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Report of the Comptroller and Auditor General of India

for the year ended 31 March 2008

(Revenue Receipts)

Government of Madhya Pradesh

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PREFACE

This report for the year ended 31 March 2008 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 2007-2008 as well as those noticed in earlier years but not covered in the previous years' reports.

OVERVIEW

This report contains 55 paragraphs including two reviews relating to non/short levy of tax, interest, penalty, etc., involving Rs. 623.43 crore. Some of the major findings are mentioned below:

I. General

- The total revenue receipts of the State Government for the year amounted to Rs. 30,688.73 crore against Rs. 25,694.28 crore for the previous year. 48 *per cent* of this was raised by the State through tax revenue (Rs. 12,017.64 crore) and non-tax revenue (Rs. 2,738.18 crore). The balance 52 *per cent* was received from the Government of India as State's share of divisible union taxes (Rs. 10,203.50 crore) and grants-in-aid (Rs. 5,729.41 crore).

(Paragraph 1.1)

- Test check of the 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 2007-08 revealed under assessment/short levy/loss of revenue amounting to Rs. 1,069.85 crore in 4,48,574 cases.

(Paragraph 1.8)

II. Commercial tax

- Non-cancellation of eligibility certificates resulted in non-recovery of commercial tax of Rs. 75.34 crore from closed units.

(Paragraph 2.2)

- Non/short levy of tax resulted in non-realisation of revenue of Rs. 7.05 crore, penalty of Rs. 43.36 lakh and interest of Rs. 6.46 lakh.

(Paragraph 2.3)

- Incorrect grant of exemption resulted in non-realisation of tax of Rs. 6.20 crore including interest and penalty of Rs. 1.42 crore.

(Paragraph 2.4)

- Non-registration of dealers resulted in non-realisation of profession tax of Rs. 2.07 crore.

(Paragraph 2.5)

- Application of incorrect rate of tax resulted in short levy of tax of Rs. 1.50 crore and interest of Rs. 76,000.

(Paragraph 2.6)

- Incorrect deduction of tax free sales resulted in non-realisation of tax of Rs.1.23 crore and penalty of Rs. 28.63 lakh.

(Paragraph 2.7)

- Non/short levy of penalty resulted in non-realisation of revenue of Rs. 1.42 crore.

(Paragraph 2.8)

- Non/short levy of entry tax resulted in non-realisation of revenue of Rs. 34.39 lakh and interest/penalty of Rs. 2.89 lakh.

(Paragraph 2.9)

III. State Excise

- Non-receipt of verification reports of export of foreign liquor within the prescribed period resulted in non-realisation of excise duty of Rs. 4.02 crore.

(Paragraph 3.2)

- Non-disposal of spirit, molasses and foreign liquor resulted in non-realisation of excise duty of Rs. 1.26 crore.

(Paragraph 3.3)

- Penalty of Rs. 1.14 crore was not imposed for non-maintenance of minimum stock by the distilleries.

(Paragraph 3.4)

- Incorrect allowance of wastage of spirit in re-distillation resulted in non-realisation of excise duty of Rs. 1.02 crore.

(Paragraph 3.5)

IV. Taxes on Vehicles

- Vehicle tax of Rs. 19.23 crore including penalty of Rs. 7.14 crore was neither paid on 4,228 vehicles nor was it demanded by the department.

(Paragraph 4.2)

- Failure of the department to recover the balance amount of life time tax resulted in non-realisation of revenue of Rs. 28.66 lakh and penalty of Rs. 26.26 lakh.

(Paragraph 4.3)

- Payment of tax at incorrect rates by the vehicle owners resulted in short realisation of tax of Rs. 44.18 lakh and penalty of Rs. 19.79 lakh.

(Paragraph 4.4 and 4.5)

- Non-levy of vehicle tax and penalty on motor vehicles of other states plying on countersigned permits resulted in non-realisation of revenue of Rs. 19.18 lakh including penalty of Rs. 6.35 lakh.

(Paragraph 4.6)

V. Other Tax Receipts

Stamp duty and registration fee

A review of **Assessment and levy of stamp duty and registration fee** revealed the following:

- Non-realisation of revenue of Rs. 5.08 crore due to lack of clear provision of time limit for instituting RRCs after the demands have been established.
(Paragraph 5.2.8)
- Lack of co-ordination with other departments resulted in non/short realisation of stamp duty and registration fee of Rs. 53.28 crore.
(Paragraph 5.2.9)
- Short assessment/levy of stamp duty and registration fee of Rs. 7.67 crore.
(Paragraph 5.2.12)
- Incorrect application of rates resulted in short realisation of stamp duty and registration fee of Rs. 4.21 crore.
(Paragraph 5.2.13)
- Non-registration of lease deed resulted in non-realisation of stamp duty and registration fee of Rs. 4.13 crore.
(Paragraph 5.2.14)
- Non-realisation of stamp duty and registration fee of Rs. 3.49 crore due to non-reimbursement by NVDA.
(Paragraph 5.2.15)
- Short levy of stamp duty and registration fee of Rs. 1.85 crore due to undervaluation of instruments.
(Paragraph 5.2.16)
- Misclassification of documents resulted in short realisation of stamp duty and registration fee of Rs. 1.81 crore.
(Paragraph 5.2.17)
- Non-levy of stamp duty and registration fee of Rs. 1.29 crore due to incorrect grant of exemption.
(Paragraph 5.2.18)

Entertainment duty

- Non-recovery of entertainment duty from cable operators and hotel owners resulted in non-realisation of revenue of Rs. 32.57 lakh.

(Paragraph 5.3)

- Non-levy of entertainment duty on cinema houses resulted in non-realisation of revenue of Rs. 20.49 lakh.

(Paragraph 5.4)

Land Revenue

- The department did not raise the demand of premium, diversion rent and fine which resulted in non-realisation of revenue of Rs. 2.80 crore.

(Paragraph 5.6)

- Non-recovery of anticipated premium and ground rent in case of advance possession of land resulted in non-realisation of revenue of Rs. 1.01 crore.

(Paragraph 5.7)

- Non-disposal of the attached properties resulted in non-realisation of revenue of Rs. 66.23 lakh.

(Paragraph 5.8)

- Non-deduction of collection charges from *Panchayati Raj Nidhi* resulted in non-realisation of revenue of Rs. 56.33 lakh.

(Paragraph 5.9)

VI. Forest receipts

- Loss of revenue of Rs. 73.02 lakh due to low yield of timber.

(Paragraph 6.2)

VII. Mining receipts

A review of **Mining receipts in Madhya Pradesh** revealed the following:

- Non-imposition of penalty of Rs. 2.44 crore due to non-maintenance of records to monitor receipt of returns from lessees.

(Paragraph 7.2.9)

- Failure of the department to prescribe any system to monitor demand and collection register resulted in non/short realisation of revenue of Rs. 54.70 crore.

(Paragraph 7.2.10)

- Absence of any system for cross verification of figures of extraction of minerals with other departments resulted in non-realisation of revenue of Rs. 1.03 crore.

(Paragraph 7.2.12)

- Non/short assessment of road development tax of Rs. 327.30 crore.

(Paragraph 7.2.18)

- Short realisation of revenue of Rs. 1.36 crore due to irregular issue of temporary permits.

(Paragraph 7.2.20)

- Short payment of royalty of Rs. 7.98 crore by Madhya Pradesh State Mining Corporation.

(Paragraph 7.2.21)

VIII. Other non-tax receipts

Electricity duty

- Failure of the department to collect inspection fee from the owners of electrical installations resulted in non-realisation of revenue of Rs. 1.31 crore.

(Paragraph 8.2)

- Non-imposition of penalty on the owners of electrical installations for breach of rules resulted in non-realisation of revenue of Rs. 46.03 lakh.

(Paragraph 8.3)

Food and Civil Supply

- Non-levy of interest on belated/non-repayment of loans resulted in non-realisation of revenue of Rs. 21.15 lakh.

(Paragraph 8.6)

CHAPTER I: GENERAL

1.1 Trend of revenue receipts

1.1.1 The tax and non-tax revenue raised by the Government of Madhya Pradesh during the year 2007-08, the State's share of divisible Union taxes and grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are mentioned below:

(Rupees in crore)						
Sl. No.	Particulars	2003-04	2004-05	2005-06	2006-07	2007-08
I.	Revenue raised by the State Government					
	• Tax revenue	6,788.86	7,772.97	9,114.70	10,473.13	12,017.64
	• Non-tax revenue	1,479.82	4,461.86	2,208.20	2,658.46	2,738.18
	Total	8,268.68	12,234.83	11,322.90	13,131.59	14,755.82
II.	Receipt from the Government of India					
	• State's share of divisible Union taxes	4,247.14	5,076.68	6,341.35	8,088.54	10,203.50 ¹
	• Grants-in-aid	1,773.14	2,431.74	2,932.54	4,474.15	5,729.41
	Total	6,020.28	7,508.42	9,273.89	12,562.69	15,932.91
III.	Total receipts of the State	14,288.96	19,743.25	20,596.79	25,694.28	30,688.73
IV.	Percentage of I to III	58	62	55	51	48

The above table indicates that during the year 2007-08, the revenue raised by the State Government was 48 *per cent* of the total revenue receipts (Rs. 30,688.73 crore) against 51 *per cent* in the preceding year. The balance 52 *per cent* of receipts during 2007-08 was from the Government of India.

¹

For details please see statement No. 11: "Detailed accounts of revenue by minor heads" in the Finance Accounts of the Government of Madhya Pradesh for the year 2007-08. 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 the revenue raised by the State and included in the State's share of divisible Union taxes in this statement.

1.1.2 The following table presents the details of tax revenue raised during the period from 2003-04 to 2007-08:

(Rupees in crore)							
Sl. No.	Head of revenue	2003-04	2004-05	2005-06	2006-07	2007-08	Percentage increase (+)/ decrease (-) in 2007-08 over 2006-07
1.	• Sales tax • Central Sales Tax	3,293.26	3,912.01	4,508.42	5,261.41	6,045.07	(+) 14.89
2.	State excise	1,085.89	1,192.36	1,370.38	1,546.68	1,853.83	(+) 19.86
3.	Stamp duty and registration fee	614.49	788.71	1,009.48	1,251.10	1,531.54	(+) 22.42
4.	Taxes on goods and passengers	390.99	468.07	578.58	744.60	916.44	(+) 23.08
5.	Taxes on vehicles	454.92	488.65	556.02	634.30	702.62	(+) 10.77
6.	Taxes and duties on electricity	697.06	707.18	842.27	714.55	626.08	(-) 12.38
7.	Other taxes on income and expenditure - tax on professions, trades, callings and employments	188.90	150.21	153.08	163.81	185.02	(+) 12.95
8.	Land revenue	43.63	46.80	77.16	132.21	129.15	(-) 2.31
9.	Other taxes and duties on commodities and services	15.32	14.28	14.15	19.55	20.10	(+) 2.81
10.	Hotel receipts	4.40	4.75	5.37	4.92	7.79	(+)58.33
Total		6,788.86	7,772.92	9,114.39	10,473.13	12,017.64	

The following reasons for variation were reported by the departments:

Sales tax- The increase of 14.89 *per cent* was stated to be due to increase in prices and special recovery campaign.

State excise- The increase of 19.86 *per cent* was stated to be due to increase in auction value.

Stamp duty and registration fee- The increase of 22.42 *per cent* was stated to be due to increase in the number of registered documents.

Taxes on vehicles- The increase of 10.77 *per cent* was stated to be due to computerisation.

Hotel receipts- The increase of 58.33 *per cent* was stated to be due to expiry of exemption period of new hotels.

1.1.3 The following table presents the details of major non-tax revenue raised during the period 2003-04 to 2007-08:

(Rupees in crore)

Sl. No.	Head of revenue	2003-04	2004-05	2005-06	2006-07	2007-08	Percentage increase (+)/ decrease (-) in 2007-08 over 2006-07
1.	Non-ferrous mining and metallurgical industries	646.71	733.72	815.31	923.91	1,125.39	(+) 21.81
2.	Forestry and wildlife	496.75	559.11	490.40	536.50	608.89	(+) 13.49
3.	Miscellaneous general services	22.92	79.61	21.30	736.58	374.60	(-) 49.14
4.	Interest receipts	19.22	25.90	527.20	132.73	206.98	(+) 55.94
5.	Other non-tax receipts	135.61	2,893.52	139.82	148.24	206.42	(+) 39.25
6.	Other administrative services	51.07	50.78	67.20	59.55	68.15	(+) 14.44
7.	Major and medium irrigation	37.80	37.92	29.57	29.82	37.42	(+) 25.49
8.	Co-operation	15.60	17.92	14.23	18.54	29.29	(+) 57.98
9.	Police	24.99	23.23	26.16	24.26	25.03	(+) 3.17
10.	Medical and public health	10.98	16.76	11.73	20.88	21.93	(+) 5.03
11.	Public works	9.09	9.94	53.08	16.39	20.33	(+) 24.04
12.	Education, sports, Art and culture	9.08	13.45	12.20	11.06	13.75	(+) 24.32
Total		1,479.82	4,461.86	2,208.20	2,658.46	2,738.18	

The following reasons for variation were reported by the departments.

Non-ferrous mining and metallurgical industries- The increase of 21.81 *per cent* was stated to be due to revision of royalty on coal and constant vigil by the department.

