



**Report of the  
Comptroller and Auditor General  
of India**

**for the year ended 31 March 2006**

**(Revenue Receipts)**

**Government of Madhya Pradesh**

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## PREFACE

*This Report for the year ended 31 March 2006 has been prepared for submission to the Governor under Article 151 (2) of the Constitution.*

*The audit of revenue receipts of the State Government is conducted under Section 16 of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971. This Report presents the results of audit of receipts comprising commercial tax, state excise duty, taxes on vehicles, land revenue, other tax receipts, forest receipts, mining receipts and other non-tax receipts of the State.*

*The cases mentioned in this Report are those which came to notice in the course of test audit of records during the year 2005-2006 as well as those noticed in earlier years but not covered in previous years' Reports.*

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## OVERVIEW

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This report contains 47 paragraphs, including two reviews, relating to non/short-levy of tax, interest, penalty etc., involving Rs.85.85 crore. Some of the major findings are mentioned below:

### ***I. General***

The Government of Madhya Pradesh raised a total revenue of Rs.11,322.90 crore in 2005-2006, comprising tax revenue of Rs.9,114.70 crore and non tax revenue of Rs.2,208.20 crore. The Government also received Rs.6,341.35 crore from the Government of India as its share of the net proceeds of divisible Union taxes and grant-in-aid of Rs.2,932.54 crore. Total receipts during the year were thus, Rs.20,596.79 crore. Sales Tax/Central Sales Tax (Rs.4,508.42 crore) formed a major portion (49.46 *percent*) of the tax revenue. Receipts from non ferrous mining and metallurgical industries (Rs.815.31 crore) accounted for 36.92 percent of the non tax revenue.

*(Paragraph 1.1.1 to 1.1.3)*

- (ii) Test check of records of Sales tax, Land revenue, State excise, Motor vehicles tax, Stamps and registration fee, Other tax receipts, Forest receipts and Other non tax receipts conducted during the year 2005-06 revealed under assessment/short-levy/loss of revenue amounting to Rs.1,284.61 crore in 1,99,985 cases. During the course of the year the departments accepted under assessment and other losses of Rs.548.59 crore in 1,20,915 cases pointed out in 2005-06 and earlier years.

*(Paragraph 1.9)*

### ***II. Commercial Tax***

Review on **Commercial Tax Incentives to New Industries** revealed the following:

- Short levy of tax of Rs.6.85 crore was due to incorrect issue of eligibility certificates

*(Paragraph 2.2.6)*

- In 12 cases, industrial units holding eligibility certificates were closed before currency of their certificates or were closed within five years from the date of expiry of eligibility certificates.

*(Paragraph 2.2.7)*

- Grant of exemption/deferment of tax of Rs.9.92 crore to seven ineligible units resulted in short levy of tax to that extent.

*(Paragraph 2.2.9)*



- Exemption of tax of Rs.50.83 lakh allowed on goods not specified in eligibility certificates of two units was incorrect and resulted in short realisation of Government revenue to that extent.

(Paragraph 2.2.11)

- Tax of Rs.64.51 lakh was adjusted less against exemption limit due to application of incorrect rate of tax.

(Paragraph 2.2.13)

Irregular grant of exemption from payment of tax on provisional EC resulted in non realisation of Government revenue of Rs.3.43 crore.

(Paragraph 2.5)

Non levy of penalty on concealment of turnover, resulted in non-realisation of Government revenue of Rs.2.38 crore.

(Paragraph 2.6)

Non/short levy of entry tax resulted in non realisation of Government revenue of Rs.1.06 crore

(Paragraph 2.9)

### **III. State Excise**

Non realisation of Government revenue of Rs.1.96 crore was due to failure of the department to take timely action against defaulted licensees.

(Paragraph 3.2)

Failure of the department to recover excise duty from licensees from which verification reports were not received resulted in non realisation of Government revenue of Rs.3.10 crore.

(Paragraph 3.3)

Incorrect allowance of wastages resulted in non realisation of excise duty of Rs.1.98 crore

(Paragraph 3.4)

### **IV. Taxes on Vehicles**

Review on **Receipts from transport department** revealed following:

- Vehicle tax of Rs.6.17 crore and penalty of Rs.3.88 crore in respect of 1,770 motor vehicles for the period between April 2001 and March 2005 was neither paid by the owners of the vehicles nor was it demanded by the Taxation Authorities.

(Paragraph 4.2.8)

- Vehicle tax and penalty of Rs.37.01 lakh in respect of 149 motor vehicles of other States plying in Madhya Pradesh under reciprocal transport agreement was not recovered.

(Paragraph 4.2.9)

- No action was initiated for issuance of RRCs against 92 vehicle owners. This resulted in non realisation of Government revenue of Rs.37.70 lakh.

(Paragraph 4.2.10)

- Failure of the department to recover the balance amount of life time tax and penalty on maxicab, plying on all India tourist permits resulted in short levy of life time tax and penalty of Rs.39.49 lakh.

(Paragraph 4.2.18)

#### ***V. Other Tax Receipts***

##### ***Stamp Duty and Registration fees***

For breach of conditions of exemption in instruments executed by societies Government revenue of Rs.79.36 lakh was not recovered.

(Paragraph 5.2)

##### ***Land Revenue***

Non renewal of lease deed of *nazul* plots resulted in loss of revenue of Rs.3.08 crore for the period from 2001-02 to 2005-06.

(Paragraph 5.12)

#### ***VI. Forest Receipts***

Short levy of transit fee resulted in non realisation of revenue of Rs.7.00 crore.

(Paragraph 6.2)

#### ***VII. Mining Receipts***

Non-renewal of mining lease deed resulted in non-realisation of revenue of Rs.1.66 crore.

(Paragraph 7.2)



## CHAPTER 1 : GENERAL

### 1.1 Trend of revenue receipts

**1.1.1** The tax and non tax revenue raised by Government of Madhya Pradesh during the year 2005-06, the State's share of divisible Union taxes and grants in aid received from Government of India during the year and the corresponding figures for the preceding four years are given below :

(Rupees in crore)

Sl No.	Particulars	2001-02	2002-03	2003-04	2004-05	2005-06
<b>I.</b>	<b>Revenue raised by the State Government</b>					
(a)	• Tax Revenue	4,678.98	6,164.55	6,788.86	7,772.97	9,114.70
(b)	• Non tax Revenue	1,601.68	1,635.48	1,479.82	4,461.86	2,208.20
	<b>Total</b>	<b>6,280.66</b>	<b>7,800.03</b>	<b>8,268.68</b>	<b>12,234.83</b>	<b>11,322.90</b>
<b>II.</b>	<b>Receipt from Government of India</b>					
(a)	• State's share of divisible Union taxes	3,439.30	3,728.73	4,247.14	5,076.68 <sup>1</sup>	6,341.35
(b)	• Grants in aid	1,491.12	1,861.64	1,773.14	2,431.74	2,932.54
	<b>Total</b>	<b>4,930.42</b>	<b>5,590.37</b>	<b>6,020.28</b>	<b>7,508.42</b>	<b>9,273.89</b>
<b>III.</b>	<b>Total receipts of the State</b>	<b>11,211.08</b>	<b>13,390.40</b>	<b>14,288.96</b>	<b>19,743.25</b>	<b>20,596.79</b>
<b>IV.</b>	Percentage of I to III	56	58	58	62	55

<sup>1</sup> For details please see statement No.11 "Detailed Accounts of Revenue by Minor Heads" in the Finance Accounts of the Government of Madhya Pradesh for the year 2005-06. Figures under the head "0021 Taxes on Income other than Corporation Tax – Share of net proceeds assigned to States" booked in the Finance Accounts under A-Tax Revenue have been excluded from Revenue raised by the State and included in State's share of divisible Union taxes in this statement



**1.1.2** The details of tax revenue raised during the year 2005-06 alongwith the figures for the preceding four years are given below:-

*(Rupees in crore)*

Sl. No.	Head of Revenue	2001-02	2002-03	2003-04	2004-05	2005-06	Per centage increase (+)/ decrease (-) in 2005-06 over 2004-05
1.	● Sales Tax ● Central Sales Tax	2,360.74	2,906.20	3,293.26	3,912.01	4,508.42	(+) 15.25
2.	State Excise	704.68	890.32	1,085.89	1,192.36	1370.38	(+) 14.93
3.	Stamp duty and Registration Fees	444.96	535.05	614.49	788.71	1,009.48	(+) 27.99
4.	Taxes and Duties on Electricity	268.19	801.26	697.06	707.18	842.27	(+) 19.10
5.	Taxes on Vehicles	393.33	428.64	454.92	488.65	556.02	(+) 13.79
6.	Taxes on goods and passengers	262.40	351.20	390.99	468.07	578.58	(+) 23.61
7.	Other Taxes on Income and Expenditure Tax on Professions, Trades, Callings and Employments	173.05	187.44	188.90	150.21	153.08	(+) 1.91
8.	Other Taxes and Duties on Commodities and Services	19.99	20.08	15.32	14.28	14.15	(-) 0.91
9.	Land Revenue	48.21	40.44	43.63	46.80	77.16	(+) 64.87
10.	Hotel Receipts	3.43	3.92	4.40	4.75	5.37	(+) 13.05
11.	Taxes on Immovable property other than Agriculture Land	-	-	-	(-) .05 <sup>2</sup>	(-) 0.21 <sup>3</sup>	
	<b>Total</b>	<b>4,678.98</b>	<b>6,164.55</b>	<b>6,788.86</b>	<b>7,772.97</b>	<b>9,114.70</b>	

Reasons for variations in receipts during 2005-06 compared to those of 2004-05 as intimated by the respective departments are given below:-

**Stamp duty & Registration Fees:** The increase of 27.99 percent was due to registration of more document during the year as compared to 2004-05.

<sup>2</sup> Due to deduct of Refund (As per Finance Accounts 2004-05)

<sup>3</sup> Due to deduct of Refund (As per Finance Accounts 2005-06)

Reasons for variations in respect of other departments though called for have not been received (January 2007).

**1.1.3** The details of major non tax revenue raised during the year 2005-06 alongwith the figures for the preceding four years are given below:

(Rupees in crore)

Sl. No.	Head of Revenue	2001-02	2002-03	2003-04	2004-05	2005-06	Percentage increase (+)/ decrease (-) in 2005-06 over 2004-05
1.	2.	3.	4.	5.	6.	7.	8.
1.	Interest Receipts	246.59	32.05	19.22	25.90	527.20	(+) 1935.52
2.	Other Non Tax Receipts	237.68	249.32	144.57	157.48	151.94	(-) 3.52
3.	Forestry and Wild life	306.45	497.30	496.75	559.11	490.40	(-) 12.29
4.	Non ferrous Mining and Metallurgical Industries	528.39	590.69	646.71	733.72	815.31	(+) 11.12
5.	Miscellaneous general services (including lottery receipts)	141.03	120.94	22.92	79.61	21.30	(-) 73.24
6.	Power	0.05	0.24	0.12	2,749.49	0.08	(-) 100
7.	Major and Medium Irrigation	39.15	24.64	37.80	37.92	29.57	(-) 22.02
8.	Medical and Public Health	16.14	20.36	10.98	16.76	11.73	(-) 30.01
9.	Co-operation	13.23	14.45	15.60	17.92	14.23	(-) 20.59
10.	Public Works	6.75	8.57	9.09	9.94	53.08	(+) 434.00
11.	Police	42.49	39.23	24.99	23.23	26.16	(+) 12.61
12.	Other Administrative Services	23.73	37.69	51.07	50.78	67.20	(+) 32.34
	<b>Total</b>	<b>1,601.68</b>	<b>1,635.48</b>	<b>1,479.82</b>	<b>4,461.86</b>	<b>2,208.20</b>	

Reasons for variations in receipts during 2005-06 compared to those of 2004-05 as intimated by the respective departments are given below:

**Interest Receipts:-** The increase was due to receipt of Rs.464.06 crore from MPSEB under the head "Interest Receipts".

**Forestry and wild life:** The decrease of 12.29 percent was due to short fall in production due to area submerged in Narmada Dam and activities of Naxalities.



**Non ferrous Mining and Metallurgical Industries:** The increase of 11.12 percent was due to re allotment of work of minor mineral mines to Department.

**Power:** The decrease of 100 per cent was due to increase in receipts of last year by adjustments of assistance to MPSEB.

Reasons for variations in respect of other departments though called for have not been received (January 2007).

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

The variations between the budget estimates and actuals of revenue receipts for the year 2005-06 in respect of the principal heads of tax and non tax revenue are given below:-

*(Rupees in crore)*

Sl. No.	Head of Revenue	Budget Estimates	Actuals	Variation excess (+) or shortfall (-)	Percentage of variation
<b>A.</b>	<b>Tax Revenue</b>				
1.	Sales Tax	4,676.00	4,508.42	(-) 167.58	(-) 3.58
2.	State Excise	1,300.00	1,370.38	(+) 70.38	(+) 5.41
3.	Stamp duty and Registration Fees	830.00	1,009.48	(+) 179.48	(+) 21.62
4.	Taxes and Duties on Electricity	760.35	842.27	(+) 81.92	(+) 10.77
5.	Land Revenue	85.55	77.16	(-) 8.39	(-) 9.81
<b>B.</b>	<b>Non Tax Revenue</b>				
1.	Forestry and Wildlife	422.00	490.40	(+) 68.4	(+) 16.21
2.	Non ferrous mining and metallurgical Industries	800.00	815.31	(+) 15.31	(+) 1.91
3.	Co-operation	11.65	14.23	(+) 2.58	(+) 22.15

The reasons for substantial variation between budget estimates and actuals, though called for, have not been received from the departments (January 2007).

## **1.3 Cost of Collection**

The gross collection in respect of major revenue receipts, expenditure incurred on collection and the percentage of expenditure to gross collection during the years



2003-04, 2004-05 & 2005-06 alongwith the relevant all India average percentage of expenditure on collection to gross collection for 2004-05 were as below:-

(Rupees in crore)

Sl. No.	Head of Revenue	Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India Average percentage for the year 2004-05
1.	2.	3.	4.	5.	6.	7.
1.	Sales Tax	2003-04	3,293.26	50.84	1.54	0.95
		2004-05	3,912.01	45.06	1.15	
		2005-06	4,508.42	50.41	1.12	
2.	Taxes on Vehicles and Taxes on Goods and Passengers	2003-04	845.91	16.27	1.92	2.74
		2004-05	956.72	11.87	1.24	
		2005-06	1,134.60	19.35	3.47	
3.	State Excise	2003-04	1,085.89	226.27	20.84	3.34
		2004-05	1,192.36	230.92	19.37	
		2005-06	1,370.38	289.53	21.13	
4.	Stamp Duty and Registration Fee	2003-04	614.49	60.37	9.82	3.44
		2004-05	788.71	75.28	9.54	
		2005-06	1,009.48	28.84	2.86	

The increase under the head "State Excise" was due to inclusion of purchase of liquor and spirit in the cost of collection. Expenditure on collection under sales tax and taxes on vehicles and taxes on goods and passengers is also marginally high as compared to national average. Reasons for the same though called for from department has not been received (January 2007).

#### 1.4 Collection of sales tax per assessee

According to information furnished by Commercial Tax Department sales tax collection per assessee during last five years was as under:

(Rupees in crore)

Year	No. of assessee	Sales Tax revenue <sup>4</sup>	Revenue/assessee
2001-02	2,10,104	2,393.44	0.011
2002-03	2,24,298	2,923.62	0.013
2003-04	2,23,157	3,370.75	0.015
2004-05	2,33,672	3,977.88	0.017
2005-06	2,41,000	5,302.25	0.022

<sup>4</sup> Figures furnished by Department varies with Finance Account figures

### 1.5 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2006 in respect of some principal heads of revenue amounted to Rs.966.56 crore of which Rs.81.80 crore (excluding Transport Department, Commercial Tax Department) was outstanding for more than five years as detailed in the following table:-

(Rupees in crore)

Sl. No.	Head of Revenue	Amount outstanding as on 31 March 2006	Amount outstanding for more than 5 years as on 31 March 2006
1	2.	3.	4.
1.	Taxes on vehicle	33.83	Not furnished
2.	State Excise	53.73	40.20
3.	Taxes & Duties on Electricity	32.85	15.34
4.	Sales Tax	759.30	Not furnished
5.	Non ferrous mining and metallurgical industries	11.11	11.11
6.	Co-operation	9.36	4.51
7.	Stamp Duty and Registration Fees	66.38	10.64
	<b>Total</b>	<b>966.56</b>	<b>81.80</b>

Amount outstanding for more than five years was not furnished by Taxes on Vehicles Department and Sales Tax Department besides, stages at which arrears were pending collection were also not furnished by the departments.

