

**Report of the
Comptroller and Auditor General of India
on
Revenue Sector
for the year ended March 2019**



लोकहितार्थ सत्यनिष्ठा
Dedicated to Truth in Public Interest



Government of Andhra Pradesh
Report No. 2 of 2021

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Preface

This Report of the Comptroller and Auditor General of India for the year ended 31 March 2019 has been prepared for submission to the Governor of Andhra Pradesh under Article 151 of the Constitution of India for being laid before the Legislature of the State.

The Report contains significant findings of audit of receipts of major revenue earning Departments of the Government of Andhra Pradesh.

The instances mentioned in this Report are those which came to notice in the course of test audit during the period 2018-19 as well as those which came to notice in earlier years but could not be reported in the previous Audit Reports; instances relating to the period subsequent to 2018-19 have also been included, wherever necessary.

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

Chapter I

Overview

1.1 About this Report

This Report contains significant findings of audit of receipts of major revenue earning Departments of Government of Andhra Pradesh. Audit has been conducted under the Comptroller and Auditor General’s (Duties, Powers and Conditions of Service) Act, 1971.

The Report contains one Performance Audit on “Functioning of Prohibition and Excise Department” and 18 compliance audit paragraphs with a tax effect of ₹89.77 crore. Compliance audit is an independent assessment of whether a given subject matter (an activity, financial or non-financial transaction, information in respect of an entity or a group of entities) complies in all material respects with applicable laws, rules, regulations, established codes *etc.*, and the general principles governing sound public financial management and the conduct of public officials.

The primary purpose of this Report is to bring to the notice of the State Legislature, significant results of audit. The findings of audit are expected to enable the Executive to take corrective action, to frame appropriate policies as well as to issue directives that will lead to improved financial management of organisations and contribute to better governance.

The audit observations in this Report are based on the results of test check of the records made available to audit by the Government departments concerned. There may be similar irregularities, errors/ omissions in other units of these departments but not covered in the test audit. Departments may, therefore, examine all the units to ensure that the taxes are assessed, levied, collected and accounted for, as per the provisions of the related Acts and Rules.

This Chapter presents an overview of the revenue receipts of the Government of Andhra Pradesh during the year 2018-19, analyses the trend of receipts over the five year period 2014-15 to 2018-19, and details the arrears of tax revenue pending collection as of 31 March 2019. Further, Audit approach to examination of revenue receipts of the State is outlined and the response of the State Government to audit findings is also discussed.

1.2 Trend of Revenue Receipts

A summary of the revenue (tax and non-tax revenue, the State’s share of net proceeds of divisible Union taxes and duties assigned to it, Grants-in-Aid received from the Government of India (GoI) during the year 2018-19 and the corresponding figures for the preceding four years) of Government of Andhra Pradesh is given in **Table-1.1**.

Table 1.1: Trend of revenue receipts

		(₹ in crore)				
Sl. No.	Particulars	2014-15**	2015-16	2016-17	2017-18	2018-19 ¹
1.	Revenue raised by the State Government					
	Tax revenue	42,618	39,907	44,181	49,486	58,031
	Non-tax revenue	10,976	4,920	5,193	3,814	4,396
	Total	53,594	44,827	49,374	53,300	62,427
2.	Receipts from the Government of India					
	Share of net proceeds of divisible Union taxes and duties	15,299	21,894	26,264	29,001	32,787
	Grants-in-Aid	21,779	21,927	23,346	22,761	19,457
	Total	37,078	43,821	49,610	51,762	52,244
3.	Total revenue receipts of the State Government (1 +2)	90,672	88,648	98,984	1,05,062	1,14,671
4.	Percentage of 1 to 3	59	51	50	51	54

Source: Finance Accounts of Government of Andhra Pradesh for relevant years

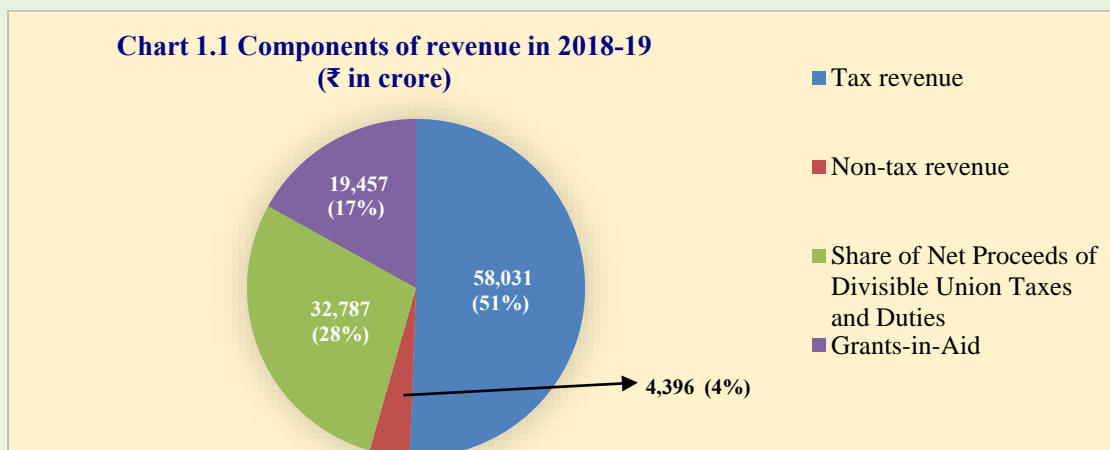
** Data pertains to composite State of Andhra Pradesh for 23 districts up to 01 June 2014 and the successor State of Andhra Pradesh with 13 districts with effect from 02 June 2014 to 31 March 2015.

The State's performance in mobilisation of resources is assessed in terms of tax revenue and non-tax revenue excluding the State's share in Central taxes and Grants-in-Aid, which are based on the recommendations of the Finance Commission.

As can be seen from the Table above, the tax revenue raised by the State has increased during the post bifurcation period 2015-19 (by 11 per cent in 2016-17; 12 per cent in 2017-18 and 17 per cent in 2018-19).

However, non-tax revenue showed a mixed trend with a dip during 2017-18, before picking up pace during 2018-19. The percentage of tax and non-tax revenue raised by the State Government to the total revenue of the State has also been 50 per cent and above post bifurcation.

The nature and composition of revenue receipts of the State during the year 2018-19 are shown in **Chart-1.1**.



¹ For details, please see Statement No.14- Detailed accounts of revenue by Minor Heads in the Finance Accounts of Government of Andhra Pradesh for the year 2018-19. Figures under the Minor Head 901-share of net proceeds assigned to the States under the Major Heads 0005-Central Goods and Services Tax, 0008-Integrated Goods and Services Tax, 0020-Corporation Tax, 0021-Taxes on Income other than Corporation Tax, 0028-Other Taxes on Income and Expenditure, 0032-Taxes on Wealth, 0037-Customs, 0038-Union Excise Duties, 0044-Service Tax and 0045-Other Taxes and Duties on Commodities and Services booked in the Finance Accounts under A-Tax Revenue have been excluded from the revenue raised by the State and exhibited as State's share of divisible Union taxes.

1.2.1 Tax Revenue

Details of tax revenue raised during the period from 2014-15 to 2018-19 are given in Table 1.2.

Table 1.2: Details of tax revenue raised

		(₹in crore)					
Head of Revenue	Budget Estimates/ Actuals	2014-15**	2015-16	2016-17	2017-18	2018-19	Percentage increase (+)/ decrease (-) in 2018-19 over 2017-18
Taxes on Sales, Trade etc.& SGST [^]	Budget Estimates	28,749	32,840	37,434	39,321	45,940 ^{^^}	17
	Actuals	30,524	29,104	32,484	36,155	42,525 ^{##}	18
State Excise	Budget Estimates	4,027	4,680	5,756	5,886	7,358	25
	Actuals	4,352	4,386	4,645	5,460	6,220	14
Stamp Duty and Registration Fee	Budget Estimates	2,460	3,500	5,180	4,000	4,880	22
	Actuals	3,250	3,527	3,476	4,271	5,428	27
Taxes on Vehicles	Budget Estimates	1,384	1,977	2,412	2,950	3,688	25
	Actuals	3,687	2,082	2,467	3,039	3,341	10
Land Revenue	Budget Estimates	66	632	631	300	300	0
	Actuals	62	52	167	107	57	(-)47
Taxes and Duties on Electricity	Budget Estimates	189	190	214	350	350	0
	Actuals	156	176	333	16	11	(-)31
Others	Budget Estimates	17,361	604	691	910	1,019	12
	Actuals	587	580	609	438	449	2
Total	Budget Estimates	54,236	44,423	52,318	53,717	63,535	18
	Actuals	42,618	39,907	44,181	49,486	58,031	17

Source: Budget Estimates and Finance Accounts of Government of Andhra Pradesh for relevant years

** Data pertains to composite State of Andhra Pradesh for 23 districts up to 01 June 2014 and the successor State of Andhra Pradesh with 13 districts thereafter.

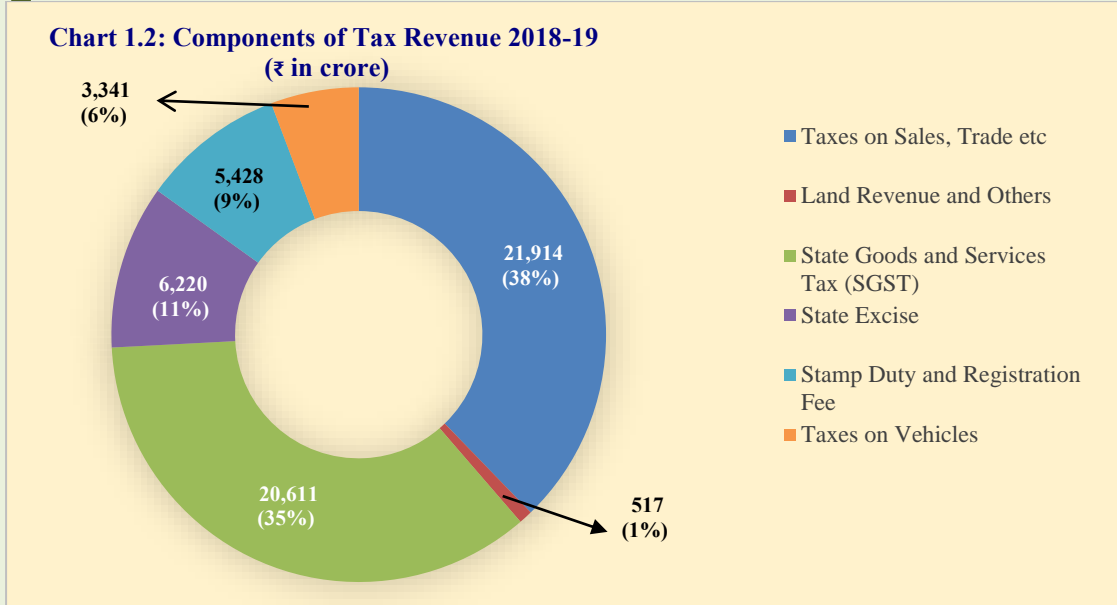
[^] State Goods and Services Tax was introduced with effect from 1 July 2017.

^{^^} includes SGST of ₹ 7,492 crore.

^{##} includes SGST of ₹ 20,611 crore.

Receipts under sales tax and SGST have not matched the expectations projected by the State Government in its Budget in any year during the four year period 2015-19. Same is the case with land revenue, which lagged behind budgetary projections during 2014-19. Revenue from taxes on vehicles exceeded budgetary projections during 2014-18 but lagged behind during 2018-19. Taxes and duties on electricity could not meet budgetary expectations during the period 2015-16 and 2017-19.

Component-wise break-up of tax revenue for the year 2018-19 is shown in **Chart-1.2**.



Tax revenue accounted for 51 per cent (₹58,031 crore) of the total revenue (₹1,14,671 crore) of the State during the year 2018-19.

There has been a net increase of 17 per cent of tax revenue during the year 2018-19 over the previous year. While revenue under the heads – State Excise, Stamp Duty and Registration Fee, Taxes on Vehicles and others had increased, receipts under Land Revenue and Taxes and Duties on Electricity decreased.

The decrease in Land Revenue was attributed by the Department to drought conditions in five Districts during the period 2014-2018 and non-availability of adequate water due to inadequate rainfall, resulting in the inability of the farmers to pay water tax. There was, however, nothing on record to evidence the waiver of water tax formally by the State Government. Further, Government of Andhra Pradesh reduced (by Act 13 of 2018) rates of one time conversion tax from five per cent to two per cent in Vijayawada, Visakhapatnam Municipal Corporation areas and from nine per cent to three per cent in the remaining areas.

Director of Electrical Safety and Chief Electrical Inspector to Government communicated (September 2019) that AP distribution companies have not paid ₹429.75 crore dues of Electricity duty payable from May 2016 to March 2018.

1.2.2 Non-Tax Revenue

Details of non-tax revenue raised during the period from 2014-2015 to 2018-19 are given in **Table-1.3**.

Table-1.3: Details of Non-Tax Revenue raised

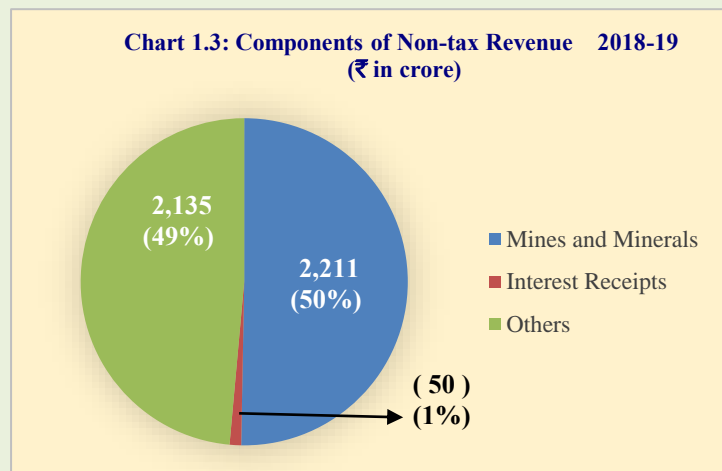
							(₹ in crore)
Head of Revenue	Budget Estimates/ Actuals	2014-15**	2015-16	2016-17	2017-18	2018-19	Percentage increase (+)/ decrease (-) in 2018-19 over 2017-18
Interest Receipts	Budget Estimates	4,813	154	154	131	275	(+) 109.92
	Actuals	4,795	133	113	96	50	(-) 47.91
Mines and Minerals	Budget Estimates	1,226	1,359	1,705	2,200	2,500	(+) 13.63
	Actuals	1,219	1,523	1,628	2,156	2,211	(+) 2.55
Others	Budget Estimates	2,972	3,828	3,636	2,761	2,571	(-) 6.88
	Actuals	4,962	3,264	3,452	1,562	2,135	(+) 36.68
Total	Budget Estimates	9,011	5,341	5,495	5,092	5,346	(+) 4.98
	Actuals	10,976	4,920	5,196	3,814	4,396	(+) 15.25

Source: Budget Estimates and Finance Accounts of Government of Andhra Pradesh for relevant years.

** Data pertains to composite State of Andhra Pradesh for 23 districts up to 01 June 2014 and the Successor State of Andhra Pradesh with 13 districts from 02 June 2014.

Component wise break up of non-tax revenue for the year 2018-19 is shown in Chart-1.3.

Non-tax revenue increased by 15 per cent during the year 2018-19 over the previous year and accounted for 3.83 per cent (₹4,396 crore) of the total revenue (₹1,14,671 crore) of the State during the year.



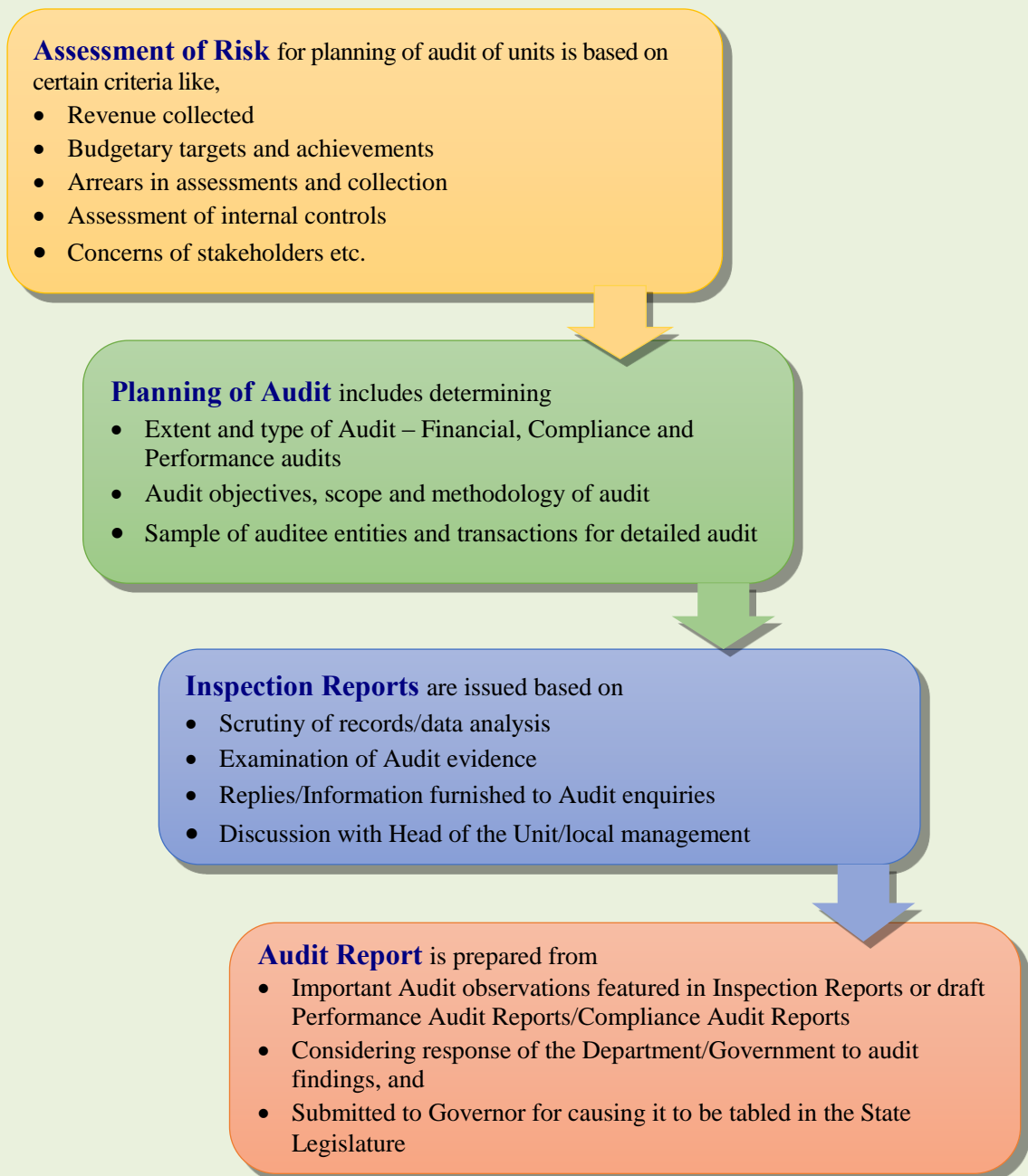
1.3 Authority for audit

The Comptroller and Auditor General of India (CAG) derives authority for audit from Articles 149 and 151 of the Constitution of India and CAG's (Duties, Powers and Conditions of Service) Act, 1971 (DPC Act). CAG audits receipts of the Government under Section 16 of the DPC Act.

1.4 Planning and Conduct of audit

The following flowchart depicts the process of planning and conduct of audit and preparation of Audit Reports:

Figure-1.1: Planning, conduct of audit and preparation of Audit Reports



After completion of audit of each unit, an Inspection Report (IR) containing audit findings is issued to the Head of the Unit with a request to furnish replies within one month of receipt of the IR. Whenever replies are received, audit findings are either settled or further action for compliance is advised. Significant audit observations pointed out in these IRs, which require attention at the highest level in Government, are processed for inclusion in the Audit Reports. These Audit Reports are submitted to the

Governor of Andhra Pradesh under Article 151 of the Constitution of India for causing them to be laid on the Table of State Legislature.

During the year 2018-19, audit of 281 units out of total 1397 auditable units under seven Departments² was planned and a total of 228 units were audited. One Performance Audit on ‘Functioning of Prohibition and Excise’ was conducted.

