan.11	100000	136 to 298	19660	--	19660	
				54739/Jan.10	38096	194	4860	--	4860	
			13.11.04 to 12.11.14	120000/Jan.10	120000	457	36059	--	36059	
				120000/Jan.11	120000	91	7180	--	7180	
			9.5.03 to 8.5.13	360000/Jan.11	360000	35 to 342	30431	--	30431	
				360000/Jan.12	360000	60 to 283	38233	--	38233	
			16.6.09 to 15.6.19	90000/Jan.11	90000	218	12900	--	12900	
				90000/Jan.12	57200	5	188	--	188	
			12.6.09 to 11.6.19	120000/Jan.11	120000	77	6076	--	6076	
4.	DMO, Chhatarpur (2012-13)	5	8.10.08 to 7.10.18	90000/Jan.12	90000	242	14321	--	14321	42204
				90000/Jan.13	90000	40	2367	--	2367	
			12.6.09 to 11.6.19	100000/Jan.12	100000	30 to 79	3262	--	3262	
				75000/Jan.11	75000	247	12180	--	12180	
			24.2.11 to 23.2.21	100000/Jan.12	100000	122	8022	--	8022	
			30.9.03 to 29.9.13	60000/Jan.12	60000	52	2052	--	2052	
5.	DMO, Damoh	6	27.10.10 to 26.10.15	50000/Jan.12	50000	110	3616	--	3616	22539
			10.10.06 to 9.10.16	120000/Jan.11	120000	120	9600	--	9600	
			29.11.07 to 28.12.12	30000/Jan.11	30000	236	2855	--	2855	
			29.3.08 to 28.3.13	30000/Jan.11	30000	294	2800	--	2800	
			2.3.09 to 1.3.14	30000/Jan.12	30000	262	3668	--	3668	

1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.
6.	DMO, Indore (2011-12)	5	1.4.08 to 31.3.18	120000/Jan.11	120000	37	2919	--	2919	61255
			17.8.06 to 16.8.16	120000/Jan.11	120000	201	15860	--	15860	
				120000/Jan.12	120000	123	9679	--	9679	
			18.8.03 to 17.8.13	90000/Jan.11	90000	403	23849	--	23849	
				90000/Jan.12	90000	38	2243	--	2243	
			2.5.08 to 1.5.18	60000/Jan.11	60000	116	4576	--	4576	
				60000/Jan.11	60000	17	433	--	433	
			21.1.09 to 20.1.19	60000/Jan.11	60000	43	1669	--	1669	
7.	DMO, Indore (2012-13)	9	31.1.08 to 30.1.18	120000/Jan.12	120000	19	1499	--	1499	59359
				120000/Jan.13	120000	51	4024	--	4024	
			23.10.10 to 22.10.20	75000/Jan.12	120000	297	14647	--	14647	
			31.1.08 to 30.1.18	120000/Jan.12	120000	62	4892	--	4892	
			21.7.08 to 20.7.18	120000/Jan.12	120000	59	4655	--	4655	
				120000/Jan.13	120000	44	3472	--	3472	
			25.8.03 to 24.8.13	90000/Jan.11	90000	159 to 163	9528	--	9528	
				90000/Jan.12	90000	12	651	--	651	
			15.1.09 to 14.1.19	120000/Jan.13	120000	50	3945	--	3945	
			12.5.09 to 11.5.19	120000/Jan.13	120000	32	2524	--	2524	
			7.1.10 to 6.1.30	75000/Jan.12	75000	43	2121	--	2121	
				88000/Jan.13	88000	42	2430	--	2430	
			13.3.09 to 12.3.19	120000/Jan.13	120000	63	4971	--	4971	
8.	DMO, Indore (2012-13) (On Royalty)	2	20.8.08 to 19.8.18	96057/16.1.12	96057	387	24443	--	24443	49713
			31.1.08 to 30.1.18	234817/16.7.11	234817	86	13278	--	13278	
				222420/16.7.12	222420	82	11992	--	11992	
9	DMO, Jabalpur	2	16.7.10 to 15.7.20	60000/Jan.12	60000	70	2761	--	2761	5909
			1.8.11 to 31.7.21	42000/20.8.12	42000	114	3148	--	3148	