### 1.6 Arrears in assessment

The details of cases pending assessment at the beginning of the year, cases becoming due for assessment during the year, cases disposed of during the year and number of cases pending finalisation at the end of the year 2005-06 as furnished by the Sales Tax Department in respect of Sales Tax, Profession Tax, Entry Tax, Lease Tax, Luxury Tax and tax on works contracts etc. are given as follows:



Name of Tax		Opening Balance	New cases due for assessment during the year	Total assessment due	Cases disposed of during the year	Balance at the end of the year	Percentage of column 5 to 4
(1)		(2)	(3)	(4)	(5)	(6)	(7)
<b>Finance Department</b>							
Sales Tax	2004-05	2,86,363	3,26,262	6,12,625	3,31,915	2,80,710	54.18
	2005-06	2,80,710	3,38,423	6,19,133	3,76,866	2,42,267	60.87
Profession Tax	2004-05	88,054	1,32,834	2,20,888	1,04,411	1,16,477	47.27
	2005-06	1,16,477	awaited	awaited	awaited	awaited	awaited
Entry Tax	2004-05	1,59,709	1,98,356	3,58,065	1,98,508	1,59,557	55.44
	2005-06	1,59,557	2,05,172	3,64,729	2,05,971	1,58,758	56.47
Luxury Tax	2004-05	439	755	1,194	725	469	60.72
	2005-06	469	602	1,071	602	469	56.21
Tax on Works contracts	2004-05	1,056	5,898	6,954	3,747	3,207	53.88
	2005-06	3,207	2,651	5,858	3,212	2,646	54.83
<b>Total</b>	2004-05	5,35,621	6,64,105	11,99,726	6,39,306	5,60,420	53.29
	2005-06	5,60,420	5,46,848	11,07,268	5,86,651	5,20,617	52.98

### 1.7 Evasion of Tax

The details of cases of evasion of tax detected by the Sales Tax and State Excise departments, cases finalised and the demands for additional tax raised as reported by the departments are given below:-

(Rupees in crore)

Sl. No.	Name of tax/duty	Cases pending as on 31 March 2005	Cases detected during 2005-06	Total	No. of cases in which assessments/investigations completed and additional demand including penalty etc. raised		No. of cases pending finalisation as on 31 March 2006
					No. of cases	Amount of demand	
1.	Sales Tax	179	233	412	134	253.39	278
2.	State Excise	1,372	1,629	3,001	2,671	8.85	330
3.	SD & RF	6,001	5,387	11,388	5,142	8.64	6,246

### 1.8 Refunds

The number of refund cases pending at the beginning of the year 2005-06, claims received during the year, refunds allowed during the year and cases pending at the close of the year 2005-06 as reported by the departments are given as follows:-



(Rupees in crore)

Sl. No.	Category	State Excise		Sales Tax		Works Contract		Stamps Duty & Registration	
		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	317	2.74	1,360	5.45	60	2.99	621	28.52
2.	Claims received during the year	64	1.20	8,041	26.25	awaited		689	55.34
3.	Refunds made during the year	45	0.48	7,698	24.35	-do-		685	50.77
4.	Balance outstanding at the end of the year	336	3.46	1,703	7.35	-do-		625	33.09

### 1.9 Results of audit

Test check of records of sales tax, land revenue, state excise, motor vehicles tax, stamp and registration fee, other tax receipts, forest receipts and other non tax receipts conducted during the year 2005-06 revealed under assessment/short levy/loss of revenue amounting to Rs.1,284.61 crore in 1,99,985 cases. During the course of the year the departments accepted underassessment and other losses of Rs.548.59 crore in 1,20,915 cases pointed out in 2005-06 and earlier years.

This Report contains 47 paragraphs including two reviews relating to Commercial tax incentives to new industries and receipts from Transport Department involving Rs.85.85 crore. The departments/Government accepted audit observations involving Rs.32.56 crore out of which **Rs.2.42 crore** has been recovered. In respect of observations not accepted by the department, reasons for Departments' non acceptance has been included in the related paragraph itself alongwith suitable rebuttal. However, replies from the Government had not been received

### 1.10 Failure of senior officials to enforce accountability and protect interest of Government

Accountant General (Works & Receipt Audit) Madhya Pradesh conducts periodical inspection of Government departments to test check transactions and verify the maintenance of important accounting and other records as prescribed in rules and procedures. These inspections are followed up with Inspection Reports (IRs) incorporating irregularities etc. detected during inspection and not settled on the spot, which are issued to the heads of offices inspected with copies to next higher authorities for taking prompt corrective action. The heads of offices/Government

are required to comply with the observations contained in the IRs and rectify the defects and omissions promptly and report compliance through initial reply to the Accountant General within six weeks from the dates of issue of the IRs. Serious financial irregularities are reported to the heads of the department and Government.

IRs issued upto December 2005, pertaining to various offices of commercial tax, land revenue, registration and other departments under Government of Madhya Pradesh disclosed that 22,628 paragraphs relating to 6,645 IRs remained outstanding since 1980-81 to the end of December 2005.

A review of the IRs which were pending due to non receipt of replies, in respect of Commercial Tax, Land Revenue and Registration Department revealed that the head of the offices and the heads of the departments did not send reply to a large number of IRs/paragraphs, indicating their failure to initiate action in regard to the defects, omissions and irregularities pointed out by audit in the IRs. The Principal Secretaries/Secretaries of the departments, who were informed of the position through half yearly reports, also did not ensure that the concerned officers of the Department take prompt and timely action.

Inaction against the defaulting officers facilitated the continuance of financial irregularities and loss to the Government, though these were pointed out in audit. It is recommended that Government may reexamine the procedure for action against the officials who failed to send replies to IRs/paragraphs within the prescribed time schedule, take action to recover loss/outstanding advances/overpayments in a time bound manner and revamp the system to ensure proper response to the audit observations by the departments.

### **1.11 Response of the departments to the draft audit paragraphs**

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

Draft paragraphs included in this Report were sent to the Principal Secretaries/Secretaries of Land Revenue, Forest and State Excise departments who did not send replies. The paragraphs pertaining above departments have been included in this Report without the response of the Principal Secretaries/Secretaries of the departments. As regards review the Audit Review Committee meetings were organised on 20 September 2006 and 21 September 2006 in which Principal Secretary of Commercial Tax Department and Commissioner, Land Revenue have participated. The Secretary, Transport Department did not attend the meeting.

### **1.12 Follow up on Audit Report**

The Report of the Comptroller & Auditor General of India for the year ended 31 March 2005 (Revenue Receipts) was laid on the table of *Vidhan Sabha* on



24 March 2006. Reports upto the year 2003-04 (except para of land revenue) have been discussed.

Recommendations of Public Accounts Committee (PAC) have been received. Action taken reports (ATN) on the PAC recommendations upto 1992-93 have been received. In respect of Audit Report 1993-94 & onwards, ATNs have not been received from eight departments.

### **1.13 Recovery of revenue of accepted cases**

During the years between 2000-01 and 2004-05 the department/Government accepted audit observations involving Rs.348.53 crore of which an amount of Rs.13.22 crore was recovered till 31 March 2006 as detailed below:

*(Rupees in crore)*

<b>Year of Audit Report</b>	<b>Total Money value of Report</b>	<b>Accepted money value</b>	<b>Amount recovered</b>
2000-01	889.12	11.84	11.84
2001-02	221.22	56.21	0.65
2002-03	295.70	240.98	0.16
2003-04	125.53	26.26	0.29
2004-05	41.96	13.24	0.28
<b>Total</b>	<b>1,573.53</b>	<b>348.53</b>	<b>13.22</b>

The reasons for less recovery during 2001-02 to 2004-05 are awaited from the Government.



## CHAPTER II : COMMERCIAL TAX

### 2.1 Results of audit

Test-check of assessment cases and other records relating to Commercial Tax Department during the year 2005-06 revealed underassessment, non/short levy of tax and penalty, application of incorrect rate of tax etc., involving Rs.54.70 crore in 788 cases which can broadly be categorised as under:

*(Rupees in crore)*

Sl. No.	Category	Number of cases	Amount
1.	Non/short-levy of tax	168	2.64
2.	Application of incorrect rate of tax	114	5.15
3.	Incorrect determination of taxable turnover	59	2.51
4.	Incorrect grant of exemption/deduction/ set off	141	25.82
5.	Others irregularities	306	18.58
6.	Review: <b>Commercial Tax Incentives to New Industries</b>	1	40.14
	<b>Total</b>	<b>789</b>	<b>94.84</b>

During the year 2005-06, the department accepted underassessment of tax of Rs.33.67 crore in 43 cases. All these cases pertained to 2005-06. Rs.71 lakh had been recovered in seven cases during the year.

A few illustrative cases involving Rs.48.74 crore including a review on **Commercial Tax Incentive to New Industries** are discussed in the following paragraphs:

## **2.2 Review: Commercial Tax Incentives to New Industries**

### **Highlights**

- Short levy of tax of Rs.6.85 crore was due to incorrect issue of eligibility certificates

*(Paragraph 2.2.6)*

- In 12 cases industrial units holding eligibility certificates were closed during currency of their certificates or were closed within five years from the date of expiry of eligibility certificates.

*(Paragraph 2.2.7)*

- Grant of exemption/deferment of tax of Rs.9.92 crore to seven ineligible units resulted in short levy of tax to that extent

*(Paragraph 2.2.9)*

- Exemption of tax of Rs.50.83 lakh allowed on goods not specified in eligibility certificates of two units was incorrect and resulted in short realisation of Government revenue to that extent.

*(Paragraph 2.2.11)*

- Tax of Rs.64.51 lakh was adjusted less against exemption limit due to application of incorrect rate of tax.

*(Paragraph 2.2.13)*

### **2.2.1 Recommendations**

Government may consider the following recommendations:

- Internal control mechanism should be developed to ensure that the eligibility certificates issued are consistent with the provisions of the scheme.
- Government may consider imposing penitentiary measures against dealers who do not submit returns prescribed by the department.
- A system may be developed to ensure that prompt action is taken against those beneficiaries that have closed units before stipulated period or have violated requisite condition for grant of exemption.

### 2.2.2 Introduction

With a view to encourage growth of industries in the state, Government of Madhya Pradesh (MP) has been offering incentives to new industries in the form of exemption/deferment of tax. Government notified two such schemes namely 1986 scheme and 1994 scheme. Besides there are some special schemes like 1991 scheme for industrial units with capital investment of Rs.100 crore or more, 1995 scheme for non resident Indians (NRI), 100 per cent export oriented units (EOU) and exporting units, etc.

The Department of Industries formulates the schemes and the Commercial Tax Department issues notification under the provisions of MP Commercial Tax Act, 1994 for their implementation. A unit has to apply to General Manager, District Trade and Industries Centre who issues eligibility certificate (EC) for grant of exemption/deferment of tax to the applicant of small scale industry. In the case of medium or large scale industry the Commissioner of Industries, MP issue such certificate

### 2.2.3 Organisational set up

The Commercial Tax Department is headed by Commissioner of Commercial Tax, MP with headquarters at Indore, who is assisted by seven additional commissioners, 23 deputy commissioners (DCs) 58 assistant commissioners (ACs), 91 commercial tax officers (CTOs) and 220 assistant commercial tax officers (ACTOs). The department is under the administrative control of Principal Secretary (Commercial Tax) at Government level.

### 2.2.4 Audit objectives

The review has been conducted with a view to ascertain whether:

- ECs issued were consistent with the provisions of the scheme, the provisions and conditions laid down in the scheme/EC were being complied with;
- tax was being levied/assessed and adjusted correctly against exemption limits prescribed in the ECs and
- adequate internal control existed to safe guard Government revenue.

### 2.2.5 Scope of audit

Records of 11<sup>1</sup> out of 13 divisions covering 21 ACs and 32 CTOs for the period 2000-01 to 2004-05 were test checked between June 2005 and March 2006. Results of the review are given in the succeeding paragraphs.

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<sup>1</sup> Bhopal (2), Chhindwara, Gwalior, Indore (2), Khandwa, Ratlam, Sagar, Satna and Ujjain



## 2.2.6 Short levy due to incorrect issue of eligibility certificates (ECs)

Madhya Pradesh *Vanijyik Kar Adhiniyam* 1994 (MPVK *Adhiniyam* 1994) provides exemption from payment of tax to those industrial units that are holding ECs, issued under different incentive schemes notified by Government. The exemption are, however, subject to terms and conditions prescribed in respective schemes and notifications issued by Government from time to time.

Test check of records revealed that in seven cases, exemption from payment tax was granted to six units by assessing authorities (AAs) though the units did not fulfill requisite conditions. The grant of exemption was incorrect and resulted in short realisation of Government revenue of Rs.6.85 crore as detailed below:

Sl. No.	Name of Office	Nature of observations
1.	2.	3.
1.	AC Bhopal	As per notification dated June 1995, benefit of exemption was not admissible for sales out of expanded capacity <sup>2</sup> of a 100 per cent EOU.  However, one such EOU assessed in January 2005 for the year 2001-02 exemption was granted from payment of tax on sales out of expanded capacity which was incorrect and resulted in short realisation of Government revenue to the extent of Rs.4.51 crore.
<b>Remarks:</b> Government stated in September 2006 that the cases would be re examined. However, further progress made has not been received (January 2007).		
2.	AC Indore AC Sagar	As per 1994 scheme, benefit of exemption was admissible to manufacturing units only. Process of refilling of LPG is not a manufacturing process <sup>3</sup> .  In three cases of two dealers, AAs allowed exemption between February 2004 and January 2005 for the years 2000-01 and 2001-02 treating refilling of LPG as manufacturing process. The grant of exemption was incorrect and resulted in short realisation of Government revenue of Rs.1.54 crore.
<b>Remarks:</b> Government stated in September 2006 that the cases would be re examined. However, further action taken has not been received (January 2007).		

<sup>2</sup> Sales out of expanded capacity means sales made over and above the existing production

<sup>3</sup> State of Gujrat Vs Kosam Gas Company (87 STC-236) (Gujrat)

1.	2.	3.
3.	AC Chhindwara	As per 1994 scheme, cotton ginning and pressing units were ineligible for exemption with effect from 21 May 1998. It was noticed that three units dealing with ginning and pressing of cotton were allowed exemption between October 2004 and December 2004 for the year 2001-02. The grant of exemption to these units was incorrect and resulted in short realisation of tax of Rs.80 lakh.
<b>Remarks:</b> Government accepted audit observation in September 2006 and stated that reassessment of the case was in progress.		

In all the above cases ECs were issued by the Industrial Department. However, at no occasion were the above discrepancies brought to their notice by the Commercial Tax Department. It is recommended that grant of exemption may be monitored in such a manner that ineligible units are not allowed benefit of exemption.

#### **2.2.7      *Non-recovery of tax on closure of units before stipulated period***

Under 1986, 1994 and 1995 schemes for new industries, a manufacturer shall keep the industrial unit running during the period of eligibility and also for a further period of five years from the date of expiry of the period of eligibility. In case of failure to do so EC shall be liable to be cancelled with retrospective effect.

During test check of records of seven ACs<sup>4</sup> and three circle offices<sup>5</sup>, it was noticed that in 12 cases the industrial units holding eligibility certificates failed to continue production either during the period of eligibility or for a further period of five years. The units were closed either during currency of ECs or where closed within five years from the date of expiry of ECs. The amount of exemption and deferment availed of by these units which had become recoverable worked out to Rs.12.40 crore.

After this was pointed out, Government stated in September 2006 that instructions have been issued from time to time for taking early action regarding cancellation of EC. Further instructions would be issued for immediate action to cancel the EC and thereafter to complete assessments for earlier periods on priority by levying tax.

#### **2.2.8      *Non levy/adjustment of tax against the quantum of exemption***

Under exemption schemes of 1994 and 1995 assessing authority (AA) shall levy Purchase tax on the raw material purchased on declaration and adjust the same against the ceiling limit of exemption specified in the EC.