1.5 Analysis of Arrears of Revenue

As of 31 March 2019, the arrears of revenue were ₹10,997.30 crore from some principal heads of revenue like Taxes on Sales, Trades, etc., State Excise, Stamps & Registration Fees, Taxes on Vehicles and Non-ferrous Mining and Metallurgical industries and taxes and duties on Electricity detailed in **Table-1.4**.

Table 1.4: Arrears of Revenue

(₹ in crore)

Head of Revenue	Details of amount outstanding as on 31 March 2019		Reasons	
	Total	For more than five years (per cent)		
MH 0040 - Taxes on Sales, Trade etc.	2,754.28	1,248.71 (45)	Department did not furnish the reasons for pendency in arrears outstanding for more than five years.	
MH 0039 – State Excise	20.24	16.49 (81)	Commissioner replied (September 2020) that an amount of ₹7.27 crore was referred for write off during the period 2018-19.	
MH 0030 - Stamps and Registration Fees	50.63		Commissioner and Inspector General of Registration and Stamps did not furnish (September 2020) the details of amount outstanding for more than five years and the reasons for pendency.	
MH 0041 – Taxes on Vehicles	2,805.89		Department stated (September 2020) that APSRTC did not pay taxes since 2012-13.	
MH 0043 - Taxes and Duties on Electricity	4,815.19	4,388.90 (91)	Department attributed arrears to the following:	
			Recovery due from A.P. Gas Power Corporation Ltd. (covered by AP Revenue Recovery (RR Act).	138.31
			Amount due from Rural Electric Supply Co-operative Societies.	2.69
			Amount due from licencees and generating companies (covered by AP RR Act).	1,175.75
			Amount due from APGENCO (Government had been addressed for waiver of the duty).	3,028.04
Duties due from A.P. Southern/Eastern/Central Power Distribution Corporations.	470.40			
MH 0853 - Non-ferrous Mining and Metallurgical Industries	209.78	130.14 (62)	Director of Mines and Geology replied (September 2020) that most of the leases had expired and demand notices were issued to defaulters. Collections are being pursued under AP RR Act.	
Land Revenue	341.29	283.63 (83)	Department replied (October 2020) that due to drought conditions collections as per the target could not be achieved.	
Total	10,997.30	6,067.87 (55)		

Source: Information furnished by the Departments concerned.

As can be seen from Table-1.4, recovery of ₹6,067.87 crore was pending for more than five years. This constituted 55 per cent of the total revenue realisable, which indicates

² Commercial Taxes (37), Endowments (15), Industries and Commerce (Mines and Minerals) (14), Land Revenue (28), Prohibition and Excise (32), Registration and Stamps (99) and Transport(3).

inaction by the departments concerned to act timely on huge arrears. Out of total arrear amount of ₹10,997.30 crore, an amount of ₹1,314.06 crore (11.95 per cent) has been referred under A.P. Revenue Recovery Act. Government may take necessary measures to recover the remaining arrears amounting to ₹9,683.24 crore constituting 88.05 per cent of revenue due for recovery.

The departments need to review the status of recovery of arrears of revenue on a regular basis and monitor the progress of collection.

1.6 Evasion of tax

The details of cases of evasion of tax detected by the departments, cases finalised, the demands of additional tax raised and cases pending finalisation as on 31 March 2019 are given in **Table 1.5**.

Table 1.5: Evasion of tax

Sl. No	Name of Tax/Duty	Cases pending as on 31 March 2018	Cases detected during 2018-19	Total	No. of cases in which assessments/investigations completed and additional demand including penalty etc., raised (₹ in crore)		No. of cases pending finalisation as on 31 March 2019
					No. of Cases	Amount of demand	
1.	VAT	4,983	3,409	8,392	4,866	1,718.81	3,526
2.	Taxes on Vehicles	97,347	7,24,887	8,22,234	5,76,289	159.91	2,45,945
3	Stamp Duty and Registration Fee	561	238	799	799 [^]	707.77	89 [^]

Source: Information furnished by Departments concerned.

[^] There is a discrepancy in the data furnished by the Registration and Stamps department. Matter has since been taken up with the Department.

It can be seen from Table 1.5 that only 58 per cent of assessments/ investigations were completed by the Commercial Taxes Department (VAT) whereas it was 70 per cent with respect to Taxes on Vehicles. There is a need for speedy finalisation of the pending cases.

Discrepancy was noticed in the information furnished by Department of Prohibition and Excise. Commissioner has been addressed in the matter. Departments of Land Revenue and Mines and Minerals did not furnish any information although called for (June 2019, February 2020 and July 2020).

1.7 Arrears in assessments

As per the provisions of the AP VAT Act, every dealer shall be deemed to have been assessed to tax, based on the return filed by him, if no assessment is made within a period of four years from the date of filing the return. Assessments under the CST Act are to be completed within four years. The details of assessment cases pending as on 31 March 2019 relating to Commercial Taxes Department are given in **Table 1.6**.

Table 1.6: Arrears in Assessments

Name of tax	Opening balance	New cases due for assessment during 2018-19	Total assessments due	Cases disposed off during 2018-19	(No. of cases)	
					Balances at the end of March, 2019	Percentage of cases disposed off
CST	36,413	27,401	63,814	29,004	34,810	45
VAT	4,394	1,970	6,364	4,020	2,344	63
Luxury Tax	354	387	741	467	274	63
Total	41,161	29,758	70,919	33,491	37,428	47

Source: Information furnished by Commercial Taxes Department.

The disposal of assessments by the Commercial Taxes Department was only 47 per cent of total assessments during 2018-19. With the introduction of GST, the clearance of this backlog of legacy assessments would need to be prioritised and expedited.

1.8 Pendency of refund cases

The details of refund cases as on 31 March 2019 are given in **Table-1.7**.

Table 1.7: Details of pendency of refund cases

Sl. No	Particulars	(₹ in crore)							
		State Excise		Stamps & Registration		Commercial Taxes		Transport	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
1.	Claims outstanding at the beginning of the year as on 1 April 2018	6 [^]	0.53 [^]	85	0.19	530	113.98 [^]	12	0.58
2.	Claims received during the year	0	0	134	1.06	1,751	367.38	25	0.45
3.	Total	6	0.53	219	1.25	2,281	481.36	37	1.03
4.	Refunds made during the year	0	0	99	0.80	1,946	398.46	12	0.23
5.	Cases pending as on 31 March 2019	6	0.53	120	0.45	335	82.90	25	0.80

Source: Information furnished by the Departments concerned.

[^] Claims outstanding at the beginning of the year as on 1 April 2018 do not tally with the pending amount as on 31 March 2018. Matter has since been taken up with the Department.

It would be seen from the above that pendency had increased in terms of amount and number of cases in respect of Stamps & Registration and Transport Departments. Hence, suitable steps need to be taken for speedy disposal of refund claims.

Departments of Mines and Geology, Land Revenue and Energy did not furnish the information.

1.9 Response of Departments to audit findings

1.9.1 Response to previous Inspection Reports

Heads of Offices and next higher authorities are required to respond to the observations contained in Inspection Reports (IRs) and take appropriate corrective action. Audit observations communicated in IRs are also discussed at periodical intervals in meetings at District/State levels by officers of the Accountant General's office with officers of the Departments concerned.

A review of IRs issued upto December 2018 pertaining to eight departments showed that 22,809 paragraphs relating to 5,439 IRs valuing ₹5,042 crore were outstanding at

the end of June 2019 (*Appendix 1.1*). Of these, 2,525 IRs containing 5,159 paragraphs valuing ₹703.93 crore are outstanding for more than 10 years. Even first replies from the Heads of offices which were to be furnished within one month have not been received in respect of 178 IRs issued during 2018-19.

Lack of action on IRs and audit paragraphs is fraught with the risk of perpetuating serious financial irregularities pointed out in these reports. It may also result in dilution of internal controls in the governance process, inefficient and ineffective delivery of public goods/ services, fraud, corruption and loss to public exchequer.

Recommendation

Government should ensure prompt and appropriate response to audit observations, as well as take action against those failing to furnish replies to the IRs/paragraphs as per the prescribed time schedules.

1.9.2 Response of Government to audit observations

All Departments are required³ to send their responses to draft audit paragraphs proposed for inclusion in CAG's Report within six weeks of their receipt. During the year 2018-19, 49 draft compliance audit paragraphs and one Performance Audit Report on "Functioning of Prohibition and Excise Department" were forwarded to the Special Chief Secretaries/ Principal Secretaries/ Secretaries of the Departments⁴ concerned, drawing their attention to the audit findings and requesting them to send their response within six weeks followed by DO reminder in November 2020. It was brought to their personal attention that these paragraphs were likely to be included in the Audit Report of the CAG of India, which would be placed before the State Legislature and it would be desirable to include their comments/ responses to the audit findings.

Despite this, the Departments concerned did not furnish replies to the draft Performance Audit Report/ Compliance Audit Paragraphs as on the date of finalisation of this Report (December 2020).

1.9.3 Response of Government to audit paragraphs that featured in earlier Audit Reports

Administrative Departments are required to submit Explanatory Notes on paragraphs and reviews included in Audit Reports⁵, within three months of their presentation to State Legislature duly indicating action taken or proposed to be taken.

Reports of the Comptroller and Auditor General of India on Revenue Sector of the Government of Andhra Pradesh contained 142 paragraphs (including four Performance Audits) for the years from 2013-14 to 2017-18. These Audit Reports were placed before the State Legislative Assembly between March 2015 and December 2020. Of these, 115 paragraphs pertain exclusively to Andhra Pradesh and 27 paragraphs

³ as per paragraph 4.7 of Finance Department's Handbook of Instructions.

⁴ Commercial Taxes, State Excise, Registration and Stamps, Transport, Land Revenue and Industries and Commerce (Mines and Minerals).

⁵ as per instructions issued by Finance and Planning Department vide U.O. No.23810-c/200/PAC/93-2 dated 3 November 1993.

(including one Performance Audit) were common to both Andhra Pradesh and Telangana States. Explanatory notes in respect of 95 paragraphs from seven Departments⁶ have not been received.

1.9.4 Response of Government to recommendations of the Public Accounts Committee (PAC)

Legislature ensures financial accountability of the Executive primarily through the mechanism of PAC discussion of Audit Reports and their recommendations.

Government instructed⁷ that all the departments should furnish Action Taken Notes (ATNs) on PAC recommendations to the PAC and Accountant General within six months from the date of its receipt. All such ATNs have to be routed through the Finance Department and copies thereof to the Accountant General.

Action Taken Notes on 120 recommendations relating to Audit Reports (Revenue Sector) were due as of March 2019. Of these, 18 recommendations pertain to Andhra Pradesh exclusively and 102 pertain to the composite State of Andhra Pradesh and Telangana.

1.9.5 Departmental Audit Committee Meetings

State Government sets up Audit Committees to monitor and expedite the progress of the settlement of paragraphs in the IRs. During the year 2018-19, one Audit Committee Meeting of Commercial Taxes Department was conducted and 188 paragraphs amounting to ₹17.87 crore were settled.

Recommendation

Government needs to set up Audit Committees expeditiously to enable discussion of pending IRs, Paragraphs and address the issues of non-compliance with relevant Acts/Rules/Codes, pointed out in these IRs/ Paragraphs.

1.9.6 Constraints in Audit

The programme of local audit of Revenue offices is drawn up sufficiently in advance. Intimations are issued, usually one month before the commencement of audit, to the departments to enable them to keep the relevant records ready for audit scrutiny.

During the year (2018-19), 40 offices pertaining to five departments⁸ did not produce crucial documents like VAT Register, *Jamabandi* Records (Village Accounts), Cash Book, Demand Collection and Balance Register, Challan Remittance Register and Reconciliation statements etc.

Non-production of records hinders efficacy of audit and results in inability to verify accuracy of revenue collections and expenditure.

⁶ Commercial Taxes, Endowment, Industries and Commerce, Prohibition and Excise, Land Revenue, Registration & Stamps and Transport, Roads & Buildings.

⁷ Government of Andhra Pradesh U.O.Note No. 1576-A/32/PAC/95 dated 17 May 1995.

⁸ Commercial Taxes, Prohibition and Excise, Registration and Stamps, Land Revenue and Endowments.

Where the records were made available, under assessment/ short levy/loss of revenue aggregating ₹190.81 crore in 1,000 cases pertaining to 228 test checked units of seven departments⁹ was observed. During the year, the Departments accepted under assessments and other deficiencies of ₹153.90 crore in 437 cases, of which 129 cases involving ₹1.98 crore were pointed out in earlier years. An amount of ₹6.23 crore was realised in 198 cases during the year 2018-19. Of this, recovery of ₹1.94 crore in 174 cases relate to previous years.

Recommendation

Government needs to issue suitable instructions to the Heads of the Departments concerned for timely production of all the relevant records for audit scrutiny to ensure transparency and accountability.

1.9.7 Analysis of the mechanism for dealing with the issues raised by Audit in Prohibition and Excise Department

The system for addressing the issues highlighted in the IRs/Audit Reports in respect of one department is reviewed in audit every year. During the year 2018-19, action initiated by Prohibition and Excise Department was reviewed to assess the action taken on the cases detected in local audit during 2015-16 to 2018-19 and Performance Audit Reports included in the Audit Reports for the years 2010-11 to 2017-18.

The overall performance of the Department in clearance of IRs and action taken on recommendations of Audit is given in **Table 1.8**.

Table-1.8: Position of Inspection Reports (IRs)

Year	(₹ in crore)											
	Opening balance			Additions during the year			Clearance during the year			Closing balance		
	IRs	Paras	Money value	IRs	Paras	Money value	IRs	Paras	Money value	IRs	Paras	Money value
2015-16	209	471	101.63	19	33	1.06	108	292	55.07	120	212	47.62
2016-17	120	212	47.62	12	31	6.10	5	15	0.16	127	228	53.56
2017-18	127	228	53.56	11	32	88.32	1	1	0.02	137	259	141.86
2018-19	137	259	141.86	5	21	30.57	0	2	0.005	142	278	172.42

Source- Records of office of Accountant General (Audit), Andhra Pradesh.

The performance of the Department in clearance of Inspection Reports and Paragraphs was encouraging in the year 2015-16. There has been overall clearance of 67 IRs and 193 Paragraphs during the four-year period between 2015-16 and 2018-19.

Audit of "Functioning of Prohibition and Excise Department" was conducted covering the period from 2005-06 to 2009-10 and a standalone report was brought out.

Explanatory Notes were not received from the Government in respect of these Performance Audit Reports as of December 2020. Details of recommendations are given in **Appendix-1.2**. A follow up Audit on this was featured in Audit Report 2015-16 (Report No.7 of 2016).

⁹ Commercial Taxes (37), Endowments (15), Industries and Commerce (Mines and Minerals) (14), Land Revenue (28), Prohibition and Excise (32), Registration and Stamps (99) and Transport (3).

1.10 Significant audit observations

This Report contains results of Performance Audit of “Functioning of Prohibition and Excise Department” and 18 paragraphs of non-compliance/deviation from various Acts/ Rules/ Codes, involving non-levy/short levy/non-realisation of revenue etc., of ₹89.77 crore. The Departments/ Government accepted audit observations of ₹6.40 crore as of December 2020.

Significant results of audit that featured in this Report are summarised below.

1.10.1 Value Added Tax, Central Sales Tax and Goods and Services Tax

- Assessing Authorities have not levied/ short levied penalty of ₹3.18 crore on dealers, who had under declared tax of ₹3.81 crore in five offices involving seven dealers.

(Paragraph 2.3.1)

- Interest of ₹0.44 crore and penalty of ₹1.15 crore totalling to ₹1.59 crore was not levied on belated payments of taxes in 15 offices involving 38 dealers. The delay ranged from 1 to 586 days.

(Paragraph 2.3.2)

- Tax of ₹82.68 lakh on works contracts was short levied in two cases under the jurisdiction of two offices due to incorrect determination of taxable turnover and incorrect exemption. The dealers have not maintained detailed accounts in these two cases contravening provisions of the Act.

(Paragraph 2.5.1)

- Incorrect exemption/incorrect rate of tax resulted in short levy of tax of ₹1.37 crore on inter-State sale turnover of ₹16.93 crore not supported by ‘C’ declaration Forms.

(Paragraph 2.6)

- Declaration of tax at lower rate resulted in short levy of tax of ₹70.35 lakh by two dealers in two offices.

(Paragraph 2.8)

1.10.2 State Excise Duties

Performance Audit on “Functioning of Prohibition and Excise Department” was conducted for the period from June 2014 to March 2019 in 32 selected offices. Significant findings are as follows:

- Letters of Intent were sanctioned without collecting the applicable fee resulting in loss of revenue of ₹22.40 crore.

(Paragraph 3.8.1)

- License fee/enhanced license fee of ₹13.24 crore on expanded quantities and penal interest of ₹6.02 crore on recoverable arrears was due from seven distilleries.

(Paragraph 3.8.2)

- License fee of ₹1.01 crore for the period from August 2012 to March 2019 was not realized from a distillery unit.

(Paragraph 3.8.3)

- In two offices of Prohibition and Excise Superintendents, 11 licencees did not pay additional license fee of ₹1.17 crore though plinth area exceeded 300 square meters.

(Paragraph 3.8.7)

- Wilful offences like loose sale of liquor, sale of liquor at higher than Maximum Retail Price were compounded contrary to the provisions of the Act. Resorting to compounding of offence instead of stringent action like cancellation of License encourages repetition of offence.

(Paragraph 3.9.3)

1.10.3 Stamp Duty and Registration Fee

- Loans secured from various banks by creating charge on instruments on *Paripassu* basis are required to be registered by charging 0.5 *per cent* on the loan amount. Registering authorities collected ₹10,000 on each document instead of charging 0.5 *per cent* on the amount of loan secured resulting in short levy of registration fee of ₹11.66 crore.

(Paragraph 4.4)

- Due to lack of coordination between Departments of Land Revenue and Registration, agricultural rate was adopted for lands which had already been converted to non-agricultural use in 15 offices of District Registrars/ Sub-Registrars resulting in short levy of stamp duty and registration fees of ₹1.26 crore.

(Paragraph 4.5.1)

- Irregular exemption of stamp duty and registration fee contrary to Government order on 'Gannavaram Airport Land Pooling Scheme' resulted in short levy of duties of ₹94.06 lakh.

(Paragraph 4.6)

1.10.4 Land Revenue

- Advance possession of land was given and alienation proposals were not finalised /approved even after a period of 5 to 19 years of handing over the

possession of these lands. This has resulted in non-realisation of ₹3.08 crore towards cost of land.

(Paragraph 5.3)

1.10.5 Motor Vehicle Taxes

- Life tax of ₹3.58 crore was short levied due to levy of tax at 12 *per cent* instead of 14 *per cent* on registration of second and subsequent sale of non-transport vehicles.

(Paragraph 6.3)

- Green tax amounting to ₹3.22 crore was not levied on 665 non-transport vehicles and 1,59,590 transport vehicles.

(Paragraph 6.4)

- Quarterly road tax and penalty of ₹3.36 crore was not realised from owners of 1,656 Heavy Goods Vehicles.

(Paragraph 6.5)

- Mandatory annual fitness test of 49,524 vehicles was not conducted by the department. This resulted in non-realisation of Fitness Certificate Fee of ₹97.36 lakh besides compromising on road safety.