1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.
10.	DMO, Katni	7	18.11.03 to 17.11.13	681444/Jan.11	548444	300 to 600	153089	--	153089	334331
			12.5.05 to 11.5.25	1152050/Dec11	800000	161	84690	--	84690	
			11.6.02 to 10.6.12	229250/Dec.11	186000	150 to 300	33475	--	33475	
			6.11.08 to 5.11.18	100000/Jan.11	100000	120 to 345	17398	--	17398	
			6.11.08 to 5.11.18	100000/Jan.11	100000	330	22000	--	22000	
			31.5.08 to 20.5.18	75000/Jan.11	36000	42	994	--	994	
			7.2.08 to 6.2.18	100000/Jan.11	100000	345	22685	--	22685	
11	DMO, Satna (2011-12)	4	21.6.10 to 20.6.10	50000/Jan.11	35375	420	9905	--	9905	52341
			13.3.11 to 12.3.16	30000/Jan.11	30000	383	7555	--	7555	
			11.12.11 to 10.12.13	60000/Jan.11	60000	322	12704	--	12704	
				60000/Jan.12	60000	144	5681	--	5681	
			12.8.08 to 11.8.18	120000/Jan.11	64000	392	16496	--	16496	
12	DMO, Shahdol (2011-12)	8	22.12.05 to 21.12.15	60000/Jan.12	60000	134	5287	--	5287	43884
			28.2.07 to 27.2.17	30000/Jan.11	15000	138	3334	--	3334	
			4.3.08 to 3.3.18	90000/Jan.11	50000	144	4734	--	4734	
			28.7.05 to 27.7.15	60000/Jan.11	60000	120 to 322	8752	--	8752	
			23.5.07 to 22.5.17	90000/Jan.12	90000	42 to 183	8048	--	8048	
			31.3.07 to 30.3.17	30000/Jan.11	30000	233	4596	--	4596	
				30000/Jan.12	30000	66	1302	--	1302	
			22.12.05 to 21.12.15	30000/Jan.12	30000	114	2249	--	2249	
			14.8.08 to 13.8.13	30000/Jan.11	30000	283	5582	--	5582	
13	DMO, Sidhi (2011-12)	8	4.1.06 to 3.1.16	120000/Jan.11	120000	690	55200	--	55200	155538
			30.1.05 to 20.1.15	60000/Jan.10	60000	1020	39580	--	39580	
			7.8.10 to 6.8.20	20140/Aug.11	20140	480	6445	--	6445	
				32400/Jan.12	32400	330	7128	--	7128	
			10.9.08 to 9.9.18	120000/Jan.12	120000	232 to 266	9265	--	9265	
			18.3.08 to 17.3.18	120000/Jan.11	120000	64 to 393	20894	--	20894	
				120000/Jan.12	91200	11 to 112	3702	--	3702	
			21.5.09 to 20.5.16	75000/Jan.11	70400	128 to 155	6551	--	6551	
			6.7.09 to 5.7.19	30000/Jan.11	30000	240	4800	--	4800	
			27.12.06 to 26.12.11	30000/Jan.11	30000	100	1973	--	1973	

1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.
14	DMO, Sidhi (2012-13)	6	13.2.08 to 12.2.18	120000/Jan.12	120000	242	19095	--	19095	91712
				120000/Jan.13	120000	58	4576	--	4576	
			30.4.03 to 29.4.13	27500/Jan.10	27500	742	13417	--	13417	
				30000/Jan.11	30000	377	7437	--	7437	
				30000/Jan.12	30000	12	237	--	237	
			22.9.09 to 21.9.19	5573/Jan.10	5573	1062	3891	--	3891	
				50000/Jan.11	50000	697	22915	--	22915	
				60000/Jan.12	60000	332	8098	--	8098	
			14.12.09 to 13.12.14	75000/Jan.11	35200	28	648	--	648	
				75000/Jan.12	75000	86 to 116	5026	--	5026	
				90000/Jan.13	88000	16 to 85	2922	--	2922	
			16.6.08 to 15.12.13	30000/Jan.13	30000	74	1460	--	1460	
			15.11.05 to 14.11.15	60000/Jan.12	35200	86	1990	--	1990	
Total		**86**							**1327260**	**1327260**

Note: An amount of ₹ 14.61 lakh relates to the objection taken during transaction audit of DMOs, Ashoknagar, Bhind, Bhopal, Chhindwara, Dhar, Gwalior, Mandsaur, Narsinghpur, Panna, Rewa, Sagar, Ujjain and Umaria.

(Say ₹ 27.88 lakh)

Annexure-XIV

Para referred in to the paragraph 7.6.23.2

Statement showing non/short payment of Rural Infrastructure and Road Development Tax (RD Tax)