Forestry and wildlife- The increase of 13.49 *per cent* was stated to be due to increase in sale of forest produce.

1.2 Variations between the budget estimates and actuals

The variations between the budget estimates and actuals of revenue receipts for the year 2007-08 in respect of the principal heads of tax and non-tax revenue are mentioned below:

(Rupees in crore)

Sl. No.	Head of revenue	Budget estimates	Actuals	Variation excess (+) or shortfall (-)	Percentage increase (+)/decrease (-) over budget estimates
A. Tax revenue					
1.	Sales tax	5,700.00	6,045.07	(+) 345.07	(+) 6.05
2.	State excise	1,750.00	1,853.83	(+) 103.83	(+) 5.93
3.	Stamp duty and registration fee	1,400.00	1,531.54	(+) 131.54	(+) 9.40
4.	Taxes and duties on electricity	832.00	626.08	(-) 205.92	(-) 24.75
5.	Land revenue	130.00	129.15	(-) 0.85	(-) 0.65
B. Non-tax revenue					
1.	Non-ferrous mining and metallurgical industries	1,080.00	1,125.39	(+) 45.39	(+) 4.20
2.	Forestry and wildlife	543.00	608.89	(+) 65.89	(+) 12.13

The reasons for variations of actuals over budget estimates during 2007-08 as intimated by the respective departments are given below:

Taxes and duties on electricity- The decrease of 24.75 *per cent* was stated to be due to non-adjustment of Rs. 495 crore of MPSEB for the year 2007-08.

Forestry and wildlife- The increase of 12.13 *per cent* was stated to be due to sale of more/excess forest produce than the target.

1.3 Cost of collection

The gross collection in respect of major revenue receipts, expenditure incurred on collection as furnished by the concerned departments and the percentage of expenditure to gross collection during the years 2005-06, 2006-07 and 2007-08 along with the relevant all India average percentage of expenditure on collection to gross collection for 2006-07 are mentioned 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 2006-07
1.	Sales tax	2005-06	4,508.42	50.41	1.12	0.82
		2006-07	5,261.41	48.20	0.92	
		2007-08	6,045.07	60.36	1.0	
2.	Taxes on vehicles and taxes on goods and passengers	2005-06	1,134.60	7.54	0.66	2.47
		2006-07	1,378.90	6.41	0.46	
		2007-08	702.62	7.60	1.08	

3.	State excise	2005-06	1,370.38	289.53	21.13	3.30
		2006-07	1,546.68	303.79	19.64	
		2007-08	1,853.83	396.04	21.36	
4.	Stamp duty and registration fee	2005-06	1,009.48	28.63	2.83	2.33
		2006-07	1,251.10	36.48	2.91	
		2007-08	1,531.54	44.54	2.90	

Thus, the percentage of expenditure on the collection of sales tax, state excise and stamp duty and registration fee was considerably higher than the all India average and needs to be looked into by the Government. In case of State excise where figures are abnormally higher than the all India average percentage, it was stated by the department that the increased expenditure on collection was due to the fact that the cost of liquor is paid to the manufacturers from the budget provisions for expenditure which was Rs. 320.20 crore during 2007-08.

1.4 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2008 in respect of some principal heads of revenue amounted to Rs. 786.54 crore of which Rs. 239.62 crore (excluding Transport Department) was outstanding for more than five years as mentioned below:

(Rupees in crore)			
Sl. No.	Head of revenue	Amount outstanding as on 31 March 2008	Amount outstanding for more than five years as on 31 March 2008
1.	Taxes on vehicles	39.54	Information not furnished
2.	State excise	58.63	48.41
3.	Taxes & duties on electricity	22.81	5.90
4.	Sales tax	571.53	154.52
5.	Non-ferrous mining and metallurgical industries	12.23	12.23
6.	Co-operation	10.29	5.34
7.	Stamp duty and registration fee	71.51	13.22
Total		786.54	239.62

The position of arrears of revenue at the end of 2007-08 in respect of other departments was not furnished (December 2008) by the Government despite being requested (September 2008). Also, the stages at which arrears were pending for collection were not furnished by the departments (December 2008).

1.5 Arrears in assessment

The details of assessments relating to sales tax, profession tax, entry tax, luxury tax, tax on works contracts pending at the beginning of the year, additional cases becoming due for assessment during the year, cases disposed during the year and pending cases at the end of each year during 2006-07 and 2007-08 as furnished by the Commercial Tax Department are mentioned below:

Name of tax		Opening balance	New cases due for assessment during the year	Total assessments due	Cases disposed during the year	Balance at the end of the year	Percentage of column 5 to 4
(1)		(2)	(3)	(4)	(5)	(6)	(7)
Commercial Tax Department							
Sales tax	2006-07	2,60,792	4,02,291	6,63,083	2,99,596	3,63,487	45.18
	2007-08	3,63,487	2,81,575	6,45,062	3,41,769	3,03,293	52.98
Profession tax	2006-07	1,11,924	1,10,091	2,22,015	1,06,502	1,15,513	47.97
	2007-08	1,15,513	1,45,481	2,60,994	1,33,479	1,27,515	51.14
Entry tax	2006-07	1,41,158	2,40,983	3,82,141	1,97,047	1,85,094	51.56
	2007-08	1,85,094	2,23,297	4,08,391	2,19,980	1,88,411	53.87
Luxury tax	2006-07	590	819	1,409	711	698	50.46
	2007-08	698	1,007	1,705	1,007	698	59.06
Tax on works contracts	2006-07	1,721	5,487	7,208	3,707	3,501	51.43
	2007-08	3,501	3,211	6,712	2,965	3,747	44.17
Total	2006-07	5,16,185	7,59,671	12,75,856	6,07,563	6,68,293	
	2007-08	6,68,293	6,54,571	13,22,864	6,99,200	6,23,664	

Thus, there has been an increase in disposal of assessment cases as compared to the previous year except in assessments relating to taxes on works contract.

1.6 Evasion of tax

The details of evasion as reported by the Sales Tax, State Excise and Stamp Duty and Registration Fee departments are mentioned below:

Sl. No	Name of the tax/duty	Cases pending as on 31 March 2007	Cases detected during 2007-08	Total	No. of cases in which assessments/investigations completed and additional demand including penalty etc. raised		No. of pending cases as on 31 March 2008
					No. of cases	Amount of demand (Rs. in crore)	
1.	Sales tax	283	347	630	277	55.92	353
2.	State excise	4	39	43	36	0.02	7
3.	Stamp duty and registration fee	7,185	4,015	11,200	4,035	20.03	7,165

Thus, there was increase in the number of pending cases under sales tax and state excise as compared to the previous year.

1.7 Refunds

The number of refund cases pending at the beginning of the year 2007-08, claims received during the year, refunds allowed during the year and cases pending at the end of the year 2007-08 as reported by the departments are mentioned below :

Sl. No.	Category	(Rupees in crore)					
		State excise		Sales tax		Stamp duty and registration fee	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
1.	Claims outstanding at the beginning of the year	21	1.30	1,603	10.17	787	1.37 ²
2.	Claims received during the year	32	0.40	10,401	114.27	912	3.01
3.	Refunds made during the year	32	0.43	10,484	108.40	787	1.95
4.	Balance outstanding at the end of the year	21	1.27	1,520	16.04	912	2.43

Thus, there was an increase in the number and amount of refund cases at the end of the year in the Stamp Duty and Registration Fee Department.

1.8 Results of audit

Test check of the records of sales tax, land revenue, state excise, tax on vehicles, stamp duty and registration fee, other tax receipts, forest receipts and other non-tax receipts conducted during the year 2007-08 revealed underassessment/short levy/loss of revenue amounting to Rs. 1,069.85 crore in 4,48,574 cases. During the year, the departments accepted underassessment and other losses of Rs. 327.83 crore in 3,16,179 cases out of which Rs. 317.30 crore in 3,14,562 cases were pointed out in 2007-08 and rest in earlier years. An amount of Rs. 135.61 crore had been recovered in 456 cases relating to different years.

This report contains 53 paragraphs and two reviews involving Rs. 623.43 crore. The departments/Government accepted audit observations involving Rs. 421.89 crore out of which Rs. 4.86 crore had been recovered. In respect of observations not accepted by the department, the reasons for non-acceptance have been included in the related paragraphs.

1.9 Failure to enforce accountability and protect interest of the Government

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

² Change in figures from last year closing balance is due to furnishing of final figures by the department

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 date of issue of the IRs. Serious financial irregularities are reported to the heads of the department and Government separately.

IRs issued upto December 2007 pertaining to various offices of commercial tax, land revenue, registration and other departments disclosed that 17,654 paragraphs relating to 5,938 IRs have remained outstanding since 1997-98 to the end of December 2007.

The huge pendency of IRs due to non-receipt of replies indicates that the heads of the offices/departments failed to initiate action to rectify the defects, omissions and irregularities pointed out in the IRs. To ensure that action to recover the revenue due does not become time barred, it is recommended that the Government take suitable steps to ensure that prompt and appropriate responses are given to the audit observations, action is initiated against officials/officers failing to send replies to IRs/paragraphs as per the prescribed time schedule and take action to recover loss/outstanding demands in a time bound manner.

1.10 Response of the departments to 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 the audit findings and requesting them to send their response within six weeks. The fact of non-receipt of replies from the 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 the concerned departments. Of these, the Land Revenue and Forest departments did not send any reply. The paragraphs pertaining to these departments have been included in this Report without the response of the departments. Audit review committee meetings were organised on 24 October and 06 November 2008 to discuss the audit findings included in the two reviews. Principal Secretary, Commercial Tax Department and IGR (Inspector General of Registration and Superintendent of stamps, Madhya Pradesh) attended the meeting held on 24 October 2008 and Principal Secretary, Mining along with Principal Secretary, Finance attended the meeting held on 06 November 2008.

1.11 Follow-up on Audit Reports

The Report of the Comptroller & Auditor General of India for the year ended 31 March 2007 (Revenue Receipts) was laid on the table of *Vidhan Sabha* on 19 March 2008. Reports upto the year 2005-06 have been discussed by the Public Accounts Committee (PAC) and Report for year 2006-07 has also been partly discussed. The recommendations of the PAC have been received for Audit Reports pertaining to different years.

Action taken reports (ATN) on the PAC recommendations upto 1992-93 have been received. In respect of Audit Report for 1993-94 and thereafter,

ATNs have not been received from the concerned departments although instructions of November 1994 issued by the State Legislature Affairs Department stipulate that these should be issued within six months from the date of receipt of recommendation by the PAC.

1.12 Compliance with the earlier Audit Reports

During the years between 2002-03 and 2006-07 the department/Government accepted audit observations involving Rs. 601.65 crore of which only Rs. 5.08 crore has been recovered till 31 March 2007 as mentioned below:

(Rupees in crore)			
Year of the Audit Report	Total money value of the Report	Accepted money value	Amount recovered
2002-03	295.70	240.98	0.16
2003-04	125.53	26.26	0.29
2004-05	41.96	13.24	0.28
2005-06	85.85	32.56	2.42
2006-07	318.57	288.61	1.93
Total	867.61	601.65	5.08

1.13 Departmental audit committee meetings

During the year 2007-08, three departmental audit committee meetings were held in which 64 IRs and 341 paragraphs involving money value of Rs. 29.85 crore were settled.

CHAPTER II: COMMERCIAL TAX

2.1 Results of audit

Test check of the assessment cases and other records relating to Commercial Tax Department during the year 2007-08 revealed underassessment, non/short levy of tax and penalty, application of incorrect rate of tax etc., involving Rs. 55.99 crore in 1,002 cases which can be categorised as under:

(Rupees in crore)			
SL No.	Category	Number of cases	Amount
1.	Non/short levy of tax	307	13.29
2.	Application of incorrect rate of tax	172	10.49
3.	Incorrect grant of exemption/deduction/ set off	129	6.18
4.	Incorrect determination of taxable turnover	66	3.21
5.	Other irregularities	328	22.82
Total		1,002	55.99

During the year 2007-08, the department accepted underassessment of tax of Rs. 12.12 crore in 519 cases. All these cases pertained to 2007-08. The department recovered Rs. 47 lakh in 22 cases during the year.

A few illustrative cases involving Rs. 98.69 crore are mentioned in the following paragraphs.

2.2 Non-recovery of tax from closed units

As per the notification dated 19 February 1991 read with notification dated 16 October 1986 and notification dated 6 October 1994, a dealer holding eligibility certificate (EC) for exemption from payment of tax shall keep his industrial unit running during the period of eligibility and also for a period of five years from the date of expiry of the period of eligibility, failing which the EC shall be cancelled by the District Level Committee/State Level Committee (DLC/SLC) which is empowered to issue the EC. The amount of tax exemption availed by the dealer shall also be recovered.

Test check of the records of two regional offices at Gwalior and Indore and one circle office at Indore between July 2006 and February 2008 revealed that out of four dealers holding EC for exemption from payment of tax, two dealers failed to keep their units running during the period of eligibility while two dealers closed the units within five years after expiry of the eligibility period. The assessing authorities (AA), however, did not take any action to refer the matter to the DLC/SLC for cancellation of EC. This resulted in non-recovery of tax benefit of Rs. 75.34 crore which was availed by the dealers upto the period between 2002-03 and 2005-06.