<sup>4</sup> AC Chhindwara, AC Gwalior, AC Indore (2), AC Khargone, AC Mandasaur and AC Ujjain

<sup>5</sup> CTO Dhar, Indore and Ujjain



**2.2.8.1** Test check of records of seven ACs<sup>6</sup> and three circle offices<sup>7</sup> revealed that in 14 cases assessed between May 2002 to January 2005 for the period 1998-99 to 2001-02, purchase tax on raw materials valued at Rs. 31.75 crore purchased by dealers on declarations was omitted to be levied by AA. Similarly tax on sales of finished goods valued at Rs. 82.15 crore were also not levied by AAs. This resulted in short levy of tax of Rs. 7.76 crore. Consequently the amount could not be adjusted against exemption limit of dealers.

After this was pointed out, Government informed in September 2006 that in 6 cases tax amounting to Rs.69.43 lakh had been levied and adjusted against the ceiling limit of exemption and in remaining eight cases action for re-assessment was in progress.

**2.2.8.2** Section 2 (w) (v) of MPVK *Adhiniyam*, prescribed a formula<sup>8</sup> to arrive at the amount of taxable turnover. It also provided that no deduction on the basis of the formula shall be made if the amount by way of tax collected by registered dealer had been otherwise deducted from the aggregate of sale prices or not included in sale price.

Test-check of records of three AAs revealed that in four units, deduction of tax Rs.9.60 lakh was allowed in accordance with above prescribed formula. Since the dealer were holding exemption certificates and had not collected any tax, the deduction allowed was incorrect. This resulted in short levy of tax of Rs.9.60 lakh as detailed below:

Sl. No.	Name of Assessing officer	Period	Month of assessment	No. of cases	Amount (Rs. in lakh)
1.	Circle I Dhar	2001-02	July 2004 and December 2004	2	6.70
2.	AC Guna	2000-01	January 2004	1	1.75
3.	AC Mandsaur	1999-00	June 2004	1	1.15
<b>Total</b>				<b>4</b>	<b>9.60</b>

After this was pointed out, the Department stated in September 2006 that in one case action had been taken for re assessment and tax amounting to Rs.1.74 lakh had been levied and adjusted against ceiling limit and action for re-assessment was in progress in remaining three cases.

## **2.2.9 Incorrect grant of exemption/deferment of tax**

**2.2.9.1** Under 1995 scheme agriculture, horticulture or silk based exporting industrial units were eligible for exemption if their export sales were at least 50 per cent of their production in a year. In case of other exporting

<sup>6</sup> A.C. Gwalior, A.C. Chhindwara, A.C. Satna, A.C. Indore (3), A.C. Mandsaur  
<sup>7</sup> C.T.O. Indore (2), C.T.O. Bhopal

<sup>8</sup> 
$$\frac{\text{Rate of tax} \times \text{Aggregate of sale prices}}{100 + \text{Rate of Tax}}$$



units minimum export sale for availment of exemption was prescribed as 75 *per cent* of the production in a year.

- Test check of records of AC Dewas, Bhopal and Indore revealed that three agriculture based industrial units assessed between December 2004 and January 2005 for the period 2001-02 did not export a minimum of 50 *per cent* of their sale. Their export sales were of Rs.36.03 crore, Rs.8.17 crore and Rs.19.99 crore as against their total turnover of Rs.163.97 crore, Rs.71.65 crore and Rs.50.69 crore respectively. Thus, although the condition of minimum export sale was not fulfilled, the AAs granted exemption of tax of Rs.1.94 crore which was not admissible. This resulted in short levy of tax to that extent.

After this was pointed out, Government stated in September 2006 that in one case action for re assessment was in progress and the remaining cases were under examination.

- Test check of records of AC Chhindwara revealed that one exporting unit holding EC for manufacture of cotton yarn got added in his registration certificate raw materials like artificial fibre, man made fibre, polyester fibre etc. with effect from 8 January 2001. Accordingly, it was eligible for the benefit of exemption only if its export sales were 75 *per cent* or more, but the AA while finalising the assessment in January 2005 for the period 2001-02 allowed exemption on the basis of only 55 *per cent* export sale. This resulted in short levy of tax of Rs. 29.83 lakh.

After this was pointed out, Government stated in September 2006 that case would be re examined.

**2.2.9.2** Under deferment scheme of 1986, deferment of tax payable on the purchase of raw material used in manufacture of goods was not admissible.

- Test-check of records of AC Gwalior revealed that a unit holding EC for deferment of tax purchased raw material valued at Rs.171.57 crore on which purchase tax of Rs.7.54 crore was payable. The AA while finalising the assessment for the period 1999-2000 to 2001-02 between April 2003 and January 2005 allowed deferment of the same which was not admissible.

After this was pointed out, Government stated in September 2006 that the case would be re examined.

- Test-check of records of CTO Bhopal revealed that a dealer purchased goods and sold them as such, without undergoing any manufacturing process. Although deferment was not admissible, the AA while finalising the assessments for the period 2000-01 and 2001-02 in September 2003 and 2004 allowed deferment of tax of Rs. 4.38 lakh incorrectly.

After this was pointed out, Government stated in September 2006 that action for reassessment was in progress.

**2.2.9.3** Under 1994 scheme, if a dealer establishes a new industrial unit but closes down production in an existing industrial unit within the state engaged in production of the same product, the EC shall be liable to be cancelled from the date of closure.

Test-check of records of circle office Ujjain revealed that a dealer registered with the Commercial Tax Department since December 1996 for manufacture of corrugated boxes established a new industrial unit in February 1998 for manufacture of same product for which Industry Department issued EC on 29 April 1999. The dealer however, closed down his former unit on 1 April 1999. As per condition of the notification the dealer was not entitled for the benefit in respect of new unit with effect from 1 April 1999. But the AA while finalising the assessment for the period 2000-01 and 2001-02 between September 2003 and September 2004 allowed the exemption which was not admissible. This resulted in non levy of tax Rs. 9.87 lakh.

After this was pointed out, Government in September 2006 stated that the case would be examined.

**2.2.10      *Grant of exemption/deferment in excess of the quantity specified in EC.***

Under 1994 scheme, an industrial unit is not eligible for exemption in excess of capacity specified in the EC.

Test-check of records of AC Chhindwara revealed that the AA while finalising the assessment of two exempted units in October 2004 for the period 2001-02 allowed exemption for 13,540.25 quintals and 13,298.85 quintals of ginned cotton against the specified quantity of 10,000 quintals in each case in the ECs. This resulted in excess grant of exemption having a tax effect of Rs. 11.51 lakh.

After this was pointed out, Government stated in September 2006 that the action for reassessment was in progress.

**2.2.11      *Exemption allowed on goods not specified in the EC***

The EC issued by the competent authority, inter alia specifies name of principal products and its by products manufactured by a unit.

Test-check of records of AC Dewas and Gwalior revealed that in four cases of two industrial units assessed between November 2003 to February 2005 for the period 2000-01 to 2002-03 exemption was allowed in respect of component assembly and chlorinated paraffin wax (CPW) which were not specified in the ECs. This resulted in incorrect grant of exemption of Rs. 50.83 lakh.

After this was pointed out, Government in respect of AC Dewas, stated in September 2006 that the action to reassess the case under section 28 (1) of MPVK *Adhiniyam* had been initiated. While in other case it was stated that the dealer manufactured and sold chlorinated paraffin liquid specified in EC and not wax. Reply was not tenable because as per sale documents the dealer had sold CPW and not chlorinated paraffin liquid.



### 2.2.12 Incorrect determination of taxable turnover

Under 1994 scheme, a dealer undertaking expansion in his existing industrial unit shall be eligible for exemption in respect of goods manufactured by him, in excess of 100 *per cent* of the original installed capacity of existing industrial unit.

**2.2.12.1** Test check of record of AC Chhindwara revealed that during 2001-02 a unit was entitled to exemption for sales valued at Rs. 33.05 crore of expanded capacity whereas the AA while finalising the assessment in January 2005 allowed exemption on sales valued at Rs.48.68 crore. This resulted in incorrect grant of exemption on sales valued at Rs.15.63 crore having a tax effect of Rs.1.56 crore.

After this was pointed out, Government stated in September 2006 that action for re-assessment was in progress.

**2.2.12.2** In another case a unit holding EC for expanded capacity sold goods valued at Rs. 91.47 crore during 2001-02, out of which sales valued at Rs. 46.09 crore pertained to expanded capacity. However, the AA (AC Dewas) while finalising the assessment in January 2005 allowed exemption on sales valued at Rs.58.25 crore. This resulted in incorrect grant of exemption on sales valued at Rs. 12.16 crore having a tax effect of Rs. 27.98 lakh.

After this was pointed out, Government stated in September 2006 that the case would be re-examined.

### 2.2.13 Incorrect adjustment due to application of incorrect rate of tax

MPVK *Adhiniyam* and notifications issued thereunder specify the rates of commercial tax leviable on sale of different commodities.

Test check of records of four ACs revealed that in respect of four units holding EC, tax of Rs.64.51 lakh on sales of goods valued at Rs.22.63 crore was not levied/levied at incorrect rates, as shown below :-

(Rupees in lakh)

Sl. No.	Name of assessing officer	Period	Month of assessment	No. of cases	Short levy of tax	Nature of irregularity
1.	2.	3.	4.	5.	6.	7.
1.	AC Indore	2001-02	December 2004	1	20.16	Tax on sale of HDPE <sup>9</sup> fabrics of Rs.2.19 crore was determined at 4.6 <i>per cent</i> instead of 13.8 <i>per cent</i> .

<sup>9</sup>

High density Poly ethylene

1.	2.	3.	4.	5.	6.	7.
2.	AC Gwalior	2001-02	January 2005	1	11.02	No tax on sale of HDPE fabrics of Rs.83.05 lakh was levied treating the same as tax free goods.
3.	AC Guna AC Bhopal	2001-02	December 2004 and January 2005	2	33.33	During 6 September 2001 to 31 March 2002 edible oil was taxable at 4 per cent, but tax on sale of oil of Rs.19.61 crore was determined 2.3 per cent.

Thus tax of Rs. 64.51 lakh was adjusted less against exemption limit of the units.

After this was pointed out, Government stated in September 2006 that in two cases pertaining to HDPE fabrics matter would be re-examined and in remaining two cases action for reassessment was in progress.

#### **2.2.14 Internal control mechanism**

The internal control mechanism is intended to provide adequate safeguards against errors and irregularities in operational as well as financial matters and is an integral part of an organisation's operation.

The Commercial Tax Department intimated in October 2006 that there had been no internal audit wing for last five years.

#### **2.2.15 Non Submission of prescribed returns**

Under 1994 incentive scheme, every dealer during the period of his exemption/deferment of tax is required to furnish for every quarter to the appropriate sales tax officer and General Manager, District Industries Centre, a statement in Form IV<sup>10</sup> within 30 days of the expiry of the quarter to which such statement relates.

It was noticed that in 25 cases assessed for the period 2000-01 to 2001-02 between November 2003 to January 2005 by eight AAs exemption/deferment of Rs.16.68 crore was allowed though the units had not submitted the prescribed returns as detailed follows:

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<sup>10</sup> *Statement of purchases of goods and their consumption/use in manufacture/packing and production of goods and sale of such goods.*



(Rupees in crore)

Sl. No.	Name of Unit	Period of assessment	Month of assessment	No. of cases	Amount
1.	AC Gwalior	2001-02	November 2004 and January 2005	4	7.21
2.	AC Indore	2001-02	July 2004 to November 2004	2	4.88
3.	AC Indore	2001-02	September 2004	1	0.87
4.	AC Chhindwara	2001-02	January 2005	5	0.95
5.	AC Dewas	2001-02	June 2004 to December 2004	7	0.42
6.	A.C. Indore	2001-02	January 2003	1	1.75
7.	AC Indore	2001-02	December 2004	2	0.46
8.	Circle Office Indore	2000-01 2001-02	November 2003 to September 2004	3	0.14
				<b>25</b>	<b>16.68</b>

Finalisation of assessments without prescribed returns is fraught with risk of underassessments and short levy of tax, thus defeating the very purpose for which the return was prescribed. Government may consider imposing penitentiary measures on the dealers who do not submit the requisite return.

After this was pointed out, the department while accepting the objection stated in September 2006 that it was a procedural lapse and there was no loss of revenue. However, Government stated that it would consider whether some penalty could be prescribed for the assesseees who did not submit returns.

### 2.2.16 Conclusion

It would be seen from the above that there was lack of internal control mechanism to ensure that the ECs issued were consistent with the provisions of the scheme and that the provisions/conditions laid down in the scheme/EC are complied with. There was no system to evaluate the performance of the beneficiary units during the period of eligibility and also for a further period of five years.

### 2.2.17 Acknowledgement

The audit findings as a result of test check of records were reported to Government/department in June 2006 with a specific request to attend the meeting of the audit review committee (ARC) to discuss the findings of the review. The ARC was held in September 2006. The department was represented by CCT while Principal Secretary Commercial Tax Department represented Government. Their view point has been duly incorporated in the review.

### 2.3 Application of Incorrect rate of Tax

MPVK *Adhiniyam* and notifications issued thereunder specify the rates of commercial tax leviable on sale of different commodities.

Test check of records in four regional offices<sup>11</sup> and one circle office at Rewa revealed between February 2005 to November 2005 that in seven cases assessed between December 2003 and January 2005 for the period April 2000 to March 2003, tax on sales turnover of Rs.5.59 crore was levied at incorrect rates. This resulted in short levy of tax amounting to Rs.31.20 lakh.

After this was pointed out, the department accepted audit observation in four cases and raised demand for Rs. 5.10 lakh. The department did not accept audit observation in one case and stated that thermit portion was mixture of iron and steel. The reply was not correct as thermit portion consists of ferric oxide (Fe<sub>2</sub>O<sub>3</sub>) steel cuttings, ferro alloy and aluminum granules and is not mixture of only iron and steel. It should therefore be taxed at the rate of 9.2 per cent instead of four per cent. Further it was stated that two cases were under examination. Report on further action taken has not been received (January 2007).

### 2.4 Non levy of tax on sales incorrectly treated as tax free

Under MPVK *Adhiniyam* read with CST Act, Rules and notifications issued thereunder, commercial tax is not leviable on sale of goods specified in the schedule-I and those exempted by Government by issue of notification.

Test check of records of two regional offices at Indore and two circle offices of Indore revealed that in five cases assessed between December 2003 and December 2004 for the period 2000-2001 and 2001-2002 incorrect deduction of HDPE<sup>12</sup>/PP<sup>13</sup> fabrics valued at Rs.3.76 crore treated as tax free item was allowed, whereas it was taxable @ 12% under entry No. 42 of Part-III of Schedule-II of the *Adhiniyam*. This resulted in non levy of tax of Rs.51.88 lakh.

After this was pointed out between June 2005 and December 2005 the AAs stated that the unit was exempted from payment of tax on the commodity under notification dated 24 August 2000. Reply was not tenable as the said notification exempted all types of cloth and did not spell about HDPE/PP fabrics.

<sup>11</sup> Regional Offices - Gwalior, Indore, Morena and Satna

<sup>12</sup> HDPE-High Density poly ethylene

<sup>13</sup> PP-poly propylene



## **2.5 Irregular grant of exemption from payment of tax on provisional ECs**

2.5.1 As per M.P. commercial tax exemption scheme 1995, facility of exemption can be availed of by non conventional power generating units generating electricity from non conventional sources who hold a provisional EC issued by the state level committee. The provisional certificate is valid for six months or up to the date of issue of a permanent EC, whichever is earlier. For non payment of tax, interest is also leviable under the Act.

Test check of records at Regional Office, Gwalior revealed in August 2005 that provisional certificate was issued on 11 July 1997 to an industrial unit for availing exemption of tax under the scheme. This was not followed by permanent EC. The provisional EC liable to be cancelled on 10 January 1998 i.e. after a lapse of six months, was not cancelled. However, the assessing authority while finalising the assessment for the period 2000-2001 in December 2003 allowed exemption of tax of Rs.70.65 lakh which was incorrect and was required to be recovered alongwith interest amounting to Rs.74.90 lakh for the period from April 2001 to August 2005. This resulted in non realisation of Government revenue of Rs.1.46 crore.