Sl No	Name of Unit	No of lessee	Minerals	Year for which tax payable	Production Quantity (in MT)	Calculation of RD Tax (Average Production x PMV x 5 *per cent*)	Payable amount (₹ in lakh)	Paid amount (₹ in lakh)	Balance amount (₹ in lakh)
1.	2.	3.	4.	5.	6.	7.	8.	9.	10.
1.	DMO, Damoh	2	Limestone	2011-12	2009-10 - 969164.48 2010-11- 759287.31 **Total 1728451.79**	864225.895 x 116.75 x 5 *per cent*	50.45	76.06	20.04
				2011-12	2009-10 679350.66 2010-11 740294.66 **Total 1419645.32**	709822.66 x 128.62 x 5 *per cent*	45.65 96.10		
2.	DMO, Katni	1	Limestone and Clay	2011-12	Lime stone 2009-10 3749250.77 2010-11 3990622.35 **Total (i) 7739873.12** Clay 2009-10 417250.35 2010-11 432722.71 **Total (ii) 849973.06** **Total (i)+(ii)= 8589846.18**	4294923.09 x 55.24 x 5 *per cent*	118.63	116.13	2.50
3.	DMO, Neemuch	1	Lime stone	2010-11	2008-09 4941472 2009-10 4949041 Total 9890513	336277446 x 5 *per cent* (Average value of mineral taken from the DMO)	168.14	37.67	130.47
4.	DMO, Satna	2	Limestone	2011-12	2009-10 362722.326 2010-11 1753741.000 **Total 2116463.326**	1058231.663 x 42 x 5 *per cent*	22.22	-	22.22
				2011-12	2009-10 3298073 2010-11 3646997 **Total 6945070**	3472535 x 34 x 5 *per cent*	59.04		59.04

1.	2.	3.	4.	5.	6.		7.	8.	9.	10.
5.	DMO, Shivpuri	1	Diaospre	2010-11	2008-09 2009-10 **Total**	2043 2117 **4160**	2080 x 962 x 5 *per cent*	1.00	2.65	1.66
			Pyrophylli-te	2010-11	2008-09 2009-10 **Total**	19257 27789 **47046**	23523 x 281 x 5 *per cent*	3.31		
6.	DMO, Sidhi	1	Limestone	2012-13	2010-11 2011-12 **Total**	1212768 1113184 **2325952**	1162976 x 48.30 x 5 *per cent*	28.09	-	28.09
Total								**496.53**	**232.51**	**264.02**

(Say ₹ 2.64 crore)

Annexure-XV

Para referred in to the paragraph 7.6.23.3

Statement showing non-payment of MP Rural Infrastructure & Road Development Tax on idle mines

Sl. No.	Name of unit/ Audit period	No. of lessee	Area of lease (in hectare)	Year for which tax payable	Rate per hectare (in ₹)	Payable Amount (₹ in lakh)	Paid Amount (₹ in lakh)	Balance Amount (₹ in lakh)
1.	2.	3.	4.	5.	6.	7.	8.	9.
1.	DMO Anuppur (2011-12)	3	8511.469	2011-12	4000	340.46	-	340.46
2.	DMO Anuppur (2012-13)	1	6889.274	2012-13	4000	275.57	-	275.57
3.	DMO Balaghat (2011-12)	2	137.147	2011-12	4000	5.49	-	5.49
4.	DMO Balaghat (2012-13)	5	40.465	2006-07 to 2012-13 (7 years)	4000	11.33	-	11.33
		2	137.147	2012-13	4000	5.49	-	5.49
5.	DMO Chhatarpur (2012-13)	17	90.975	2012-13	4000	3.64	-	3.64
6.	DMO Katni (2011-12)	92	635.499	2011-12	4000	25.42	-	25.42
7.	DMO Neemuch (2010-11)	1	500.452	2010-11	4000	20.02	-	20.02
8.	DMO Rewa (2011-12)	14	100.600	2011-12	4000	4.02	-	4.02
9.	DMO Sagar (2011-12)	6	33.37	2011-12	4000	1.33	-	1.33

1.	2.	3.	4.	5.	6.	7.	8.	9.
10.	DMO Satna (2011-12)	16	3523.165	2011-12	4000	140.93	-	140.93
11.	DMO Seoni (2010-11)	4	9.694	2010-11 to 2011-12	4000	0.70	-	0.70
12.	DMO Shahdol (2011-12)	12	2354.227	2011-12	4000	94.17	-	94.17
13.	DMO Shahdol (2012-13)	8	2158.486	2012-13	4000	86.34	-	105.43
		3	119.847	2008-09 to 2012-13	4000	19.09	-	
14.	DMO Sidhi (2012-13)	1	60.671	2012-13	4000	2.43	-	2.43
15.	DMO Tikamgarh (2012-13)	3	33.796	2005-06 to 2012-13	4000	3.06	-	3.06
16.	DMO Umaria (2011-12)	2	1661.046	2011-12	4000	66.44	-	66.44
Total		**192**				**1105.93**	**-**	**1105.93**

(Say ₹ 11.06 Crore)

Annexure-XVI

Para referred in to the paragraph 7.6.24.1

Statement showing Short levy of Stamp Duty and Registration Fee due to incorrect determination of average annual royalty