(Paragraph 6.6)

Chapter II

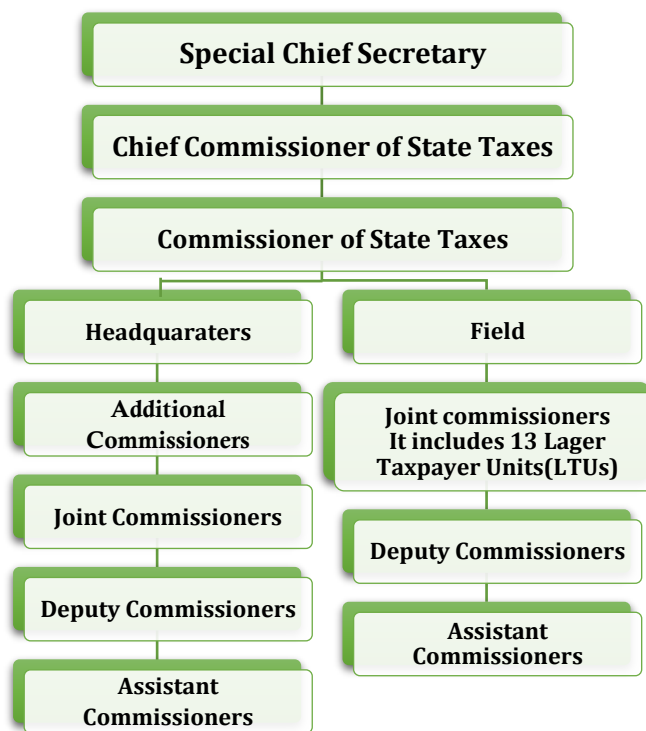
Value Added Tax, Central Sales Tax and Goods & Services Tax

2.1 Tax Administration

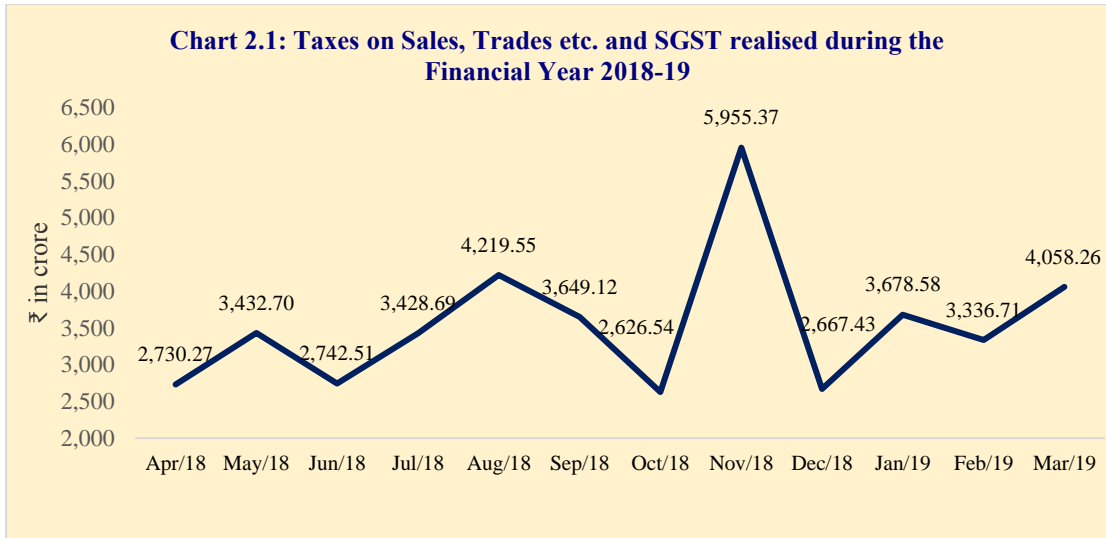
Commercial Taxes Department is one of the key revenue earning departments in the Government of Andhra Pradesh. The Department administers and collects revenue on goods and services under Andhra Pradesh Value Added Tax Act, 2005 (VAT Act), Central Sales Tax Act, 1956 (CST Act), Andhra Pradesh Entertainments Tax Act, 1939, The Andhra Pradesh Tax on Professions, Trades, Callings and Employment Act, 1987 apart from other minor Acts. The Department has been administering and collecting revenue on goods and services under the Andhra Pradesh Goods and Services Tax Act, 2017.

The Department is headed by the Special Chief Secretary of Revenue Department at Government level. The organisational set-up is depicted in the organogram given below:

Figure-2.1: Organogram



Sales Tax revenue (VAT and State GST) forms the largest source of revenue for the State and accounts for 37.08 *per cent* of the total revenue of the State. It has been increasing year-on-year since 2016-17, although, the actual receipts did not match budgetary projections in any of the years during 2015-16 to 2018-19. Revenue from sales tax and SGST increased from ₹10,820 crore during 2017-18 to ₹20,611 crore in 2018-19 at a growth rate of 90.49 *per cent* primarily due to increase in SGST receipts. There was a wide variation in SGST receipts across the months during 2018-19 with November accounting for highest receipts mainly on account of IGST transfer to SGST, as can be seen from **Chart 2.1**:



2.2 Results of Audit

Audit of Commercial Taxes Department was conducted through a test check of the assessment files, refund records and other related records in 37 out of 117 offices (31.62 per cent) of the Department during 2018-19, to gain assurance that the taxes were assessed, levied, collected and accounted for in accordance with the relevant Acts, Codes and Manuals, and the interests of the Government are safeguarded. These offices were selected on the basis of quantum of revenue collected. Audit brought out instances of deviations/non-compliance with the relevant Acts/ Codes/ Manuals leading to under assessment of VAT in 448 cases involving an amount of ₹84.11 crore, due to various reasons, as detailed in **Table 2.1**.

Table 2.1: Results of Audit

Sl. No.	Categories	₹ in crore)	
		No. of cases	Amount
1	Non-levy/Short levy of VAT	180	65.29
2	Non-levy/Short levy of Interest and Penalty	66	6.68
3	Non-levy/Short levy of tax on works contracts	4	0.73
4	Excess/Incorrect claim of Input Tax Credit	51	5.00
5	Non-levy/Short levy of tax under CST Act	67	4.00
6	Non-collection of Turn Over Tax	29	1.65
7	Other irregularities	51	0.76
	Total	448	84.11

During the year, the Department accepted underassessment and other deviations in 175 cases involving ₹8.89 crore, including ₹1.60 crore pertaining to the previous years. An amount of ₹1.81 crore relating to 141 cases was realised during the year 2018-19.

Significant audit findings involving ₹10.05 crore are discussed in the succeeding paragraphs. These cases are illustrative and are based on a test check carried out by Audit. Such omissions are pointed out in audit every year, but not only do the irregularities persist; these also remain undetected until an audit is conducted again. There is a need for improvement of internal controls so that repetition of such omissions can be avoided or detected and rectified in a timely manner.

2.3 Levy of Penalty

2.3.1 Non-levy/ short levy of Penalty for under declaration of tax

Assessing Authorities have not levied/ short levied penalties amounting to ₹3.18 crore on dealers, who had under declared tax

As per Section 53 (1) of APVAT Act, 2005 (VAT Act), where any dealer has under declared tax and where it has not been established that fraud or wilful neglect has been committed and where the under declared tax is less than 10 *per cent* of the tax, a penalty shall be imposed at 10 *per cent* of such under declared tax. If the under declared tax is more than 10 *per cent* of the tax due, penalty shall be imposed at 25 *per cent* of such under declared tax.

Under Section 53 (3) of VAT Act, any dealer who has under declared tax and where it is established that fraud or wilful neglect has been committed, such dealer shall be liable to pay penalty equal to the tax under declared. As per Rule 25 (8) (a) and (b) of VAT Rules, the tax under declared means the excess of Input Tax Credit (ITC) claimed over and above the amount entitled to be claimed or the difference between output tax actually chargeable and the output tax declared in the returns.

Under Section 13(3) (a) of the Act, ITC is allowed on the date, the goods were received by the dealer and was in possession of a tax invoice. In terms of Section 21(3) of the Act, read with Rule 25(5) of VAT Rules, where a VAT return filed by the dealer appears to be incorrect, AA (Assessing Authority) is empowered to assess the tax to the best of his judgment, along with interest and penalty as per the provisions mentioned above.

During the test check of records of five Circles¹, Audit observed² from the VAT assessment files of seven dealers³ that the AAs identified cases of under declaration of output tax and excess claim of ITC as per the assessment order. In six out of the seven cases, there was under declaration of output tax either due to fraud or wilful negligence. In one case pertaining to Eluru Bazar Circle where under declaration was not wilful and tax due was more than 10 *per cent*, penalty was proposed at 10 *per cent* instead of at 25 *per cent* in the assessment order. However, no penalty was levied by the AA. Of the seven cases AAs have short levied penalty in three cases⁴ and did not levy any penalty in the remaining four cases. This had resulted in non-levy/ short levy of penalty of ₹3.18 crore over the under declared tax of ₹3.81 crore.

In response, AAs accepted (between August and November 2019) the audit observation in six cases pertaining to five offices⁵ and issued penalty orders/ notices. In the remaining one case pertaining to Ibrahimpatnam, AA stated (March 2019) that the matter would be examined and report would be submitted in due course.

¹ Chilakaluripeta, Elurubazar, Ibrahimpatnam, Indrakeeladri and Kakinada.

² between May 2018 and April 2019 for the period from 2011-12 to 2016-17.

³ Chilakaluripeta (1), Elurubazar (1), Ibrahimpatnam (2), Indrakeeladri (2) and Kakinada (1).

⁴ Ibrahimpatnam (two cases) and Indrakeeladri (one case).

⁵ Chilakaluripeta, Elurubazar, Ibrahimpatnam (1), Indrakeeladri (2) and Kakinada.

The matter was referred to the Department (August 2019) and to the Government (February 2020). Their reply has not been received (December 2020).

2.3.2 Non-levy of interest and penalty for belated payment of tax

Assessing Authorities did not levy interest and penalty of ₹1.59 crore on belated payment of tax

As per Section 22 (2) of VAT Act, if any dealer fails to pay the tax due within the time prescribed, interest at the rate of 1.25 *per cent* per month for the period of delay was liable to be paid in addition to such tax or penalty. Under Section 51(1) of the Act, if a dealer fails to pay tax due, by the last day of the month in which it was due, penalty at the rate of 10 *per cent* of the amount of tax due is to be paid, in addition to such tax.

During the test check of VAT returns and payment records of Guntur division and 14 circles,⁶ it was observed⁷ that in 38 cases, dealers paid tax after the due dates with delays ranging from 1 to 586 days. Assessing Authorities, however, did not levy any interest and penalty for belated payment of tax. This had resulted in non-levy of interest of ₹0.44 crore and penalty of ₹1.15 crore totalling to ₹1.59 crore.

In response, AAs accepted (between August 2018 and September 2019) the audit observation in 26 cases pertaining to 10⁸ offices. Of 26 cases, part amount of penalty of ₹1.77 lakh and interest of ₹0.56 lakh was collected in two offices⁹. In the remaining 12 cases pertaining to five offices¹⁰ it was replied (between August 2018 and March 2019) that the matter would be examined and reply would be furnished to Audit in due course.

The matter was referred to Department (August 2019) and to the Government (March 2020). Their reply has not been received (December 2020).

2.4 Short levy of VAT due to incorrect determination of taxable turnover

Sales turnover of dealers reported in annual accounts was more than the turnover declared in VAT returns. Incorrect determination of taxable turnover by Assessing Authorities resulted in short levy of tax of ₹18.88 lakh

As per Section 21(3) of VAT Act, read with Rule 25 (5) of VAT Rules, if the AA considers the return filed by a VAT dealer as incorrect or incomplete or not satisfactory, the AA shall assess the tax payable to the best of his judgment on form VAT 305 within four years from the due date or date of filing of the return, whichever

⁶ Guntur division (2 cases), Circles:- Adoni-I, Eluru Bazar (3), Guntakal, Ibrahimpatnam (5), Indrakeeladri (4), Kadapa-I (5), Kurnool-III, Narsaraopet (2), Nidadavolu (2), Ongole-II, Palkol, Patamata (7), Samarangam Chowk (2) and Vinukonda.

⁷ between February 2015 and March 2018 for the period from 2012-13 to 2016-17.

⁸ Adoni-I (1 case), Eluru Bazar (3 cases), Indrakeeladri (4 cases), Kadapa-I (5 cases), Kurnool-III (1 case), Nidadavolu (2 cases), Ongole-II (1 case), Palkol (1 case), Patamata (7 cases) and Vinukonda (1 case).

⁹ Adoni -I (1 case) and Ongole II (1 case).

¹⁰ Guntur Division (2), Assitant Commissioners – Guntakal, Ibrahimpatnam (5), Narsaraopet (2), Samarangam chowk (2).

is later. As per Section 21(4) of the Act, the competent authority may conduct a detailed scrutiny of the accounts of any VAT dealer based on the available information and where any assessment becomes necessary after such scrutiny, such assessment shall be made within a period of four years from the end of the period for which the assessment is to be made. As per Rule 25(10) of the VAT Rules, all the VAT dealers have to furnish the statements of manufacturing/trading, Profit and Loss (P&L) accounts, balance sheet and Annual Report for every financial year, duly certified by a Chartered Accountant, on or before 31 day of December of succeeding financial year. As per Para 5.12 of VAT Audit Manual 2012, the audit officer is required to verify the details declared by the dealer in VAT returns and to reconcile with those reported in certified Annual Accounts for that period.

During the test check of the VAT audit records, it was noticed¹¹ in six cases in six Circles¹², that sales made by six dealers as per their annual accounts were more than those declared in VAT returns. The incorrect determination of taxable turnover by the AAs resulted in short levy of tax of ₹18.88 lakh.

In response, AAs replied that the matter would be examined and reply would be submitted to Audit in due course.

The matter was referred to Department (August 2019) and to the Government (March 2020). Their reply has not been received (December 2020).

2.5 Works Contracts

2.5.1 Short levy of tax on Works Contracts where detailed accounts were not maintained

Taxable turnover was incorrectly determined on account of inadmissible deductions such as pressing charges and other state works, although detailed accounts were not maintained. Incorrect determination of taxable turnover resulted in short levy of tax of ₹82.68 lakh

As per Section 4 (7) (a) of VAT Act, tax on works contract receipts is to be paid on the value of goods at the time of their incorporation in the work, at the rates applicable under the Act. To determine the value of goods incorporated, the deduction prescribed under Rule 17 (1) (e) of VAT Rules are to be allowed from the total consideration and remaining turnover is to be taxed in proportion to goods purchased at the rates applicable to them. As per Rule 17 (1) (g) of VAT Rules, if any works contractor did not maintain the detailed accounts to determine the correct value of the goods at the time of their incorporation, tax shall be levied at the rate of 14.5 *per cent* on the total consideration received, after allowing permissible deductions on percentage basis on the category of work executed. Percentage of the total value eligible for deduction for all other contracts other than specifically categorized in the Rules is 30 *per cent*. In such cases, the works contractor shall not be eligible to claim ITC.

¹¹ between April 2018 and May 2019 for the period from 2011-12 to 2016-17.

¹² Adoni- I, Chittoor-II, Markapur, Patnam Bazar, Tuni and Vinukonda.

During a test check of records of two Circles¹³, Audit observed¹⁴ in two cases, that AAs allowed exemptions on pressing charges, other state works and sub-contract works, although work-wise detailed accounts were not maintained. In the absence of separate detailed accounts, the turnover should have been assessed under Rule 17 (1) (g). Incorrect assessment of taxable turnover and allowing exemption had resulted in short levy of tax of ₹82.68 lakh on the works contract turnover of ₹5.98 crore.

In response, the AC, Kakinada stated (May 2019) that notice was issued to the dealer and VAT audit file was submitted to Joint Commissioner for revision. AC, Sattenapalli stated (June 2018) that the matter would be examined and report would be submitted to Audit in due course.

The matter was referred to Department (August 2019) and to the Government (February 2020). Their reply has not been received (December 2020).

2.5.2 Non/ short levy of tax due to incorrect determination of taxable turnover in Works Contracts

Taxable turnover was incorrectly determined on account of inadmissible deductions such as 'transport charges' under 'establishment cost', and incorrect computation of profit relatable to labour, resulting in non/ short levy of tax of ₹45.84 lakh

As per Section 4 (7) (a) of the VAT Act, tax on works contract receipts is to be paid on the value of goods at the time of their incorporation in the work, at the rates applicable under the Act. To arrive at the value of goods at the time of incorporation, the deduction prescribed under Rule 17 (1) (e) of APVAT Rules, 2005 (VAT Rules) such as expenditure toward labour charges, hire charges etc., incurred by the contractor are to be allowed from the total consideration and on the balance turnover, tax is to be levied at the same rate at which purchase of goods were made and in the same proportion. As per Rule 17 (1) (d) of VAT Rules, the value of the goods at the time of incorporation, as arrived at, shall not be less than their purchase value and shall include seigniorage charges, transportation charges etc.

During a test check of the VAT assessment files of the office of CTO, Kadapa-I, it was observed (October 2018) that, in one case, the AA, while finalising the assessment¹⁵, had incorrectly determined the taxable turnover due to allowing certain inadmissible deductions such as 'transport charges', under 'establishment cost' from the gross turnover. Besides this, taxable turnover of material under different tax categories (5 per cent/ 14.5 per cent) was incorrectly adopted. This led to incorrect determination of taxable turnover resulting in non-levy/ short levy of tax of ₹45.84 lakh on the works contract receipts of ₹104.65 crore.

¹³ Kakinada and Sattenapalli.

¹⁴ between June 2018 and May 2019 for the period from 2013-14 to 2016-17.

¹⁵ for the period 2015-16 and 2016-17.

In response, AC Kadapa-I replied (December 2019) that revised assessment orders were passed (November 2019) and a total amount of ₹3.61 lakh¹⁶ was taken to Debt Management Unit (DMU)¹⁷. Based on the explanation given in the revisional orders (November 2019) Audit recomputed short levy as ₹45.84 lakh instead of ₹68.10 lakh and intimated to department.

The matter was referred to Department (February 2020) and to the Government (February 2020). Their reply has not been received (December 2020).

2.5.3 Non-levy of tax on Works Contracts

Works contract receipts were split into service component and material component to avoid tax. This had resulted in non-levy of tax of ₹16.63 lakh

Section 4 (7) (b) of the Act read with Rule 17 (2) (b) of VAT Rules permits the dealers to opt to pay tax at the rate of four *per cent*¹⁸ on the gross receipts by way of composition on filing Form VAT-250 before commencing the work.

During a test check of records of AC Kakinada, it was observed¹⁹ that works contract receipts were split into sales turnover and service turnover even though the dealer received the entire amount from a composite contract under ‘composition scheme’ by way of raising a single invoice for two elements i.e., material and service. Since the dealer opted for composition, VAT is liable to be paid on gross receipts. However, the AA allowed exemptions relating to service component and arrived at tax liability contrary to the provisions of the Act. This had resulted in short levy of tax of ₹16.63 lakh on the works contract turnover of ₹3.33 crore.

In response, JC, Kakinada stated (October 2020) that revised show cause notice was issued to the dealer and would submit further rectification report.

The matter was referred to Department (August 2019) and to the Government (February 2020). Their reply has not been received (December 2020).

2.6 Short levy of tax due to application of incorrect rate of tax under CST Act

Incorrect allowance of concessional/ incorrect rates of tax on inter-State sales resulted in short levy of tax of ₹1.37 crore

As per Section 8 (2) of the Central Sales Tax Act 1956 (CST Act), read with Rule 12 (1) of CST Registration and Turnover (R&T) Rules, 1957, inter-State sales not supported by ‘C’ declaration forms are liable to tax at the rate applicable to sale of such goods inside the appropriate State; otherwise tax shall be at the rates applicable to the sale or purchases of such goods inside the appropriate state under the sales tax law of that State. Tax on interstate sales supported by ‘C’ declaration forms are liable to tax at

¹⁶ 2015-16 ₹0.39 lakh, 2016-17 ₹3.22 lakh = ₹3.61 lakh.

¹⁷ 2015-16 ₹2.85 lakh, 2016-17 ₹65.25 lakh = ₹68.10 lakh.

¹⁸ Five *per cent* from 14 September 2011.

¹⁹ In May 2019 for the period from 2012-13 to 2016-17.

the rate of two *per cent* as per Section 8(1) of the Act. Under Section 4 (3) of the VAT Act, every VAT dealer shall pay tax on sale of taxable goods at the rates specified in the Schedules to the VAT Act.

Section 5(4) of CST Act read with Rule 12(10) of CST(R&T) Rules prescribe that form 'H' is to be enclosed for claiming exemption on export sales. In the absence of declaration form, State rate of tax is to be applied.

'Photo Frames', 'Electronic Appliances', 'Lubricants' and 'Air Conditioners', are not specified in any of the Schedules to the VAT Act and therefore classifiable under Schedule-V to Act and liable for tax at the rate of 14.5 *per cent*. 'Chillies', 'Cotton', and 'Mobile Phones' are classifiable under Schedule IV to VAT Act and are liable for tax at the rate of five *per cent*.

During a test check of CST records of three Circles²⁰, Audit observed²¹ that in ten cases, AAs either exempted or levied tax at the incorrect rate of two/ five *per cent* instead of at 5/ 14.5 *per cent* on the inter-State sales turnover of ₹16.93 crore not supported by 'C' forms. The application of incorrect rate of tax/incorrect exemption resulted in short levy of tax of ₹1.37 crore.

In response, AC, Eluru Bazar replied (August 2019) that show cause notices were issued (August 2019) in two cases. In another case in the same Circle, where the tax was incorrectly exempted due to acceptance of invalid 'H' form, AA stated (August 2019) that original 'H' declaration form was available in Assessment record. Extract of the original declaration form has been called for further examination. In another case in the same circle, AA stated (August 2019) that authorities of Tamilnadu would be addressed to verify genuineness of 'C' form. In the remaining six cases, AAs²² replied (May and August 2019) that the matter would be examined and report submitted to Audit in due course.