After this was pointed out, the AA stated that action will be taken for reassessment.

The matter was reported to the department and Government October 2005. The department confirmed in July 2006 that action would be initiated for reassessment under Act.

2.5.2 Test check of records of regional office Indore revealed in March 2005 that the AA while finalising assessment for the period 2000-01 in January 2004 allowed incorrect exemption of tax amounting to Rs.1.97 crore on the basis of provisional EC dated 1 October 1997 which was valid for six months only. Though State level committee on 14.12.2004, cancelled the Provisional EC, the AA did not take any action to recover the amount of exemption incorrectly allowed to the assessee.

After this was pointed out in March 2005 the department stated in July 2006 that the action has been initiated for reassessment of the case under the Act and for raising additional demand. Final action is awaited (January 2007).

## **2.6 Non imposing of penalty**

Under MPVK *Adhiniyam*, if the Commissioner or the appellate or revisional authority is satisfied that a dealer has concealed his turnover or has furnished false particulars of his sales, he may impose by way of penalty a sum which shall not be less than three times but shall not exceed five times of the amount of tax evaded.

Test check at regional office Indore revealed in June 2005 that in case of two dealers assessed in December 2004 and January 2005 for the year 2000-01 and 2001-02 though the AA determined the concealment of turnover of

Rs.7.30 crore and levied tax of Rs.79.45 lakh, he did not impose minimum penalty amounting to Rs.2.38 crore.

After this was pointed out the department stated in July 2006 that in one case penalty of Rs. 1.58 crore was levied in December 2005 while in other case, it was stated that action for imposing of penalty would be taken.

## 2.7 Incorrect deduction of tax paid sales

**2.7.1** MPVK *Adhiniyam*, Rules and notifications thereunder provide deduction of tax paid goods on which tax has been paid within the state to determine the taxable turnover.

Test check of records at regional office Satna and one circle office at Indore revealed that four dealers were incorrectly assessed to tax for the years 2000-01 and 2001-02 between September 2003 and January 2005. This resulted in non-levy of tax Rs.6.15 lakh as detailed below:

Sl. No.	Name of Units	Assessment Year/ date of Assessment	Nature of observation
1.	CTO Circle XI Indore	2001-02 January 2004 December 2004 January 2005	Sale of wires valued at Rs. 75.34 lakh manufactured from wire roads were incorrectly exempted from payments of tax treating them as tax paid goods. This resulted in short levy of tax of Rs. 3.01 lakh.
The department accepted audit objection and stated that action would be taken for re assessment.			
2.	RAC-III Satna	2000-01 September 2003	The dealer imported goods valued at Rs.22.75 lakh from Chhattisgarh <sup>14</sup> on/after 1 November 2000 and sold them in the State on which tax of Rs.3.14 lakh was leviable. However, AA allowed deduction of tax paid goods incorrectly resulting in short realisation of Government revenue to that extent.
In reply the department stated that the goods were purchased from Indore depot, registered in M.P. the reply was not tenable as purchase list clearly indicated that goods were purchased from Raipur (Chhattisgarh) and department had not furnished any evidence/proof in support of the reply.			

**2.7.2** MPVK *Adhiniyam*, Rules and notification issued thereunder, provide deduction of tax paid goods on which tax has been paid within state, whereas tax paid packing material sold along with the taxable goods shall attract tax at the same rate as applicable to such goods.

Test check of records of regional office Indore and one circle office of Indore revealed that in five cases of four dealers which were assessed for the period 1999-2000 to 2001-02 between December 2002 and December 2004, sale of packing material of taxable medicines valued Rs.2.27 crore was treated as tax

<sup>14</sup> State Chhattigarh came into existence from 1 November 2000.



paid goods and deduction was incorrectly allowed from taxable turnover. This resulted in non-levy of tax Rs.10.36 lakh.

After this was pointed out the department has stated in July 2006 that deduction of tax paid goods sold with taxable goods was allowed correctly in view of decision of Hon'ble High Court<sup>15</sup>. The reply of the department was not tenable in view of specific provisions of the Act as well as in view of the decision of Hon'ble Supreme Court of India<sup>16</sup> which held that packing material sold with the goods, is taxable as goods itself.

**2.7.3** Test check of records at regional office Morena revealed that in case of two dealers assessed for the years 2001-02 and 2002-03 in January 2005, sale of vegetable oil and *Khali* (de oiled cake) valued Rs.3.42 crore was treated as tax paid goods and deduction was allowed. However cross verification of the records of selling dealer from which they had purchased goods revealed that the selling dealer had not sold the above goods at all. Thus deduction allowed was incorrect. This resulted in non levy of tax Rs. 13.47 lakh and penalty of Rs. 40.41 lakh.

After this was pointed out, the department has stated in July 2006 that action has initiated against selling dealer under section 28 (1) The reply of department was silent about action taken in respect of purchasing dealers who had claimed and were allowed deduction. Final reply was awaited (January 2007).

## **2.8 Non levy of value added tax**

Under section 9-B of MP *Vanijyik Kar (Sanshodhan) Adhiniyam*, 1997 value added tax (VAT) is leviable at prescribed rates on added value of resale of goods specified in Schedule-II, part II to VI of the Act.

Test check of records of four regional offices<sup>17</sup> and one circle office Indore revealed that in eight cases assessed for the period 1997-98 to 2002-03 between April 2003 to December 2004, VAT amounting to Rs.19.56 lakh was not levied on added value of Rs.2.14 crore on resale of goods.

After this was pointed out, the department accepted audit objection in five cases out of which demand of Rs. 10.35 lakh was raised in two cases. It was further stated that action for revision under section 62 (3) had been initiated in remaining three cases.

<sup>15</sup> *M/s Raymond Cement Vs State of Madhya Pradesh (High Court) 1997 30 VKN 219 M.P.*

<sup>16</sup> *M/s Premier Breweries Vs State of Kerla (1999) 32 VKN 317*

<sup>17</sup> *Regional Offices:- Gwalior (1), Indore (3)*

## **2.9 Non/short levy of entry tax**

Under Madhya Pradesh *Sthaniya Kshetra Me Mal Ke Pravesh Par Kar Adhiniyam*, 1976 and notifications issued thereunder, entry tax is leviable on goods entering into local area for sale, use or consumption as raw material or as incidental goods or as packing material at specified rates.

Test check of records of eight regional offices<sup>18</sup> revealed between January 2005 and December 2005 that in eight cases assessed for the period 1999-2000 to 2002-03 between April 2003 to January 2005 entry tax was not levied/short levied on entry of soft drinks, rubber chemical, tractors, tractor parts and accessories, diesel oil, vehicles and vegetable oil valued at Rs.33.70 crore. This resulted in non levy/short levy of entry tax of Rs.1.06 crore.

After this was pointed out the department in July 2006 accepted audit objection in three cases and out of which demand for Rs. 2.50 lakh has been raised in one case of RAC Gwalior. In remaining five cases final reply was awaited.

## **2.10 Short levy of tax due to allowing incorrect deduction**

Section 2 (w) (v) of MPVK *Adhiniyam*, prescribed a formula to arrive at the amount of taxable turnover. It also provided that no deduction on the basis of the formula shall be made if the amount by way of tax collected by registered dealer had been otherwise deducted from the aggregate of sale prices or not included in sale price.

Test check of records of two regional offices at Indore and Chhindwara in case of five dealers for the period April 1997 to March 2002 assessed between May 2001 and January 2005 revealed between January and October 2005 that deduction of Rs.1.44 crore was incorrectly allowed, as dealers had not included commercial tax in sale price/lease rent. This resulted in short levy of tax of Rs.13.78 lakh.

After this was pointed out, the department accepted audit objections in July 2006 and raised demand for the entire amount.

<sup>18</sup> Regional Offices:- Chhindwara(1), Gwalior(1), Indore(3), Morena(1) and Satna(2)



## CHAPTER III : STATE EXCISE

### 3.1 Results of audit

Test check of records of State Excise conducted during 2005-06 revealed non assessment, under assessment, loss of revenue and non levy of penalty amounting to Rs. 77.12 crore in 5,405 cases, which can broadly be categorised as under:

*(Rupees in crore)*

Sl. No.	Category	Number of cases	Amount
1.	Non realisation of licence fee from excise shops	346	7.54
2.	Loss in re-auction/bidding of excise shops.	93	7.26
3.	Non levy of penalty for breach of licence conditions.	878	8.30
4.	Non levy/recovery of duty on excess wastages.	2446	0.55
5.	Non levy of penalty on non-maintenance of minimum stock of country spirit/rectified spirit.	44	3.83
6.	Others	1598	49.64
	<b>Total</b>	<b>5,405</b>	<b>77.12</b>

During the year 2005-06, the Department accepted underassessment of tax of Rs 39.03 crore involved in 1,110 cases of these 972 cases involving Rs. 27.10 crore were pointed out during 2005-06 and remaining cases in earlier years . Rs. 3.25 crore has been recovered in 88 cases.

A few illustrative cases involving Rs.7.67 crore are mentioned in this chapter.

### **3.2 Non recovery of licence fee from defaulting licencees**

Madhya Pradesh Excise Act, 1915 and conditions of sale of retail shops provide that the successful applicant/tenderer shall pay prescribed basic licence fee and security deposit before issue of licence. If he does not deposit the same or deposits it partly, the deposits made by him shall be forfeited and shop be resold. The successful applicant/tenderer is granted licences and annual licence fee<sup>1</sup> is payable in equal 24 fortnightly instalments in the prescribed manner. In case of default authority granting licence is empowered to cancel or suspend the licence. Where a licence is cancelled, the Collector may take charge of management of such shops or resell the shops at the risk and cost of ex-licensees. The loss, if any sustained in this process, would also be recovered as excise revenue from defaulter.

Test check of records of four district excise offices<sup>2</sup> (DEOs) between May and December 2005 revealed that licences of 32 retail shops of liquor were granted for the year 2004-2005 or part thereof for an aggregate licence fee of Rs.7.95 crore. The licensee were required to deposit security of Rs.1.32 crore. Of this 20 licensees did not deposit security at all while 12 licensees deposited only Rs.9.39 lakh. As such basic licence fee of Rs.71.69 lakh and security deposited by the licensee was required to be forfeited and shops were required to be resold. The department, however allowed the licensees to run the liquor shop.

Further, all the licensees defaulted in making payment of fortnightly instalment of licence fee. No action for cancellation of licence was taken in 13 cases, while licences of remaining 19 shops were cancelled after a lapse of 1 to 9 months from the date of their default. After cancellation of licences, these shops were either run departmentally or were retendered. During this process the department suffered a loss of Rs.1.96 crore which was recoverable from defaulters. No action was taken to recover the same from the defaulters.

After this was pointed out the Excise Commissioner intimated in June and July 2006 that RRC were issued in 31 cases and in one case it was being issued. It was further stated that Rs. 21.14 lakh was recovered between June 2005 and May 2006 in respect of three shops and action for recovery was in progress; final reply had not been received (January 2007).

The matter was reported to Government between August 2005 and February 2006; reply had not been received (January 2007).

### **3.3 Non realisation of excise duty on unacknowledged export of liquor**

Madhya Pradesh Excise Act, 1915 and Rules made thereunder provide that if an exporter exports foreign liquor/beer and country liquor within India, without payment of duty, he shall obtain a verification report from the officer-in-charge of the importing unit and furnish it to the authority who issued the

<sup>1</sup> Annual licence fee = Annual value - basic licence fee.

<sup>2</sup> Chhindwara, Gwalior, Jabalpur, Ratlam.



export permit within 21 days/ one month of the expiry of period of permit. If the exporter fails to do so, duty leviable on liquor exported shall be recovered from exporter in addition to any other penalty, which may be imposed under rules.

Test check of records of three DEOs<sup>3</sup> between June 2005 and February 2006 revealed that four licensees exported 2,00,204.21 proof litre of foreign liquor, 32,760 bulk litre of beer and 4,482 proof litre of country liquor on 72 permits during January 2004 to December 2005. The verification reports were not received even after a lapse of one to 22 months from the date of expiry of the permits. No action to recover the duty was taken by the department. Failure of department to recover duty resulted in non realisation of excise duty of Rs.3.10 crore.

After this was pointed out, the excise officers Dhar and Morena stated between December 2005 and February 2006 that action to collect verification report would be taken. The reply was not tenable as non receipt of verification reports within specified period of 21 days/one month excise duty was required to be recovered from exporters.

The matter was reported to the Excise Commissioner and Government between August 2005 and April 2006; their reply had not been received (January 2007).

### **3.4 Incorrect allowance of wastage of spirit in re distillation**

Madhya Pradesh Distillery Rules, 1995, do not provide for any allowance for wastage of rectified spirit (RS) during re distillation for manufacturing extra neutral alcohol (ENA).

Test check of three distilleries of Dhar and Rajgarh district revealed that 144.31 lakh proof litre of RS was redistilled to produce ENA between October 2003 and October 2005 and wastage of 2.12 lakh proof litre RS was allowed. This was not admissible and resulted in loss of excise duty of Rs.1.98 crore.

After this was pointed out, the Excise Commissioner stated in June 2006 that the wastages of RS during manufacture of ENA was allowed under Rule 6 (2) of Madhya Pradesh Distillery Rules, 1995. Rule 6 (2) read with Rule 4 related to wastage in respect of spirits which was below standard or unfit for human consumption. The reply was not tenable as the RS used was neither unfit for human consumption nor was below standard. It was used for making of superior quality of liquor like brandy, gin and whisky etc.

The matter was reported to Government between February and April 2006 reply had not been received (January 2007).

<sup>3</sup> Dhar, Gwalior, Morena

### 3.5 Inadmissible wastage of spirit

Madhya Pradesh Distillery Rules 1995 provides that in case of wastages beyond permissible limit, during transport/export of spirit in tankers penalty at the rate not exceeding Rs.30 per proof litre shall be leviable. Madhya Pradesh Country Spirit Rules, 1995 provide that in case of wastages beyond permissible limits during transport of country spirit in sealed bottles, duty at prescribed rates shall be recovered from licensee.

Test check of records of four DEOs<sup>4</sup> revealed between August 2005 and February 2006 that 54.53 lakh proof litre RS was exported in tankers by three distilleries<sup>5</sup> during September 2003 to December 2005 but only 54 lakh proof litre was acknowledged by the importing states. Wastage of 0.42 lakh proof litre was in excess of permissible limit of 0.11 lakh proof litre. Penalty up to Rs.12.68 lakh could have been levied on excess wastages of 0.42 lakh proof litre. Further, 11.64 lakh proof litre of country spirit was transported by four manufacturing warehouses<sup>6</sup> to storage warehouses during January 2004 to January 2006 but only 11.51 lakh proof litre was acknowledged by storage warehouses. Wastage of 7,223.5 proof litre was in excess of permissible limit of 5,821.8 proof litre on which leviable duty worked out to Rs.7.84 lakh. Thus total amount of penalty/duty leviable worked out to Rs.20.52 lakh which was not levied and recovered by the department. This resulted in non realisation of penalty/duty of Rs.20.52 lakh.

After this was pointed out, the Excise Commissioner intimated in July 2006 that action for levy/recovery of duty and penalty was in progress. Final reply had not been received (January 2007).

The matter was reported to Government between January & April 2006, reply had not been received (January 2007)

### 3.6 Non recovery of Government dues .

According to the provisions of the Madhya Pradesh Excise Act, 1915 and rules made thereunder, any licensed vendor of intoxicants may be required to purchase the intoxicants left by an outgoing licensee after the expiration, suspension or cancellation of his licence, on payment of such price of intoxicant as the district excise officer may determine. Further, in the event of enhancement of rates of duty by the government on intoxicants covered by various licences, the licensees are liable to pay the differential duty within thirty days in respect of the stock held by them at the close of the day immediately preceding the day from which such enhancement was applicable. The Government in its notification dated 12 April 2004 revised the rate of excise duty on country liquor from Rs. 24 to Rs. 105 per proof litre with effect from 1 April 2004.