After the cases were pointed out, the Commissioner, Commercial Tax (CCT), Madhya Pradesh stated (July 2008) that in two cases matter had been referred to the Industries Department for cancellation of ECs and recovery of tax benefit with retrospective effect. In other two cases¹, it was reported that action is yet to be finalised.

The matter was reported to the Government between August 2006 and April 2008; their reply has not been received (December 2008).

2.3 Non/short levy of tax

2.3.1 Under Madhya Pradesh *Vanijyik Kar* (MPVK) *Adhiniyam*, 1994, every dealer who in the course of his business purchases any goods which has not suffered tax, shall be liable to pay purchase tax at concessional rate of four *per cent* if after such purchase the goods are used or consumed in the manufacture of other goods for sale. It further stipulates that if the goods so purchased (other than goods specified in schedule III) are used or consumed in the manufacture of other goods which are disposed of otherwise than by way of sale, benefit of concessional rate of four *per cent* shall not be available.

Test check of the records of five regional offices² and three circle offices³ between May 2007 and February 2008 revealed that 15 dealers were assessed between January 2005 and January 2007 for the periods 2001-02 to 2004-05. Of these, in 10 cases, though raw materials/packing materials valued at Rs. 20.48 crore were purchased without paying tax thereon but these were not assessed to tax by the AA. Besides, in five cases, the purchase tax on schedule III goods valued at Rs. 15.95 crore was incorrectly levied at concessional rate. This resulted in non/short levy of tax of Rs. 3.25 crore and penalty of Rs. 43.36 lakh for escaped assessment and interest of Rs. 6.46 lakh.

¹ RAC, Gwalior-02

² Gwalior – 03, Indore, Sagar

³ Guna, Gwalior and Jabalpur

The cases are mentioned below:

(Rupees in crore)

Sl. No.	Name of the unit No. of cases, Period/month of assessment	Purchase value Amount of tax not/short levied (including penalty/interest)	Nature of observation	Reply of the CCT (July 2008)	Comments of audit
(1)	(2)	(3)	(4)	(5)	(6)
1.	Regional Assistant Commissioner (RAC), Gwalior 02 2003-04 November 2006 and January 2007	13.72 1.52	Tax on HSD/ LDO ⁴ was levied at concessional rate of 6.9 percent instead of 28.75/13.8 per cent.	The department has accepted the audit objection and stated that action is in progress.	Final action has not been received.
	RAC, Sagar 01 2003-04 July 2006	0.43 0.09	-do-	The case was re- assessed and a demand of Rs.9.41 lakh had been raised and adjusted against the quantum of exemption.	---
2.	RAC, Gwalior 01 2002-03 January 2006	1.21 0.25	Tax on HSD was levied at concessional rate of 4.6 per cent instead of 28.75 per cent.	The department has accepted the audit objection and stated that action is in progress.	Final action has not been received.
	RAC, Gwalior 01 2003-04 December 2006	0.58 0.20	-do-	-do-	-do-
3.	RAC, Gwalior 02 2003-04 January 2007	2.73 0.63	Purchase tax on HSD/raw material/ packing material purchased without paying tax was not levied.	The department stated that action is in progress.	Final action has not been received.

⁴ HSD – High speed diesel
LDO – Light diesel oil

(1)	(2)	(3)	(4)	(5)	(6)
4.	RAC, Gwalior 03 2002-03 and 2003-04 August 2005 November 2005 January 2006 November 2006	14.24 0.84	Purchase tax on HSD/raw material/ packing material purchased without paying tax was not levied.	In respect of case relating to 2002- 03, demand of Rs. 2.09 lakh was raised and adjusted against quantum of exemption.	Reply in the remaining cases has not been received.
	CTO, Guna 02 2003-04 December 2006 & January 2007	2.25 0.10	-do-	The department stated that action is in progress.	Final action has not been received.
	CTO, Gwalior 01 2004-05 June 2006	0.30 0.02	-do-	-do-	-do-
	CTO, Jabalpur 01 2001-02 January 2005	0.15 0.01	-do-	Bottles purchased from URD were used in packing of tax free liquor.	Liability of tax under section 10 is attracted even if finished goods are tax-free.
5.	RAC, Indore 01 2003-04 December 2006	0.81 0.06	Purchase tax on raw material used in the manufacture of other goods, which was stock transferred, was not levied	The department stated that action is in progress.	Final action has not been received.

2.3.2 Under notification dated 15 January 1992 and 6 October 1994 issued under Madhya Pradesh General Sales Tax (MPGST) Act, 1958, the tax chargeable on goods manufactured by a dealer holding EC shall be adjusted against quantum of exemption specified in EC itself.

Test check of the records of five regional offices⁵ and two circle offices⁶ between April 2007 and February 2008 revealed that out of seven dealers holding EC and assessed between February 2004 and January 2007 for the periods 1999-2000 to 2003-04, tax chargeable on sale/stock transfer (within state) of manufactured goods valued at Rs. 31.43 crore in case of five dealers was not levied/calculated, while in two cases although tax of Rs. 1.45 crore was levied, the same was not adjusted against the quantum of exemption specified in their ECs. This resulted in incorrect grant of tax benefit of Rs. 3.80 crore.

⁵ Gwalior – 02, Indore – 02, Morena

⁶ Guna and Vidisha

After the cases were pointed out, the CCT intimated (July 2008) that in three cases demand of Rs. 1.58 crore had been raised and adjusted against the quantum of exemption of respective dealers. In the remaining four cases⁷, it was reported that action was in progress.

The matter was reported to the Government between April 2007 and April 2008; their reply has not been received (December 2008).

2.4 Incorrect grant of exemption

2.4.1 As per the exemption notification dated 6 October 1994 issued under the Madhya Pradesh General Sales Tax (MPGST) Act, 1958, a new industrial unit engaged in repacking of goods is not eligible for exemption. The notification also provides for exemption to the dealer who undertakes expansion in his existing industrial unit for the quantum of goods manufactured by him which is in excess of 100 *per cent* of the original capacity of the existing unit. Exemption notifications dated 19 February 1991, 6 October 1994 and 6 June 1995 provide for exemption in respect of manufactured goods and to the extent of maximum quantum of tax as specified in the EC issued thereunder.

Test check of the records of six regional offices and one circle office between July 2006 and February 2008 revealed that eight dealers assessed/reassessed between August 2005 and January 2007 for the periods 2000-01 to 2003-04 were allowed incorrect exemption having tax effect of Rs. 4.74 crore and interest of Rs. 1.40 crore, as mentioned below:

Sl. No.	Name of the unit	Period Month of assessment	Observation in brief
(1)	(2)	(3)	(4)
1.	RAC, Indore	<u>2002-03</u> August 2005	Three dealers engaged in bottling of liquefied petroleum gas (LPG) from bulk containers were allowed exemption from payment of tax on the basis of ECs issued to them. This was not correct because as per the exemption notification dealers engaged in repacking of goods are not eligible for exemption. This deprived the Government of revenue of Rs. 1.60 crore.
	RAC, Sagar	<u>2002-03</u> December 2005	
	CTO- VI, Bhopal	<u>2002-03</u> January 2006	
After the cases were pointed out, the CCT in two cases ⁸ replied (July 2008) that as per a letter dated 16 June 1998 issued by the Government (Commercial Tax Department), refilling of LPG is a process of manufacture, as such the exemption allowed was correct. The reply is not acceptable in view of the judicial decisions ⁹ wherein it has been held that refilling of LPG is not a manufacturing process but in fact, repacking of goods. In one case reply has not been received.			
2.	RAC, Gwalior	<u>2003-04</u> October 2006	As per the EC issued, the dealer was eligible for exemption from tax to the extent of Rs. 60.33 lakh which had been availed of by him upto 1997-98, but the AA while finalising the assessment for the period 2003-04 allowed him a further exemption of Rs. 1.56 crore. This resulted in non-realisation of tax to that extent and interest of Rs. 72.48 lakh.
After the case was pointed out, the CCT intimated (July 2008) that action was in progress.			

⁷ CTO, Guna-01, RAC, Gwalior-02, RAC, Indore-01

⁸ RAC, Indore and RAC, Sagar

⁹ State of Gujarat Vs Kosan Gas Co. 1992-STC-237 (Gujarat High Court)
Modi Gas Service, Indore Vs State of MP & Others 2006-8-STJ-536 (MP High Court)

(1)	(2)	(3)	(4)
3.	RAC, Gwalior	<u>2002-03</u> January 2006	Tyre fabric and un-machined castings were not specified in the ECs of the dealers, but the AA in one case allowed exemption from tax leviable on the purchase of raw material of Rs. 6.38 crore used in the manufacture of tyre fabric and in another case deferment of tax of Rs. 75.28 lakh was incorrectly allowed on the sale of un-machined castings of Rs. 19.57 crore. This resulted in non-realisation of tax of Rs. 1.28 crore and interest of Rs. 67.75 lakh.
	RAC, Indore	<u>2003-04</u> December 2006	
<p>After the cases were pointed out, the CCT in case of tyre fabric (RAC, Gwalior) while accepting the audit observation intimated (July 2008) that action was in progress and in another case of RAC, Indore it was stated that "un-machined castings" and "iron casted parts" as mentioned in the EC are one and the same thing. The reply is not acceptable because in the assessment order tax was levied at the rate of four <i>per cent</i> treating the goods as un-machined castings, whereas as per EC the dealer deals in "iron casted parts and components of motor vehicles" which is taxable at the rate of 13.8 <i>per cent</i>. Hence both the goods are different.</p>			
4.	<u>RAC, Gwalior</u>	<u>2002-03</u> January 2006	Two dealers as per ECs issued to them by virtue of expansion in their existing units, were eligible for exemption from tax in respect of turnovers of Rs. 11.30 crore and Rs. 7.68 crore whereas the AAs allowed exemption on turnovers of Rs. 14.60 crore and Rs. 8.68 crore respectively. This resulted in grant of exemption on excess turnover of Rs. 4.31 crore having tax effect of Rs. 30.10 lakh.
	RAC, Indore	2000-01 November 2006	
<p>After the cases were pointed out, the CCT intimated (July 2008) that action was in progress.</p>			

2.4.2 The notifications dated 13 April 2000 and 12 October 2000 issued under the MPVK *Adhiniyam* exempt goods manufactured and sold by a small scale industry (SSI) to MP *Laghu Udyog Nigam* and specified village industries whose turnover does not exceed Rs. 10 lakh respectively.

Test check of the records of circle offices at Shahdol and Vidisha between April 2007 and August 2007 disclosed that out of two dealers assessed in January 2006 and December 2006 for the period 2002-03 and 2003-04, in a case in which the dealer was not an SSI and in case of a village industry whose turnover exceeded Rs. 10 lakh, exemption was incorrectly allowed from tax leviable on their taxable turnover aggregating Rs. 73 lakh. This resulted in non-realisation of tax of Rs. 4.28 lakh and penalty of Rs. 2.43 lakh.

After the cases were pointed out, the CCT intimated (July 2008) that the demand aggregating Rs. 4.28 lakh along with penalty of Rs. 2.43 lakh had been raised out of which Rs. 50,000 had been recovered.

The matter was reported to the Government between March 2007 and April 2008; their reply has not been received (December 2008).

2.5 Non-recovery of profession tax

As per the provisions of section 3 (2) of Profession Tax Act, 1995, every person who carries on a trade himself or by an agent or representative or who follows a profession or calling other than agriculture in Madhya Pradesh shall be liable to pay tax at the rate ranging from Rs. 1,000 to Rs. 2,500 per annum as specified against the class of such persons in the schedule of the Act. Section 8 (2) of the Act further provides that such person liable to pay tax shall obtain a certificate of registration from the profession tax AA in the prescribed manner.

Cross verification of the information collected from 30 commercial tax officers¹⁰ with the list of licencees of liquor, cinema houses, video parlours and cable operators provided by the State Excise Department and list of beauty parlours registered under service tax from Customs & Central Excise Department revealed that for the years 2002-03 to 2006-07, 666 liquor licencees, 220 cinema houses, 14 video parlours, 5,822 cable operators and 1,938 beauty parlours remained unregistered under the Act although they were liable to pay profession tax. This resulted in non-realisation of profession tax of Rs. 2.07 crore.

The matter was reported to the CCT and the Government in April and May 2008; their reply has not been received (December 2008).

2.6 Application of incorrect rate of tax

The MPVK *Adhiniyam* read with the Central Sales Tax (CST) Act, 1956 and the notifications issued thereunder specify the rates of commercial tax leviable on different commodities.

Test check of the records of seven regional offices¹¹ and nine circle offices¹² between July 2006 and February 2008 revealed that in case of 18 dealers assessed between November 2003 and January 2008 for the period 1999-2000 to 2004-05, tax on the sales turnover of Rs. 26.39 crore was levied at incorrect rates. This resulted in short levy of tax of Rs. 1.50 crore and interest of Rs. 76,000.

After the cases were pointed out, the CCT intimated (July 2008) that in six cases demand of Rs. 40.95 lakh had been raised, out of which, Rs. 1.90 lakh has been recovered and that in eight cases action was in progress. In the remaining four cases, position of departmental replies and audit comments is mentioned below:

Sl. No.	Name of the unit	Commodity	CCT's reply (July 2008)	Audit comment
(1)	(2)	(3)	(4)	(5)
1.	RAC, Jabalpur	Towers	Board of Revenue (14 CTJ 98) has held that high voltage transmission towers are steel structurals.	Said decision of Board of Revenue is not applicable in the instant case because the commodity "towers" was included in schedule II ¹³ of the Act from 1 January 2000 whereas the decision was issued prior to that date.