Sl No.	Name of Unit	No. of lessee/Lease period	Village/ Minerals/ Area	Date of execution of agreement	Quantity showed in mining plan	Base royalty amount for calculation of stamp duty (₹)	Rate of stamp duty	Payable SD/RF (₹)	Paid SD/RF (₹)	Balance SD/RF (₹)
1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.
1.	DMO, Katni	1 (11.11.2011 to 10.11.2041)	Jamuvani Khurd, Padrehi, Chari Limestone 889.760 Hect.	06-01-2012	4366761cu m	1,37,55,29,715 (4366761 x 63 x 5) 5 times of 30 years lease	5 *per cent*	6,87,76,486 5,15,82,365	1,98,45,000 1,48,83,750	4,89,31,486 3,66,98,615
		1 (11.05.2012 to 10.05.32)	Nimas Marbles 11.18 Hect.	02.11.2012	45000 cum	9,45,00,000 (45000 x 700 x 3) 3 times For 20 years lease	5 *per cent*	47,25,000 35,43,750	33,75,000 25,50,000	13,50,000 9,93,750
		1 (02.09.2011 to 01.09.2021)	Chhapra Marbles 3.42 Hect.	22.09.2011	3500 cum	36,75,000 (3500 x 700 x 1.5) 1.5 times for 10 years lease	5 *per cent*	1,83,750 1,37,813	1,28,000 96,000	55750 41813
TOTAL								7,36,85,236 5,52,63,928	2,33,48,000 1,75,29,750	5,03,37,236 3,77,34,178
GRAND TOTAL(SD + RF)								**12,89,49,164**	**4,08,77,750**	**8,80,71,414**

(Say ₹ 8.80 crore)

Annexure-XVII

Para referred in to the paragraph 7.6.24.2

Statement showing loss of Stamp Duty and Registration Fee with reference to the production permission obtained from Madhya Pradesh Pollution Control Board

Sl. No.	Name of unit	No. of lessee/ lease period	Name of mineral	Production qty. as per mining plan	Production capacity as per PCB (per year)/Rate of royalty/Rate of SD	Excess quantity (6-5)	Payable Amount SD/RF (In ₹)	Paid Amount SD/RF (In ₹)	Balance Amount SD/RF (In ₹)
1.	2.	3.	4.	5.	6.	7.	8.	9.	10.
1.	DMO, Chhatarpur	1 5.5.2009 to 4.5.2029	Granite	Nil	15000 cum/800/7.5 *per cent*	15000 cum	2700000 2025000	61890 46350	2638110 1978650
		1 5.5.2009 to 4.5.2029	Granite	Nil	25000 MT (15250 cum)/800/7.5 *per cent*	25000 MT (15250 cum)	2745000 2058750	84440 63330	2660560 1995420
		1 4.12.2008 to 4.12.2018	Gitti	500 cum	100000 cum/28/7.5 *per cent*	99500 cum	315000 236250	6750 5063	308250 231187
		1 5.5.2009 to 4.5.2029	Granite	1690 cum	10000 cum/800/7.5 *per cent*	8310 cum	1800000 1350000	65220 48920	1734780 1301080
		1 4.7.2008 to 3.7.2028	Granite	8000 cum	11467 cum/800/7.5 *per cent*	3467 cum	2064060 1548045	1440000 1080000	624060 468045
TOTAL				**10190 cum**	**151717 cum**	**141527 cum**	**9624060** **7218045**	**1658300** **1243663**	**7965760** **5974382**
GRAND TOTAL OF SD & RF							**16842105**	**2901963**	**13940142**

(Say ₹ 1.39 crore)

Annexure-XVIII

Para referred in to the paragraph 7.6.24.3

Statement showing Short realisation of Stamp Duty and Registration Fees

Sl No.	Name of Unit	No. of lessee/Lease period	No. of sub lessee/Lease period	Name of mineral	Contract money/Rate of Stamp Duty (₹)	Payable stamp duty/Registration fees (In ₹)	Paid stamp duty/Registration fees (In ₹)	Balance SD/RF (In ₹)
1.	2.	3.	4.	5.	6.	7.	8.	9.
1	DMO, Jabalpur	1 (18.1.2012 to 8.3.2013)	1 (13.12.2011 to 8.3.2013)	Sand	114316650/ 5 *per cent*	5715832 4286874	100 --	5715732 4286874
2.		1 (21.2.2011 to 8.2.2013)	1 (9.2.2011 to 8.2.2013)	Sand	67500000(Ist year) and 74250000(IInd year)/5 *per cent*	7087500 5315625	100 --	7087400 5315625
3.	DMO, Chhatarpur	1 (5.3.1998 to 4.3.2018)	1 (5.5.2010 to 4.5.2020)	Rock-phosphate	216300000/7.5 *per cent*	16222500 12166875	100 --	16222400 12166875
TOTAL					SD RF	29025832 21769374	300 --	29025532 21769374
GRAND TOTAL					**SD + RF**	**50795206**	**300**	**50794906**

(Say ₹ 5.08 crore)