<sup>4</sup> Dhar, Hoshangabad, Mandsaur, Rajgarh

<sup>5</sup> M/s Great Galeon Distillery, Sejwaya (Dhar),  
M/s Oasis Distillery Boral (Dhar)

M/s Vindhyaachal Distillery, Pilukhedi (Rajgarh)

<sup>6</sup> Betul, Dhar, Mandsuar, Narsingharh (Rajgarh)



Test check of records of DEOs Jabalpur and Vidisha in May and September 2005 revealed that three country liquor and 12 foreign liquor shops were disposed off in favour of retail vendors after being run departmentally from April to June 2004 and May 2004 to March 2005 respectively. Intoxicants valued at Rs.25.36 lakh were transferred to new vendors. The vendors paid only Rs.6.21 lakh leaving unpaid balance of Rs.19.15 lakh. Further, there was a balance of 6602.41 proof litre of country liquor in possession of two retail licensees at the close of 31 March 2004 on which the differential duty of Rs.5.35 lakh was payable by the licensees. However, licensees paid only Rs.1.73 lakh and balance of Rs.3.62 lakh was not paid. No action was taken by the department to realise the balance amount. This resulted in non-realisation of Government dues to the extent of Rs.22.77 lakh.

After this was pointed out, the Excise Commissioner intimated in June 2006 that Rs. 16.49 lakh has been recovered in respect of cost of liquor between May 2005 and April 2006. As regard differential duty, it was stated that licensees were directed in June 2006 to deposit the dues. Final reply had not been received (January 2007).

The matter was reported to Government between August 2005 and April 2006; reply had not been received (January 2007).

### **3.7 Non realisation of expenditure incurred on Government establishment.**

Madhya Pradesh Distillery Rules, 1995 provide that if the expenditure incurred on the State Government establishment at a distillery exceeds five *per cent* of revenue earned on the issue of spirit there from by export fee or any other levy, amount in excess of the aforesaid five *per cent* of revenue earned in distillery shall be realised from the distiller.

Test check of records of three DEO<sup>7</sup> between November 2005 and February 2006 revealed that expenditure incurred on the State Government establishment on account of pay and allowances in three distilleries<sup>8</sup> was Rs.20.21 lakh and revenue earned by Government was Rs.15.59 lakh during April 2001 to November 2005. Consequently an amount of Rs.19.43 lakh incurred in excess of five *per cent* of revenue earned was required to be realised from the distillers. No action was taken by the department to recover the same.

After this was pointed out the Excise Commissioner intimated in July 2006 that D.E.O. Dhar and Ratlam had asked the distiller in April 2006 to deposit the amount.

The matter was reported to Government (March and April 2006); reply had not been received (January 2007).

<sup>7</sup> Dhar, Rajgarh, Ratlam

<sup>8</sup> M/s Oasis Distillery Borali, Dhar

M/s Vindhyaachal Distillery Pilukhedi, Rajgarh

M/s Ratlam Alcohol and Carbon dioxide Plant Ratlam

### **3.8 Non recovery of excise revenue due to absence of provisions for obtaining details of property**

Madhya Pradesh Excise Act, 1915 provides that all dues to Government that have not been paid by the defaulters may be recovered as arrears of land revenue. Assistant Excise Commissioner (AEC)/DEO has been delegated power of recovery of uncollected excise revenue as arrears of land revenue.

3.8.1 In Indore, demand notices in two cases of revenue recovery certificates were issued for recovery of excise revenue aggregating to Rs.36.76 lakh for the year of 2001-2002. The notices, however, could not be served as the address of the defaulter were found fake. This indicated that department had not verified the antecedents of the licensees at the time of grant of licence, because of which government revenue could not be realised and are likely to become irrecoverable.

After this was pointed out, the AEC, Indore stated in January 2006 that the defaulters were not traceable and action regarding write off of the excise revenue was in progress.

3.8.2 Test check of records of the DEO, Neemuch in June 2005 revealed that in one case, recovery of excise revenue of Rs. 32.04 lakh for the year 2004-2005 could not be made as details of the properties were not available with the department or the defaulter had no property. As such, recovery of the excise revenue was not feasible.

After this was pointed out the DEO Neemuch intimated in April 2006 that RRC was sent to collector Chittorgarh (Rajasthan) to which defaulter belonged who intimated that the defaulter had no property, so recovery was not possible. DEO had sent proposal to write off the dues to the Excise Commissioner in December 2005.

The fact remains that the non recovery of Government dues was due to absence of provisions for ascertaining the financial status and non-verification of antecedents of licensee at the time of grant of licence.

The matter was reported to the Excise Commissioner and the Government between August 2005 and April 2006; their replies had not been received. (January 2007).



## CHAPTER - IV : TAXES ON VEHICLES

### 4.1 Results of audit

Test check of records relating to taxes on vehicles during the year 2005-06 revealed non assessment of tax and losses of revenue amounting to Rs.40.88 crore in 22,211 cases which can broadly be categorised as under:

*(Rupees in crore)*

Sl. No.	Category	Number of cases	Amount
1.	Non/short-levy of vehicle tax, penalty and composition fee on public service vehicles	3,413	9.40
2.	Non/short levy of vehicle tax and penalty on goods vehicle	1,942	3.83
3.	Others irregularities	16,855	15.81
4.	Review- Receipts from Transport Department	01	11.84
	<b>Total</b>	<b>22,211</b>	<b>40.88</b>

The department accepted under assessment/loss etc. in 6,198 cases involving Rs.9.55 crore, which were pointed out in audit during 2005-06.

A findings of a review on **Receipts from Transport Department** involving Rs.11.84 crore are detailed in following paragraphs.

## **4.2 Review: Receipts from Transport Department**

### **Highlights**

- Vehicle Tax of Rs.6.17 crore and penalty of Rs.3.88 crore in respect of 1,770 motor vehicles for the period between April 2001 and March 2005 was neither paid by the owners of the vehicles nor was it demanded by the taxation authorities.

**(Paragraph 4.2.8)**

- Vehicle tax and penalty of Rs.37.01 lakh in respect of 149 motor vehicles of other States plying in Madhya Pradesh under reciprocal transport agreement was not recovered.

**(Paragraph 4.2.9)**

- No action was initiated for issuance of RRCs against 92 vehicle owners . This resulting in non realisation of Government revenue of Rs.37.70 lakh.

**(Paragraph 4.2.10)**

- Failure of the department to recover the balance amount of life time tax and penalty on maxicabs plying on all India tourist permits resulted in short levy of life time tax and penalty of Rs. 39.49 lakh.

**(Paragraph 4.2.18)**

### **Recommendations**

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

- evolve an effective mechanism for regular monitoring of assessment and realisation of tax and fees;
- strengthen the internal audit wing and ensure that it functions properly.

#### **4.2.1 Introduction**

Receipts from Transport Department comprise of taxes on vehicles commonly known as vehicle tax, fees and penalties. Vehicle taxes are levied and collected in the State under the provisions of the Madhya Pradesh *Motoryan Karadhan Adhiniyam, 1991 (Adhiniyam)* and the Madhya Pradesh *Motoryan Niyam, 1991 (Rules)* made thereunder. Besides this, license fees, registration fees, fitness fees and permit fees, etc. are levied under the provisions of the Motor Vehicles Act, 1988 (Act) and the rules made thereunder by the Central Government and the State Government.



According to provisions of *Adhiniyam* and Rules, tax shall be levied on every motor vehicle used or kept for use in the State at the rates specified in the schedules to *Adhiniyam*. If owner of the vehicle defaults in payment of tax, he/she shall be liable to pay penalty at the rate of one third of the unpaid amount of tax for the default of each month upto February 2003 and thereafter two *per cent* per month upto three months and four *per cent* thereafter but not exceeding twice the unpaid amount of tax upto September 2004; thereafter rate of penalty was four *per cent* per month.

If owner of a vehicle fails to pay the tax due/penalty payable under this Act, the Taxation Authority (TA) to whom such amount is payable shall serve on the owner a notice in form E-2 for the sum payable to the State Government. After service of notice, if within seven days, the sum is not paid, it is recoverable as arrears of land revenue under Madhya Pradesh Land Revenue Code (MPLR Code), 1959. The power of recovery of arrears as arrears of land revenue was delegated by the State Government to all the TAs with effect from 9 December 1969.

#### 4.2.2 *Organisational set up*

The Transport Department functions under the overall charge of Principal Secretary (Transport). The levy and collection of tax/fee/penalty on vehicles is administered and monitored by the Transport Commissioner (TC). He is assisted by three deputy transport commissioners (DTC) and internal audit wing at headquarters level and nine regional transport offices<sup>1</sup> (RTOs), 13 additional regional transport offices<sup>2</sup> (ARTOs), 19 district transport offices<sup>3</sup> (DTOs) at field level.

#### 4.2.3 *Audit Objective*

The review was conducted with a view to evaluate:

- the efficiency of the departmental machinery in assessment, levy and collection of revenue,
- extent of compliance of procedure/codal provisions of the Acts, Rules and departmental instructions issued thereunder and
- effectiveness of efforts made to recover dues as arrears of land revenue.

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<sup>1</sup> Bhopal, Gwalior, Hoshangabad, Indore, Jabalpur, Morena, Rewa, Sagar and Ujjain

<sup>2</sup> Barwani, Chhatarpur, Chhindwara, Dhar, Guna, Khandwa, Khargone, Katni, Mandsaur, Neemuch, Satna, Seoni and Shahdol

<sup>3</sup> Balaghat, Betul, Bhind, Datia, Damoh, Dindori, Harda, Jhabua, Mandla, Narsinghpur, Panna, Raisen, Rajgarh, Sehore Shajapur, , Shivpuri, Sidhi, Tikamgarh and Vidisha

#### 4.2.4 Scope of audit

The records of TC, seven<sup>4</sup> out of nine RTOs, eight<sup>5</sup> out of 13 ARTOs and two<sup>6</sup> out of 19 DTOs for the period 2000-2001 to 2004-2005 were test checked during the period between April 2005 and April 2006. The units were selected on the basis of maximum collection of revenue.

#### 4.2.5 Trend of Revenue

The position of budget estimate *vis a vis* revenue collected during the last five years was as under:-

(Rupees in crore)

Sl. No.	Year	Budget estimate	Collection	Variation	Percentage of variation
1.	2000-2001	484.00	405.90	(-) 78.10	16.14
2.	2001-2002	435.00	393.33	(-) 41.67	9.58
3.	2002-2003	519.00	428.64	(-) 90.36	17.41
4.	2003-2004	541.00	454.92	(-) 86.08	15.91
5.	2004-2005	550.00	488.65	(-) 61.35	11.15

It would be seen from above that there is a wide variation between budget estimates (BEs) and actuals indicating therein that BEs are not realistic.

After this was pointed out, TC stated in July 2005 that BEs were fixed by the State Government and these were based on receipts of preceding year. However, no reasons were furnished for wide variation between BEs and receipts.

#### 4.2.6 Failure of the department to recover uncollected amount of tax

As per information furnished by TC, Rs.30.45 crore was pending collection as on 31 March 2005 as detailed below:-

(Rupees in crore)

Sl. No.	Year	Opening Balance	Addition	Total	Clearance	Balance
1.	2000-01	9.54	2.30	11.84	0.75	11.09
2.	2001-02	11.09	7.30	18.39	-	18.39
3.	2002-03	18.39	4.29	22.68	4.34	18.34
4.	2003-04	18.34	20.00	38.34	10.00	28.34
5.	2004-05	28.34	8.07	36.41	5.96	30.45

It would be seen from the above that amount of arrears increased from Rs.9.54 crore to Rs.30.45 crore during the last four years.

<sup>4</sup> Bhopal, Gwalior, Indore, Jabalpur, Rewa, Sagar and Ujjain

<sup>5</sup> Barwani, Chhindwara, Guna, Khandwa, Khargone, Satna, Seoni and Shahdol

<sup>6</sup> Bhind and Raisen



After this was pointed out, the TC stated in April 2006 that the instructions were being issued to TAs for realisation of the arrears. It was further stated that information was being collected from TAs about the action taken for recovery of the arrears which would be supplied to audit.

#### 4.2.7 *Internal audit and inspection*

4.2.7.1 The internal audit wing in the department was constituted in 1992 under the direct control of TC. The internal audit was conducted under the supervision of the DTC (Finance).

The sanctioned strength and the actual working strength of the internal audit wing during the last five years was as below:-

Sl. No.	Year	Assistant internal audit officer		Junior auditor	
		Sanctioned strength	Actual strength	Sanctioned strength	Actual strength
1.	2000-01	4	2	4	2
2	2001-02	4	2	4	1
3.	2002-03	4	1	4	1
4.	2003-04	4	1	4	1
5.	2004-05	4	2	4	1

Internal audit wing conducted audit of only one unit during 2002-03 and nine units during 2004-05. It is evident from the above table that internal audit coverage was not adequate when compared to men in position.

After this was pointed out, TC stated that internal audit staff was engaged in work of budget control. Thus, deployment of staff for purposes other than that of internal audit defeated the very purpose for which it was created.

#### 4.2.7.2 *Non conducting of inspection by head of the office*

As per Government of Madhya Pradesh General Administration Department<sup>7</sup> instructions dated 31 March 1992 followed by TC's circular dated 15 December 1992, every head of office was required to inspect his office at least twice in a year. However, test check of records of five RTOs<sup>8</sup>, six ARTOs<sup>9</sup> and DTO Bhind revealed that no inspection was conducted by the head of the office during the period covered in review. Some important records were either not maintained properly or were not maintained at all. A few instances are detailed below:

Demand and Recovery Register (DR) required to be maintained under Rule 20 of Rules did not contain essential details of vehicles like permits, routes, etc. As a result, correctness of the tax due could not be ascertained.

<sup>7</sup> Memo No. F.2/1/90/9 dated 31.03.1992

<sup>8</sup> Bhopal, Indore, Jabalpur, Rewa and Sagar

<sup>9</sup> Barwani, Chhindwara, Khandwa, Khargone, Seoni and Shahdol

Register of offence cases required to be maintained under the Act, was not maintained by the TC office.

After this was pointed out, concerned TAs stated that these points have been noted for future guidance.

#### **4.2.8            *Non levy of vehicle tax and penalty***

According to section 3(1) of the *Adhiniyam*, a tax shall be levied on every motor vehicle used or kept for use in the State at the rates specified in the first schedule to the *Adhiniyam*.

Vehicle Tax of Rs.6.17 crore and penalty of Rs.3.88 crore in respect of 1,770 motor vehicles for the period between April 2001 and March 2005 was neither demanded by the TAs nor was it paid by the owners of the vehicles. These cases were not listed out by TA nor were recovery watched by higher authorities.

##### **4.2.8.1            *Public service vehicles (PSVs) plying on regular stage carriage permits***

Test check of records of 15 offices<sup>10</sup> revealed that 216 operators did not pay vehicle tax amounting to Rs.1.73 crore in respect of 233 PSVs plying on 245 regular stage carriage permits between April 2001 and March 2005, nor was it demanded by the TAs. This resulted in non realisation of tax of Rs.1.73 crore. Besides penalty of Rs.1.04 crore was also leviable.

After this was pointed out, the department accepted audit observation in 83 cases out of which in 23 cases tax and penalty of Rs.27.72 lakh was recovered by six TAs<sup>11</sup> while in 60 cases demand was raised. Reply from other offices was awaited (January 2007).

##### **4.2.8.2            *Public service vehicles kept as reserve***

As per Item No. IV (e) of the first schedule under section 3(1) of the *Adhiniyam*, the tax for reserve stage carriage at the rate of 160 per seat per month for ordinary bus and 230 per seat per month for deluxe bus is leviable.

Test check of records of 17 offices<sup>12</sup> revealed that 442 ordinary buses and 12 deluxe buses were kept as reserve buses. The operator of these vehicles did not pay any tax nor was it demanded by the department. This resulted in non levy and recovery of vehicle tax of Rs. 2.89 crore for the period between September 2002 and March 2005. Besides penalty of Rs.1.85 crore was also leviable.

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<sup>10</sup> 7 RTOs Bhopal, Gwalior, Indore, Jabalpur, Rewa, Sagar and Ujjain, 7 ARTOs Chhindwara, Guna, Khandwa, Khargone, Satna, Seoni and Shahdol and DTO Bhind

<sup>11</sup> 4 RTOs Bhopal, Indore, Jabalpur and Sagar and 2 ARTOs Guna and Seoni

<sup>12</sup> 7 RTOs Bhopal, Gwalior, Indore, Jabalpur, Rewa, Sagar and Ujjain  
8 ARTOs Barwani, Chhindwara, Guna, Khandwa, Khargone, Satna, Seoni and Shahdol and 2 DTOs Bhind and Raisen



After this was pointed out, the department accepted audit observation in 97 cases out of which in 36 cases tax and penalty of Rs. 31.91 lakh was recovered by 4 TAs<sup>13</sup> while in 61 cases demand was raised. Reply from other offices was awaited (January 2007).