The matter was referred to Department (August 2019) and to the Government (February 2020). Their reply has not been received (December 2020).

2.7 Input Tax Credit (ITC)

2.7.1 Excess/ Incorrect allowance of Input Tax Credit

Allowance of excess ITC on purchase of materials resulted in excess allowance of ITC of ₹6.96 lakh

Under Section 13 (1) of the VAT Act, ITC shall be allowed to the VAT dealer for the tax charged in respect of all purchases of taxable goods, made by that dealer during the tax period, if such goods are for use in the business of the VAT dealer. ITC is admissible only on purchases made from the VAT dealers within the State. As per Section 13 (7) of the VAT Act, read with Rule 17(1) (b) of VAT Rules, the dealer who

²⁰ Eluru Bazar, Patamata and Indrakeeladri.

²¹ In May 2019 for the period from 2013-14 to 2016-17.

²² Indrakeeladri (1) and Patamata (5).

pays input tax at the rate of 14.5 *per cent* is eligible to claim ITC at the rate of 75 *per cent* with effect from 15 September 2011.

During a test check of VAT records of Morrisset Circle, Audit noticed²³ that in one case, the AA allowed 100 *per cent* ITC on purchase of materials used in works contract instead of restricting it to 75 *per cent*. This had resulted in excess claim of ITC of ₹6.96 lakh.

In response, AC Morrisset stated (April 2018) that the matter would be examined and report would be submitted in due course.

The matter was referred to Department (August 2019) and to the Government (March 2020). Their reply has not been received (December 2020).

2.7.2 Excess claim of Input Tax Credit due to non/incorrect restriction

ITC was not restricted/ restricted incorrectly by the Assessing Authorities on sale of exempt goods and exempt transactions resulting in excess allowance of ITC of ₹38.80 lakh

As per Section 13 (5) of the VAT Act, no ITC shall be allowed to any VAT dealer on sale of exempted goods (except in the course of export) and exempt sales. As per Section 13 (6) of VAT Act, ITC for transfer of taxable goods outside the State (otherwise than by way of sale) shall be allowed for the amount of tax in excess of four/ five²⁴ *per cent*. Further, as per sub rules (7) and (8) of Rule 20 of VAT Rules, a VAT dealer making taxable sales, exempt sales and exempt transactions of taxable goods shall restrict ITC as per the prescribed formula²⁵. As per Rule 20 (10) of VAT Rules, where a dealer also makes sale of exempt goods, (9.5 *per cent*/ 10.5 *per cent* portion of 14.5 *per cent*) ITC of which was fully claimed initially, shall be restricted at the end of March by applying prescribed formula. Exempt transactions shall be included in taxable turnover during such restriction.

During a test check of records of six²⁶ Circles, Audit observed (between June 2018 and May 2019) from the VAT assessment files of six dealers (for the assessment period from 2011-12 to 2017-18), that the dealers had effected exempt sales/exempt transactions of taxable goods along with sale of taxable goods by utilising common inputs. However, the ITC was not restricted/restricted incorrectly by the AAs contrary to the relevant provisions, resulting in excess claim of ITC of ₹38.80 lakh.

In response, AC, Tuni replied (September 2019 in one case) that the VAT Audit file was submitted to JC for revision. AC Kakinada replied (September 2019 in one case) that notice was issued to the dealer. In the remaining four cases²⁷ the AAs stated

²³ In April 2018 for the assessment period 2014-15.

²⁴ four *per cent* up to 13 September 2011 and five *per cent* from 14 September 2011.

²⁵ $A \times B/C$, where A is the ITC for common inputs for each tax rate, B is the taxable turnover and C is the total turnover.

²⁶ Bhavanipuram, Chittoor-II, Eluru bazaar, Ibrahimpatnam, Kakinada and Tuni.

²⁷ Bhavanipuram, Chittoor-II, Eluru bazaar and Ibrahimpatnam.

(between June 2018 and April 2019) that the matter would be examined and report would be submitted in due course.

The matter was referred to Department (August 2019) and to the Government (February 2020). Their reply has not been received (December 2020).

2.7.3 Incorrect claim of Input Tax Credit by eating establishments

Dealers running hotels are not eligible to claim ITC. Four dealers running hotels claimed ITC on their purchase turnover resulting in incorrect claim of ITC of ₹14.89 lakh

Under Section 4 (9) (d) of the VAT Act, any VAT dealer running an eating establishment, whose annual total turnover is more than rupees seven lakhs and fifty thousands and less than rupees one crore and fifty lakhs shall pay tax at the rate of five *per cent* of the taxable turnover of the sale or supply of goods, being food or any other article for human consumption or drink, served in restaurants attached to such hotels or anywhere whether indoor or outdoor. As per Section 13(5)(h) of the Act, such dealers are not entitled to claim ITC.

During a test check of VAT records of three Circles²⁸, it was observed²⁹ that four dealers running hotels and paying tax under Section 4(9) (d) of the Act claimed ITC on their purchases in contravention to the provisions resulting in incorrect claim of ITC of ₹14.89 lakh.

In response, AC Nandyal-I replied (August 2019) that a notice was issued to the dealer for production of books of accounts. AC Vinukonda replied (September 2019 in two cases) that VAT Audit was taken up and result would be intimated. AC Samarangam Chowk stated (September 2018) that the matter would be examined and report would be submitted in due course.

The matter was referred to Department (August 2019) and to the Government (February 2020). Their reply has not been received (December 2020).

2.8 Short levy of VAT due to application of incorrect rate of tax

Dealers declared tax at the rate of four/ five *per cent* on the commodities taxable at the rate of 4/14.5 *per cent* resulting in under declaration of tax leading to short levy of VAT of ₹70.35 lakh

As per Section 4 (1) of VAT Act, VAT is leviable at the rates prescribed in Schedules II to IV and VI to the Act. The rate of tax for goods falling under Schedule-IV to the Act, was enhanced from four to five *per cent*³⁰ from 14 September 2011. Commodities not specified in any of the Schedules fall under Schedule V and are liable to VAT at 14.5 *per cent* from 15 January 2010. In terms of Section 20 (3) (a) of VAT Act, every monthly return submitted by dealer shall be subject to scrutiny to verify the correctness

²⁸ Nandyal-I (1), Samarangamchowk (1) and Vinukonda (2).

²⁹ between September and November 2018 for the period from 2013-14 to 2017-18.

³⁰ G.O.MS. No. 1718 Revenue (CT II) Department dated 13 September 2011.

of calculation, rate of tax, ITC claimed and full payment of tax payable for such tax period.

The commodities, food products, kurkure, and Explosives, are not specified in any of the Schedules to the Act and are therefore taxable at the rate of 14.5 *per cent* under Schedule V to the Act.

During a test check of VAT records of two Circles³¹ it was observed³² that two dealers, dealing in food products, kurkure, and Explosives had declared tax at the rate of four/ five *per cent* instead of at 14.5 *per cent*. This had resulted in short levy of tax of ₹70.35 lakh.

Assessing Authorities replied (August and September 2019) that notices were issued to the dealers.

The matter was referred to Department (May 2019) and to the Government (January and February 2020). Their reply has not been received (December 2020).

2.9 Short payment of tax and non-levy of penalty due to non-conversion of Turnover Tax (TOT) dealer as VAT dealer

Failure of Assessing Authorities to register the TOT dealers as VAT dealers after crossing the threshold limit resulted in short payment of tax of ₹50.65 lakh and penalty of ₹5.97 lakh

As per Section 17(3) of the VAT Act, every dealer, whose taxable turnover in the twelve preceding months exceeds ₹50 lakh, shall be registered as VAT dealer and pay tax at applicable VAT rates from thereon as prescribed in Schedules to VAT Act. As per Section 17(5)(h) of the Act, every dealer engaged in sale of food items including sweets etc., whose total annual turnover was more than ₹7.50 lakh, was liable for VAT registration and has to pay tax at the rate of five *per cent* under the provisions of Section 4 (9)(d) of the Act. As per Rule 11(1) of the VAT Rules, the prescribed authority may *suo-motu* register a dealer, who is liable to apply for registration as VAT dealer but has failed to do so. As per Section 49 (2) of the VAT Act, any dealer who fails to apply for registration, as required under Section 17, shall be liable to pay a penalty of 25 *per cent* of the tax due prior to the date of registration as VAT dealer.

During a test check of TOT records of 12 Circles³³, Audit observed (between April and November 2018) that in 20 out of 25 cases the taxable turnover of the dealers during the period between September 2014 and March 2017 had crossed the threshold limit. In remaining five cases of Adoni Circle, the total annual turnover of food sales of dealers have crossed threshold limit of ₹7.50 lakh during the period between June 2014 and March 2015 making them liable for VAT registration. The subsequent turnover liable for levy of VAT after the dealers had crossed the threshold limit, amounted to ₹6.53 crore, on which VAT of ₹56.81 lakh was to be levied had they been registered as

³¹ Patnam Bazar (1) and Tuni (1).

³² between April 2018 and April 2019 for the assessment period from 2016-17 to 2017-18 (up to June 2017).

³³ Adoni, Bhavanipuram, Kurnool-III, Machilipatnam, Morrispet, Nandyal, Narasaraopet, Nellore-II, Nidadavolu, Palkol, Proddutur-I and Sattenapalli Circles.

VAT dealers but they had paid tax of only ₹6.16 lakh. These TOT dealers had neither applied for VAT registration nor were they registered by the respective AAs. This had resulted in short payment of tax of ₹50.65 lakh and non-levy of penalty of ₹5.97 lakh.

In response, Department accepted the audit observations in 13 cases pertaining to four offices³⁴. Of 13 cases accepted, partial amount of ₹1.50 lakh was collected (between February and July 2019) in two cases (AC, Adoni-I). In six cases pertaining to three offices³⁵ show cause notices were issued. AC Machilipatnam replied (September 2019 in two cases) that in one case clerical error in turnover for the quarter ended March 2017 was rectified and there was no tax liability after rectification. As verified from ledger, discrepancy was noticed in the turnover rectified by the AA for the relevant month. With respect to another case it was reported that tax had been remitted. As verified from remittance details, the period objected by Audit and the amount indicated in the challan did not match. Hence AC's reply needs re-examination. In remaining four cases from three offices³⁶ AAs replied (June and November 2018) that the matter would be examined and reply would be furnished to Audit in due course.

The matter was referred to Department (July and August 2019) and to the Government (February 2020). Their reply has not been received (December 2020).

2.10 Incorrect exemption

2.10.1 Non-levy of tax due to incorrect exemption of textile turnover

Assessing Authorities had incorrectly exempted sale turnover of 'textiles and fabrics', instead of levying tax at the rate of five *per cent*, resulting in short levy of tax of ₹30.75 lakh

Under Section 4 (3) of the VAT Act, every VAT dealer shall pay tax on sale of taxable goods at the rates specified in the Schedules to the Act. As per the Government order³⁷ dated 08 July, 2011, the commodity 'textiles and fabrics' was added to Schedule-IV and made taxable at five *per cent*³⁸. Government issued orders in Memo³⁹ dated 14 November, 2012 waiving the VAT dues of textile and fabric dealers, as they had not collected the same from their customers during the period from 11 July 2011 to 31 March 2012. As per Ordinance No. 9 of 2012 dated 05 November 2012, with effect from 1 April 2012, the dealers of 'textiles and fabrics' may opt to pay tax at the rate of one *per cent* under composition⁴⁰. Later, Government by another order⁴¹ included the said commodity in Schedule-I from 07 June 2013 and exempted sales thereof. Hence, the commodity was liable to be taxed at the rate of five *per cent* from 01 April 2012 to 06 June 2013, if the dealers had not opted for composition.

³⁴ Adoni-I (5 cases), Narasaraopet (1 case), Palakol (3 cases) and Proddatur-I (4 cases).

³⁵ Morrispet (3 cases), Nandyal-I (1 case) and Nidadavolu (2 cases).

³⁶ Bhavanipuram (1 case), Kurnool-III (2 cases) and Sattenapalli (1 case).

³⁷ G.O.Ms.No.932, Revenue (CT-II) Department dated 08 July 2011.

³⁸ four *per cent* up to 13 September 2011.

³⁹ Government Memo No.16460/CT-II(1)/2012-5 dated 14 November 2012.

⁴⁰ option form in VAT 250 to be filed by the dealer for paying tax at one *per cent* instead of at five *per cent*.

⁴¹ G.O.Ms.No.308, Revenue (CT-II) Department dated 07 June 2013.

During a test check of records of four Circles⁴², it was observed⁴³ from VAT audit files of seven cases dealers did not pay any tax by incorrectly declaring the sale of textiles and fabrics as exempt. The AAs, however allowed exemption instead of levying tax at five *per cent*. In the office of AC Tanuku-I, Audit observed (November 2015 in one case) that though the dealer did not opt to pay tax under composition, paid tax at the rate of one *per cent* for the part of turnover during the year 2012-13. The exempted turnover was liable for tax at the rate five *per cent* as none of the dealers had opted for composition. Incorrect exemption had resulted in non-levy of tax of ₹30.75 lakh.

In response, Department accepted audit observations in five cases pertaining to three offices⁴⁴. In remaining three cases AAs⁴⁵ replied (November 2015 and September 2018) that the matter would be examined and reply would be furnished to Audit in due course.

The matter was referred to Department (July and August 2019) and to the Government (January 2020). Their reply has not been received (December 2020).

2.10.2 Non levy of tax on fertiliser sale turnover

Assessing Authorities did not levy tax at five *per cent* on sale of Fertilisers classifiable under Schedule IV to VAT Act, resulting in non -levy of tax of ₹9.01 lakh

Goods listed under Schedule-I to VAT Act are exempt from tax. Government of Andhra Pradesh in their order⁴⁶ dated 09 October 2012 exempted (Serial No. 64 of Schedule I to VAT Act) direct sales of “Fertilisers” by Primary Agriculture Co-operative Societies (PACS) to Farmers. The commodity ‘Fertiliser’ is classifiable under Schedule- IV to VAT Act and liable to tax at the rate of five *per cent*.

During the course of Audit of Nidadavolu Circle, it was noticed (September 2015) from VAT assessment file of a dealer that (for the period from April to July 2012), the sale turnover of ₹1.80 crore of fertilisers to co-operative society liable to tax under Schedule-IV of Act at the rate of five *per cent* was not subjected to tax. This had resulted in non-levy of tax of ₹9.01 lakh on the turnover of ₹1.80 crore.

In response, AC, Nidadavolu stated (September 2015) that the matter would be examined and report would be submitted in due course.

The matter was referred to Department (August 2019) and to the Government (February 2020). Their reply has not been received (December 2020).

⁴² Chittoor-II, Indrakeeladri, Machilipatnam, and Samarangam chowk.

⁴³ between April 2018 and May 2019 for the period from April 2015 to June 2017.

⁴⁴ Chittoor-II (1 case), Indrakeeladri (1 case) and Machilipatnam (3 cases).

⁴⁵ Tanuku-I (1 case) and Samarangamchowk (2 cases).

⁴⁶ GO MS Rev (CT II) Department No. 605 dated 09 October 2012.

Chapter III

State Excise Duties

Performance Audit on “Functioning of Prohibition and Excise Department”

3.1 Introduction

Prohibition & Excise (P&E) Department deals with regulation and control over manufacture, possession, transportation, distribution and sale of alcoholic products in the State. The Department plays a dual role of enforcing prohibition of arrack and collection of revenue through regulation of Indian Made Foreign Liquor (IMFL) and Foreign Liquor (FL). The Department is responsible for control of Prohibition & Excise related crimes through detection, investigation, prosecution of offences under the law and prevention of illicit trafficking in Narcotic Drugs and Psychotropic Substances. Excise revenue constituted 10 *per cent* of the total revenue raised by the State Government during 2018-19.

3.2 Organisational set up

Principal Secretary, Revenue Department is in charge of Excise Department at Government level. The Department is headed by the Commissioner of Prohibition & Excise (CPE) for administering related Acts.

All the 13 revenue districts of the State are divided into 29 excise districts. Each revenue district is under the charge of a Deputy Commissioner (DC) (for overall administration) and Assistant Commissioner (AC) (for enforcement of excise laws) and each excise district is under the charge of a Prohibition & Excise Superintendent (P&ES). There are three Regional Excise (Chemical) Laboratories situated in Kakinada, Guntur and Chittoor under the control of respective DCs.

There were 14 primary distilleries¹ and 20 secondary/ IMFL distilleries² functioning in the State as of March 2019. There were 4,380 retail Shops³, 819 Bars, four Micro-Breweries, 20 Clubs, 13 Tourism Development (TD)⁴, three Breweries and 29 Canteen Stores spread across 13 revenue districts in the State.

¹ Units producing Rectified Spirit (RS) and Extra Neutral Alcohol (ENA) which is raw material for production of liquor.

² Units that produce Indian Made Foreign Liquor.

³ A licensed outlet to sell liquor.

⁴ A license to sell liquor in tourist spots.

Organisational structure of the Department is given below:

Figure-3.1: Organogram



3.3 Audit Objectives

Performance audit on 'Functioning of Prohibition and Excise Department' was conducted with the objective of assessing whether;

- the department has levied and collected applicable taxes/ fees/ duties as per the Excise Act and Rules;
- enforcement activities of the department were effective; and
- internal control mechanism in the department was adequate.

3.4 Scope and Methodology of Audit

Audit was carried out between April and December 2019 and covered the period from June 2014⁵ to March 2019. Audit methodology involved scrutiny of the relevant records in the Commissionerate of Prohibition and Excise (CP&E), Directorate of Enforcement (DoE), Offices of Deputy Commissioners (DC) (4)⁶, Assistant

⁵ Composite State of Andhra Pradesh was bifurcated with effect from 02 June 2014.

⁶ Chittoor, Krishna, Prakasam and Visakhapatnam.

Commissioners (AC) (Enforcement) (4)⁷, AC, Distilleries, Vijayawada, Prohibition and Excise Superintendents (P&ES) (10)⁸ and Distillery Officers (11)⁹ were test checked. Records of Andhra Pradesh State Beverages Corporation Limited (APSBCL) relating to collection of taxes, duties, *etc.* were also scrutinised. Joint physical verification of 196 (A4) retail shops, 75(2B) bars (15 *per cent*) and Micro-Breweries (2 out of 4) under the jurisdiction of test checked P&ES offices were conducted. For the purpose of representing whole State in the sample, the districts in the State were divided into three regions *viz.*, North Andhra¹⁰, Central Andhra¹¹, and Rayalaseema¹². Within each region, offices were selected on the basis of probability proportionate to size without replacement method.

Entry conference was held with the representatives of the State Government in April 2019, wherein audit objectives, scope, criteria and methodology of audit were explained. Draft Report was forwarded to the Government in March 2020 for their comments. Despite specific requests (May 2020 and November 2020) to intimate convenience for Exit meeting to discuss the audit findings, Government has not come forward.

3.5 Audit Criteria

Audit findings were benchmarked against the criteria sourced from the following:

- The AP Excise Act, 1968;
- The A.P. Excise (Grant of License of selling by Bar and Conditions of License) Rules, 2017;
- The A.P. Excise (Grant of License of selling by Shop and Conditions of License) Rules, 2012;
- The A.P. Excise (Grant of License of selling by in-house and conditions of License) Rules, 2005;
- The A.P. Distillery (Manufacture of Spirits) Rules, 2006;
- The A.P. Distillery (Manufacture of IMFL other than Beer and Wine) Rules, 2006;
- The A.P. Brewery Rules, 2006;
- The A.P. Excise (Possession, Import, Export, Transport of Molasses Conditions of License and Permits) Rules 2008;
- The A.P. Excise (Levy of Interest on Government Dues) Rules, 1982;

⁷ Chittoor, East Godavari, Guntur and Visakhapatnam.

⁸ Gudur, Guntur, Kadapa, Narsaraopeta, Palasa, Proddatur, Tenali, Tirupati, Vijayawada and Visakhapatnam.

⁹ Sentini Bio-products Private Limited, Sentini Beverages (P) Ltd, United Breweries Ltd, Pearl Distilleries, Soaring Spirits Private Ltd, Crux Bio-tech, Esveer Distilleries Pvt Ltd, Sri Krishna Enterprises, SPY Agro Industries, Andhra Sugars Pvt Ltd and Sri Sarvaraya Sugars Ltd.

¹⁰ Srikakulam, Visakhapatnam and Vizianagaram.