¹⁰ CTO, Bhopal (6), CTO, Indore (15), CTO, Jabalpur (4), CTO, Ratlam (2) and CTO, Ujjain (3)

¹¹ Gwalior-03, Indore-02, Jabalpur and Satna

¹² Gwalior-02, Indore-02, Jabalpur-03, Mandla and Shahdol

¹³ Schedule II of the Act specifies rates of tax on different commodities

(1)	(2)	(3)	(4)	(5)
2.	RAC, Gwalior	Chlorinated paraffin wax	The commodity is chemical.	As per the CCT, MP orders issued in case of M/s BCM Organic Chemicals, Indore, the said commodity is a chemical compound and exigible to tax as unspecified item.
3.	CTO, Shahdol	Chlorinated paraffin wax	The unit is closed; case has been referred to the Industries Department for cancellation of EC.	The reply does not explain action taken to recover the amount of tax.
4.	CTO III, Jabalpur	Craft Paper	As per a notification dated 1.10.1978, craft paper is taxable at the rate of four <i>per cent</i> as packing material.	The said notification has not been in force since introduction of the MP Commercial Tax (MPCT) Act, 1994. Craft paper has been included in "All kinds of paper" under the MPCT Act.

The matter was reported to the Government between August 2006 and April 2008; their reply has not been received (December 2008).

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

The MPVK *Adhiniyam* and notifications issued thereunder prescribe rates of commercial tax leviable on different commodities except those specified under schedule I of the Act and those, which are exempted from tax through notifications.

2.7.1 Test check of the records of seven regional offices¹⁴ and two circle offices¹⁵ between April 2007 and February 2008 revealed that in case of 13 dealers assessed between December 2005 and January 2007 for the periods 2002-03 and 2003-04, tax on high density poly ethylene/poly propylene (HDPE/PP) fabric valued at Rs. 22.08 crore was not levied treating the same as tax free goods. This resulted in non-levy of tax of Rs. 1.15 crore and penalty of Rs. 28.63 lakh for escaped assessment.

After the cases were pointed out, the CCT, in one case (CTO Gwalior) stated (July 2008) that a demand of Rs. 5.45 lakh had been raised, whereas in 10 cases¹⁶ it was stated that the goods were exempted as cloth under notification dated 24 August 2000. The reply is not acceptable as the notification dated 24 August 2000 exempts all varieties of cloth and is not applicable to HDPE fabric, which is a plastic good. There was also inconsistency in the contention of the department. In two cases¹⁷, final reply has not been received (December 2008).

¹⁴ Gwalior (3), Indore (4)

¹⁵ Gwalior and Indore

¹⁶ RAC, Gwalior – 2 cases, RAC, Indore (4) – 7 cases, CTO, Indore – 1 case.

¹⁷ RAC, Gwalior-02

2.7.2 Test check of the records of a circle office at Dhar in November 2007 revealed that in case of a dealer assessed in December 2006 for the period 2003-04, tax on plastic *niwar*¹⁸ valued at Rs. 36.58 lakh was not levied treating it as tax free goods. This resulted in non-levy of tax of Rs. 3.37 lakh.

After the case was pointed out, the CCT replied (July 2008) that the dealer manufactured and sold elastic tape which was tax free in view of CCT's order dated 23 April 1999 issued in the case of M/s Kohinoor Plastic (P) Ltd., Indore. However, the fact remains that the said order relates to the period prior to 15 March 2000 when the revised schedule I came into existence which did not include elastic tape as tax free goods. Thus the said order has lost its relevance.

2.7.3 Test check of the records of a circle office at Gwalior in April 2007 revealed that in case of a dealer assessed in June 2005 for the period 2002-03, tax on footwears valued at Rs. 22.18 lakh was not levied treating them as tax free goods. This resulted in non-levy of tax of Rs. 1.67 lakh.

After the case was pointed out, the CCT intimated (July 2008) that a demand of Rs. 2.10 lakh had been raised and adjusted against quantum of exemption.

2.7.4 Test check of the records of a circle office at Indore in October 2007 revealed that in case of a dealer assessed in January 2006 for the period 2003-04, tax on non biodegradable composite recycle board (NDCRB) valued at Rs. 16.06 lakh was not levied treating it as tax free goods. This resulted in non-levy of tax of Rs. 1.48 lakh.

After the case was pointed out, the CCT intimated (July 2008) that a demand of Rs. 1.48 lakh had been raised.

2.7.5 Test check of the records of a circle office at Jabalpur in December 2007 revealed that in case of a dealer assessed in January 2006 and December 2006 for the periods 2002-03 and 2003-04, tax on poultry feed valued at Rs. 51.90 lakh was not levied treating it as tax free goods. This resulted in non-levy of tax of Rs. 1.19 lakh.

After the case was pointed out, the CCT intimated (July 2008) that a demand of Rs. 1.19 lakh had been raised. A report on recovery in the aforesaid cases has not been received (December 2008).

The matter was reported to the Government between June 2007 and April 2008; their reply has not been received (December 2008).

2.8 Non/short levy of penalty

Under the 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 or purchases or the total tax shown as payable according to the returns and paid by him for any period is less than 80 per cent of the total tax assessed, the Commissioner may impose on him penalty of a sum which shall not be less than three times of the amount of tax evaded.

¹⁸

Tape used for weaving cots.

Test check of the records of two regional offices at Gwalior and one circle office at Indore between September 2007 and February 2008 revealed that in case of five dealers, though tax evasion of Rs. 47.73 lakh on account of concealment of turnover was determined, yet the AAs failed to impose a minimum penalty of Rs. 1.42 crore as mentioned below:

Sl. No.	Name of the unit	Period Month of assessment	Nature of observation
1.	RAC, Gwalior	1999-2000 January 2007	Although tax of Rs. 19.95 lakh was levied on account of concealed turnover of high speed diesel oil but penalty of Rs. 59.86 lakh under Section 69 was not imposed.
2.	RAC, Gwalior	2003-04 December 2006	Although evasion of entry tax of Rs. 14.47 lakh was determined but minimum penalty of Rs. 43.42 lakh was not imposed.
3.	RAC, Gwalior	2003-04 December 2006	Amount of tax paid (Rs. 5.13 lakh) by the dealer was less than 50 per cent of the tax assessed of Rs. 10.70 lakh, but a minimum penalty of Rs. 16.71 lakh (i.e. three times of tax evasion of Rs. 5.57 lakh) was not imposed.
4.	RAC, Gwalior	2003-04 January 2008 (Month of Revision Order)	Although there was tax evasion of Rs. 7.17 lakh in terms of Section 69(3) of the Act, penalty equal to three times of tax evaded, i.e. Rs. 21.52 lakh, was not levied.
5.	CTO VII, Indore	1995-96 December 2006	As against the minimum penalty of Rs. 1.72 lakh, the AA imposed Rs. 1.15 lakh only. This resulted in short levy of penalty of Rs. 57,000.

After the cases were pointed out, the CCT intimated (July 2008) that action was in progress.

The matter was reported to the Government between December 2007 and March 2008; their reply has not been received (December 2008).

2.9 Non/short levy of entry tax

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

Test check of the records of nine regional offices¹⁹ and two circle offices²⁰ between May 2007 and February 2008 revealed that in case of 16 dealers assessed between December 2005 and March 2007 for the period 2002-03 to 2005-06, ET on goods like cement, timber, furnace oil, motor vehicles, iron and steel, bearings etc. valued at Rs. 31.92 crore was not/short levied on their entry into local area. This resulted in non/short levy of ET of Rs. 34.39 lakh and interest/penalty of Rs. 2.89 lakh.

¹⁹ Gwalior (3), Indore (2), Jabalpur (2), and Satna (2)

²⁰ Dhar and Indore

After the cases were pointed out, the CCT intimated (July 2008) that in nine cases demand of Rs. 17.22 lakh including penalty of Rs. 99,000 had been raised. In two cases²¹ it was reported that action was in progress.

In remaining five cases the replies were as under:

In one case, the CCT replied (July 2008) that furnace oil was purchased from a local registered dealer, hence was not liable to tax. The reply is not acceptable because although the said good was purchased from a local registered dealer, it was not of local origin and as such was liable to tax under schedule III of the Act.

In one case, the CCT replied (July 2008) that it was the purchase of broiler breeder layer which was tax-free. Reply is factually incorrect as the said good is not covered under schedule I of the Act.

In one case of short levy of ET on iron and steel, the CCT replied that the iron and steel was used in the manufacture of steel structurals, hence tax levied was correct. The reply is not acceptable because the manufactured goods were towers which are different from steel structurals. Hence, iron and steel used in their manufacture was liable to ET at the rate of 1.5 *per cent* instead of one *per cent*.

In case of soft drink, the CCT replied (July 2008) that soft drink was tax paid. The reply is factually incorrect because it was evident from the invoices issued by the manufacturing unit that ET was not charged therein.

In one case, the CCT replied (July 2008) that as per a judicial decision in the case of M/s Jai Prakash Associates, factory situated on railway's land is not covered under "local area". The reply is not relevant because subject of the said decision was "reopening of assessment" and not to decide whether railway siding is a local area. Further, MP Board of Revenue in its judgement²² of 2002 held that railway sidings and rail lines are covered in local area.

The matter was reported to the Government between June 2007 and April 2008; their reply has not been received (December 2008).

2.10 Incorrect deduction of tax paid sales

The MPVK *Adhiniyam* and rules and notifications issued thereunder provide deduction of tax paid goods on which tax has been paid within the State to determine the taxable turnover. Under the *Adhiniyam*, packing material shall be liable to tax at the same rate as applicable to the goods packed therein.

2.10.1 Test check of the records of two regional offices and two circle offices at Indore between March 2007 and December 2007 revealed that five dealers assessed between January 2004 and January 2007 for the periods 2000-01 to 2003-04 sold tax paid packing material valued at Rs. 2.61 crore with taxable goods packed therein. The AA, however, allowed deduction of such tax paid packing material which was not admissible. This resulted in short levy of tax of Rs. 18.68 lakh.

²¹ RAC, Gwalior-02

²² Larsen and Tubro Ltd. v. CCT (2002) 35 VKN 50 (MP-Board)

After the cases were pointed out, the CCT in four cases stated (July 2008) that the deduction allowed was correct in view of MP High Court decision in the case of M/s Raymond Cement Works (1997-30-VKN-219) and MPCT Appellate Board decision in the case of M/s Pure Pharma Ltd., Indore. The reply is not acceptable as the Supreme Court in the case of M/s Premier Breweries Ltd. Vs State of Kerala (1999-23-TLD-241) has ruled that "in calculating turnover of the goods, packing material will have to be taken into account. The packing material will be taxed at the same rate and at the same point as the goods contained therein. This is a rule of computation of the turnover of the goods". In one case²³ the CCT intimated that action is yet to be finalised.

2.10.2 Test check of the records of a circle office at Burhanpur in March 2007 revealed that intra state sale of cement of Rs. 26.22 lakh by a dealer assessed in December 2003 for the period 2000-2001 was incorrectly treated as tax paid and tax was not levied. As the cement was purchased from Chhattisgarh State after 1 November 2000 i.e. date on which the state of Chhattisgarh was carved out of MP, hence the sale was liable to tax. This resulted in non-levy of tax of Rs. 3.62 lakh and interest of Rs. 2.30 lakh.

After the case was pointed out, the CCT intimated (July 2008) that a demand of Rs. 5.10 lakh had been raised.

The matter was reported to the Government between April 2007 and March 2008; their reply has not been received (December 2008).

2.11 Mistake in calculation of tax

Test check of the records of one regional office and one circle office at Indore between June 2007 and August 2007 revealed that in case of two dealers assessed between September 2006 and December 2006 for the period 2003-04, there was mistake in calculation of tax which resulted in short levy of tax of Rs. 19.35 lakh and a penalty of Rs. 8.89 lakh as mentioned below:

(Rupees in crore)

Sl. No.	Name of the unit	Name of commodity	TTO	Rate of tax levied (Per cent)	Amount of tax leviable	Incorrect amount of tax levied	Amount of short levy
1.	RAC, Indore	Lecithin, deoiled cake	4.44	4.60	0.20	0.19	0.01
		Soya Oil	9.41	4.00	0.38	0.34	0.04
		Soya flour, flax, sludge	8.84	9.2	0.81	0.76	0.05
2.	CTO, Indore	Rubber articles	1.68	13.8	0.25	0.16	0.09
		Raw material purchase	0.50	4.6			

The cases were reported to the CCT, MP and the Government between August 2007 and December 2007; their reply has not been received (December 2008).

2.12 Non-levy of surcharge

Under the MPVK *Adhiniyam*, any registered dealer who carries on wholly or partly the business of supplying goods in the course of execution of works contract entered into by him may be permitted to pay, in lieu of tax payable by him under the Act, a lump sum at such rate as may be prescribed. Under the *Adhiniyam* and notifications issued thereunder, surcharge is leviable on the amount of tax at the rate of 15 *per cent*. The surcharge is in addition to the amount of tax payable under the Act.