#### **4.2.8.3 Goods carriages**

As per Item No. V of the first schedule under section 3(1) of the *Adhiniyam* tax for goods carriage is leviable on the basis of the registered laden weight (RLW).

Test check of records of 17 offices<sup>14</sup> revealed that vehicle tax of Rs.1.31 crore on 1,007 goods carriages for the period between April 2001 and March 2005 was neither paid by the vehicle owners nor was it demanded by the TAs. This resulted in non levy of tax of Rs.1.31 crore. Besides penalty of Rs. 89.50 lakh was also leviable.

After this was pointed out, the department accepted audit observations in 381 cases out of which in 111 cases tax and penalty of Rs. 22.54 lakh was recovered by five TAs<sup>15</sup> while in 270 cases demand was raised. Reply from other offices was awaited (January 2007).

#### **4.2.8.4 Vehicles plying on all India tourist permits**

All India tourist permit is granted by the State transport authority (STA) under Section 88(9) of the Act. Tax is payable at the rates prescribed in the *Adhiniyam*.

Test check of records of four offices<sup>16</sup> revealed that vehicle tax of Rs. 13.59 lakh and penalty of Rs.4.68 lakh on 10 PSVs plying on all India tourist permits for the period between April 2003 and March 2005 was neither paid by the owner of the vehicles nor was it demanded by the TAs. This resulted in non realisation of tax of Rs. 13.59 lakh. Besides penalty of Rs.4.68 lakh was also leviable.

After this was pointed out the department accepted audit observations in six cases out of which in four cases tax and penalty of Rs. 7.57 lakh was recovered by RTO Indore while in two cases demand was raised. Reply from other offices was awaited (January 2007).

#### **4.2.8.5 Private service vehicles and school buses**

As per Item No. VII and VIII of the first schedule under section 3(1) of the *Adhiniyam*, tax on private service vehicles and school buses is payable at the rate prescribed in the *Adhiniyam*.

<sup>13</sup> 3 RTOs: Bhopal, Indore and Jabalpur and ARTO Guna

<sup>14</sup> 7 RTO:s Bhopal, Gwalior, Indore, Jabalpur, Rewa, Sagar and Ujjain

8 ARTOs: Barwani, Chhindwara, Guna, Khandwa, Khargone, Satna, Seoni and Shahdol and 2 DTOs Bhind and Raisen

<sup>15</sup> 3 RTO:s Bhopal, Jabalpur and Sagar and 2 ARTOs Guna and Seoni

<sup>16</sup> 3 RTOs: Indore, Jabalpur and Sagar and ARTO Khandwa

Test check of records of two offices<sup>17</sup> revealed that vehicle tax of Rs.9.83 lakh of 10 private service vehicles and 56 school buses for the period between April 2002 and March 2005 was neither paid by the vehicle owners nor was it recovered by the TAs. This resulted in non-realisation of tax of Rs. 9.83 lakh. Besides penalty of Rs. 4.95 lakh was also leviable.

After this was pointed out, the concerned officers stated that action for recovery would be taken after examination of the cases. Further progress of action taken was awaited (January 2007).

**4.2.9      *Non levy of vehicle tax and penalty on motor vehicles of other states plying on countersigned permits under reciprocal transport agreement.***

According to the provisions of the *Adhiniyam*, any motor vehicle of other State is permitted to ply in the State under reciprocal transport agreement on payment of tax to the designated authority at the rate specified in the first schedule to the *Adhiniyam*, failing which the owner shall be liable to pay a penalty at the rate specified in the *Adhiniyam*. In case, the owner does not pay the tax or penalty or both, the TA shall serve a demand notice and recover the dues as arrears of land revenue.

Test check of records of four offices<sup>18</sup> revealed that vehicle tax of Rs. 23.07 lakh of eight PSVs and 141 goods carriages of Uttar Pradesh State plying in Madhya Pradesh under reciprocal transport agreement during the period between April 2003 and March 2005 was not paid by the vehicle owners. There was nothing on record to indicate that the vehicles had applied or were declared "off road". However, no action was taken to raise the demand by the TAs resulting in non levy of tax of Rs. 23.07 lakh. Besides penalty of Rs. 13.94 lakh was also leviable.

After this was pointed out, the department accepted audit observation in four cases out of which in three cases tax and penalty of Rs. 0.77 lakh was recovered by RTO Sagar while in one case demand was raised. Reply from other offices was awaited (January 2007).

**4.2.10      *Failure in taking follow up action in cases where demand notices were issued***

According to the provisions of *Adhiniyam* and Rules made thereunder, where any owner fails to pay the tax or penalty or both, the TAs shall serve on the owner a notice of demand for the sum payable to the State Government. In case of failure to pay the sum contained in the notice within seven days of the service of notice, the TA may proceed to recover the amount as arrears of land revenue.

Test check of records of two offices<sup>19</sup> revealed that though demand notices were issued between March and September 2005 to 92 owners of vehicles for recovery of tax and penalty amounting to Rs.37.70 lakh for the period falling between April 2003 and March 2005, the same was not paid by the owner

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<sup>17</sup>      2 RTOs: Gwalior and Sagar

<sup>18</sup>      TC, 3 RTOs: Gwalior, Rewa and Sagar

<sup>19</sup>      RTO Ujjain and ARTO Barwani



of the vehicles. Thereafter no action for issuance of revenue recovery certificate was taken by the department. Failure of the TAs to adhere to the provisions of Act and Rules resulted in non recovery of tax including penalty of Rs.37.70 lakh.

After this was pointed out, the RTO/ARTO stated that further action for recovery would be taken according to the *Adhiniyam*. Further progress of action taken was awaited (January 2007).

#### **4.2.11        *Short levy of vehicle tax***

According to first schedule under section 3(1) of *Adhiniyam*, tax on PSV is levied on the basis of distance covered by it in a day and on private service vehicle tax is levied on seating capacity excluding one seat of driver only and on goods vehicles tax is levied on quarterly basis.

Test check of records of nine offices<sup>20</sup> revealed that vehicle tax on 57 PSVs, 14 private service vehicles and 139 goods carriages for the period between April 2001 and March 2005 was paid short either due to application of incorrect rate of tax or due to adopting of the less seating capacity of vehicles. Failure of the department to detect the omission of application of incorrect rate of tax resulted in short levy of vehicle tax of Rs.20.23 lakh. Besides penalty of Rs.14.27 lakh was also leviable.

After this was pointed out the department accepted audit observation in 13 cases out of which in four cases tax and penalty of Rs. 1.12 lakh was recovered by two TAs<sup>21</sup> while in nine cases demand was raised. Reply from other offices was awaited (January 2007).

#### **4.2.12        *Non levy /realisation of composition fee***

The Central Motor Vehicles Rules, 1989 (CMVR) requires every holder of all India tourist permit to submit a quarterly return, indicating therein the name and residential address of self/hirer as well as driver and registration mark of vehicle, alongwith the particulars of starting and destination points of journey with time at both ends. TC was required either to cancel/suspend the permit or levy composition fee at the rate of Rs.1,000 per quarter with effect from 1 October 2001, on failure to submit return by any vehicle owners.

Test check of records of all India tourist permits maintained in the office of the TC revealed that holders of 213 all India tourist permits failed to submit 1,464 quarterly returns for the period between April 2003 and March 2005. Neither any action to cancel/suspend the permits was taken nor was composition fee of Rs.14.64 lakh levied on the defaulting permit holders by the department.

After this was pointed out, the TC stated that action for recovery of composition fee would be taken after examination of the cases. Further progress of action taken for recovery was awaited (January 2007).

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<sup>20</sup> 4 RTO:s Gwalior, Rewa, Sagar and Ujjain and  
4 ARTOs: Guna, Khargone, Satna and Shahdol and DTO Bhind

<sup>21</sup> RTO Sagar and ARTO Guna

**4.2.13      *Loss of revenue due to irregular grant of permits to contract carriage***

Tax is payable at the rates prescribed in the first schedule of the *Adhiniyam*. The rate of tax of vehicles acquired by the owner on hire under a lease agreement was Rs. 200 per seat per month, whereas rate of tax on contract carriage for ordinary bus was Rs. 500 per seat per month.

Test check of records of two offices<sup>22</sup> revealed that eight vehicles were incorrectly treated as private service vehicles of four companies though these were not leased to those companies during the periods between April 2003 and March 2005. The vehicles were of private owners and were carrying the employees of the companies. These vehicles were required to be classified as contract carriage. Incorrect classification resulted in loss of revenue of Rs. 10.42 lakh.

After this was pointed out, the RTO Rewa and ARTO Chhindwara stated that action would be taken after examination of the cases. Further progress of action taken was awaited (January 2007).

**4.2.14      *Failure to conduct reconciliation of departmental figures with treasury records***

According to the provisions contained in Madhya Pradesh Financial Code and instructions issued by the TC in June 1993, each revenue authority is required to maintain a separate account of amount remitted into treasury. In order to rule out the possibility of fraud, the amount is required to be written in words as well as in figures in the challan. It is to be ensured that the amounts have actually been credited into Government account. This has to be got verified/reconciled with the treasury records. A copy of the challans received from treasury is required to be noted in the challan register before the same is transmitted to the concerned tax section.

Test check of records of six offices<sup>23</sup> revealed that 286 challans involving Rs.15.41 lakh on account of vehicle tax were submitted by the vehicle owners during the period between December 2003 and February 2005. Reconciliation of these remittances with treasury records was not made by the concerned officials. However, verification of these challans by audit with the treasury records revealed that these challans were not found deposited. Failure of department to reconcile remittances with treasury resulted in suspected misappropriation of Government revenue.

After this was pointed out, the RTO, Indore confirmed that Rs.3.01 lakh in respect of 78 challans were not found deposited in treasury. However, further action taken was not intimated to audit. Reply from other offices was awaited (January 2007).

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<sup>22</sup> RTO Rewa and ARTO Chhindwara

<sup>23</sup> 3 RTOs Bhopal, Indore and Rewa and 2 ARTOs Khandwa and Khargone and DTO Bhind



#### **4.2.15      *Short realisation of fee due to delay in implementation of enhanced rates of fees***

Government of India in their notification dated March 2001 enhanced rate of registration, fitness and hypothecation fees in respect of different classes of vehicles with effect from 28 March 2001.

Test check of records of eight offices<sup>24</sup> revealed that during 28 March 2001 to 27 November 2001, 14,359 vehicles were registered, fitness certificate was issued in 2,344 cases while 1,319 vehicles were hypothecated. The fee recoverable in these cases was realised at pre revised rates. This resulted in short realisation of fees of Rs. 13.83 lakh.

After this was pointed out, Government replied in July 2006 that due to late receipt of notification enhanced fees could not be realised in time. However, the instructions, for recovery are being issued.

#### **4.2.16      *Failure to re assign new registration mark to non transport vehicles***

According to the provisions contained in sub-rule (1) of Rule 56 of the Madhya Pradesh Motor Vehicle Rules, 1994 (MPMVR) the State Government issued notification on 1 July 1995 that new registration mark under the Act shall be assigned in place of old registration mark allotted under the Motor Vehicles Act, 1939 to motor cycles and motor cars within eight months from the date of notification without charging any fee. After the expiry of prescribed period a late fee (Rs.100) shall be payable.

The TC also instructed on 22 July and 1 December 1995 all the registering authorities to complete the said work within eight months prescribed for it and if necessary, to organise camps.

As per a report on Motor Transport Statistics of Madhya Pradesh for the year 2004-05 issued by Government, 2,96,147 vehicle owners had not obtained new registration mark. The department had not prescribed any system to ensure that such vehicles do not ply on road without new number. Revenue of Rs.2.96 crore on account of late fee for reassignment of new registration mark could not be realised.

After this was pointed out, Government stated in July 2006 that if any of these vehicles was produced in the office, its tax along with late fee will be recovered. Instructions in this regard have already been issued. Further progress of recovery is awaited (January 2007).

#### **4.2.17      *Non realisation of fee due to non renewal of certificate of registration of non transport vehicles***

The MV Act and Rules made thereunder provide that registration of vehicles other than transport vehicles shall be valid for a period of 15 years. It is renewable on payment of prescribed fee of Rs. 60 per motor cycle and

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<sup>24</sup> TC office, 3 RTOs Bhopal, Jabalpur and Ujjain and 4 ARTOs Chhindwara, Khargone, Seoni and Shahdol

## CHAPTER V : OTHER TAX RECEIPTS

### 5.1 Results of audit

Test check of records relating to stamp duty, registration fee, entertainment duty, assessment and collection of land revenue during the year 2005-06 revealed non assessment/underassessment of revenue and non raising of demand amounting to Rs.406.02 crore in 1,46,137 cases which can broadly be categorised as under:

*(Rupees in crore)*

Sl. No.	Category	Number of cases	Amount
<b>A: STAMP DUTY &amp; REGISTRATION FEES</b>			
1.	Loss in instruments executed in favour of societies.	56	1.16
2.	Inordinate delay in finalisation of cases.	4,375	14.18
3.	Short realisation of stamp duty and registration fees due to under valuation of properties.	1,750	1.76
4.	Incorrect exemption from payment of stamp duty and registration fees.	1,483	1.03
5.	Loss due to misclassification of documents.	122	1.66
6	Others.	2,316	2.87
	<b>Total</b>	<b>10,102</b>	<b>22.66</b>



<b>B: ENTERTAINMENT DUTY</b>			
1.	Non recovery of entertainment duty.	228	0.86
2.	Evasion of entertainment duty due to non accountal of tickets	156	0.03
3.	Non /Short deposit of entertainment duty by the proprietors of VCR's and VCP's	528	0.16
4.	Incorrect exemption from payment of entertainment duty.	34	0.02
5	Others	150	0.29
	<b>Total</b>	<b>1,096</b>	<b>1.36</b>
<b>C: LAND REVENUE</b>			
1.	Non registration of revenue recovery certificates.	5,838	66.48
2.	Non-realisation of process expenses	5,057	27.32
3.	Non raising of demands of diversion rent premium and fine/penalty	22,081	7.17
4.	Loss of revenue due to non disposal of attached properties.	60	0.25
5	Non-levy of <i>panchayat</i> cess	628	0.87
6	Others	1,01,275	279.91
	<b>Total</b>	<b>1,34,939</b>	<b>382.00</b>
	<b>Grand Total</b>	<b>1,46,137</b>	<b>406.02</b>

During the year 2005-06, the Department accepted underassessment of tax of Rs.340.55 crore involving 1,02,525 cases of which 1,01,622 cases involving Rs.339.17 crore was pointed out in audit during 2005-06 and rest in earlier years. An amount of Rs.0.77 crore had been recovered in 664 cases.

A few illustrative cases involving Rs.7.58 crore are mentioned in this chapter.

## A- STAMP DUTY AND REGISTRATION FEE

### 5.2 Non realisation of revenue on instruments executed by/in favour of co-operative housing societies

As per Government notification of 24 October 1980, instruments executed in favour of primary co-operative housing societies (societies) for acquisition of land for housing purpose are exempted from payment of stamp duty. Department directed in August 2001 to review all such cases where the societies were granted exemption from payment of duty on conveyance deeds and later on the land was used for a purpose other than housing for its members. In all such cases, stamp duty and registration fees which were exempted at the time of purchase of such land were to be recovered.

Test check of records of five sub registrar offices<sup>1</sup> (SRs) between June 2004 and December 2005 revealed non realisation of revenue of Rs.79.36 lakh in 68 instruments executed by or in favour of societies as under

**5.2.1** In four instruments<sup>2</sup> valued at Rs.64.12 lakh, there was no mention of purchase of land for housing purpose. However, exemption from payment of stamp duty and registration fee of Rs.7.19 lakh was given, treating the purpose as housing.