¹¹ East Godavari, Guntur, Krishna, Nellore, Prakasam and West Godavari.

¹² Ananthapuramu, Chittoor, Kurnool and YSR Kadapa.

- The Andhra Pradesh (Regulation of Wholesale Trade and Distribution and Retail Trade in Indian Liquor, Foreign Liquor, Wine and Beer) Act, 1993.

3.6 Trend of Revenue

State Excise revenue earned by the Government and sale value of IMFL and beer for the period from 2014-15 (June 2014) to 2018-19 and their growth rate is given below:

Table 3.1 Trend of Revenue

(₹ in crore)

Particulars	Year				
	2014-15	2015-16	2016-17	2017-18	2018-19
Sale value of IMFL and beer	11,570	12,629	13,642	17,291	20,128
State Excise revenue	3,642	4,386	4,645	5,460	6,220
Percentage of increase in revenue over previous year	-	20.40	5.91	17.55	13.92
Percentage of revenue to the sale value	33	35	34	32	31
Percentage of increase in sale value over previous year	-	9	8	27	16

Source: Finance Accounts and data furnished by the Department

During the year 2017-18, license fee structure was changed i.e. existing fee was fixed at 1/4th of the previous year's license fee and MRP of liquor was increased.

3.7 Arrears of Revenue

Audit scrutiny of DCB Statement in the Commissionerate revealed that an amount of ₹10.82 crore was pending recovery as of March 2019.

Table 3.2 Arrears of Revenue

(₹ in crore)

Year	Net collectable demand	Collection	Balance
2015-16	11.06	0.02	11.04
2016-17	11.04	0.08	10.97
2017-18	10.97	0.12	10.84
2018-19	10.84	0.02	10.82

Source: Data furnished by the Department

The details of arrears viz., the date from which pending and from whom these were due were not forthcoming from the DCB statement.

Audit also noticed that additional arrears accumulated in the field offices during the audit period were not entered in the DCB statement. For instance, an amount of ₹34.75 lakh collectable for the year 2016-17 was reflected as arrears to be collected in the Office of the P&ES, Gudur, but not included in the data furnished by the Commissioner, which suggests that the arrear figures in the DCB do not encompass the complete and accurate figures for the State. Further, as may be seen from the above table, collection of arrears ranged from ₹2 lakh to ₹12 lakh across the State, which was very meagre vis-à-vis collectable demand of ₹10.84 crore. The Department needs to institute an appropriate mechanism to monitor and follow-up collection of arrears.

Commissioner replied that instructions would be issued to all the departmental officers for recovery of excise arrears.

Results of audit

Significant findings of performance audit of Prohibition and Excise Department are discussed below.

3.8 Levy and collection of taxes, fee, duties etc.

Audit Objective 1: Whether the Department has levied and collected applicable taxes/ fee/ duties as per the Excise Act and Rules

Government notifies establishment of new manufactories or expansion of existing manufactories. On issue of such notifications, prospective distilleries apply for grant of Letter of Intent (LoI) by paying the requisite non-refundable and non-adjustable fee and special fee. On receipt of applications, Government issues LoI prescribing production capacities. Distilleries have to obtain license within six months from the grant of LoI and commence production within two years from grant of LoI. The license is to be renewed before commencement of the license year (April – March). Distilleries are required to remit the excise duty before the product is removed to depots.

Commissioner fixes the number of retail sale outlets, bars to be established in any area/ locality and recommends excise policies for grant of licenses to shops/ bars/ clubs/ Micro Breweries for selling/ serving of IMFL/ beer/ wine. P&ESs issue licenses to shops and Deputy Commissioner issues licenses to bars and CPE issues licenses to clubs, which lift the stock from the depots for sale to end consumers.

Performance audit revealed various deficiencies in assessment and collection of State Excise duty such as non-collection of license fee on expanded production capacity, Non-collection of non-refundable and non-adjustable fee, short collection of license fee *etc.* These are discussed in the succeeding paragraphs.

3.8.1 Non-collection of non-refundable and non-adjustable fee

Letters of Intent were sanctioned without collecting the applicable fee resulting in loss of revenue of ₹22.40 crore

Government issued notification (November 2014) inviting applications from the licencees, for grant of LoI for expansion of production capacities of the existing IMFL Manufactories. A Committee¹³ was constituted (November 2014) to scrutinize and finalize the applications received by evolving a rational and transparent policy. A total number of 23 (12 existing and 11 new) manufactories had applied for new/expansion of existing LoIs.

As per Rule 5 of AP Distillery (Manufacture of Indian Made Foreign Liquor other than Beer and Wine) Rules, an existing/ new manufactory was required to pay non-refundable and non-adjustable fee (NRNF) at ₹1.40 crore plus ₹1.40 crore for every additional slab of 10 lakh proof litres or part thereof for seeking expansion in the range of above 10 lakh proof litres and up to 50 lakh proof litres.

¹³ Committee consisting of CPE, Commissioner of Industries and Addl./Joint/ Dy. Secretary to Government.

Scrutiny of LoI sanction files in the Office of Commissioner revealed that five distilleries were sanctioned additional LoIs without the recommendation of the Committee. In four out of these five cases, the applicable fee was not collected, resulting in loss of revenue of ₹22.40 crore as given below in **Table 3.3**:

Table 3.3 Non-collection of non-refundable and non-adjustable fee

Name of the Distillery	Additional LoI Sanctioned (in lakh proof litres)	NRNF to be collected (₹ in crore)
M/s BVS Distilleries	36.52	5.60
M/s Visakha Disilleries	48.68	7.00
M/s PMK Distilleries	24.34	4.20
M/s Shravani Alco Breweries	36.51	5.60
Total	146.05	22.40

Source: Records produced by the office of Commissioner of Prohibition Excise

The LoIs for expansion were issued without the recommendations of the Committee and without collecting NRNF amounting to ₹22.40 crore leading to loss of revenue.

3.8.2 Non-collection of license fee on expanded production capacity

As per Rule 8 (4) (c) of AP Distillery (Manufacture of IMFL other than Beer and Wine) Rules, in case an applicant opts for expansion in half-yearly phases, the expanded production capacity sought for and approved in the LoI has to be added to the licensed capacity, irrespective of the commencement of such additional production. Accordingly, respective instalments of non-adjustable and non-refundable fee, special fee and license fee for expanded capacity as applicable, are payable. As per Rule 5, the manufactory has to pay license fee for the expanded capacity at ₹1,00,000 for every additional one lakh PLs.

As per Rule 3 of A.P. Excise (Levy of interest on Government dues) Rules, the arrears of revenue recoverable under Section 65 (3) of the A.P. Excise Act, 1968 shall bear interest at the rate of 18 per cent per annum.

Scrutiny of relevant records in the Commissionerate revealed that seven distilleries¹⁴ had sought expansion of their existing capacities by submitting their scheme (expansion in half yearly phases) of expansion as per Government notification dated 01 November 2014. Government had accorded permission for expansion of their existing capacities in the months of August & September 2016. It was observed that the distilleries continued to pay license fee for the quantities for which they had started production and had not paid license fee on expanded capacities. This resulted in short collection of license fee of ₹13.24 crore and penal interest of ₹6.02 crore as detailed below in **Table 3.4**:

¹⁴ B.R.K Sprints, BVS Distilleries, Esveer Distilleries, Gowthami Agro Ltd., Mohan Breweries, Pearl Distillery and Sri Krishna Enterprises.

Table 3.4 License fee and interest payable by distilleries

(₹ in lakh)				
Sl. No.	Date of LoI	Distillery	Enhanced license fee not paid	Penal Interest leviable
1	23/08/2016	M/s B.R.K Spirits	381.00	167.92
2	03/09/2016	M/s Gowthami Agro Ltd	96.00	44.64
3	03/09/2016	M/s BVS Distilleries	211.00	96.08
4	05/08/2016	M/s Pearl Distillery	357.00	193.23
5	03/09/2016	M/s Sri Krishna Enterprises	137.00	45.70
6	19/08/2016	M/s Esveer distilleries	22.00	12.94
7	03/09/2016	M/s Mohan Breweries	120.00	41.87
Total			1,324.00	602.38

Source: Records produced by the office of Commissioner of Prohibition Excise

As per Rule 5 (2)(b)(ii) of AP Distillery (Manufacture of IMFL other than Beer and Wine) Rules, non-refundable and non-adjustable fee as well as the Special Fee are to be paid in twelve equal four-monthly instalments in case of new manufactories and in case of expansion of the production capacity of existing manufactories within the validity period (4 years) of LoI.

In respect of M/s Gowthami Agro Limited, it was observed (July 2019) that LoI fee (2nd to 9th instalments) had not been paid as per the schedule. The LoI fee payable worked out to ₹5.33 crore, besides penal interest of ₹1.35 crore at 18 *per cent* per annum totalling ₹6.68 crore.

Commissioner did not offer any remarks.

3.8.3 Short collection of license fee

As per Rule 14(7) of Andhra Pradesh Distillery (Manufacture of Spirits) Rules, the right of the licensee to get his license stands forfeited, if the license is not renewed continuously for a period of three years.

Audit noticed that license was issued by the Government to M/s Rhizome Distilleries Private Ltd., for a licensed capacity of 120 lakh BL for the period from June 2011 to March 2012. Later, the license was transferred to M/s Milano Spirits India Limited (August 2011). The license of M/s Milano Spirits India Limited was not renewed from the years August 2012-13 to 2016-17. However, on request of the unit (April 2017), the Commissioner renewed the license (May 2017) and at another request of the Unit (May 2017), license was transferred to M/s KBK Bio tech Ltd. By the time of submission of application for renewal by M/s Milano Spirits India Limited, the property was already sold (May 2016) to M/s KBK Biotech Pvt Limited. Thus, the renewal of license after expiry of time and after change of ownership of property is contrary to the rules stated *ibid*.

As per Rule 9(4)(b), the license fee for a new distillery shall be ₹20,000 per annum till the commencement of production or expiry of two years period from the issue of LoI whichever is earlier. In terms of Rule 10(3), annual License Fee shall be fixed by the Commissioner based on the production capacity. The License Fee structure is as indicated below:

Table 3.5 Structure of license fee

Annual Production Capacity	Annual License Fee
1. Up to 20 lakh BLs	₹4,00,000
2. For every additional 10 lakh BLs or part thereof	₹1,00,000

Source: A.P Distillery (Manufacture of sprits) Rules

As per Rule 14 (4) of the Rules, if the licensee doesn't renew the license before commencement of license year, the license fee along with late fee (at 5 per cent) is to be paid within six months from the commencement of license period. The late fee is to be paid at 10 per cent, if the renewal of license is applied after six months from the commencement of license year.

In the instant case, M/s Milano Spirits India Pvt. Ltd (now KBK Biotech), is liable for payment of proportionate license fee of ₹7.89 lakh for the period August 2012 to March 2013 and full license fee of ₹84 lakh at the rate of ₹14 lakh per annum for the period 2013-14 to 2018-19 along with late fee of ₹9.19 lakh (at the rate of 10 per cent of annual license fee) as specified in Rule 14(4) *ibid*. However, the unit paid ₹20,000 per annum and late fee of ₹2,000 as provisional license fee. This resulted in short collection of license fee of ₹1.01crore.

Commissioner replied that Government issued (Memo dated 16 February 2017) orders for extending the validity of LoI upto March 2018 and it was renewed for the period from 2012-13 to 2016-17 in relaxation of Rules. Commissioner further stated that the license was transferred according to Rule 17 (1) (i) of A.P. Distillery (Manufacture of Sprits) Rules.

The reply is not acceptable since the property was sold (May 2016) to M/s KBK Biotech Private Limited and license transfer request was made to the Department, suppressing the fact of sale of property. Further, section 68-B of the AP Excise Act provides that Government may by way of a Notification, exempt or grant relaxation in respect of any of the provisions of the Act. In this connection, no Notification was issued to relax the conditions of LoI relating to this particular licensee.

3.8.4 Short collection of proportionate license fee on sub-leases

As per Rule 4 of AP Distillery (Manufacture of Ready to Drink Alcoholic Beverages) Rules, license fee for the manufacture of Ready to Drink Alcoholic Beverages shall be ₹one per BL. As per Rule 13 *ibid* read with Rule 11 (1) (i) (a) of AP Distillery (Manufacture of IMFL other than Beer and Wine) Rules, a sub-lease fee of sum equal to 10 per cent of the proportionate license fee is remitted on the production capacity proposed for sub-lease.

During scrutiny of sub lease files of a manufacturing unit (Ready to Drink Alcoholic Beverages), it was observed that a licensee, M/s SNJ Sugars & Products Ltd, requested for permit to manufacture ready to drink alcoholic beverage under sub-lease with M/s Bacardi India Pvt Ltd for 16,46,965 PLs¹⁵ (1,71,00,000 BLs). The parties have entered into sub lease agreements on 13 June 2018 and paid sub-lease fee of ₹two lakh per each

¹⁵ For 10,00,000 and 6,46,965 PLs.

agreement instead of paying proportionate license fee of ₹10.50 lakh and ₹6.60 lakh respectively, which resulted in short collection of ₹13.10 lakh¹⁶ at the rate of 10 paise per BL.

Commissioner replied that as per Rule 4 of AP Distillery (Manufacture of Ready to Drink Alcoholic Beverages) Rules, the unit had remitted ₹66 lakh towards license fee and complied with Rule 11 of AP Distillery (Manufacture of IMFL other than Beer and Wine) Rules for sub leasing.

The reply is not acceptable since the unit paid only the license fee but not the proportionate license fee for the quantity sub-leased.

3.8.5 Non-collection of administrative fee towards export of denatured spirit

As per Rule 3(1) of AP Denatured Spirit and Denatured Spirituous Preparations Rules, no Excise Duty or CVD shall be levied on the Denatured Spirit (DS), Methylated Spirit (MS), Methyl Alcohol (MA) or Denatured Spirituous preparations except administrative fee at the rate of 50 paise per bulk litre or such other rate as may be fixed by the Government. As per Rule 6(4) *ibid*, transport permit shall not be granted before payment of administrative fee when the DS, MS or MA Denatured Spirituous preparations are obtained from a distillery by the licensee under these Rules.

During the scrutiny of DS export files, it was observed that three primary distilleries¹⁷ have been permitted to export a total of 18.73 Lakh Bulk Litres of DS for the period 2014-15 to 2018-19 without collecting administrative fee of ₹9.37 lakh at 50 paise per BL of DS.

Commissioner replied that the matter would be discussed with all the Assistant Commissioners of P&E (Distilleries) and detailed reply would be submitted in due course.

3.8.6 Non-levy of interest on delayed payment of permit room license fee/registration fee

As per Rule 16 of the Andhra Pradesh Excise (Grant of license of selling by shop and conditions of license) Rules, read with conditions governing drawl of lots (Notification 2017-19), the successful applicant shall pay a sum equal to the 1st instalment of the license fee for the Shop by way of Challan in treasury on the day of selection or the succeeding working day after the acceptance of the application. As per Rule 16(2) *ibid* read with Government order of June 2015, the licensee shall pay the license fee for the two-year license period either in one lump sum or in six equal instalments at his option.

As per Rule 26, the Non-refundable Registration Charge and the license fee for Permit Room shall be ₹5,00,000 and ₹10,000 respectively for the license period or part thereof and is payable in lump sum, at the time of completion of formalities under Rule-16.

¹⁶ ₹ 10,50,000 – ₹ 2,00,000 + ₹ 6,60,000 – ₹ 2,00,000.

¹⁷ Crux Bio tech, Sentini bio products and SNJ sugars & Co.

CPE vide Circular dated 3 July 2018, allowed the licencees of retail shops/ bars to pay the amounts due from them in instalments. As per this relaxation, 1st and 2nd instalments of the sums due to the Government were to be paid by the licencees on or before 20 June 2018 and 20 November 2018.

As per Rule 3 of A.P. Excise (levy of interest on Government dues) Rules, the arrears of revenue recoverable under Section 65 of the A.P. Excise Act, shall bear interest at the rate of 18 *per cent* per annum.

Scrutiny of records of six¹⁸ P&ESs for the policy period 2015-19 revealed that licencees of 419 (retail shops: 374; Bars: 45) shops/ bars had not paid the License fee in instalments (98), Permit room fee and Registration charges for Permit room (322) on the prescribed dates. P&ESs had not levied the penal interest of ₹28.40 lakh on the delayed payments for two days to 315 days by the licencees.

CPE replied that notices would be issued to the licencees for payment of Penal Interest.

3.8.7 Non-levy of additional license fee

As per Rule 6 (1) (i) (a) of A.P. Excise (Grant of license of selling by Bar and conditions of license) Rules, read with amended Government orders (December 2015)¹⁹ (these orders were withdrawn from August 2016), if the plinth area of bar exceeds 300 square metres, it shall attract an additional license fee at 10 *per cent* of annual license fee for every 100 square metres or part thereof.

Scrutiny of Bar license files in two offices²⁰ of P&ESs for the period from January to July 2016, disclosed that in 11 cases²¹, the plinth area of bar premises exceeded 300 sq. metres. However, additional license fee amounting to ₹1.17 crore²² was not levied.

CPE replied that the Rule was applicable vide Government order dated 11 December 2015. It was subsequently amended in August 2016 by making plinth area as 200 square metres.

No specific reply had been furnished with regard to non-collection of additional license fee.

¹⁸ Kadapa, Narsaraopeta, Palasa, Proddatur, Tirupati, and Vijayawada.

¹⁹ G.O.Ms. No. 468 Revenue (Excise-II) Department dated 11 December 2015.

²⁰ Narsaraopeta and Tirupati.

²¹ Narsaraopeta: 07 cases and Tirupathi: 04 cases.

²² Narsaraopeta: ` 25.66 lakh and Tirupathi: ` 90.88 lakh.

3.9 Enforcement activities of the Department

Audit Objective 2: Whether the enforcement activities of the Department were effective

The Directorate of Enforcement (DOE) plays a significant role in controlling excise crimes in the State. A control room with a toll free number has been established under the control of Director of Enforcement. Raids are carried out by the State task force teams of DOE based on inputs/complaints received in the entire State. At division level, AC (Enforcement) teams conduct raids and cases detected are handed over to SHOs for further action. Status of the cases detected and handed over to SHOs concerned is reviewed by DOE on a regular basis.

Audit scrutiny revealed low conviction rate, lack of feedback mechanism etc. in enforcement activities of the department. These are discussed in the following paragraphs.

3.9.1 Low rate of conviction

Crime cases are booked by Enforcement wing of the department. The details of cases booked in the State for the period from 2014-15 to 2018-19 by the Enforcement wing are given below in **Table 3.6**:

Table 3.6 Details of cases booked, convicted and pending cases (01-06-2014 to 31-3-2019)

Crime Type	Cases pending as on 01.06.2014	No of cases booked during 2014-19	Total No. of cases	Convicted during 2014-19 (%)	Acquitted during 2014-19	Dept Disposal during 2014-19	Abated	Pending cases as of 31.02.2019 (%)
ID Cases	44,146	92,021	1,36,167	6,650 (4.8)	55,340	55,790	1,441	16,946 (18.4)
NDPS	52	4,648	4,700	326 (6.9)	2,043	508	105	1,718 (36.9)

Source: Information collected from the Directorate of Enforcement

The cases convicted in the above two categories ranged from five to seven *per cent*.

Director of Enforcement replied that it is difficult to secure independent witnesses and official panchanamas at the time of seizures during vehicle checking and while conducting surprise check on the hideouts of ganja transporters. He further stated that training classes were being arranged with public prosecutors to improve the quality of investigation.

3.9.2 Lack of Feedback mechanism

AC (Enforcement) is responsible for monitoring the prosecution of excise cases, ensuring timely charge-sheeting of the cases by Station House Officers (SHOs), serving summons and execution of non-bailable warrants *etc.*

During the scrutiny of crime records in the test checked AC (Enforcement) offices²³, it was observed that 20,475 cases were booked during the period 2014-15 to 2018-19. However, as seen from the crime registers and returns, there were no entries with

²³ Chittoor, Guntur, Kakinada and Visakhapatnam.

regard to the status of these cases. In the absence of these details, it is not possible to ascertain whether all the cases detected and handed over by the AC (Enforcement) were correctly registered by SHOs and whether follow-up action was taken by the SHOs/P&ESs for finality of these cases.

DOE replied that SHOs would be instructed to furnish compliance report on offences booked by Enforcement Staff.

3.9.3 Inadequate action on licences

As per Government Order dated 8 June 2014²⁴, licenses should be cancelled in the following cases.