Test check of the records of four regional offices²⁴ and three circle offices²⁵ between August 2007 and February 2008 revealed that 11 works contract dealers in 16 cases assessed for the period 2002-03 to 2005-06 between July 2005 and March 2007, paid Rs. 1.80 crore in lieu of tax at the prescribed lump sum rate. However, they did not pay surcharge at the rate of 15 *per cent* on the amount of tax so paid. This resulted in non-realisation of surcharge of Rs. 26.94 lakh.

After the cases were pointed out, the CCT stated (July 2008) that the amount paid in lump sum under Section 19 is different from tax, hence surcharge is not payable under Section 10-A. The reply does not correctly interpret the Act. The amount paid by the dealer under section 19 cannot be said to be different from tax. Further, section 10-A does not provide any exemption in respect of tax payable under section 19. In addition, some of the CTOs are charging surcharge on the lump sum rates specified under section 19, hence, the departmental stand is not consistent.

The matter was reported to the Government between September 2007 and April 2008; their reply has not been received (December 2008).

2.13 Incorrect determination of taxable turnover

Under the MPVK *Adhiniyam*, taxable turnover in relation to any period means that part of a dealer's turnover, which remains after allowing prescribed deductions therefrom.

Test check of the records of two regional offices and one circle office between July 2007 and August 2007 revealed that incorrect determination of taxable turnover in respect of three dealers resulted in short levy of tax

²⁴ Gwalior, Jabalpur, Mandsaur and Sendhwa
²⁵ Mandsaur, Morena and Vidisha

of Rs. 21.65 lakh and penalty of Rs. 1.02 lakh as mentioned below:

(Rupees in lakh)						
Sl. No.	Name of the unit	Period Month of assessment	Part of turnover that escaped from assessment	Commodity Rate of tax (Per cent)	Amount of short levy	Observation of audit
1.	RAC, Indore	2000-01 (Remand) August 2006	170.54	Medicines 9.2	15.69	As against the eligible deduction of Rs. 3.41 crore on account of stock transfer, a deduction of Rs. 5.11 crore was incorrectly allowed.
2.	RAC, Satna	2003-04 December 2006	42.22 7.67	Conveyor belt material 9.2 Retreading material 13.8	4.94	In respect of a dealer engaged in the work of repairing of conveyor belts, value of conveyor belt material and retreading material used in the repairing of belts was not included in taxable turnover treating them as consumable stores.
3.	CTO V, Indore	2003-04 January 2007	26.52	Iron and steel 4	1.02 + 1.02 (penalty)	As per trading account of the dealer, although the sale was taxable, the AA did not levy tax treating the same as tax paid.

After the cases were pointed out, the CCT intimated (July 2008) that in one case demand of Rs. 2.04 lakh had been raised. In one case, it was reported that action was in progress.

In the remaining case, the CCT stated that during the process of repairing of conveyor belt and tyres the goods namely conveyor belt material and retreading material lose their identity. Audit is, however, of the opinion that properties of the conveyor belt material and retreading material stood

transferred in the finished goods, as has been held in two judicial decisions²⁶ that in the process of sizing of yarn, sizing materials like starch and chemicals are not only used but their properties also stand transferred, hence exigible to tax.

The matter was reported to the Government between September 2007 and February 2008; their reply has not been received (December 2008).

2.14 Short levy of tax due to grant of incorrect deduction

Section 2 (w) (v) of MPVK *Adhiniyam* and Section 8-A of the CST Act prescribe a formula to arrive at the amount of taxable turnover. It also provides that no deduction on the basis of the formula shall be allowed if the amount of tax is not included in the aggregate of the sale prices.

Test check of the records of five regional offices²⁷ and four circle offices²⁸ between March 2004 and February 2008 revealed that in case of 14 dealers assessed between April 2002 and January 2007 for the periods 1999-2000 to 2004-05, deduction aggregating Rs. 2.84 crore was allowed incorrectly as the commercial tax was not included in the sale prices. This resulted in short levy of tax of Rs. 20.10 lakh.

After the cases were pointed out, the CCT intimated (July 2008) that in case of nine dealers demand of Rs. 6.15 lakh had been raised and adjusted against quantum of exemption. In four cases²⁹ it was reported that action was in progress.

In one case it was replied that tax and surcharge charged separately by the seller companies was included in the turnover, hence, deduction allowed was correct. The reply is factually incorrect because from the audited balance sheet of the dealer it is evident that tax was not included in the sale price.

The matter was reported to the Government between May 2004 and April 2008; their reply has not been received (December 2008).

2.15 Non/short levy of value added tax

Under section 9B of the MPVK *Adhiniyam*, value added tax (VAT) is leviable at the prescribed rates on the added value of resale of goods specified in Part II to VI of schedule II of the *Adhiniyam*.

Test check of the records of four regional offices³⁰ and two circle offices³¹ between October 2004 and February 2008 revealed that in case of six dealers assessed between May 2002 and January 2007 for the periods 1999-2000 to 2003-04, there was non/short levy of VAT due to non/under determination of added value of Rs. 71.76 lakh and grant of incorrect deduction of discount and sales returns of Rs. 1.07 crore. This resulted in non-realisation of VAT of Rs. 14.61 lakh.

²⁶ Neelam Textile Industries Vs Additional STO (2000) 33 VKN 107 (MP) and SP Tools and Processors Vs CST MP (2001) 27 TLD 223 (BOR)

²⁷ Gwalior (2), Indore, Khandwa and Ujjain

²⁸ Indore (2), Jabalpur and Khargone

²⁹ RAC, Gwalior-03, RAC, Indore-01

³⁰ Gwalior (2), Indore (2)

³¹ Chhindwara. Mandsaur

After the cases were pointed out, the CCT intimated (July 2008) that in three cases, demand of Rs. 5.53 lakh had been raised out of which Rs. 57,918 adjusted against quantum of exemption while in two cases³² it was stated that action is yet to be finalised. In one case the CCT stated that determination of opening balance of Rs. 40.31 lakh as against actual amount of Rs. 56.31 lakh caused proposed additional liability of VAT. The reply is factually incorrect because in the audited balance sheet itself the opening balance was recorded as Rs. 40.31 lakh.

The matter was reported to the Government between December 2004 and April 2008; their reply has not been received (December 2008).

2.16 Short levy of tax on intra state sale treated incorrectly as inter state sale

As per the CST Act, sale of goods shall be deemed to take place in the course of interstate trade, if the sale occasions the movement of goods from one state to another or is effected by a transfer of documents of title to the goods during their movement from one state to another. It further stipulates that if the movement of goods commences and terminates in the same state it shall not be deemed to be a movement from one state to another.

Test check of the records of a regional office at Indore in August 2007 revealed that two dealers assessed for the period 2003-04 in October 2006 and January 2007 sold cement pipes valued at Rs. 1.99 crore to the local registered dealers. The AA, however, while finalising the assessment treated the local sale as interstate sale incorrectly and allowed levy of tax at concessional rate of four *per cent* on the basis of 'C' forms issued by the said local purchasing dealers. This resulted in short levy of tax of Rs. 18.72 lakh at the differential rate of 9.8 *per cent*.

After the case was pointed out, the CCT stated (July 2008) in respect of one dealer viz. M/s Kalani Industries that copies of bills and *bilties* submitted by the dealer proved the transaction as inter-State sale. The reply is not acceptable because the said bills belonged to M/s Kalani Asbestos instead of M/s Kalani Industries. Secondly, as per copies of *bilties* furnished by the CCT, consignee is self. As such the reply appears misleading. Reply in respect of another dealer has not been received (December 2008).

The matter was reported to the Government in October 2007; their reply has not been received (December 2008).

2.17 Non/short levy of tax under Central Sales Tax Act

The CST Act and the rules made thereunder lays down that every selling dealer who fails to furnish form 'C' received from and duly signed by the purchasing dealers shall be liable to pay tax in respect of the interstate sales of goods at the rate of 10 *per cent* or at the specified rate whichever is higher, instead of the concessional rate.

³²

RAC, Gwalior-02

Test check of the records of three regional offices³³ and four circle offices³⁴ between September 2006 and January 2008 revealed that in case of 11 dealers, tax on interstate sales of goods of Rs. 16.37 crore in respect of which form 'C' were not furnished, was levied at concessional/incorrect rate. This resulted in short levy of tax of Rs. 1.15 crore as mentioned below:

(Rupees in crore)

Sl. No.	Name of the unit No. of cases	Period Month of assessment	Commodity Turnover	Rate of tax applied (Per cent)	Rate of tax applicable (Per cent)	Short levy of tax
1.	RAC, Indore 03	2002-03 August 2005 to November 2005	PVC Sheets & doors 7.08	4	13.8	0.72
			Aluminium section & profiles 0.22	4	10	
			Drugs & Medicines 0.17	4	10	
2.	RAC, Indore 01	2003-04 January 2007	Medicines 3.49	6	10	0.14
3.	RAC, Gwalior 02	2002-03 & 2003-04 November 2005 January 2007	PVC Sheets 2.53	10	13.8	0.10
			Jelly belly & milk bar 0.42	4	13.8	0.05
4.	CTO-IV, Jabalpur 01	2002-03 January 2006	Readymade garments 0.83	4	10	0.05
5.	CTO-III, Gwalior 01	2002-03 December 2005	Carbon brush & block 0.72	4	10	0.04
6.	CTO, Guna 01	2003-04 December 2006	Dhaniya, daal 0.45	4	10	0.03
7.	CTO-VIII, Indore 02	2002-03 January 2006	Leaf spring 0.46	4	10	0.03

After the cases were pointed out, the CCT intimated (July 2008) that in three cases demand of Rs. 19.38 lakh had been raised out of which Rs. 14.43 lakh adjusted against quantum of exemption and in remaining cases³⁵ the action was in progress.

The matter was reported to the Government between November 2006 and March 2008; their reply has not been received (December 2008).

³³ Gwalior, Indore (2),

³⁴ Guna, Gwalior, Indore and Jabalpur.

³⁵ RAC, Indore-04, CTO Guna-01, CTO III, Gwalior-01, CTO VIII, Indore-02

CHAPTER III : STATE EXCISE

3.1 Results of audit

Test check of the records of State Excise conducted during 2007-08 revealed non-assessment, under assessment, loss of revenue and non-levy of penalty amounting to Rs. 88.06 crore in 12,185 cases, which can be categorised as under:

(Rupees in crore)			
Sl. No.	Category	Number of cases	Amount
1.	Non-levy/recovery of duty on excess wastages.	10,070	25.06
2.	Non-levy of penalty on non-maintenance of minimum stock of country spirit/rectified spirit.	272	5.54
3.	Non-levy of penalty for breach of license conditions.	348	4.74
4.	Non-realisation of license fee from excise shops	127	2.05
5.	Loss in re-auction/bidding of excise shops.	23	1.88
6.	Others	1,345	48.79
Total		12,185	88.06

During the year 2007-08, the department accepted underassessment of tax of Rs. 24.73 crore involved in 9,520 cases of which 9,489 cases involving Rs. 21.76 crore were pointed out during 2007-08 and remaining cases in earlier years. In 31 cases, Rs. 2.72 crore has been recovered.

A few illustrative cases involving Rs. 7.95 crore are mentioned in the following paragraphs.

3.2 Non-realisation of excise duty on unacknowledged export of foreign liquor/beer

The Madhya Pradesh Foreign Liquor (MPFL) Rules, 1996 provide that the export of foreign liquor (FL)/beer within India is permissible on payment of duty or on furnishing a bank guarantee or on executing a bond with adequate solvent sureties for the amount of duty involved. The licensee should obtain a verification report from the importing unit and furnish it to the authority who issued the permit within 40 days of the expiry of the permit. If the licensee fails to do so, duty leviable on liquor exported shall be recovered from him in addition to any other penalty under the rules.

Test check of the records in distilleries and breweries of six districts¹ and the canteen stores department in Jabalpur district between July 2007 and March 2008 revealed that the licensees exported 1,68,616.35 proof litres² of foreign liquor and 1,37,661.0 bulk litres of beer on 66 permits between September 2006 and January 2008. The verification reports were not received within time and action for recovery of duty of Rs. 4.02 crore was not taken by the department. This resulted in non-realisation of excise duty of Rs. 4.02 crore.

After the cases were pointed out, the EC stated (June 2008) that 12 cases are under consideration in different courts for violation of conditions of the permits and in 51 cases, the verification reports have been received, while in one case of Gwalior, action is being taken for less receipt of liquor due to accident of vehicle. The reply regarding two cases of Raisen district has not been received. The reply is not acceptable as the action for recovery of duty was not taken for non receipt of verification reports within the prescribed time limit as per rule. Besides, the reply does not clarify whether the verification reports were received in time. Reply of the Government has not been received (December 2008).

3.3 Non-realisation of excise duty due to non-disposal of spirit, molasses and foreign liquor

The MPFL Rules and the Madhya Pradesh Distillery Rules, 1995 provide that on expiry, non-renewal and cancellation of licence or labels, the licensee shall place the entire stock of spirit, molasses and bottled foreign liquor under the control of the excise officer. However, the licensee can be permitted to dispose of such stock to any other licensee within 30 days of such expiry or cancellation, failing which the EC may ask any other eligible licensee of the state to purchase such stock or may give necessary directions for the disposal of the stock so that the excise duty may be realised.