**5.2.2** Land valued at Rs.6.62 crore purchased between July 1982 and March 2004 for housing purposes through 64 instruments was not utilised for housing purpose of the members of the societies and was subsequently disposed off between April 2003 and March 2005 to persons other than members of societies/ builders/individuals. Exemption of stamp duty and registration fee of Rs.72.17 lakh granted at the time of purchase therefore, became recoverable. However, action to recover the amount was not taken.

The matter was reported to the Inspector General Registration (IGR) and Government between September 2005 and April 2006. IGR intimated in January and July 2006 that 10 cases were decided and disposal of 58 cases was in progress. Final reply about recovery and disposal of cases is awaited (January 2007).

### 5.3 Non reimbursement of stamp duty and registration fee

According to the Government notification dated 1 September 1989, stamp duty and registration fee leviable on lease/sale deeds, executed to acquire land in favour of member of a family displaced on account of Narmada Valley development projects (NVDP) is to be reimbursed by the Narmada Valley Development Authority (NVDA) within one month from the date of registration of documents.

<sup>1</sup> Bhopal, Gwalior, Indore, Jabalpur, Ujjain

<sup>2</sup> Three instruments in Jabalpur and one in Indore





## B- ENTERTAINMENT DUTY

### 5.5 Non levy of entertainment duty on cinema houses

Madhya Pradesh Entertainments Duty and Advertisements (MPEDA) Tax Act, 1936 provides that no entertainment duty shall be levied on prescribed amount<sup>6</sup> collected by proprietor from spectators provided that adequate facilities are provided to spectators in cinema hall. The details of these facilities were required to be presented by the proprietor of cinema hall to respective collectors. Collector, if not satisfied with the facilities provided, could order for recovery of the entertainment duty earlier exempted.

Test check of records of four districts excise offices<sup>7</sup> revealed between June 2005 and March 2006 that 15 proprietors of cinema houses collected Rs.38.69 lakh between April 2002 and January 2006 on sale of tickets<sup>8</sup> for providing facilities to spectators in the cinema hall. Neither details of facilities provided in cinema halls were submitted by proprietors to collectors nor were these called for by the collectors. Thus, entertainment duty of Rs.11.49 lakh though leviable on Rs.38.69 lakh was not levied.

After this was pointed out, district excise officers (DEOs) stated between June 2005 and March 2006 that necessary action would be taken after due verification, further report has not been received (January 2007).

The matter was reported to the Excise Commissioner and Government between August 2005 and April 2006; their reply had not been received (January 2007).

### 5.6 Non recovery of entertainment duty from cable operators

MPEDA Tax Act and Madhya Pradesh Cable Television Network (Exhibition) Rules, 1999 provide that every proprietor of cable television network and hotel or lodging house providing entertainment through cable service shall pay entertainment duty at prescribed rates.

Test-check of records of seven district excise offices<sup>9</sup> revealed between February 2005 and March 2006 that entertainment duty of Rs.14.95 lakh from 222 cable operators and eight proprietors of hotels or lodging houses providing entertainment through cable service during April 2001 to January 2006 was not recovered by the department. This resulted in non realisation of duty of Rs.14.95 lakh.

<sup>6</sup> Rs. 2 per ticket with effect from 1 May 2003, prior it was Re.1 per ticket.

<sup>7</sup> Dhar, Ratlam, Sagar, Vidisha

<sup>8</sup> April 2002 to April 2003 at the rate Re.1 per ticket on sale of 220246 tickets and May 2003 to January 2006 at the rate of Rs.2 per ticket on sale of 18,24,209 tickets.

<sup>9</sup> Betul, Burhanpur, Damoh, Dewas, Dhar, Ratlam and Sagar



After this was pointed out the DEO Betul and Assistant Commissioner Excise (ACE) Sagar stated between June and October 2005 that audit would be intimated about recovery after investigation. Whereas remaining DEOs stated between February 2005 and March 2006 that audit would be intimated after recovery of dues. Further report in the matter had not been received (January 2007).

The matter was reported to the Excise Commissioner and Government between April 2005 and March 2006; their reply had not been received (January 2007).

### **5.7 Non levy/recovery of advertisement tax**

MPEDA Tax Act, provides that every proprietor of an entertainment shall pay advertisement tax on every advertisement exhibited at an entertainment at a rate not exceeding Rs.50 per month.

Test check of records of five district excise offices<sup>10</sup> revealed between July 2005 and March 2006 that advertisement tax for the period from April 2002 to January 2006 was neither paid nor recovered from 403 cable operators and five video operators. This resulted in non levy/realisation of advertisement tax of Rs.5.60 lakh.

After this was pointed out, the DEO Dhar stated in March 2006 that necessary action would be taken, excise officer Rajgarh stated in November 2005 that advertisement tax was payable only when advertisements were exhibited on cinema screen, excise officer Ujjain stated in August 2005 that there was no provision about recovery of advertisement tax in M.P. Cable Rules, 1999, whereas the excise officer Sehore and Shivpuri stated in July 2005 that appropriate action would be taken after receiving instructions from higher authorities. The replies are not tenable as advertisement tax is not regulated under M.P. Cable Rules 1999. Provisions for levy of tax on every advertisement exhibited on cinema screen or any other place are already contained in the MPEDA Tax Act. Further reply was awaited (January 2007).

The matter was reported to the Excise Commissioner and the Government in April 2006; their reply had not been received (January 2007).

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<sup>10</sup> Dhar, Rajgarh, Sehore, Shivpuri and Ujjain

## C - LAND REVENUE

### 5.8 Loss of revenue due to application of incorrect rate of premium and ground rent of land

Under the provisions of revenue book of circular (RBC), Government land can be disposed of in different ways including by grant of lease. The application for allotment of land should be submitted to Government through collector of the respective district. The collector on receipt of application will assess premium and ground rent of the land in accordance with the provisions of RBC at standard rates fixed by Government from time to time and forward it to Government.

Government land measuring 8,000 sq. feet was allotted to *Akshya* Heart Hospital, Bhopal in July 2002. Test check of records revealed that as per existing standard rates approved by Government, premium of land and annual ground rent worked out to be Rs.83.64 lakh and Rs.6.27 lakh respectively. However, it was incorrectly assessed by Collectorate and allotted on premium of Rs.24 lakh and ground rent of Rs.0.60 lakh. This resulted in loss of revenue of Rs.59.64 lakh of premium and annual ground rent of Rs.5.67 lakh.

After this was pointed out, Government stated in November 2006 that instructions for review of the case would be issued.

### 5.9 Loss of revenue due to reduction in the amount of premium and ground rent without assigning any reason.

Test check of records of Collectorate Bhopal and Nazul Officer Capital Project Bhopal between September 2005 and January 2006 revealed that Government reduced amount of premium and annual ground rent without assigning any reason against proposal of the collector. This resulted in loss of revenue of Rs. 66.26 lakh on account of premium and recurring annual loss of Rs.3.31 lakh of ground rent in two cases as detailed below:

- Government allotted land in January 2002 to a housing co-operative society of Bhopal, Collectorate assessed premium at Rs.78.41 lakh and ground rent of Rs. 3.92 lakh in accordance with the standard rates. Government, however, reduced premium to Rs.36.15 lakh and annual ground rent to Rs.1.81 lakh without assigning any reason for the same.
- In another case of Nazul Officer Capital Project, Bhopal, Government land measuring 6,000 sq. feet was allotted to trust without any premium and rent of Re.1 only per annum. No reason for grant of land without premium and a reduced ground rent was assigned. This resulted in loss of revenue of Rs.25.20 lakh in the shape of premium of Rs.24 lakh and annual ground rent of Rs.1.20 lakh.

After this was pointed out, Government stated in November 2006 that instructions for review of the cases would be issued.



### **5.10 Non execution and registration of lease deed**

As per provisions of para 28 of RBC, lessee is required to execute and register lease deed in respect of land allotted to him within the reasonable time. The lease documents are liable for stamp duty and registration fee under Indian Stamp Act, 1899 and Registration Act, 1908 respectively.

Test check of records between September 2005 and March 2006 of three *Nazul* officers<sup>11</sup> revealed that lease deeds valued at Rs. 843.89 lakh executed in favour of five lessees between January 2002 and June 2005, were not registered. This resulted in non realisation of revenue of Rs.70.89 lakh of stamp duty and Rs.50.63 lakh of Registration fee.

After this was pointed out, Government replied in November 2006 that instructions would be issued for reviewing the cases.

### **5.11 Non levy of stamp duty on partition/Gift document of building on *Nazul* land**

Indian Stamp Act, 1899 provides that any instrument where co-owners of a property divide or agree to divide property or orders for, effecting partition, release or gift of the property are passed by revenue authority, such instruments are liable for registration and stamp duty.

Test check of records of four Collectors<sup>12</sup> between September 2005 and January 2006 revealed in five cases that orders for partition, gift, release of buildings on *nazul*<sup>13</sup> land and mutation were passed by revenue authorities between February 2002 to November 2005 but no stamp duty and registration fee were levied. This resulted in loss of stamp duty of Rs.29.86 lakh and registration fee of Rs.1.25 lakh.

After this was pointed out, Government stated in November 2006 that cases would be reviewed and action would be taken accordingly.

### **5.12 Non renewal of leases of *nazul* plots**

As per instruction dated January 2000 issued under Madhya Pradesh Land Revenue (MPLR) Code 1959, land under the occupation of *pattadars* is required to be renewed after expiry of lease period. For this, *Pattadars* are required to be informed well in advance and steps for renewal of leases are required to be started. The revised assessment is applicable from the financial year following the year in which the assessment is made.

<sup>11</sup> Bhopal, Neemuch and Rewa

<sup>12</sup> Bhopal, Hoshangabad, Katni and Rewa

<sup>13</sup> *Nazul* land is that land which is the property of Government

Test check of records in nine *nazul* offices<sup>14</sup> between September 2005 and January 2006 revealed that 19,851 leases granted between 1951-52 to 1974-75 were due for renewal between 1981-82 to 2004-05 after expiry of period of 30 years. But no steps were taken by the department for renewal of leases after expiry of the period of lease. This resulted in loss of revenue of Rs.3.08 crore for the period 2001-02 to 2005-06.

After this was pointed out Government stated in November 2006 that, instructions would be issued for reviewing the cases.

### **5.13 Short assessment of diversion rent and premium.**

MPLR Code, provides that where land is diverted for any purpose other than the purpose for which it was previously assessed, than land revenue shall be payable at the rates applicable to the purpose for which it has been diverted. The rates of diversion rent and premium are periodically revised by Government.

Test-check of records of Collector (Diversion) Indore revealed in November 2005 that agricultural land measuring 10,63,626 square feet of village Limbodi was diverted for residential purposes in May 2005. However, diversion rent was assessed incorrectly at Rs.1.48 lakh at agriculture rates instead of Rs.14.78 lakh applicable for residential purposes. Similarly in nine cases 24,99,938 square metre land situated in the villages within four Kms. from Nagar Nigam Border, was diverted for commercial/residential purposes in September 2002 and October 2003. However, premium was incorrectly assessed at Rs.22.67 lakh at agriculture rate instead of Rs.35.73 lakh applicable for commercial/residential purposes.. This resulted in short realisation of premium of Rs.13.06 lakh.

After this was pointed out the sub divisional officer issued revised assessment order in case of diversion while with regard to premium he stated that the action would be taken after scrutiny of cases.

The matter was reported to the Commissioner Settlement and Land Record and Government between December 2005 and January 2006; their reply had not been received (January 2007)

### **5.14 Non raising of demand of diversion rent, premium and fines**

According to RBC, the sub-divisional officer (Revenue) shall intimate to the tahsildar concerned, the demand for re-assessed rent on diverted land used for purposes other than agriculture to incorporate the change in the tahsil record. Further, demand of premium, diversion rent and fine imposed under the penal provisions of MPLR Code and RBC is also to be noted in the demand and collection register (DCR) of the concerned tahsil.

<sup>14</sup> Bhopal, (C.P.), Bhopal, Balaghat, Gwalior, Indore, Itarsi (Hoshangabad), Jabalpur, Mandla and Rewa



Test-check of records of three tahsils<sup>15</sup> revealed in May 2005 that diversion rent, premium and fine Rs.18.54 lakh in respect of 454 cases of 38 villages for the period from 2002-03 to 2003-04 were not noted in DCRs of concerned tahsils. No demand was raised for the same. This resulted in non realisation of revenue of Rs.18.54 lakh.

After this was pointed out, the concerned tahsildars stated in May 2005 that action to raise the demand would be taken.

The matter was reported to Government/department between June 2005 and May 2006; their reply had not been received (January 2007).

### **5.15 Non levy/recovery of process expenses**

Under the provisions of Madhya Pradesh *Lokdhan Adhiniyam*, process expenses of three percent of the principal amount due from the defaulters, shall be included in the demand to be raised against RRC.

Test-check of records of six tahsils<sup>16</sup> revealed between April 2005 and June 2005 that process expenses of Rs.15.42 lakh recoverable on the principal amount of Rs.5.14 crore recovered against RRCs during the period from April 2001 to March 2005 was neither included in demand by recovery officers nor deposited by defaulters. This resulted in non levy/realisation of Rs.15.42 lakh.

After this was pointed out, Tahsildar Gyaraspur (Vidisha) stated June 2005 that revised demand notice, would be issued while remaining tahsildars stated between April 2005 and June 2005 that information from banks would be called for to ascertain exact amount of principal amount collected and action would be taken accordingly.

The matter was reported to the Government/department between June 2005 and April 2006; their reply had not been received (January 2007).

### **5.16 Non recovery of collection charges**

According to *Panchayat Raj Adhiniyam*, 1993 and instructions (June 1999) issued thereunder, the amount collected by Government on account of land revenue, cess, fees and other taxes shall be credited to '*Panchayat Raj Nidhi*' after deducting 10 per cent of the amount collected as collection charges.

Test-check of records of five tahsils<sup>17</sup> revealed between April 2005 and October 2005 that revenue of Rs.83.26 lakh collected during the period from October 2000 to September 2005 was credited by tahsildars to

<sup>15</sup> Bhikangaon (Khargone), Dabra (Gwalior) and Shivpuri

<sup>16</sup> Banda (Sagar), Dabra (Gwalior), Datia, Deosar (Sidhi), Gyaraspur (Vidisha) and Pandurna (Chhindwara)

<sup>17</sup> Bhikangaon (Khargone), Datia, Pali (Umaria), Pandurna (Chhindwara) and Ratlam

*Panchayat Raj Nidhi* without deducting collection charges of Rs.8.33 lakh. This resulted in non recovery of Government revenue to that extent.

After this was pointed out, the concerned tahsildars stated between April 2005 and October 2005 that action for adjustment of the amount deposited in *Panchayat Raj Nidhi* would be taken.

The matter was reported to Government/department between June 2005 and May 2006; their reply had not been received (January 2007).

### **5.17 Non registration of revenue recovery certificates**

MPLR Code and Madhya Pradesh *Lokdhan (Shodhya Rashiyon ki Vasuli)* Adhiniyam and Rules made thereunder provide that the recovery officer shall register a case on receipt of revenue recovery certificate (RRC) in revenue case register called diara register. Before entering the details, it is to be ascertained that the cases are complete in all respect. Thereafter he shall start the recovery proceedings and issue a notice of demand within 15 days of registration of case to the defaulter.

Test check of records of six tahsils<sup>18</sup> between January 2005 and October 2005 revealed that 860 RRCs involving recovery of Rs.2.94 crore received during the period 2001-2002 to 2004-2005 were lying unregistered even after a lapse of seven to 55 months. Subsequently, revenue recovery proceedings could not be started. This resulted in non-realisation of revenue of Rs.2.94 crore.

After this was pointed out between January 2005 and October 2005, all the tahsildars stated that the action for recovery would be taken after registration of RRC cases.

The matter was reported to the Commissioner Land Records and Government between May 2005 and November 2005; their reply had not been received (January 2007).