- (a) retail shops indulging in sale of liquor beyond permitted quantities to the customers in single transaction under Section 36 (b) and (c) of AP Excise Act;
- (b) involvement in supply of liquor to unauthorised outlets, in violation of Rule 35 of the AP Excise (Grant of license of selling by shop and conditions of license) Rules;
- (c) all unauthorised liquor sales sold at unauthorised premises or outlets that cannot be compounded.

According to section 47 (1) of AP Excise Act, the offences booked under Section 34((b),(c),(g), Section 36((a), (e), (f), (g),(h), Section 37((b), (c), (d)), Section 41 only can be compounded²⁵.

Scrutiny of records relating to offences in the test checked Offices of P&ESs²⁶ disclosed that in respect of retail shops, 68 cases were booked during 2015-19 under Section 36 (b) and (c) for offences like sale of liquor at more than MRP (41) and loose sales (27). The licenses of these shops were suspended and were compounded under Section 47 (1) by collecting compounding fee contrary to the provisions of Section 47(1) of AP Excise Act. Further, in 189 cases of unauthorised outlets, the cases were compounded without cancelling these licenses.

Test check of the compounding cases of retail shops disclosed that 132 cases were booked under Section 31 (1) (b) & 41 instead of under section 36(1) (b) &(c). As the cases booked under 36 (1) (b) &(c) are not compoundable, these cases were booked under Section 31 (1) (b) and Section 41. Further, three of these licences had repeated²⁷ the same offences in the jurisdiction of P&ES Proddatur.

P&ES, Proddatur replied that Section 31(1)(b) confers the powers on licencing authority to suspend or cancel the license whenever there was an event of any breach by authorised servants and licensee; whereas 36 (1) (b) & (c) was a penal section. The

²⁴ G.O.Ms. No. 263, Revenue (Ex.II) Department dated 08 June 2014.

²⁵ Levy of penalty for the offense committed.

²⁶ Chittoor, Guntur, Guduru, Kadapa, Narasaraopeta, Tenali, Tirupathi, and Vijayawada.

²⁷ Guru Wines, Muddanur (Three times), Manjunatha Wines, Kondapuram (twice); Vijaya Wines, Vempalli (twice).

competent authority if convinced could compound the same offence under Section 47(1); otherwise the Section would be altered to 36 (1) (b) & (c) to file charge sheet.

The reply is not acceptable as offences like sale of liquor in loose quantities and sale at rates higher than MRP amount to wilful breach of provisions of Excise Act and Rules and should be booked under Sections 36 (1) (b) & (c), which are not compoundable. Taking a lenient view on the licencees and resorting to compounding of offences, instead of initiating stringent action like cancellation of licenses could encourage repetition of illegal activities.

3.9.4 Non-Collection of compounding fee

Licenses of the following two shops in the jurisdiction of P&ES, Kadapa were suspended and the shops were compounded as detailed below in **Table 3.7**:

Table 3.7 Delay in issue of compounding of licence

License no	Name of the shop	Date of suspension	Date of orders of the Deputy Commissioner allowing licencee to do business	Date of compounding orders by CPE	Amount to be collected (₹ in lakh)
KD120	M/s Sri Sai Midhula Wines	19.01.2019	23.01.2019	26.02.2019	2.00
KD126	M/s SSLCA Wines	29.01.2019	05.02.2019	26.02.2019	2.00

Source: Records produced by Prohibition and Excise superintendent, Kadapa.

It is evident from above that before issue of compounding orders of the CPE, DC, Kadapa had allowed the licencees to transact their business without payment of compounding fee levied by CPE.

P&ES replied (May 2019) that the compounding fee would be collected from the licencees.

3.10 Internal control mechanism

Audit Objective 3: Whether internal control mechanism in the Department was adequate

Internal control mechanism is important for ensuring proper and effective functioning of a system and identifying and addressing instances of non-compliance with the relevant rules and regulations. It also provides reasonable assurance to the stakeholders with regard to enforcement of laws, rules and departmental instructions. The internal control mechanism of the department has not been effective as discussed in the succeeding paragraphs.

3.10.1 Internal Audit and inspections

Internal Audit is an important element of internal control for verifying compliance with prescribed Rules/Acts/Manuals/Codes and ensuring prevention and detection of control lapses. The orders issued by Government of AP from time to time stipulate among others, that it is the responsibility of the Accounts Branch of the Head of the

Department to conduct Internal Audit of the Regional offices, District Offices, Unit Offices etc., periodically and at least once in a year and furnish reports to the CPE.

Audit observed that Internal Audit was not conducted in any of the test checked offices. Instances of omissions or commissions in respect of crime, efficiency and accountability of district level offices may not be brought to the notice of concerned competent authorities, in the absence of internal audit of field offices.

CPE replied that internal audit of the regional offices, district offices etc., are not being conducted due to shortage of ministerial staff in CPE's Office.

Periodical inspections of P& E.S. Offices, Sub-divisional offices, Excise Stations, Check posts, IML Depots, Regional Excise Labs, Distilleries, etc., at regular intervals were to be conducted by DCs and ACs.

Audit, however, observed that in four test checked DCs, inspections were not conducted by DC, Vijayawada during the period 2014-19 and in respect of DC Chittoor, for the period from 2014-15 to December-2017. In the remaining two DCs (Visakhapatnam & Ongole) also, there was a shortfall of 25 to 98 *per cent* in inspections. No inspection was conducted by ACs, Kakinada and Chittoor. There was a shortfall ranging from 40 to 89 *per cent* and 66 to 90 *per cent* (except in respect of Toddy shops & Distilleries) by ACs Visakhapatnam and Guntur respectively.

The shortfall in inspections is attributable to shortage of manpower. Audit observed a shortfall of 26 *per cent* manpower across all cadres.

3.10.2 Issue of goods during suspension period

Retail liquor shops/ bars were not eligible either to indent or lift consignment of IMFL/FL from depots or sell it in the premises during the suspension period of the licenses.

Scrutiny of transport permits in Hedonic Path Finder System (HPFS) revealed that 20 shops and 3 bars in the jurisdiction of P&ES, Vijayawada and Narsaraopeta had lifted stock 178²⁸ times during the suspension period of 2017-19.

P&ES Vijayawada replied that before serving the suspension order on the Licencee, stock was drawn.

The reply is not acceptable, as P&ES should have directly deactivated the status in HPFS portal. However, P&ES without making the status inactive, allowed the depot to issue the goods to the licensee even during suspension period. No specific reply was furnished by P&ES, Narsaraopeta.

3.10.3 Physical verification of retail Shops, Bars and Micro Breweries

A joint physical verification of 196 retail shops out of 1,319 retail shops, 75 bars out of 480 bars and two Micro Breweries out of four Micro-Breweries under the jurisdiction of 10 test checked P&ES offices was conducted by Audit along with an

²⁸ Narsaraopeta(176) and Vijayawada(2).

official from the concerned P&ES office during May to June 2019 to verify compliance of these Units with the Excise Act/Rules/instructions etc. Illustrative cases of non-compliance in this regard observed during the physical verification are detailed below:

3.10.3.1 Retail shops

(i) As per Rule 24 of AP Excise (Grant of License of selling by shop and Conditions of License) Rules, the P&ES concerned is competent to issue license once the applicant is selected by the District Collector. The P&ES shall issue the license for the retail shop and for the Permit Room after being satisfied that the premises selected are in accordance with the relevant Rules.

The shop licensee shall not be permitted to serve liquor in loose and food to the consumers. Further, the premises selected for permit room must be adjacent to the existing retail shop.

Audit observed following deviations:

- In 168 out of 196 retail shops, permit rooms were not provided with sanitation facilities;
- In 35 out of 196 retail shops, food sale was noticed;
- 7 out of 196 retail shops were not located in the address indicated in the licenses and permit room was not adjacent to the licenced premises;
- Serving/ selling of loose liquor was noticed in one retail shop in Visakhapatnam.

(ii) As per Rule 42 of AP Excise (Grant of License of selling by shop and Conditions of License) Rules, the licensee should sell IMFL and FL at prices not exceeding the maximum retail price indicated on the labels of the bottles and issue bills to the customers accordingly.

In 183 out of 196 retail shops, computerised bills were not being issued, as the systems were stated to be non-functional. Consequently, the possibility of non-adherence to MRP rates cannot be ruled out.

(iii) As per Rule 46 of AP Excise (Grant of License of selling by shop and Conditions of License) Rules, the licensee shall open the boxes or packages of all IMFL and FL received in the licenced premises only in the presence of and after inspection by the local Excise Officer or in his absence by any other Excise Officer duly authorised in this behalf.

Audit observed that Excise Officer had not authenticated in token of verification of opening of boxes of goods by retail shops/ Bars. In two shops, material pertaining to other shops were found.

(iv) As per Rule 25(5) of AP Excise (Grant of License of selling by shop and Conditions of License) Rules, there shall be a single door for entry and exit for the licenced shop and sales shall be conducted without giving entry to the customers inside the premises.

Audit observed that there was more than one entry point in five out of 196 shops.

(v) As per Rules 48 and 49 of AP Excise (Grant of License of selling by shop and Conditions of License) Rules, and Rules 42 and 43 of AP Excise (Grant of license of selling by Bar and conditions of licence) Rules, licencees should maintain full and day to day accounts of IMFL and FL received and disposed of and should also maintain brand wise account in the prescribed forms.

Audit noticed that, in 12 out of 196 shops and 7 out of 75 bars, the accounts were in arrears for four days to four months as on date of physical verification of the premises.

3.10.3.2 Bars

As per Rule 11 (1) of Andhra Pradesh Excise (Grants of license of selling by Bar and conditions of licence) Rules, license shall not be granted unless the premises have the following:

- (i) sanitary equipment like wash basins, separate washrooms for ladies and gents;
- (ii) facility for cooking and serving complete meals of good quality to the consumers as licenced by local authority by providing a kitchen with a minimum plinth area of 15 sq. meters;
- (iii) Air conditioning or Air cooling facility in consumption rooms and halls of licenced premises; and
- (iv) adequate vehicle parking arrangements.

Joint physical inspection of Bars by Audit Team revealed the following:

- In 48 out of 75 bars, separate sanitation facilities for gents and ladies were not provided;
- in 14 out of 75 bars, Air Conditioned or Air Cooling consumption halls were not available;
- in 16 out of 75 bars, there was no separate earmarked place for vehicle parking though shown in the blue prints of plans furnished along with applications for granting of licence;
- in 12 out of 75 bars, the plinth area of kitchen was less than 15 Square meters.

3.10.3.3 Micro Breweries

Rule	Audit Observation
As per Andhra Pradesh Brewery Rules, 2006,	
(i) the licencee shall deploy a chemist holding a degree in Science with Chemistry as one of the subjects preferably Organic Chemistry (or) Bio-Chemistry (or) Specialisation in Alcohol Technology.	No chemist was appointed in the two out of four test checked Micro-Breweries.
(ii) The analysis report of the Chemist shall be countersigned by authorized officer.	No chemical analysis reports were made available to Audit. Therefore, the possibility of beer produced in the Brewery being served without valid consumption certificate cannot be ruled out.
(iii) The beer so produced shall be released for sale after its certification as fit for human consumption by the said Chemist.	
(iv) Sample from each batch shall be sent to the Chemical Examiner and it shall be passed by the Chemical Examiner.	

Rule	Audit Observation
(v) The report so obtained thereon shall be displayed predominantly at all places accessible for the consumers in the Micro Brewery premises.	
(vi) The license holder shall get the labels of the different varieties of beer he proposes to make approved by the CPE as laid down in Rules 15 of the A.P Brewery Rules, 2006. The fee payable for approval of labels shall be ₹2,000 per label per year or part thereof.	Though the brewery at Vijayawada was serving four varieties of beer, the copies of Label approvals for the same were not made available to audit. It is not known whether the brewery had obtained label approvals.
(vii) The records in the Micro Brewery shall be maintained in Form MB I to IV.	The breweries had not maintained the records in the prescribed format.

In response to the above observations of Audit, the P&ESs stated that all the SHOs would be directed to ensure strict adherence to Excise Act & Rules.

3.11 Conclusion

The Department had not levied and collected applicable taxes and duties in several cases, resulting in loss of revenue. There was no follow up mechanism or monitoring of the cases booked for violation of Excise Act/Rules. Conviction rate was minimal during the audit period of 2014-2019 and the Department did not take effective action against offenders. Non-compoundable offences by licencees were compounded by the authorities, instead of cancelling the licenses, which could embolden the licencees. Monitoring and internal controls were inadequate and lack of internal audit wing and shortfall in the targeted inspections of subordinate offices by supervising officers leave the system open to perpetuating acts of omission and commission.

3.12 Recommendations

- Government needs to bring in transparency in the system of issuing LoIs and licensing and enforce the provisions of the Excise Act/Rules/orders stringently in levying and collecting applicable taxes, duties and penalties.
- Government needs to strengthen the enforcement wing of the Department and fund it adequately to gather intelligence relating to offences, as well as impart training to staff for improving the quality of investigation.
- Internal controls within the Department need to be strengthened and prescribed departmental inspections of Divisional and Sub-divisional offices should be carried out at periodical intervals.
- Vacancies in various cadres may be filled within a planned timeframe and requisite training may be imparted to the staff for effective functioning of the Department.

Chapter IV

Stamp Duty and Registration Fee

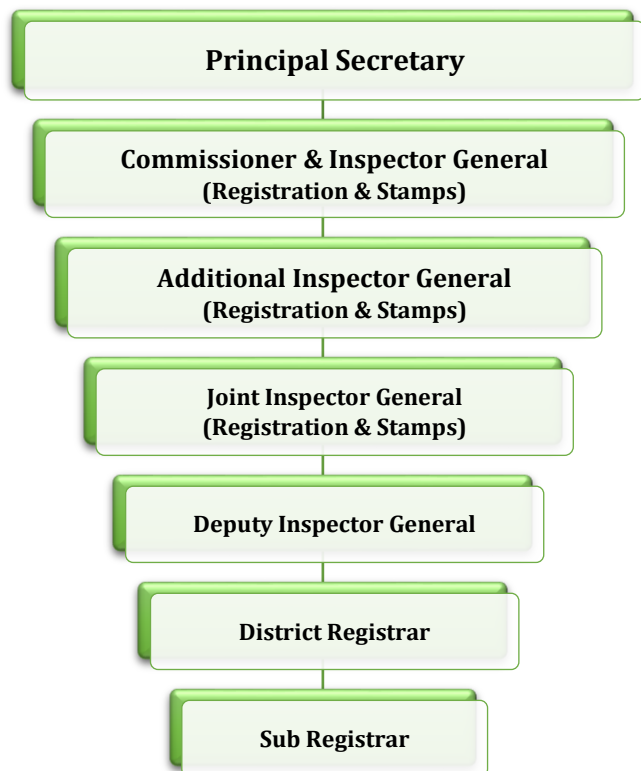
4.1 Tax Administration

The Registration and Stamps Department is primarily entrusted with registration of documents and is responsible for determining and collecting stamp duty and registration fees on registration of various documents/instruments by the general public. The Department also enforces administration of the Indian Stamp (IS) Act, 1899 and the Registration Act, 1908, as amended from time to time and rules framed therein.

The Commissioner and Inspector General of Registration and Stamps (CIGRS) exercises overall superintendence of all the registration offices in the State. There are four zones under 12 Deputy Inspectors General. Commissioner and Inspector General of Registration and Stamps is assisted by zone wise Deputy Inspectors General (DIG). The District Registrar (DR) is in charge of the district and supervises the work of Sub-Registrars (SR) in the district concerned. The important functionaries of the Department are depicted in the organogram below.

Stamp duty and Registration fee forms the third largest source of revenue for the State and accounts for 4.73 per cent of the total revenue of the State. It has increased consistently year-on-year during the period 2014-15 to 2018-19 (except during 2016-17), the increase being 67 per cent during the five-year period. Further, the receipts under this Head have exceeded the budget estimates during the period 2015-16 to 2018-19. During 2018-19, the receipts from stamp duty and registration fees were ₹5,428 crore (an increase of ₹1,157 crore over the previous year receipts (₹4,271 crore)).

Figure-4.1: Organogram



4.2 Audit Approach

Registration is being carried out through a computerised system called ‘Computer Aided Administration in Registration Department (CARD)’ functioning in a client server architecture. All the documents registered by SROs are scanned and uploaded to the centralised server chronologically and all these scanned image files of the documents are being stored in the central server. The Commissioner and Inspector

General of Registration and Stamps (Registration & Stamps) facilitated audit users with access to image files of the documents.

Audit of Registration and Stamps Department was conducted during April 2018 to March- 2019 through a test check of the relevant records and transactional data pertaining to 2018-19 in 99 out of 321 offices (30.84 *per cent*) in the State, to gain assurance that stamp duty and registration fees are levied, collected and accounted for in accordance with the relevant Acts, Codes and Manuals, and the interests of the Government are safeguarded. These 99 offices were selected on the basis of highest revenue collected.

4.3 Results of Audit

Audit brought out instances of non-levy or short levy of duties/fees, *etc*; in 472 cases under seven broad categories, involving an amount of ₹31.98 crore, as detailed in **Table 4.1**. There may be similar irregularities, errors/omissions in other units under the department but not covered in the test audit. Department may, therefore, examine all the units to ensure that the taxes are levied as per provisions of the Act and Rules.

Table 4.1: Results of Audit

Sl. No	Subject	(₹ in crore)	
		No. of Paras	Amount
1	Short levy of duties on <i>Paripassu</i> agreement	7	16.33
2	Under valuation of property leading to loss of revenue	69	3.52
3	Short levy of Stamp Duty and Registration fees	89	1.95
4	Misclassification of partition among others as "partition among family members"	7	1.49
5	Non-levy of stamp duty on distinct matters	46	1.24
6	Short levy of Registration Fee on General Power of Attorney documents	16	1.09
7	Other irregularities	238	6.36
	Total	472	31.98

Of the above, 175 cases involving ₹ 57.85 lakh were pointed out and accepted during the year 2018-19. In addition, department accepted audit observations involving ₹ 37.53 lakh in 48 cases which pertain to previous years. In total, the Department accepted under-assessments and other deficiencies of ₹ 95.38 lakh in 223 cases. An amount of ₹ 36.67 lakh in 52 cases was realised during the year 2018-19.

Significant cases of non-compliance with the provisions of the Acts/ Rules by the Registering Authorities (RA) in the cases brought out in the following paragraphs resulted in short realisation of Stamp Duty and Registration Fees of ₹14.74 crore in 57 cases.

4.4 Short collection of Registration fee on instruments creating *Paripassu*¹ Charge

Registration fees of ₹11.66 crore was not levied due to non-consideration of *Paripassu* charge created on Deposit of Title Deed

As per the definition of ‘Charge’ under Section 100 of Transfer of Property (TP) Act, 1882, where an immovable property of one person is shown as security for payment of money to another, the latter is said to have a charge on the property.

Government in its Order dated 17 August 2013², prescribed registration fee at the rate of 0.1 *per cent* subject to a maximum of ₹10,000 on the amount of loans secured on Agreements of Deposit of Title Deeds (DOTD). In the same Order, registration fee was prescribed at 0.5 *per cent* on documents creating charge on ‘*Paripassu*’ basis. CIGRS, in his proceedings dated 15 October 1982³, clarified that the *Paripassu* charge comes into existence when an industrial unit obtains credit facilities from more than one financial institution by offering securities on ‘*Paripassu*’ basis in the form of ‘simple mortgage’, ‘mortgage by deposit of title deeds’ and hypothecation of movable properties.

Scrutiny of records of SR, Jaggaiahpet office disclosed (October 2018) that documents were registered as Agreement, where the loanees availed of a loan of ₹2,333 crore from various banks by creating *Paripassu* charge, keeping their properties as security. Registration fee is therefore required to be levied at the rate of 0.5 *per cent* on the loan amount. However, registering officers treated these documents as DOTDs and levied Registration fee of ₹10,000. This had resulted in short collection of Registration fee of ₹11.66 crore.

In response to audit observation, the registering authority replied (October 2018) that the matter would be examined and detailed reply would be furnished in due course.

The matter was referred to the Department (August 2019) and to the Government (June 2020). Their reply has not been received (December 2020).

¹ *Paripassu* is a latin phrase meaning “equal footing”.

² G.O.Ms.No. 463 Revenue (Registration-I) department dated 17 August 2013.

³ CIGR Proceeding No. S2/24846/82, dated 15 October 1982.