Test check of the records in one distillery³, one foreign liquor bottling plant⁴ and two breweries⁵ of four districts⁶ between July 2007 and March 2008 revealed that 11,335.3 proof litres of bottled foreign liquor, 42,833.675 bulk

¹ Bhopal, Chhattarpur, Gwalior, Jabalpur, Morena, and Raisen.

² The strength of proof as ascertained by sikes hydrometer or by any other instrument approved by the Excise Commissioner (EC)

³ Ratlam Alcohol Plant

⁴ M/s Gold water Breweries, Malanpur

⁵ M/s Jagpin Breweries Nowgaon and M.P. Beer, Indore.

⁶ Bhind, Chhattarpur, Indore and Ratlam

litres of beer and 74,554.9 proof litres spirit involving duty of Rs. 1.26 crore was in stock in the plant at the time of expiry of licence/label between February 2005 and September 2007. No effort was made by the licensees/department to dispose of the stock even after a lapse of 5 to 32 months. This resulted in non-realisation of revenue of Rs. 1.26 crore.

After the cases were pointed out, the EC stated (June 2008) that action to dispose of the stock of spirit relating to Indore and Ratlam district is being taken while orders to destroy the beer relating to Chhattarpur district has been issued. Foreign liquor relating to Bhind district is not fit for human consumption for which orders of destruction could not be issued as the case is pending in the Court. Thus, inaction of the department to dispose of the foreign liquor resulted in loss of revenue. Report on further development has not been received (December 2008). The reply of the Government has not been received (December 2008).

3.4 Non-maintenance of minimum stock of spirit at distillery

The Madhya Pradesh Distillery Rules require the licensee to maintain the prescribed minimum stock of spirit at the distillery. In the event of failure, the EC may impose a penalty not exceeding Rs. five per proof litre on the quantity found short of the minimum prescribed stock. The penalty shall be payable by the licensee irrespective of the fact whether any loss has actually been caused to the Government.

Test check of the records in one distillery of Raisen district in January 2008 revealed that the distiller did not maintain the prescribed minimum stock of spirit on 105 occasions between September 2006 and November 2007 but the authority had not levied penalty of Rs. 1.14 crore on 22.94 lakh proof litre spirit which was found short of the minimum prescribed stock.

After the case was pointed out, the EC stated (June 2008) that the stock of extra neutral alcohol (ENA) was not included while calculating the stock of spirit by audit. The reply is factually incorrect as the stock of ENA was kept in the bottling unit of foreign liquor functioning in the same premises with the distillery but under a separate licence. Reply of the Government has not been received (December 2008).

3.5 Incorrect allowance of wastage of spirit in re-distillation

The Madhya Pradesh Distillery Rules do not provide for any allowance for wastage of rectified spirit (RS) during re-distillation for manufacturing ENA.

Test check of the records of one distillery of Rajgarh district in March 2008 revealed that 39.47 lakh proof litres of rectified spirit was re-distilled to produce ENA between March and September 2007 and wastage of 74,242.1 proof litres of RS was allowed which was not admissible. This resulted in non-realisation of excise duty of Rs. 1.02 crore⁷.

After the case was pointed out, the EC stated (June 2008) that an allowance of two *per cent* for re-distillation is provided in Rule 6 (2) of MP Distillery Rules

⁷ 12,918.6x Rs. 125= Rs. 16,14,825
61,323.5x Rs. 140= Rs. 85,85,290
Rs. 1,02,00,115

and as such it was allowed. The reply does not correctly interpret the rules. While audit observation is on re-distillation of RS for production of ENA, Rule 6 (2) relates to allowance of wastage in cases of re-distillation of spirit which is found to be sub-standard or unfit for human consumption and is not applicable in the instant case. Reply of the Government has not been received (December 2008).

3.6 Non-realisation of excise duty due to non-disposal of foreign liquor

According to MPFL Rules, the EC may order cancellation of the registration of a label, if the liquor sold under any such registered label is found sub-standard or if he is convinced that the label is obscene, outrageous or hurtful. Consequent to such cancellation, the EC may also pass suitable orders regarding disposal of the stocks of the cancelled label held by any licensee by way of re-distillation.

Test check of the records in two distilleries of Jabalpur and Rajgarh district between February and March 2008 revealed that consequent upon the provision for manufacture of Indian made foreign liquor from ENA from the year 2007-08, 25,724.01 proof litres of bottled foreign liquor of different labels involving duty of Rs. 46.30 lakh made from rectified spirit was returned to the distilleries by foreign liquor warehouses. This stock was lying undisposed even after 9 to 10 months w.e.f. April to June 2007. The department did not take any step for re-distillation of the stock of foreign liquor for disposal. This resulted in non-realisation of excise duty of Rs. 46.30 lakh.

After the cases were pointed out, the EC stated (June 2008) that the action to dispose of the stock of liquor relating to Jabalpur district is being taken while in Rajgarh district, 17,231 proof litre out of 20,916.4 proof litre of bottled foreign liquor have been sent to warehouses and remaining 3,685.4 proof litre will be sent to warehouses on demand. As such there is no loss of revenue to Government. The reply is unacceptable as 20,916.4 proof litre of foreign liquor was manufactured from RS and consequent upon the provision for manufacture of Indian made foreign liquor only from ENA from 01 April 2007, the RS based foreign liquor could not be sold in the State. Reply of the Government has not been received (December 2008).

3.7 Inadmissible wastage of foreign liquor

The allowance on wastage of spirit at various stages have been prescribed in the Rules, but Rules do not provide for any allowance for wastage of bottled foreign liquor stocked in bottling plants of foreign liquor whether it is due to accident or otherwise.

Test check of the records in one distillery in Raisen district in January 2008 revealed that wastage of bottled foreign liquor of 20,993.22 proof litres involving duty of Rs. 38.41 lakh occurred in June 2007 due to fire in the bottling unit of foreign liquor. As the loss of bottled liquor was not admissible in the Rules, the duty was recoverable from the licensee. However, the department did not take any action to recover the duty from the licensee. This resulted in non-realisation of revenue of Rs. 38.41 lakh.

After the case was pointed out, the EC stated (June 2008) that the intimation of loss of liquor due to fire in godown was given to head of office and collector. The reply does not mention the action taken to effect recovery from the licensee. Reply of the Government has not been received (December 2008).

3.8 Inadmissible wastage in export and transport of foreign liquor and short accountal thereof

The MPFL Rules provide that the maximum wastage allowance for all exports of bottled foreign liquor shall be 0.25 *per cent* of liquor exported irrespective of distance. In case of transport, it shall be 0.1 *per cent* if selling licensee and the purchasing licensee belong to the same district and 0.25 *per cent* if they belong to different districts. If wastage/loss during the export or transport of bottled foreign liquor exceeds the permissible limit the prescribed duty on such excess wastage shall be recovered from the licensee.

Test check of the records in four foreign liquor manufacturing units, three breweries and two FL 10A licensees⁸ in three districts⁹ between July 2007 and March 2008 revealed that during export and transport of foreign liquor, 6,324.28 proof litres of spirit and 10,990.25 bulk litres of beer was shown as wastage in excess of the admissible limit under the rules by the licensees in 652 cases during the period between May 2006 and December 2007 for which excise duty of Rs. 19.78 lakh was recoverable. Further, 1,185.43 proof litres of foreign liquor involving excise duty of Rs. 3.19 lakh in 19 cases received from foreign liquor warehouses was not accounted for in the spirit stock account by two licensees of Bhopal district. However, the verification report for the total quantity was sent. The department did not take any action to recover the duty. This resulted in non-realisation of excise duty of Rs. 22.97 lakh.

After the cases were pointed out, the EC stated (June 2008) that an amount of Rs. 3.91 lakh from seven units of Bhopal and Rs. 8.94 lakh from two units of Gwalior in 132 cases has been recovered between July 2007 and May 2008. In one case of Gwalior, excise duty of Rs. 1.37 lakh has been deposited in Delhi but the challan number and date has not been mentioned. Thirteen cases of Gwalior district are pending in Dholpur Court and action will be intimated after decision of the Court. Action for recovery of Rs. 4.39 lakh of Morena district is being taken which will be intimated after recovery. The reply of the Government has not been received (December 2008).

3.9 Non-levy of penalty due to short production of alcohol

The Madhya Pradesh Distillery Rules require the distillers to maintain minimum fermentable and distillation efficiencies at 84 and 97 *per cent* respectively. Every quintal of fermentable sugar present in molasses as per departmental laboratory reports should yield 91.8 proof litre of alcohol. For this purpose, composite samples of the molasses are required to be drawn by the officer in-charge of the distillery and sent for examination to the departmental laboratory. In case the distiller fails to maintain prescribed

⁸ Outside manufacturer's central godown licence

⁹ Bhopal, Gwalior and Morena

efficiencies and recovery of alcohol, the EC may impose maximum penalty of Rs. 30 per proof litre.

Test check of the records of two distilleries¹⁰ in March 2008 revealed that as per the analysis reports of departmental laboratory, the production of alcohol should have been 5,62,765 proof litres from 13,678.5 quintals of molasses used between June 2007 and October 2007 whereas the actual production was 5,46,936 proof litres resulting in shortfall of 15,829 proof litres. As a result, excise duty of Rs. 22.16 lakh was foregone (at the rate of Rs. 140 per proof litre). However, the DEOs, (distillery) did not refer these cases to the EC for levy of penalty.

After the cases were pointed out, the EC stated (June 2008) that the action in case of Chhattarpur district is being taken while in respect of Rajgarh district, it was stated that the production of alcohol was according to norms, if it is calculated on total quantity of molasses for which the composite sample was sent for chemical analysis. Reply is not acceptable as the production in each set up was not according to the chemical analysis report of the departmental laboratory. The reply of Government has not been received (December 2008).

3.10 Non-realisation of duty on unacknowledged bottled country liquor

The Madhya Pradesh Country Spirit Rules require the licensee to deposit the amount of prescribed duty leviable on the total quantity of bottled country spirit being exported or furnish a Bank guarantee for an equal amount from any local branch of a Nationalised Bank. He should obtain the verification report from the importing unit and if the verification report is not received, the leviable duty shall be recovered from the licensee.

Test check of the records in one distillery in Raisen district in January 2008 revealed that the licensee exported 30.77 lakh proof litres of bottled country liquor on 654 permits during the period between September 2006 and November 2007 to Chhattisgarh State. Out of these, 30.61 lakh proof litres was acknowledged in the verification reports issued by the importing units. Thus, duty of Rs. 21.70 lakh leviable on the unacknowledged 16,429.69 proof litres was not recovered from the exporting licensee. This resulted in non-levy/realisation of revenue of Rs. 21.70 lakh.

After the case was pointed out, the EC stated (June 2008) that the country liquor has been exported to Chhattisgarh state after recovery of prescribed export fee and the imposition of penalty on transit wastage comes under purview of that State. Reply is not in consonance with the rules as excise duty was realisable from the exporter on the quantity of liquor found short at the receiving end. The reply of Government has not been received (December 2008).

¹⁰ M/s Cox India Ltd. Nowgaon (Chhattarpur) and M/s Vindhyachal Distillery Pilukhedi (Rajgarh)

3.11 Inadmissible wastage of spirit/country liquor

The Madhya Pradesh Distillery Rules allow wastage of 0.1 to 0.2 *per cent* on account of leakage or evaporation of spirit transported or exported in tankers from a distillery/warehouse to another distillery/warehouse. In case of wastage beyond permissible limit, the EC or the officer authorised for the purpose may impose penalty. The rules also provide that in case of wastage of bottled country liquor beyond permissible limit of 0.5 *per cent* during transport, duty at the prescribed rates shall be recovered from the licensees.

Test check of the records of three excise offices¹¹ between December 2007 and February 2008 revealed that penalty of Rs. 11.64 lakh was leviable in 49 cases of wastage of 38,805.16 proof litres of spirit beyond the permissible limit during transport between November 2006 and January 2008. In 114 cases duty of Rs. 1.50 lakh was recoverable for wastage of 1,107.645 proof litre country liquor beyond the permissible limit during transport of bottled country liquor between January 2007 and January 2008, but was not levied. This resulted in non-levy of duty/penalty of Rs. 13.14 lakh.

After the cases were pointed out, the EC stated (June 2008) that an amount of Rs. 1.88 lakh relating to Gwalior, Dhar and Morena district has been recovered and action for recovery in remaining cases is in progress. Reply of the Government has not been received (December 2008).

3.12 Absence of provision for recovery of loss suffered during resale of shops under lottery system

The conditions for sale of liquor shops through tendering process provide that if any highest bidder takes back his offer, fails to pay basic licence fee/security deposit in time or breaches any condition of sale, the shop shall be resold. In case of any loss suffered by the Government due to resale, such loss shall be recoverable from the defaulter. As per the conditions for sale of retail liquor shops through lottery system for the year 2005-06, the shop which could not be sold under lottery system is to be sold through the tendering process. The conditions for sale notified by the Government under the lottery system do not provide for recovery of loss suffered by the Government during resale of shops.

Test check of the records of DEO, Ashok Nagar in August 2007 revealed that two applicants were declared successful under the lottery system for allotment of three liquor shops at annual value of Rs. 26.20 lakh. The successful applicants failed to deposit the basic licence fee and security deposit within the prescribed date and shops had to be resold for Rs. 13.16 lakh. In this process of resale of shops, the Government suffered loss of Rs. 12.62 lakh after taking into account the forfeiture of earnest money deposit of Rs. 42,000. As there was no provision for recovery of loss suffered by the Government due to resale of shops under the lottery system, no action could be taken against the defaulter to recover the differential amount of Rs. 12.62 lakh.