<sup>18</sup> *Bhanpura (Mandsaur), Burhanpur, Mehgaon (Bhind), Nepanagar (Burhanpur), Piparia (Hoshangabad) and Sailana (Ratlam).*



## CHAPTER VI : FOREST RECEIPTS

### 6.1 Results of audit

Test check of records of forest receipts during 2005-06 revealed loss of revenue amounting to Rs.199.74 crore in 127 cases which can broadly be categorised as under:

*(Rupees in crore)*

Sl. No.	Category	Number of cases	Amount
1.	Non realisation due to non-exploitation of bamboo/timber coupes	23	111.98
2.	Short realisation due to sale below the upset price	19	4.50
3.	Non realisation due to deterioration / shortage of forest produce	20	5.45
4.	Short realisation of revenue due to re-measurement of timber	2	0.21
5.	Short realisation due to non-accountal of forest produces	8	15.34
6.	Short realisation due to low yield of timber/bamboos against estimated yield	9	6.22
7.	Other irregularities	46	56.04
	<b>Total</b>	<b>127</b>	<b>199.74</b>

During the year 2005-06, the Department accepted loss of Rs.1.09 crore involved in eight cases. An amount of Rs.0.09 lakh was recovered in one case.

A few illustrative cases involving Rs.7 crore are mentioned in this chapter.

## 6.2 Short levy of transit fee

As per Government of Madhya Pradesh Forest Department notification (May 2001) issued under rule 5 of Madhya Pradesh Transit (Forest Produce) Rules 2000, State Government prescribed transit fee at the rate of Rs.7 per tonne to be recovered for issue of transit pass for transportation of coal (forest produce) with effect from 1 June, 2001.

As per information regarding transfer of coal obtained from Geology and Mining Department, 1.59 crore M.T. of coal was transferred from Kanhan and Pench area from April 2002 to March 2005. Transit fee of Rs 11.16 crore was payable. However, cross verification with the records of Forest Department revealed that only Rs. 4.16 crore was recovered/deposited by the lessees during this period. This resulted in short levy of transit fee of Rs. 7 crore as detailed below:

Year	Total extraction and transportation of coal ( MT )	Fee payable at Rs.7 per (MT)	Fee paid	Fee short paid
2002-03	33,66,165	2,35,63,155	1,36,49,243	99,13,912
2003-04	87,59,589	6,13,17,123	1,50,62,920	4,62,54,203
2004-05	38,14,280	2,66,99,960	1,28,39,627	1,38,60,333
<b>Total</b>	<b>1,59,40,034</b>	<b>11,15,80,238</b>	<b>4,15,51,790</b>	<b>7,00,28,448</b>

After this was pointed out in June 2005, the DFO (General) West Chhindwara stated in June 2005 that information regarding extraction of the coal is being called for from Mining Department and action for recovery would be taken.

The matter was reported to the Principal Chief Conservator of Forests and Government between August 2005 and February 2006; their reply had not been received (January 2007).

6.3 "Short recovery of net . . . . . from user agency".  
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## CHAPTER VII : MINING RECEIPTS

### 7.1 Results of audit

Test check of records relating to assessment and collection of mining revenue during the year 2005-06 revealed non/short assessment of royalty, dead rent, non recovery of contract money, royalty, mineral area development cess and short levy of interest on belated payment of royalty etc. amounting to Rs.359.13 crore in 2,455 cases which can broadly be categorised as under:

*(Rupees in crore)*

Sl. No.	Category	Number of cases	Amount
1.	Non/short realisation of mineral area development cess and revenue against revenue recovery certificates	10	0.01
2.	Non assessment of royalty and dead rent	138	5.02
3.	Short levy of interest on belated payments of royalty	81	104.84
4.	Non levy of royalty and penalty on minor mineral and non recovery of contract amount, stamp duty and registration fee	533	76.76
5.	Others	1,693	172.50
	<b>Total</b>	<b>2,455</b>	<b>359.13</b>

During the year 2005-06, the department accepted underassessment of royalty, dead rent of Rs.31.13 crore involved in 619 cases of which 588 cases involving Rs.28.76 crore were pointed out during 2005-06 and rest in earlier years. Rs.2.90 crore had been recovered in 21 cases.

A few illustrative cases involving Rs.2.16 crore are mentioned in this chapter.

## **7.2 Non realisation of revenue due to non renewal of lease deed**

Under the Registration Act, 1908, deeds conveying lease hold right for period beyond one year are required to be registered compulsorily. According to Indian Stamp Act, 1899 in case of lease of mine in which royalty or share of produce is received as rent or part of rent, the stamp duty and registration fees are leviable on average annual royalty.

Test check of records of Mining Officer, Chhindwara revealed in December 2005 that Western Coal Field Limited Pench area, holding mining lease for a period of 30 years for extraction of coal in 1,982 hectares, applied for renewal of lease on 30 April 2002. The lease was not renewed and it expired on 30 April 2003, consequently no stamp duty could be levied. This resulted in non realisation of revenue in the shape of stamp duty and registration fee of Rs.1.66 crore.

The matter was reported to Director Geology and Mining and Government between January and February 2006; their reply had not been received (January 2007).

## **7.3 Short realisation of dead rent**

According to the Madhya Pradesh Minor Mineral (MPMM) Rules, 1996, a lessee is liable to pay dead rent every year except for the first year of lease at the rates specified in schedule IV, in advance for the whole year, on or before the 20<sup>th</sup> day of the first month of the following year.

Test check of records of six mining offices<sup>1</sup> revealed that 29 quarry leases were sanctioned for different periods between February 1995 and May 2014. The lessees paid dead rent amounting to Rs.10.76 lakh only against the payable amount of Rs.25.98 lakh due from January 2001 to December 2005. No demand was raised for realisation of balance dead rent. This resulted in short realisation of dead rent amounting to Rs.15.22 lakh.

After this was pointed out between November 2005 and March 2006, all the mining officers stated that action for recovery would be taken after scrutiny.

The matter was reported to the Director, Geology and Mining and the Government between December 2005 and March 2006; their reply had not been received (January 2007).

## **7.4 Non/short realisation of royalty**

According to MPMM Rules, the Collector shall grant permission for extraction, removal and transportation on any minor minerals from any specified quarry or land which may be required for the works of any department and undertaking of the Central or State Government. Such permission shall only be granted on payment of royalty in advance.

<sup>1</sup> Betul, Bhopal, Chhindwara, Gwalior, Morena and Raisen



Test check of records of Mining Office, Raisen in February 2006 revealed that permission for extraction, removal and transportation of minor minerals was granted by Collector to three contractors for nine works during the period between December 2002 and January 2004. Two contractors had not paid royalty of Rs.7.30 lakh and one contractor paid royalty of only Rs.1.15 lakh against Rs.8.51 lakh. This resulted in non/short realisation of royalty amounting to Rs.14.66 lakh.

After this was pointed out in February 2006, the Mining Officer Raisen stated that the action for recovery would be taken after detailed review of the case in respect of one contractor and in respect of two contractors notices for recovery were issued.

The matter was reported to the Director, Geology and Mining and Government between February and May 2006; their reply had not been received (January 2007).

### **7.5 Non submission of returns**

According to Mineral Concession Rules, 1960, every lessee holding mining lease shall maintain records of production, removal of mineral and employment of labours. The lessee is required to submit monthly and annual returns in the prescribed proforma on due date, failing which the department may impose penalty not exceeding double the amount of annual dead rent.

Test check of records of Mining Office, Chhindwara revealed in December 2005 that Western Coal Field Limited Kanhan area holding mining lease for extraction of coal had not submitted monthly and annual return for the period from April 2003 to March 2005. The department had not initiated any action against the lessee under the terms of agreement. This resulted in non realisation of revenue of Rs.12.04 lakh in the shape of penalty calculated at double the amount of annual dead rent.

After this was pointed out in December 2005, the mining officer stated that action would be taken against the lessee under the rules.

The matter was reported to Director Geology and Mining and Government between January and February 2006; their reply had not been received (January 2007).

### **7.6 Short levy of stamp duty and registration fee**

Mineral Resources Department issued instructions in March 1993 and October 1994, followed by clarification issued by Inspector General Registration (May 2005), that in case of registration of agreements of trade quarries, the whole amount stipulated in auction of a quarry, is to be treated as premium and stamp duty at the rate of eight *per cent* is leviable under Indian Stamp Act, 1899. Further registration fee at the rate of 75 *per cent* of the stamp duty is also leviable under the Registration Act, 1908.

Test check of records of Mining Office, Raissen revealed that 35 trade quarries were sanctioned to private contractors for the period of two years (2005-2007). The department had not taken into account, the amount stipulated in auction of quarries while calculating stamp duty and registration fee. The department had levied stamp duty and registration fee of Rs.12.39 lakh against the leviable amount of stamp duty and registration fee of Rs.25.32 lakh. This resulted in short levy of stamp duty and registration fee of Rs.12.93 lakh.

After this was pointed out in March 2006, the mining officer stated that matter was reported to Sub Registrar for necessary action.

The matter was reported to Director Geology and Mining and Government (March 2006); their reply had not been received (January 2007)

#### **7.7 Short realisation of interest on belated payments of royalty**

According to Mineral Concession Rules, a lessee is liable to pay royalty on scheduled date, failing which he shall be liable to pay interest at 24 per cent per annum from the sixtieth day of the expiry of stipulated date till the payment of such royalty.

Test check of records of Mining Office, Rewa in March 2006 revealed that a lessee holding mining lease for extraction of limestone had paid royalty amounting to Rs.3.67 crore for the period from May 2004 to March 2005 late by nine to 71 days. The department assessed and recovered interest amounting to Rs.2.44 lakh against the recoverable amount of Rs.10.09 lakh. This resulted in short realisation of revenue amounting to Rs.7.65 lakh.

The matter was reported to Director Geology and Mining and Government between April and May 2006; their reply had not been received (January 2007).



## CHAPTER VIII : OTHER NON TAX RECEIPTS

### 8.1 Results of audit

Test check of records relating to Public Works, Water Resources and Electricity Duty departments during the year 2005-06 revealed non/short realisation and loss of revenue amounting to Rs.106.88 crore in 22,861 cases which can broadly be categorised as under:

*(Rupees in crore)*

Sl. No.	Category	Number of cases	Amount
<b>PUBLIC WORKS DEPARTMENT</b>			
1.	Non recovery of lease rent	65	1.71
2.	Non levy of licence fee and penal rates	15	0.03
3.	Non recovery of loss	32	0.16
4.	Non imposition of penalty for non employment of technical staff	577	3.56
5.	Others	5,453	34.12
	<b>Total</b>	<b>6,142</b>	<b>39.58</b>
<b>WATER RESOURCES DEPARTMENT</b>			
1.	Non levy of betterment contribution	59	3.21
2.	Non imposition of penalty for non employment of technical staff	11	0.04
3.	Non levy of penalty on delayed payment	3	1.17
4.	Others	947	46.12
	<b>Total</b>	<b>1,020</b>	<b>50.54</b>
<b>CO-OPERATIVE DEPARTMENT</b>			
1.	Short/non recovery of audit fee	694	0.26
2.	Others	1,230	0.90
	<b>Total</b>	<b>1,924</b>	<b>1.16</b>

After this was pointed out, the Executive Engineer stated in August 2005 that revenue recovery certificates of Rs.4.11 lakh had been issued for the period covered by audit.

The matter was reported to department and Government between December 2005 and February 2006; their reply has not been received (January 2007).

## **WATER RESOURCES DEPARTMENT**

### **8.4 Non levy of betterment contribution**

Madhya Pradesh Irrigation Act, 1931(revised in 2002) provides for levy of betterment contribution at the rate of Rs. 250 per acre payable in lump sum from the permanent holders of land benefited by Canals constructed after April 1951 at a cost of Rs. 5 lakh or more or having a command area of 1000 acre or more. The contribution is recoverable from such date as may be notified by Government, but not earlier than three years from the commencement of operation of canal.

Test check of records of two water resources divisions<sup>1</sup> revealed in June 2005 that Government of Madhya Pradesh had not issued notification as to the date from which betterment contribution was leviable in respect of Rajghat canal and Bhandar canal from which irrigation has already started. The department had recommended rates of contribution at Rs.250 per acre or Rs.618 per hectare lump sum in the year 1999. Due to non issue of notification by Government, action of assessment of betterment contribution on irrigated area of 28,876.66 hectares for the year 2003-2004 could not be taken up by the department. This resulted in non levy of Government revenue of Rs.1.78 crore.

After this was pointed out, the Executive Engineer stated in June 2005 that due to non issue of notification by government, action for levy of contribution could not be taken.

The matter was reported to Government/Department between August 2005 and February 2006; their reply has not been received (January 2007).

<sup>1</sup> *Rajghat distributary canal division No. 9 and Bhandar canal division Datia.*



## C- ELECTRICITY DUTY

### 8.5 Loss of revenue due to non imposition of penalty

Under Madhya Pradesh Electricity Rules, 1956, if the owner of an electric installation commits breach of any provisions of the rule, he shall be liable to pay penalty of Rs.300 for each breach and if the breach continues, he shall be further liable for a penalty of Rs.50 per day till the breach persists.

Test check of records of divisional electrical inspector (DEI) Khandwa in February 2006 revealed that owners of 174 electrical installations during 2002-2003 to 2004-05 breached provision of the rule, by not providing energy meters, skilled staff for supervision of electric installation etc. During inspection in 2002-05 such irregularities were pointed out by the departmental officers. Electrical Inspectors did not send proposal for imposition of penalty for each breach of provision to the higher authority. As such department could not initiate any action against the defaulters to impose penalty. This resulted in loss of revenue amounting to Rs.49.60 lakh

After this was pointed out, the DEI stated that imposition of penalty was not in purview of his office. The reply was not tenable as the DEI had not sent the proposal for imposition of penalty to the competent authority.

The matter was reported to the Chief Engineer and Inspector General Electricity and Safety and the Government in March 2006; their reply had not been received (January 2007).

### 8.6 Non raising of demand for electricity duty, cess and interest

Exemption from payment of electricity duty to the producers of electricity through generator sets was withdrawn vide Energy Department, Government of M.P. notification dated 6 February 2001 w.e.f. the date of its issue. As such the producers of electric energy through generator sets were liable to pay electricity duty and cess at the rates prescribed.

Test-check of records of DEI, Khandwa in February 2006 revealed that 27 producers of electric energy generated 25.31 lakh units of electric energy through their generator sets during 2001-02 to 2004-05 but had not paid the electricity duty and cess payable on the energy produced. The department had not initiated any action for raising of demand for recovery of electricity duty and cess including interest amounting to Rs.9.37 lakh.

After this was pointed out, the DEI stated that action for recovery was in progress.

The matter was reported to the Chief Engineer, Electric & Safety and the Government in March 2006; their reply had not been received (January 2007).

### **8.7 Non-raising of demand for additional fee**

According to the provisions of Madhya Pradesh Energy Department's notification dated 22 August 1987, fee in respect of electric installations shall be paid by the owner on or before 1 May each year. If the owner fails to pay fee on the scheduled date, fee payable shall be increased by 20 per cent.

Test check of records of DEI Khandwa in January 2006 revealed that Madhya Pradesh State Electricity Board paid fee amounting to Rs.33.97 lakh during April 2002 to March 2005 late by one to ten months in respect of electrical installations owned by it. The department had not initiated any action for raising of demand for additional fee amounting to Rs.6.79 lakh as required under aforesaid provisions. This resulted in non realisation of revenue to that extent.

The matter was reported to the Chief Engineer and Inspector General of Electricity and Safety and Government in March 2006; their reply has not been received (January 2007).

### **8.8 Loss due to non inspection of electric installations**

According to the Indian Electricity Act, 1910 and Indian Electricity Rules, 1956, fees at prescribed rates are leviable for inspection of electrical installations according to their categories. Periodicity for conducting inspections of electrical installations of medium voltage is triennial and in other cases, it is annual.

Test check of records of the Superintending Engineer, Jabalpur and DEI (Electric and Safety) Khandwa, revealed between January and February 2006 that inspections of 9,907 high voltage electrical installations and 48,681 medium voltage electrical installations was not carried out as per prescribed norms during the period from 2002-2003 to 2004-2005. This resulted in loss of Rs.10.81 lakh on account of inspection fee.



After this was pointed out, the Superintending Engineer Jabalpur and DEI, Khandwa stated in January and February 2006 that the inspection could not be carried out due to shortage of staff.

The matter was reported to Chief Engineer and Inspector General of Electricity and Safety and Government between February and March 2006; their reply had not been received (January 2007).

**Gwalior  
The**

**(J.N.GUPTA)  
Principal Accountant General  
(Works & Receipts Audit)  
Madhya Pradesh**

*Countersigned*

**New Delhi  
The**

**(VIJAYENDRA N. KAUL)  
Comptroller and Auditor General of India**