4.5 Short levy of duties and fees due to undervaluation of properties

4.5.1 Short levy of Duties and Registration Fees on agricultural lands converted for non-agricultural purposes

Due to lack of coordination between registration and land revenue departments, land already converted for non-agricultural purposes was undervalued, resulting in short levy of duties by ₹1.26 crore

Section 27 of the IS Act requires that an instrument contains details like consideration, Market Value (MV) of the property and all other facts and circumstances affecting the levy of duty on it without any suppression. The registering officer or any other officer appointed under the Registration Act may inspect the related property, make necessary local enquiries, call for and examine all the connected records and satisfy that the provisions of this Section are complied with. As per Rule 7 of AP Revision of MV Guidelines Rules, 1998, different values have been fixed for agricultural lands fit for house sites/ residential localities.

Scrutiny⁴ of records in the offices of five DR⁵ and 10 SR⁶ offices disclosed that in 25 (out of 26⁷) documents, agricultural rate had been adopted for the lands which had already been converted for non-agricultural use and developed into layouts. In the office of DR, Vizianagaram, audit observed (July 2017) that in one Development Agreement-cum-GPA, the value of entire extent of 27,684 sq. yards was not taken into account while arriving at the total value of development. Due to suppression of fact of conversion, development into layout by executants, not taking the total extent in DGPA by the registering authority and also non-verification of facts by registering authorities, the properties were undervalued. This resulted in short levy of stamp duty and registration fees amounting to ₹1.26 crore.

After Audit pointed out these cases, the DR, West Godavari (with respect to SR, Chintalapudi) replied (April 2018) that the market value of agricultural lands was adopted since no conversion orders were received from the revenue authorities. The reply is not acceptable as the registering authorities did not verify the facts before registration as provided under Section 27 of IS Act. DR, Vizianagaram, replied (July 2018) that the deficit amount would be collected from the parties concerned and compliance reported to audit. The remaining 13 DRs⁸/SRs⁹ assured detailed replies (between May 2017 and February 2018).

⁴ between May 2017 and February 2018.

⁵ Gudur, Gunadala, Narasaraopet, Ongole and Vizianagaram.

⁶ Bapatla, Chintalapudi, Kothavalasa, Mylavaram, Pidimgoyya, Sabbavaram, Samalkot, Sullurupet, Vuyyuru and Yemmiganur.

⁷ 18 sale deeds, 4 DGPAs, two GPA, One Settlement Deed and One Gift in favour of local bodies (registered between August 2014 and March 2017).

⁸ Gudur, Gunadala, Narasaraopet and Ongole.

⁹ Bapatla, Kothavalasa, Mylavaram, Pidimgoyya, Sabbavaram, Samalkot, Sullurupet, Vuyyuru and Yemmiganur.

The matter was referred to the Department (August 2019) and to the Government (June 2020). Their reply has not been received (December 2020).

4.5.2 Short levy of duties due to adoption of incorrect market value etc.

Properties were undervalued for reasons like not adopting correct Market Value, exclusion of a portion of structure for valuation/ adoption of lesser structural value/ construction value resulting in short levy of duties amounting to ₹34.48 lakh

Under the provisions of Article 47-A of Schedule I-A to IS Act read with Government order¹⁰ dated 26 November 2014, stamp duty on instrument of Sale deed has to be charged at five *per cent* of the Market Value (MV) of the property or consideration, whichever is higher. Registration fee has to be levied at one *per cent*. Further, transfer duty at 1.5 *per cent* in municipalities, corporations¹¹ and at 0.5 *per cent* in Gram Panchayats¹² is also required to be levied in terms of Government orders dated 06 April 2013.

Under the provisions of Article 6(B) of Schedule I-A to IS Act read with Government order¹³ dated 01 April 2008, stamp duty on instrument of “Development Agreement cum General Power of Attorney (DGPA)” has to be charged at one *per cent* on the market value of the property or consideration whichever is higher.

Under the provisions of Article 29 of Schedule I-A to IS Act read with Government Order¹⁴ dated 26 November 2014, Stamp duty on instrument of “gift in favour of others” has to be charged at five *per cent* of the market value of the property or consideration, whichever is higher.

Registration fee is leviable at 0.5 *per cent* subject to a maximum of ₹10,000. Further, transfer duty at 1.5 *per cent* on urban and 0.5 *per cent* on rural properties has to be levied in terms of Government order dated 06 April 2013.

As per Article 49 of schedule I-A to IS Act, instruments of “settlement” in favour of family members are chargeable with stamp duty at two *per cent* on the amount or value expressed in the instrument or market value of the property, whichever is higher. Besides stamp duty, registration fee is leviable at the rate of 0.5 *per cent* subject to the minimum of ₹1,000 and maximum of ₹10,000.

¹⁰ G.O.Ms.No.394, Revenue (Registration-I) Department dated 26 November 2014.

¹¹ G.O.Ms. No. 150, 151, 152, 153 of Municipal Administration & Urban Development (TC) Department, dated 06 April 2013.

¹² G.O.Ms.No.226 Panchayat Raj & Rural Development (PTS-I) Department, dated 06 April 2013.

¹³ G.O.Ms.No.568, Revenue (Registration-I) Department, dated 1 April 2008.

¹⁴ G.O.Ms.No.395, Revenue (Registration-I) Department, dated 26 November 2014.

Scrutiny¹⁵ of records in DR Rajamahendravaram and 12 offices of SRs¹⁶ disclosed that in 17¹⁷ cases, stamp duty, transfer duty and Registration fee amounting to ₹34.48 lakh were short levied due to under valuation of the property as detailed in **Appendix 4.1**. The properties were undervalued for reasons like not adopting correct MVs, exclusion of a portion of structure for valuation/ adoption of lesser structural value/ construction value.

In response to audit observations, DR and SR assured a detailed reply.

The matter was referred to the Department (August 2019) and to the Government (June 2020). Their reply has not been received (December 2020).

4.6 Irregular exemption

Irregular exemption of stamp duty and registration fees for the properties on sale deed transactions contrary to Government Order on 'Gannavaram Airport Land Pooling Scheme' resulted in short levy of duties of ₹94.06 lakh

Section 27 of IS Act requires that an instrument contains details like consideration, market value of the property and all other facts and circumstances affecting the levy of duty on it without any suppression. The registering officer or any other officer appointed under the Registration Act, may inspect the related property, make necessary local enquiries, call for and examine all the connected records and satisfy himself/herself that the provisions of this Section are complied with. As per Rule 7 of AP Revision of MV Guidelines Rules, different values have been fixed for agricultural lands fit for house sites/ residential localities. Acreage rate for agricultural land and square yard rate for non-agricultural land have to be adopted for levy of stamp duty.

As per Article 47-A of Schedule I-A to the IS Act, stamp duty on sale deeds has to be charged at five *per cent* of the market value of the property. Besides this, transfer duty at the rate of 1.5 *per cent* and registration fee at the rate of one *per cent* is also required to be levied and collected.

During scrutiny of records of the office of SR, Gannavaram, Audit noticed (May 2018) from 13 sale deeds that the scheduled properties covered under the scheme *viz.*, Expansion of Gannavaram Airport, were sold by the owners to the vendees for consideration and the instruments were registered without levying any stamp duty and registration fees. It was recited in the document that the duties were exempted based on Government order¹⁸ dated 27 August 2015. As verified from Government order no exemption to stamp duty and registration fee can be given to those transactions. However, as per Gannavaram Airport Development Land pooling scheme (Formulation & Implementation) Rules 2015 referred to in the GO, stamp duty and registration fee would be exempted to Land owner for registering agreements with competent authority

¹⁵ between April 2018 and April 2019.

¹⁶ SROs- Akiveedu, Gajapathinagaram, Ganapavaram, Jangareddygudem, Kovvur, Mandapeta, Nakkapalli, Piduguralla, Sajjapuram, Sattenapalli, Tuni and Yemmiganur.

¹⁷ 11 Sale deeds, four Development cum General Power of Attorney, one Gift deed to family members and one Settlement deed.

¹⁸ G.O.Ms.No.190, Municipal Administration & Urban Development (M2) Department dated 27 August 2015.

for Development under Land Pooling Scheme (LPS). But the instrument of sale deeds under consideration were not between landowner and competent authority. Hence, exemption allowed was irregular. This resulted in short levy of duties amounting to ₹94.06 lakh.

The matter was referred to the Department (August 2019) and to the Government (June 2020). Their reply has not been received (December 2020).

4.7 Non-levy of Transfer Duty on Gift Deeds

Transfer duty of ₹14.56 lakh on Gift Deeds was not collected

As per the provisions of Section 122 of the TP Act, ‘Gift’ is defined as “transfer of existing movable or immovable property made by one person (donor) to another person (donee) voluntarily and without any consideration and is accepted by the donee.

As per Article 29 of Schedule 1-A to the IS Act, read with Government order¹⁹ dated 26 November 2014, Stamp duty on Gift to family member and others is chargeable at the rate of two and five *per cent* respectively on the market value of property. Besides stamp duty, transfer duty at the prescribed rate of 1.5 *per cent* is also leviable on the market value of the property in terms of Government order²⁰ dated 06 April 2013.

Scrutiny of records in the offices of District Registrar, Vijayawada (East) and Sub-Registrar, Patamata disclosed (April and May 2019) that transfer duty amounting to ₹14.56 lakh was not levied on five gift deeds valuing ₹970.47 lakh (registered between April 2018 and March 2019).

DR and SR assured detailed replies.

The matter was referred to the Department (August 2019) and to the Government (June 2020). Their reply has not been received (December 2020).

4.8 Short levy of duties and fees due to misclassification of transactions in registered documents

Schedule I-A to IS Act, provides rates of duties and fees to be adopted based on classification of documents. Further, the CIGRS had issued instructions²¹ that the Sub-Registrars should scrutinise the recitals of the document presented for Registration thoroughly, so as to arrive at the correct classification of the document for adoption of the applicable rates of duties and fees.

Audit test checked (June 2017 and May 2019) the registered documents in 11 Sub Registrar Offices²² and 3 DR offices²³ and found that in respect of 26 documents, there

¹⁹ G.O.Ms No. 394 Revenue(Registration) Department dated 26 November 2014.

²⁰ G.O.Ms. No. 150,151,152,153 of Muncipal Adminstration & Urban Development (TC) Department dated 06 April 2013.

²¹ Memo no.FR1/1A/4946/96 dated 16 October 2000.

²² SROs- Akiveedu, Chodavaram, Ibbrahimpatnam, Madanapalle, Nidadavolu, Nandigama, Narsapur, Narsipatnam, Nuzividu, Vinjamur and Yelamanchili.

²³ DRs- Eluru, Nandyal and Rajamahendravaram.

was short levy of duties and fees due to misclassification of transactions amounting to ₹38.30 lakh as given in **Table 4.2**

Table 4.2:-Details of short levy of duties and fees

(₹ in lakh)

SI No	Registering Authority	No. of cases	Details of Transactions	Documents registered as	Documents actual classification	Stamp Duty and Fee short levied
1	2	3	4	5	6	7
1	DR, Rajamahendravaram	3	Settlements/Gift settlement deeds containing features of gift deeds such as transfer of immovable property from donor to donee voluntarily without any consideration	Settlement	Gift	8.93
<p>DR Rajamahendravaram contended (September 2019) based on case law of Kolli Venkatrajshekhara vs Government of Andhra Pradesh 2013(6 ALO89), that the documents were purely 'settlement deeds' but not 'gift deeds' as 'settlers' have transferred their self acquired properties to their family members at free of cost. However, the case law referred to is not relevant to the audit observation as case law relates to settlement through trust. It was also recited in the documents that donors were absolute owners. Properties were accepted by the donees as required under provisions of Transfer of property Act and therefore transfer duty needs to be levied.</p>						
2	SR, Nidadavolu	1	Settlements/Gift settlement deeds containing features of gift deeds such as transfer of immovable property from donor to donee voluntarily without any consideration	Document registered as settlement	Gift	1.53
<p>SR Nidadavolu contended (September 2019) based on case law of Amarnath K Menon vs State of A.P. WP No. 32653 of 2013 that the party was at liberty to treat the instrument as settlement deed since settler's property had been transferred in favour of family member and the instrument needs to be stamped only as settlement deed. The reply is not tenable as the donees do not have any pre existing right over the properties. Properties were accepted by the donees as required under provisions of Transfer of property Act and therefore transfer duty needs to be levied.</p>						
3	SR Chodavaram	1	Settlements/Gift settlement deeds containing features of gift deeds such as transfer of immovable property from donor to donee voluntarily without any consideration	Document registered as settlement	Gift	1.19
4	SR, Narsipatnam	3				2.34
5	SR, Vinjamur	2				1.15
<p>Sub Registrars assured a detailed reply.</p>						

(₹ in lakh)

SI No	Registering Authority	No. of cases	Details of Transactions	Documents registered as	Documents actual classification	Stamp Duty and Fee short levied
1	2	3	4	5	6	7
6	SR, Madanapalle	2	Property was partitioned among family members	Partition among family members.	Settlement	1.57
7	SR, Chodavaram	1				0.94
SR Madanapalle replied (January 2020 in two cases) that the property was acquired with the earnings of joint family. The reply of the department is not acceptable as the property was acquired by one of the executants and others have no right over the property. Hence, the instrument is to be treated as “settlement”. SR Chodavaram replied that the matter would be examined and a detailed reply would be furnished in due course.						
8	SR, Ibrahimpatnam	1	Settlement in favour of others misclassified as Settlement in favour of family members	Settlement in favour of family members	Settlement in favour of others	0.88
SR assured a detailed reply.						
9	SR, Nuzividu	1	Sale certificate executed by public sector bank under Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002 was treated as Sale certificate	Sale certificate	Sale deed	4.52
SR assured a detailed reply.						
10	DR, Nandyal	1	Simple mortgage deed misclassified as Deposit of Title Deed	Deposit of Title Deed	Simple mortgage deed	0.99
11	SR, Akiveedu	2				1.23
12	SR, Nuzividu	1				5.40
SRs assured a detailed reply.						
13	SR, Narsipatnam	2	Misclassification of sale of ‘flats’ as ‘undivided share of land and construction agreements’	Sale deed for undivided share of land and construction agreements	Sale of flat	1.98
SR assured a detailed reply.						
14	SR, Yelamanchili	1	Partition among other than family members misclassified as partition among family members	Partition among family members	Partition among other than family members	1.34
SR assured a detailed reply.						
15	DR, Eluru	1	Land acquired individually by different members for group housing treated as development agreement	Development agreement	Partition among others	1.04
DR assured a detailed reply.						

(₹ in lakh)

SI No	Registering Authority	No. of cases	Details of Transactions	Documents registered as	Documents actual classification	Stamp Duty and Fee short levied
1	2	3	4	5	6	7
16	SR, Nandigama	1	Possession of property given to mortgagee with all rights, easements and appurtenances as security for the loan.	Simple mortgage	Mortgage with possession	2.55
SR assured a detailed reply.						
17	SR, Narsapur	2	Indenture for the license of daily market yard including sweeping charges and ground rent by the Municipal Council for the use of Municipal area	Lease deed	License	0.72
DR West Godavari (with respect to SR Narsapur) replied (May 2018) that specific period of time was mentioned in the documents and hence documents were leases. The reply is not acceptable since the tenure did not decide whether a document was lease or license. Through these documents, the licensee had been permitted to collect fees and did not create interest in the immovable property. Hence, the documents should have been classified as license and applicable duty & fees collected.						
Grand Total		26				38.30

The matter was referred to the Department (August 2019) and to the Government (June 2020). Their reply has not been received (December 2020).

Chapter V

Land Revenue

5.1 Tax Administration

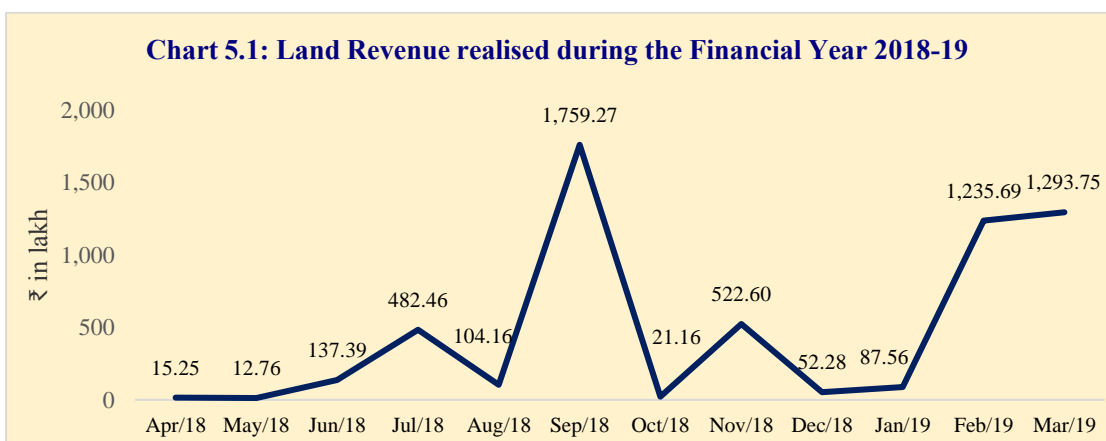
Land Revenue Department is responsible for alienation, acquisition and conversion of lands and for collecting revenue arising thereon. It is responsible for maintenance, updation and protection of land revenue records. The Department also decides on policy matters and administers several Acts and rules pertaining to land and civil administration in the State.

Principal Secretary (Revenue) is in-charge of the Land Revenue Department at the apex level. The Chief Commissioner of Land Administration (CCLA) is responsible for administration of Revenue Board's Standing Orders (BSO), The Andhra Pradesh Water Tax Act, 1988, The Andhra Pradesh Irrigation, Utilisation and Command Area Development Act, 1984, The Andhra Pradesh Agricultural Land (Conversion for Non-agricultural Purposes) Act, 2006 and orders issued thereunder. At the district level, the Collectors of each of the 13 districts of the State are responsible for administration of land revenue. The organogram of land administration is given alongside.

Figure-5.1: Organogram



The total receipts from land revenue during 2018-19 were ₹57 crore¹. There was a wide variation in the monthly receipts of land revenue during the year with September 2018 accounting for the highest receipts (due to transfer of ₹9.37 crore by Mee Seva²) and April 2018, the lowest receipts as can be seen from the Chart given below.



¹ Source: Finance Accounts of Government of Andhra Pradesh for 2018-19.

² Mee Seva is an agency authorised for collecting Government money.

5.2 Results of Audit

Test check of the records of 28 offices of the Land Revenue department during the year 2018-19 revealed underassessment of tax and other irregularities involving ₹19.12 crore in 53 cases, which fall under the following categories:

Table 5.1: Results of Audit

Sl. No.	Category	(₹ in crore)	
		No. of cases	Amount
1	Non-finalisation of alienation	4	14.41
2	Short collection of conversion fee	5	0.31
3	Non-collection of interest on water tax	18	0.34
4	Non-levy of water tax	3	0.32
5	Others	23	3.74
Total		53	19.12

During the year 2018-19, the department accepted under assessments and other deficiencies of ₹31.98 lakh in 25 cases.

An illustrative case involving ₹3.08 crore in Land Revenue department is discussed in the succeeding paragraph.

5.3 Non-realisation of cost of alienation of land

Advance possession of land was given and alienation proposals were not finalised /approved even after a period of 5 to 19 years of handing over the possession of these lands. This has resulted in non-realisation of ₹3.08 crore towards cost of land

As per Revenue Board's Standing Order (BSO) No. 24, alienation of Government land to a company, institution or private individuals for any public purpose will normally be on collection of its market value and subject to the terms and conditions prescribed in the BSO. The BSO allows the competent authorities to permit possession of the land in advance by the applicant in the event of any emergent circumstances pending formal approval of the alienation proposal.

Scrutiny (June and July 2018) of records of offices³ of two Tahsildars revealed that competent authorities had given advance possession of 52.88 acres of land to five organisations⁴ for construction of Electric Sub-stations, Industrial Park, House sites, Community Hall and Cold storage during the period between May 1999 and July 2016. While advance possession of land was given, alienation proposals were not finalised /approved even after a period of 5 to 19 years of handing over the possession of these lands. This has resulted in non-realisation of ₹3.08 crore towards cost of land.

³ Anandapuram and Peddapuram.

⁴ Ac 3.29 cts to AP Industrial Infrastructure Corporation (APIIC), Ac 0.60 cts to AP Eastern Power Distribution Company Ltd., (APEPDCL), Ac 46.69 (13.05+33.64) cts to Visakhapatnam Urban Development Authority (VUDA), Ac 0.30 cts to Mandal Parishad, Ac 2.00 cts Girijan Cooperative Cooperation Ltd., (GCC Ltd.).