After the case was pointed out, the EC stated (June 2008) that the work of valuation of shops in new proposed system was very difficult and it was completed by best possible efforts but inspite of this the valuation of

¹¹ Gwalior, Morena and Ujjain

some shops of state could not be done correctly. Under these circumstances, the objection relating to country liquor shops of Ashok Nagar is not correct. Reply does not address the deficiencies in the process of lottery system highlighted above. The reply of the Government has not been received (December 2008).

CHAPTER IV: TAXES ON VEHICLES

4.1 Results of audit

Test check of the records relating to taxes on vehicles during the year 2007-08 revealed non-assessment of tax and loss of revenue amounting to Rs. 49.18 crore in 7,125 cases which can 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	2,352	13.61
2.	Non/short levy of vehicle tax and penalty on goods vehicles	2,662	6.33
3.	Other irregularities	2,111	29.24
Total		7,125	49.18

The department accepted under assessment/loss in 7,125 cases involving Rs. 49.18 crore which were pointed out in audit during 2007-08. An amount of Rupees eight lakh had been recovered in 42 cases.

A few illustrative cases involving Rs. 21.18 crore highlighting important audit findings are mentioned in the following paragraphs.

4.2 Non-realisation of vehicle tax and penalty on vehicles

According to the provisions of Madhya Pradesh *Motoryan Karadhan Adhiniyam*, 1991 (*Adhiniyam*), tax shall be levied on every motor vehicle used or kept for use in the State at the rate specified in the first schedule of the *Adhiniyam*. If the 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. In case of non-payment, the taxation authority is required to issue a demand notice and recover the dues as arrears of land revenue.

Test check of the records of 24 transport offices between January 2006 and January 2008 revealed that vehicle tax amounting to Rs. 12.08 crore in respect of 4,228 vehicles for the period between April 2001 and March 2007 was neither paid by the vehicle owners nor was any action taken by the taxation authorities to realise the tax. Besides, a penalty of Rs. 7.14 crore though leviable was not levied. This resulted in non-realisation of revenue of Rs. 19.23 crore as mentioned below:

(Rupees in crore)						
Sl. No.	No. of offices	Category of vehicles No. of vehicles	Period involved	Tax not paid	Penalty leviable	Total
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1.	23 ¹	Public service vehicles kept as reserve stage carriage 809	6/01 to 3/07	4.26	2.58	6.84
2.	24 ²	Goods vehicle 2,575	4/01 to 3/07	3.99	2.54	6.53
3.	19 ³	Public service vehicles plying on regular stage carriage permits 402	5/03 to 3/07	2.93	1.53	4.46

¹ Regional Transport Office (RTO), Bhopal, Gwalior, Hoshangabad, Indore, Jabalpur, Morena, Rewa, Sagar and Ujjain, Additional RTO (ARTO), Guna, Katni, Khandwa, Khargone, Satna, Seoni and Shahdol and District Transport Office (DTO), Jhabua, Mandla, Narsinghpur, Rajgarh, Ratlam, Shajapur and Vidisha

² RTO, Bhopal, Gwalior, Hoshangabad, Indore, Jabalpur, Morena, Rewa, Sagar and Ujjain, ARTO, Guna, Katni, Khandwa, Khargone, Satna, Seoni and Shahdol and DTO, Dewas, Jhabua, Mandla, Narsinghpur, Rajgarh, Ratlam, Shajapur and Vidisha

³ RTO, Bhopal, Gwalior, Indore, Jabalpur, Morena, Rewa, Sagar and Ujjain, ARTO, Guna, Katni, Khandwa, Khargone, Satna, Seoni and Shahdol and DTO, Mandla, Rajgarh, Shajapur and Vidisha.

(1)	(2)	(3)	(4)	(5)	(6)	(7)
4.	09 ⁴	Maxicab 414	4/05 to 3/07	0.65	0.37	1.02
5	03 ⁵	PSVs plying on all India tourist permits 09	3/05 to 3/07	0.13	0.07	0.20
6	04 ⁶	Private service vehicles 19	4/04 to 3/07	0.12	0.06	0.18
	Total	4,228		12.08	7.15	19.23

After the cases were pointed out, the concerned taxation authorities (TA) stated between January 2006 and August 2008 that an amount of Rs. 36 lakh has been recovered in 166 cases and in the remaining cases either demand notices have been issued or these are being issued to the defaulting vehicle owners.

The matter was reported to the Transport Commissioner (TC) and the Government between March 2006 and April 2008; their reply has not been received (December 2008).

4.3 Failure of the department to recover the balance amount of life time tax and penalty on maxicab plying on all India tourist permits

According to the *Adhiniyam*, tax shall be levied on every maxicab used or kept for use in the state and plying on all India tourist permit at the rate of Rs. 150 per seat per month or lump sum tax at the rate of 10 *per cent* of the cost of a new vehicle recoverable in two equal installments in a year. The *Adhiniyam* further provides that if the life time tax had not been paid, the owner shall, in addition to payment of tax due, be liable to pay a penalty at the rate of one tenth of the life time tax for the default of each year or part thereof but not exceeding the life time tax.

Test check of the records of three offices⁷ between July 2006 and September 2007 revealed that 137 newly registered maxicabs which were granted all India tourist permit between September 2002 and March 2005, paid one instalment of five *per cent* of the cost of new vehicle as a lump sum tax. The second instalment of tax due between March 2003 and March 2006 was neither paid by the owners of the vehicles nor was it demanded by the taxation authorities. This resulted in short realisation of life time tax of Rs. 28.66 lakh. Besides, a penalty of Rs. 26.26 lakh leviable but was not levied.

⁴ RTO, Bhopal, Gwalior, Morena, Rewa and Ujjain, ARTO, Khandwa, Khargone and Seoni and DTO, Rajgarh

⁵ RTO, Indore and Jabalpur and DTO, Rajgarh

⁶ RTO, Gwalior, Indore and Morena and DTO, Shajapur

⁷ RTO, Indore and Ujjain and ARTO, Shahdol

After the cases were pointed out, the RTO, Indore, Ujjain and ARTO, Shahdol stated between July 2006 and January 2008 that action of recovery would be made after scrutiny of the cases.

The matter was reported to the TC and the Government (between July 2006 and March 2008). The TC replied that an amount of Rs. 64,000 has been recovered in two cases by RTO, Indore. In remaining cases their reply has not been received (December 2008).

4.4 Short realisation of vehicle tax and non-levy of penalty on public service vehicles due to deposit of tax at lower rates

According to section 3 (1) of the *Adhiniyam*, tax shall be levied on every public service vehicle used or kept for use in the state at the rates specified in the first schedule. The tax is calculated on the basis of the seating capacity of the vehicle and distance of the route allowed. However, the tax will be levied at the lower rate prescribed for reserve vehicles only in case of deposit of permit allowed by the taxation authority with the declaration of non-use of permit by the owner of vehicle.

Test check of the records of 12 offices⁸ between July 2006 and January 2008 revealed that though vehicle tax of 89 public service vehicles for the period between October 2003 and March 2007 was short deposited by the operators due to application of lower rate of tax, yet the department failed to detect the application of incorrect rate of tax. This resulted in short realisation of vehicle tax of Rs. 19.86 lakh. Besides, penalty of Rs. 13.33 lakh was also leviable on unpaid amount of tax but was not levied.

After the cases were pointed out, four TAs⁹ stated between June 2007 and August 2008 that demand notices have been issued and ARTO, Seoni and DTO, Rajgarh stated that demand notices are being issued to the defaulting vehicle owners while six TAs¹⁰ stated that necessary action would be taken after scrutiny of the cases.

The matter was reported to the TC and the Government between July 2006 and April 2008; their reply has not been received (December 2008).

4.5 Short realisation of vehicle tax and non-levy of penalty on contract carriages

According to section 2 (7) of Motor Vehicle Act, "contract carriage" means a motor vehicle which carries a passenger or passengers for hire or reward and is engaged under a contract, whether expressed or implied for use of such vehicle as a whole for the carriage of passengers on fixed or agreed rate, whereas "education institution bus" means an omnibus which is owned by a college, school or other educational institution and used solely for the purpose of transporting students or staff of the educational institution in connection with any of its activities as defined in the said Act.

⁸ RTO, Bhopal, Indore, Jabalpur, Morena, Sagar and Ujjain, ARTO, Khandwa, Satna and Seoni and DTO, Rajgarh, Shajapur and Vidisha

⁹ RTO, Jabalpur, Morena and Sagar, ARTO, Satna

¹⁰ RTO, Bhopal, Indore, Ujjain, ARTO, Khandwa and DTO, Shajapur, Vidisha

The vehicle tax is leviable at the rates specified in the first schedule of the *Adhiniyam*. The rate of tax in respect of contract carriage is higher than an institution bus.

Test check of the records of three offices¹¹ between June 2007 and August 2007 revealed that 29 temporary permits were issued to 14 operators during the period between July 2005 and March 2007 and the vehicles were used as contract carriage, though these vehicles were neither kept under lease agreement nor registered in the name of principal of the institution, but the tax was deposited by the operators at the rate applicable to private/educational institution buses. This resulted in short realisation of tax of Rs. 24.32 lakh and non-levy of penalty of Rs. 6.46 lakh.

After the cases were pointed out, RTO, Bhopal stated in July 2007 that show cause notices have been issued to the owners. RTO, Morena and ARTO, Satna stated between August 2007 and March 2008 that action would be taken after scrutiny of the cases.

The matter was reported to the TC and the Government between August 2007 and March 2008; their reply has not been received (December 2008).

4.6 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 of Madhya Pradesh on countersigned permits under reciprocal transport agreement on payment of tax at the rate of 85 per cent of the rates 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 taxation authority shall serve a demand notice and recover the dues as arrears of land revenue.

Test check of the records of TC, Gwalior in May 2007 revealed that 68 goods carriages of Uttar Pradesh plying in Madhya Pradesh under reciprocal transport agreement during the period between April 2005 and March 2007 did not pay tax. There was nothing on record to indicate that the permits were cancelled. However, no action was taken to raise the demand by the taxation authority resulting in non levy of tax of Rs. 12.83 lakh. Besides, a penalty of Rs. 6.35 lakh was also leviable.

After the cases were pointed out, the TC stated in May 2007 that information would be produced after scrutiny of the cases.

The matter was reported to the Government between August 2007 and March 2008; their reply has not been received (December 2008).

4.7 Loss of vehicle tax

According to the provisions of the *Adhiniyam*, tax shall be levied on public service vehicles plying on all India tourist permits granted under section 88 (9) of Motor Vehicles Act, 1988 at the rate specified in the first schedule to the

¹¹ RTO, Bhopal, Morena and ARTO, Satna

Adhiniyam. Further, where a permit is allowed to be deposited by the taxation authority, for the period during which the vehicle is not in use, tax is leviable at a lower rate.

The TC issued directions dated August 2000, June 2002 and April 2004 that a permit may be surrendered for more than one month only after the prior permission of the TC and the taxation authority shall, after satisfying itself that the reasons stated for non-use of permit are genuine and as per requirements of the rules/instructions issued by the TC, allow the vehicle owners to deposit the permit. However, the taxation authority is required to assess the tax after ascertaining the details of expenditure incurred on diesel, insurance premium etc. paid by the vehicle owners.

Test check of the records of Regional Transport Office, Gwalior in September 2007 revealed that 19 sleeper coaches/deluxe buses covered by all India tourist permits and eight other sleeper coaches/deluxe buses which did not obtain any permit, were kept as reserve for the period ranging between 3 to 12 months. Cross verification with the records of flying squad of RTO, Indore (October 2007) and RTO, Gwalior (September 2007), revealed that 12 out of these 27 vehicles, were detected as plying in contravention of the provisions of Section 86 of the Motor Vehicles Act, on different routes during the period these were kept as reserve. As a result, the Government was deprived of the revenue of Rs. 14.27 lakh. In respect of the remaining 15 vehicles, no action was taken by the taxation authority as per their departmental instructions, to justify their genuineness and to verify unauthorised operation of these vehicles kept as reserve for prolonged periods.

After the cases were pointed out, RTO, Gwalior stated (September 2007) that permits were deposited as per the rule and the powers are vested in the taxation authority under the *Adhiniyam* and the proceedings are quasi judicial. The reply is not acceptable as genuineness of reasons for non use of permit as required under the rules and orders were not assessed by the taxation authorities as these vehicles were found plying unauthorisedly. The detection of 12 such vehicles plying unauthorisedly by the flying squads of RTO, Indore and Gwalior also contradicts the departmental reply.

The matter was reported to TC and the Government between October 2007 and February 2008; their reply has not been received (December 2008).

4.8 Non-levy of vehicle tax and penalty on private vehicles used as contract carriages

Under the *Adhiniyam*, tax shall be levied on every motor vehicle plying for hire or reward and used for transport of passengers within the state as contract carriage, at the rate specified in the first schedule of the *Adhiniyam*.