In response, Tahsildar, Peddapuram, replied that (July 2018) market value of the land had to be fixed by the District Collector. The reply of the Tahsildar is not correct since market values are available with the Registration Department and the market values obtained from Registrars by Revenue Department were available in the records produced to Audit. Tahsildar, Anandapuram, replied that the matter would be taken to the notice of RDO and Audit intimated.

The matter was referred to Department (August 2019) and to the Government (November 2019 and January 2020). Their reply has not been received (December 2020).

Chapter VI

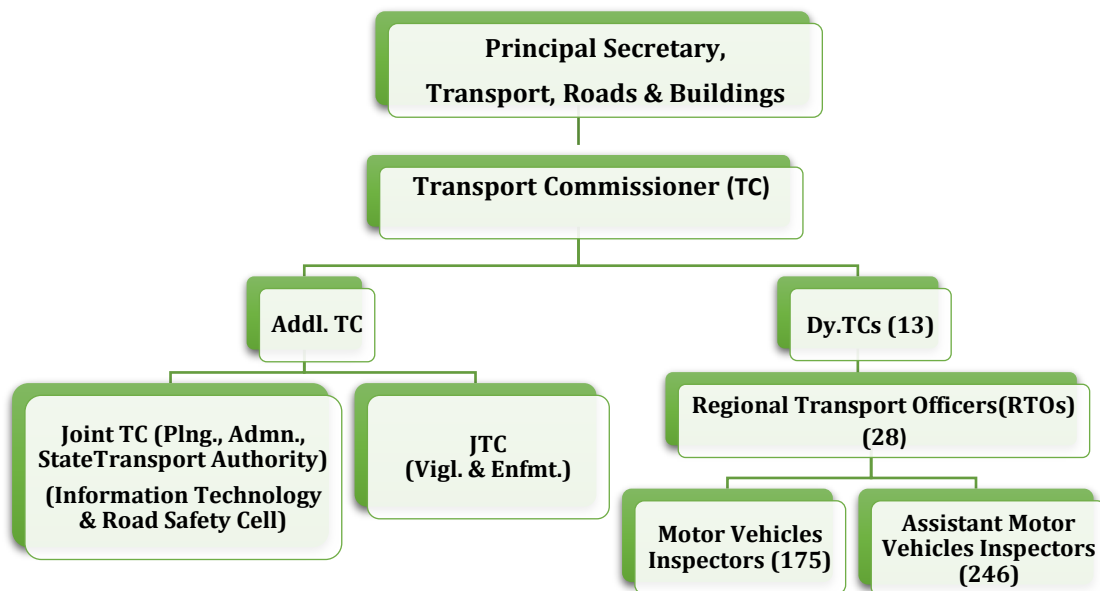
Motor Vehicle Taxes

6.1 Tax Administration

Transport Department of Government of Andhra Pradesh is governed by Motor Vehicles (MV) Act, 1988, Central Motor Vehicles (CMV) Rules, 1989, Andhra Pradesh Motor Vehicles Taxation (APMVT) Act, 1963, Andhra Pradesh Motor Vehicles Taxation Rules, 1963 and Andhra Pradesh Motor Vehicles Rules, 1989. The Department is primarily responsible for enforcement of these Acts and Rules for collection of taxes, fees, issue of driving licenses, certificates of fitness to transport vehicles, registration of motor vehicles and grant of regular and temporary permits to vehicles.

The Department is headed by the Principal Secretary at Government level. The organisational set up of the Department for administration of tax is depicted in the organogram given below:

Figure 6.1 Organogram



Receipts from motor vehicles taxes form the fourth largest source of revenue for the State and account for 2.91 *per cent* of the total revenue of the State. These receipts have been increasing from year-to-year since 2016-17. The total revenue from motor vehicles taxes during 2018-19 was ₹3,341 crore (an increase of 9.94 *per cent* over 2017-18).

6.2 Audit Methodology and Results of Audit

The Transport Department of Andhra Pradesh uses an IT application, ‘Citizen Friendly Services in Transport Department (CFST)’, for providing online services to the public. The system encompasses the core functions of the department such as issue of driving licenses, issue of fitness certificates, registration of vehicles, collection of revenue, granting of permits, checks of motor vehicles *etc.*

Audit teams analysed the data provided by the Transport Commissioner from the CFST system to see whether they complied with the relevant provisions of the

Act/Rules/Codes in applying the rates of tax. In addition, in three offices¹, cross verification of the details of receipts in the system was carried out with the details in the treasuries to gain assurance that the Department has collected and accounted for all the revenue that was due to the Government.

APMVT Act, Motor Vehicles Act, and Rules made thereunder and CMV Rules, respectively provide for:

- Motor Vehicle Tax/ additional tax from the vehicle owner at the prescribed rate in advance and within the grace period provided;
- levy and collection of fitness fee from the vehicle owners after completion of the prescribed period; and
- levy and collection of green tax from the owners of vehicles after completion of the prescribed age from the date of registration.

Audit analysis revealed the following cases of non-compliance with the provisions of the relevant Act/Rules/Codes.

Table 6.1: Results of Audit

Sl. No.	Category	No. of paras	(₹ in crore)
			Amount
01	Loss of Revenue due to under invoicing	01	10.36
02	Short levy of life tax on registration of second and subsequent vehicles	01	3.58
03	Non collection of Green tax	01	3.22
04	Non realisation of Quarterly tax and penalty on Transport vehicles	01	3.36
05	Transport vehicles without valid fitness certificates	01	0.97
06	Pending vehicle check report cases	01	3.54
Total		06	25.03

During the year 2018-19, the Department accepted underassessment of ₹0.42 lakh in one case. Significant cases of non-compliance with the provisions of the Acts/ Rules amounting to ₹11.13 crore are discussed in the succeeding paragraphs.

6.3 Short levy of life tax on registration of second and subsequent vehicles

Life tax payable on vehicles registered under the category of second and subsequent vehicles for personal use was levied at 12 per cent instead of at 14 per cent, resulting in short levy of tax of ₹3.58 crore

As per Section 4(aa) of APMVT Act 1963, the tax levied under the second proviso to Section 3(2) shall be for the lifetime of the motor vehicle and shall be paid in advance in lump sum by the registered owner of the motor vehicle or any other person having possession or contract thereof.

As per seventh schedule to the APMVT Act, amended vide Act 11/2010, life tax payable in respect of vehicles registered under the category of second and subsequent

¹ DTC Guntur, RTOs of Nandigama and Tirupathi.

vehicles for personal use (non transport vehicles) having seating capacity up to 10 in all, was revised and a tax of 14 *per cent* on invoice price of the vehicle is payable.

During an analysis of data for the year 2018-19, it was noticed that 6,66,793 non transport vehicles (motor cars and motorcycles), were registered in the State between April 2018 and March 2019. This was compared with the data of 16,25,693 non transport vehicles, that were registered prior to April 2018, so as to identify the owners who already own at least one vehicle purchased prior to 2018-19.

In 27 (out of 28) RTOs of the State, it was observed that in case of 4,759 vehicles (second/subsequent vehicle), tax was levied at 12*per cent* instead of at 14 *per cent*. This had resulted in short levy of life tax at differential rate of two *per cent* which worked out to ₹3.58 crore during the year 2018-19.

The matter was referred to the Transport Commissioner (May 2020) and to the Government (June 2020). Their reply has not been received (December 2020).

6.4 Non-collection of Green tax

Green Tax amounting to ₹3.22 crore was not levied while renewing the registration/issuing fitness certificate of non-transport and transport vehicles

According to Section 3-B of APMVT Act, an additional tax called Green Tax shall be levied on transport vehicles and non-transport vehicles that have completed seven years and 15 years of age respectively, from the date of registration.

Analysis of CFST data for the period 2018- 2019 relating to the State revealed that 665 non-transport vehicles completed 15 years of age and 1,59,590 transport vehicles completed 7 years of age as of March 2019. During this period, these vehicle owners approached RTOs across the State for various services like renewal of registration, change of address, to get the fitness of the transport vehicles tested *etc.* However, in all these cases, Green Tax was not levied and collected, although the validity of their registration was extended before its expiry. This had resulted in forgoing revenue amounting to ₹3.22 crore.

The reason for non-collection is that, the system demands Green Tax only when the vehicle owner approaches for renewal of fitness of the vehicle after the expiry of validity of fitness/registration. In case the owner approaches the department for any of these purposes before the end of validity of fitness certificate/registration certificate, the system does not prompt for collection of Green Tax though the tax was due.

Audit had highlighted this issue in earlier reports (Para 5.4.18.4 in Report no 1 of 2015) and recommended to build in relevant controls in CFST, so as to alert RTOs on levy of Green Tax. However, no action had been taken by the department.

The matter was referred to the Transport Commissioner (May 2020) and to the Government (June 2020). Their reply has not been received (December 2020).

6.5 Non-realisation of Quarterly Tax and Penalty on Transport Vehicles

Quarterly tax and penalty was not paid by the owners of transport vehicles within the prescribed time resulting in non-realisation of revenue of ₹3.36 crore

Section 3 of APMVT Act stipulates that every owner of a motor vehicle is liable to pay tax at rates specified by the Government from time to time. Section 4 of the Act read with Government order², specifies that tax shall be paid in advance either quarterly, half yearly or annually within one month from the commencement of quarter. As per Section 6 of the Act read with Rule 13 of APMVT Rules, penalty for belated payment of tax beyond two months from the beginning of the quarter shall be leviable at twice the rate of quarterly tax if detected and at 50 per cent on voluntary payments.

Under Section 8 of the Act, transport authorities may seize and detain the motor vehicle in respect of which tax was due.

Verification of State online data of transport vehicles revealed that 9,33,083 transport vehicles of different categories were due for payment of quarterly tax to the end of March 2019. Analysis of quarterly tax payment by Heavy Goods Vehicles (HGV) was carried out in 26 RTOs of the State. Analysis disclosed that 1,05,553 vehicle owners did not pay their quarterly tax during the year. Number of registered owner who did not pay quarterly tax for one quarter during the year 2018-19 were 71,796; those who did not pay for two quarters were 29,873; and those who did not pay for three quarters were 2,228.

Of these 1,05,553 vehicles, Audit observed that 1,656 vehicle owners have quarterly tax due for all the four quarters in the year 2018-19. Tax due for these 1,656 vehicles was arrived at ₹3.36 crore. The status of these 1,656 vehicles was verified in the department's website. Status was seen as 'valid' which means that the vehicle was eligible to ply on the roads. Depiction of status of the vehicle as 'valid' is not correct since the tax from these vehicles is to be collected by issuing a notice to the vehicle owners and vehicles are to be seized and detained wherever tax is due. Department may initiate action to recover tax dues from all the vehicle owners, for all classes of vehicles, who are required to pay quarterly tax.

The matter was referred to the Department (May 2020) and to the Government (June 2020). Their reply has not been received (December 2020).

6.6 Transport Vehicles plying without valid Fitness Certificates

Non-renewal of Fitness Certificate for vehicles whose status is active, besides non-realisation of fitness fee of ₹97.36 lakh, is likely to jeopardise road safety

As per Section 56 of the Motor Vehicles Act, 1988, a Transport vehicle shall not be deemed to be validly registered, unless it carries a certificate of fitness. As per Rule 62

² G.O.Ms. No96, Transport, Roads and Building (Tr.II) Department, dated 21 May 1991.

of CMV Rules, the Fitness Certificate (FC) shall be renewed every year by the Inspector of Motor vehicles.


An analysis of data provided by the State Transport Authority on granting of fitness and check of the vehicle check records / registers relating to the year 2018-19, revealed the following:

- Fitness of 49,524 vehicles covering the State of AP was not verified and FC was not granted.
- Motor Vehicle Inspectors intercepted 9,237 vehicles during their regular enforcement. However, the validity of FC of the vehicle was not verified during enforcement although fitness expired as on date of check.

The revenue impact on account of non-verification of fitness of vehicles and non-issue of FC was ₹97.36 lakh for the year 2018-19. Allowing vehicles without fitness to ply not only affects revenue but also impacts road safety and environment adversely and endangers the lives of citizens.

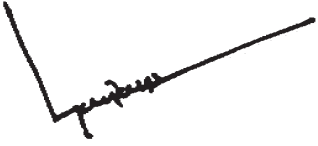
The matter was referred to Transport Commissioner (May 2020) and to the Government (June 2020). Their reply has not been received (December 2020).

Hyderabad
The 19 MAR 2021


(CHANDA M. PANDIT)
Accountant General (Audit)
Andhra Pradesh

Countersigned

New Delhi
The 22 MAR 2021


(GIRISH CHANDRA MURMU)
Comptroller and Auditor General of India

Appendices & Glossary

Appendix 1.1
(Reference to paragraph 1.9.1, Page 10)

Department-wise details of IRs

Sl. No.	Name of the Department	Nature of receipts	No. of outstanding IRs	Number of outstanding Paragraphs	(₹ in crore)
					Money value involved
1.	Revenue	Value Added Tax and Central Sales Tax	1,682	8,095	1,726
		State Excise Duty	268	814	172
		Land Revenue	1,044	3,653	258
		Stamp Duty and Registration Fee	1,763	6,288	298
2.	Transport, Roads and Buildings	Taxes on Vehicles	263	1,637	1,529
3.	Industries and Commerce	Mines and Minerals	300	1,375	263
4.	Energy	Taxes and duties on Electricity	47	106	749
5.	Endowments	--	72	841	47
Total			5,439	22,809	5,042

Source: Records of Office of Accountant General (Audit), Andhra Pradesh

Appendix 1.2
(Reference to paragraph 1.9.7, Page 12)

Status of Audit recommendations relating to Reports tabled in 2011-12

Performance Audit on Functioning of Prohibition and Excise Department Recommendations	Status of implementation of recommendations
Monitor closely the manufacture of RS by the State distilleries commensurate with the licensed capacity.	No progress
Make it mandatory for the distilleries to commence production within the validity period of application for license and frame suitable penal provisions to encourage timely commencement of production.	No progress
Expedite the process of introducing bar coding system.	Fully implemented
Factor in the sales potential of the sales outlets while determining their upset prices based on the material lifted by them in the previous cycles or introducing a system of charging additional license fee for the goods lifted by the outlets beyond specified limits.	Fully implemented
Computerise the entire process of dispatch of liquor bottles from the distilleries to the marketing depots and to the sales outlets in order to trace and track their movement using their identification numbers so as to prevent and monitor unauthorised sales.	Partially implemented
Carry out a State wide review of the liquor shops operating near the educational/ religious institutes and hospitals ignoring the distance limits prescribed in the Act. Enforce condition of grant of license strictly to ensure that outlets are not permitted near educational/ religious institutions.	No progress
Introduce a system of recording the complaints in a register, which may be monitored by a responsible officer for their timely disposal.	Fully implemented
Strengthen the border check posts in the districts which are proven to be vulnerable to illicit distillation, with competent excise staff with better communication facilities for the purpose of handling excise offences.	Partially implemented
Frame a training policy that makes training a compulsory requirement for all the officers and the Enforcement staff at periodical intervals. Review the curriculum followed at the State Excise Academy to make it contemporary and to include sessions on topics like Communication and Analysis of criminal evidence to equip the Enforcement staff in meeting the challenges of changing crime scenario.	Partially implemented

Explanatory notes from Government has not been received.

Appendix 4.1
(Reference to paragraph 4.5.2, Page 54)

Short levy of duties due to adoption incorrect rate of market value etc.

(₹ in lakh)

S.No	Name of the Office	Document No./Nature of Instrument	Nature of under valuation	MV of Property	Duties and Fee leviable (Rate)	Duties and Fee levied	Short levied
1	SR Kovvuru	2492/2017-Sale deed	MV of Rs. 4.50 lakh per acre adopted instead of Rs. 6 lakh per acre.	68.46	5.13 (@7.5%)	3.85	1.28
2	SR Yemmiganuru	7994/2017-Sale Deed	Property undervalued due to adoption of less constructed area by 3600 sft.	98.32	8.12 (@7.5%)	6.45	1.67
3	SR Sajjapuram	2711/2015-Sale Deed	Lesser MV adopted as against MV fixed in form-IV of MV Guidelines Register.	34.22	2.57 (@7.5%)	1.44	1.13
4	SR Sajjapuram	3251/2015-Sale Deed	-do-	17.77	1.33 (@7.5%)	0.42	0.90
5	SR Sattenapalli	7954/2017-DGPA	Nearest Door No. mentioned instead of exact door No.	705.32	7.05 (@1%)	5.61	1.44
6	SR Sattenapalli	4119/2016-DGPA	Property undervalued by adopting less construction area.	1,032.16	10.32 (@1%)	9.44	0.88
7	SR Mandapeta	1124/2017-DGPA	Property undervalued by adopting less construction area.	939.06	9.39 (@1%)	8.74	0.65
8	SR Ganapavaram	2148/2017-Sale Deed	Adoption of lesser market value than the value declared by the party.	228.75	17.16 (@7.5%)	4.12	13.04
9	DR Rajamahendravaram	8321/2017-Gift Deed in favour of family member	Property undervalued by adopting lesser construction area.	142.46	4.98 (@3.5%)	4.30	0.68

(₹ in lakh)

S.No	Name of the Office	Document No./Nature of Instrument	Nature of under valuation	MV of Property	Duties and Fee leviable (Rate)	Duties and Fee levied	Short levied
10	SR Gajapathinagaram	2907/16-Sale deed	Adoption of lesser MV by not including charge on property under consideration.	42.14	3.16 (@7.5%)	2.63	0.53
11	SR Jangareddygudem	2090/2018-Sale Deed	Property undervalued by adopting lesser structural value.	90.76	6.81 (@7.5%)	6.30	0.51
12	SR Akiveedu	3784/2016-DGPA	Property undervalued by adopting lesser structural value.	226.97	2.47 (@1%+0.5%)	1.81	0.66
13	SR Tuni	2112/2017-Sale Deed, 2113/2017-Sale Deed	Property undervalued by adopting lesser MV as against the Value fixed in Basic Value Register.	56.63	4.25 (@7.5%)	2.83	1.42
14	SR, Nakkapalle	3500/2016 Sale deed	Market value of Rs.4 lakh per acre adopted instead of Rs.7 lakh per acre.	154.00	11.55(@7.5%)	6.60	4.95
15	SR, Nakkapalle	3525/2016 Sale deed	Market value of Rs.4 lakh per acre adopted instead of Rs.7 lakh per acre.	63.00	4.73(@7.5%)	2.70	2.03
16	SR, Piduguralla	5029/2017 Settlement deed	Market value of Rs.2000 per Sq Yard adopted instead of Rs.6000 per Sq Yard.	203.28	4.07(@2%)	1.36	2.71
			Total	4,103.30	103.08	68.60	34.48

Glossary

AA	: Assessing Authority
AC	: Assistant Commissioner
AP	: Andhra Pradesh
AP VAT	: Andhra Pradesh Value Added Tax
APEPDCL	: Andhra Pradesh Eastern Power Distribution Company Limited
APMVT Act	: Andhra Pradesh Motor Vehicle Taxation Act
APSBCL	: Andhra Pradesh State Beverages Corporation Limited
BSO	: Board's Standing Order
CFST	: Citizen Friendly Services in Transport Department
CIGRS	: Commissioner and Inspector General of Registration and Stamps
CMV Rules	Central Motor Vehicles Rules
CST	: Central Sales Tax
DCB	: Demand Collection and Balance
DIG	: Deputy Inspectors General
DMU	: Debt Management Unit
DOE	: Directorate of Enforcement
DOTD	: Deposit of Title Deeds
DR	: District Registrar
FC	: Fitness Certificate
FL	: Foreign Liquor
GO	: Government Order
GPA	: General Power of Attorney
GST	: Goods and Services Tax
HPFS	: Hedonic Path Finder System
IMFL	: Indian Made Foreign Liquor
IML	: Indian Made Liquor
IR	: Inspection Report
IS Act	: Indian Stamp Act
JC	: Joint Commissioner
LoI	: Letter of Intent
MRP	: Maximum Retail Price
MV	: Market Value

P&ES	: Prohibition and Excise Superintendent
R&T Rules	: Registration and Turnover Rules
RDO	: Revenue Divisional Officer
RTA	: Regional Transport Authority
RTO	: Regional Transport Officer
SCEC	: State Level Coordination cum Empowered Committee
SCN	: Show Cause Notice
SH	: State Highway
SHO	: Station House Officer
SR	: Sub-Registrar
TCS	: Tax Collected at Source
TOT	: Turnover Tax
TP	: Transfer of Property
VAT	: Value Added Tax

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