Cross verification of information in respect of vehicles kept on hire collected from the office of the Chief Engineer, MP MKVV Co. Ltd., Gwalior region with the records of four transport offices¹² in March 2008 revealed that 36 vehicles (car: 4; jeep: 32) registered as private vehicles with seating capacity of 3 to 11 seats plied as contract carriage under Madhya Pradesh *Madhya Kshetra Vidhyut Vitran* Company Ltd. Gwalior region for the period

¹² RTO, Gwalior and Morena, ARTO, Guna and DTO, Shivpuri

between March 2004 and March 2008. This resulted in non-levy of vehicle tax of Rs. 4.97 lakh. Besides, penalty of Rs. 5.63 lakh was also leviable on the unpaid amount of tax.

After the cases were pointed out, the taxation authorities Morena and Guna stated between April and August 2008 that demand has been raised and RTO Gwalior and DTO Shivpuri stated (March 2008) that action would be taken after scrutiny of the cases.

The matter was reported to the TC and the Government in April 2008; their reply has not been received (December 2008).

4.9 Failure to levy penalty on belated payment of vehicle tax

According to the provisions under section 13 of the *Adhiniyam*, if the tax due in respect of any motor vehicle is not paid as specified in section 5, the owner shall, in addition to the payment of tax due, be liable to pay penalty at the rate of four *percent* per month on the unpaid amount of tax. Rule 10(1) of MP *Motoryan Karadhan Niyam*, further specifies that the penalty shall be paid by the owner of the vehicle along with the amount of tax.

Test check of the records of seven offices¹³ (between July 2006 and January 2008) revealed that vehicle tax in respect of 208 public service vehicles for the period between May 2003 and March 2007 was paid by the owners after delay ranging from one to 33 months. Neither the penalty was paid by the owners along with tax nor was it demanded by the taxation authorities. This resulted in non-levy of penalty of Rs. 9.40 lakh.

After the cases were pointed out, five TAs¹⁴ stated between July 2006 and August 2008 that either demand notices have been issued or these are to be issued to the defaulting vehicle owners while RTO, Ujjain and ARTO, Khandwa stated that action for recovery would be taken after scrutiny of the cases.

The matter was reported to the TC and the Government (between July 2006 and April 2008). The TC replied that an amount of Rs. 57,000 has been recovered in two cases by RTO, Sagar and ARTO, Chhattarpur. In remaining cases, reply has not been received (December 2008).

4.10 Non/short recovery of vehicle tax and composition fee on public service vehicles plying without permit/in contravention of the conditions of permit

Plying of vehicles without permit or in contravention of permit conditions is an offence under various provisions of the Motor Vehicles Act. However, the offence can be compounded on payment of composition fee as prescribed in the schedule issued under the provisions of the Motor Vehicles Act.

Test check of the records of Regional Transport Office, Indore and Jabalpur between July 2006 and December 2007 revealed that though 28 public service vehicles were caught plying without permits/documents/tax and overloaded

¹³ RTO, Morena, Sagar and Ujjain, ARTO, Chhattarpur, Khandwa and Khargone and DTO, Rajgarh

¹⁴ RTO, Morena, Sagar, ARTO, Chhattarpur, Khargone and DTO, Rajgarh

with passengers during the periods between April 2004 and March 2007 by the checking agency of the department, but the tax/composition fee were either not recovered or recovered short. The taxation authorities had not initiated any action to recover the outstanding dues. This resulted in non/short realisation of revenue of Rs. 8.76 lakh.

After the cases were pointed out, the RTO, Indore stated in October 2007 that recovery would be made from the defaulting vehicle owners, whereas RTO, Jabalpur stated in August 2008 that demand notices have been issued to the defaulting vehicle owners.

The matter was reported to the TC and the Government between July 2006 and March 2008; their reply has not been received (December 2008).

4.11 Short realisation of composition fee on overloading of goods vehicles

Plying of overloaded goods vehicles in excess of their registered laden weight (RLW) is an offence under the provisions of the Motor Vehicles Act. As per notification dated 20 June 2001 the offence was compoundable on payment of Rs. 600 upto 3 metric tonnes and Rs. 200 over 3 metric tonnes for each ton of excess weight. The rates were revised vide notification dated 23 August 2005.

Test check of the records of Check Post, Multai (District Transport Office, Betul) and Chirula (District Transport Office, Datia) between June and November 2006 revealed that 441 cases of overloading of goods were compounded on 441 goods vehicles during the period between August and September 2005, but composition fee was realised at the pre-revised rates resulting in short realisation of composition fee of Rs. 7.90 lakh.

After the cases were pointed out, DTO, Datia stated in November 2006 that recovery would be made from the defaulting vehicle owners while the taxation authority, Betul did not furnish any reply.

The matter was reported to the TC and the Government (between July 2006 and March 2008); their reply has not been received (December 2008).

4.12 Non-realisation of vehicle tax and penalty on public service vehicles of other states plying on inter state routes

According to 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*.

Test check of the records of taxation authorities, Datia and Sagar between October 2006 and August 2007 revealed that though 14 operators did not pay vehicle tax in respect of 16 public service vehicles allowed to ply on inter state routes under reciprocal transport agreement for the period between September 2003 and March 2007, no action was taken by the taxation authorities to recover the amount. This resulted in non-realisation of vehicle tax of Rs. 3.34 lakh and penalty of Rs. 2.25 lakh.

After the cases were pointed out, RTO, Sagar stated in August 2008 that demand notices have been issued to the defaulting vehicle owners while DTO, Datia stated in November 2006 that audit would be intimated after taking action for recovery.

The matter was reported to the TC and Government between November 2006 and February 2008; their reply has not been received (December 2008).

CHAPTER V: OTHER TAX RECEIPTS

5.1 Result of audit

Test check of the records relating to stamp duty, registration fee, entertainment duty, assessment and collection of land revenue during the year 2007-08 revealed non-assessment/underassessment of revenue and non-raising of demand amounting to Rs. 231.72 crore in 2,41,624 cases which can be categorised as under:

(Rupees in crore)

Sl. No.	Category	Number of cases	Amount
A : STAMP DUTY & REGISTRATION FEE			
1.	"Assessment and levy of stamp duty and registration fee" (A Review)	1	91.57
2.	Inordinate delay in finalisation of cases	918	4.59
3.	Short realisation of stamp duty and registration fee due to under valuation of properties	804	4.43
4.	Loss of revenue due to misclassification of documents	176	2.79
5.	Loss of revenue due to execution of instruments in favour of co-operative housing societies	784	2.56
6.	Others	339	1.73
Total		3,022	107.67
B : ENTERTAINMENT DUTY			
1.	Incorrect exemption from payment of entertainment duty	32	11.35
2.	Non-realisation of entertainment duty	129	1.22
3.	Non/short deposit of entertainment duty by the proprietors of VCRs and VCPs	486	0.63
4.	Evasion of entertainment duty due to non-accountal of tickets	133	0.02
5	Others	265	0.02
Total		1,045	13.24

C : LAND REVENUE			
1.	Delay in collection of revenue against RRC and registering of the RRC	10,246	69.43
2.	Non/underassessment of <i>nazul</i> premium and ground rent	40,993	16.73
3.	Non-raising of demands of diversion rent, premium and fine/penalty	76,339	7.18
4.	Non-realisation of process expenses	9,666	2.32
5.	Loss of stamp duty and registration fee due to non-registering of documents.	22	0.42
6	Others	1,00,291	14.73
Total		2,37,557	110.81
Grand total (A+B+C)		2,41,624	231.72

During the year 2007-08, the department accepted underassessment of tax of Rs. 122.98 crore involving 2,41,218 cases of which 2,39,673 cases involving Rs. 117.46 crore were pointed out in audit during 2007-08 and the rest in earlier years. An amount of Rs. 52 lakh had been recovered in 268 cases.

A few illustrative cases involving Rs. 96.90 crore including a review of “**Assessment and levy of stamp duty and registration fee**” are mentioned in the following paragraphs.

A. STAMP DUTY AND REGISTRATION FEE

5.2 Assessment and levy of stamp duty and registration fee

Highlights

- Non-realisation of revenue of Rs. 5.08 crore due to lack of clear provision of time limit for instituting RRCs after the demands have been established.
(Paragraph 5.2.8)
- Lack of co-ordination with other departments resulted in non/short realisation of stamp duty and registration fee of Rs. 53.28 crore.
(Paragraph 5.2.9)
- Short assessment/levy of stamp duty and registration fee of Rs. 7.67 crore.
(Paragraph 5.2.12)
- Incorrect application of rates resulted in short realisation of stamp duty and registration fee of Rs. 4.21 crore.
(Paragraph 5.2.13)
- Non-registration of lease deed resulted in non-realisation of stamp duty and registration fee of Rs. 4.13 crore.
(Paragraph 5.2.14)
- Non-realisation of stamp duty and registration fee of Rs. 3.49 crore due to non-reimbursement by NVDA.
(Paragraph 5.2.15)
- Short levy of stamp duty and registration fee of Rs. 1.85 crore due to undervaluation of instruments.
(Paragraph 5.2.16)
- Misclassification of documents resulted in short realisation of stamp duty and registration fee of Rs. 1.81 crore.
(Paragraph 5.2.17)
- Non-levy of stamp duty and registration fee of Rs. 1.29 crore due to incorrect grant of exemption.
(Paragraph 5.2.18)

5.2.1 Introduction

The receipts from stamp duty and registration fee in Madhya Pradesh (MP) are regulated under Indian Stamps (IS) Act, 1899, the Registration Act, 1908, MP Prevention of under valuation of Instrument Rules, 1975 and MP Preparation and Revision of Market Value Guidelines Rules, 2000 and notifications/orders issued by the State Government (GOMP). The receipts of the department mainly consist of stamp duty, registration fee and penalty.

A review of the system of assessment and levy of stamp duty and registration fee revealed a number of system and compliance deficiencies that have been mentioned in the succeeding paragraphs.

5.2.2 Organisational set up

Registration and Stamps Department is under the Commercial Tax Department headed by the Principal Secretary. The Inspector General, Registration and Superintendent of Stamps, Madhya Pradesh (IGR) is the head of the department. Two Joint Inspectors General, Registration (JIGR), one Deputy Inspector General Registration (DIGR) and one District Registrar (DR) are deployed at the headquarters. There is a district registrar (DR) office in each registration district (44) and 226 sub-registrar (SR) offices at the tahsil level. Instruments are registered in SR offices.

5.2.3 Scope of audit

The records of the years from 2003-04 to 2007-08 of nine out of 44 DR offices and 30 out of 226 SR offices were test checked between June 2007 and May 2008. The selected units covered 46.97 *per cent* of the documents registered and 57.97 *per cent* of the revenue collected during the years mentioned above. The selection of units was done through simple random sampling method.

5.2.4 Audit objectives

The review was conducted to ascertain whether:

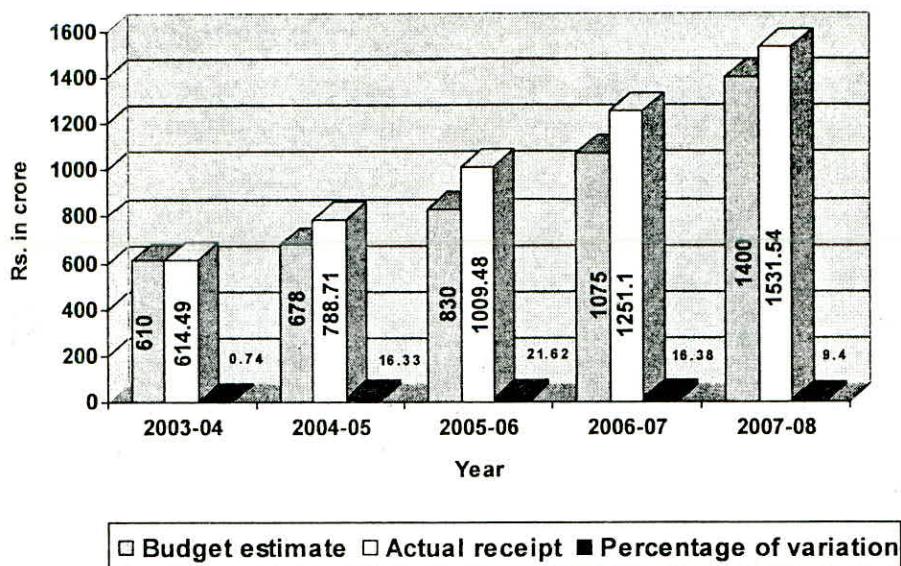
- the provisions of Act/Rules and departmental instructions are adequate and enforced accurately to safeguard revenue of the state; and
- internal control mechanism of the department was effective and sufficient systems were in place to safeguard collection of duty and fee on instruments.

5.2.5 Acknowledgement

The Indian Audit and Accounts Department acknowledges the co-operation of the Registration and Stamp Department for providing information to audit. The audit findings as a result of the test check of records were reported to the GOMP/department in May 2008. The findings of the review were discussed in the audit review committee meeting (exit conference) held in October 2008. The department was represented by the IGR while Principal Secretary, Commercial Tax Department represented the GOMP. The replies have been appropriately incorporated in the review.

5.2.6 Trend of revenue

The trend of revenue for the last five years ending 31 March 2008 is as below:



There was a steep rise in revenue collection from 2004-05 which was mainly due to increase in registerable documents, amendment regarding levy of duty on instruments of hypothecation and abolition of exemption from payment of duty on instruments executed by the co-operative housing societies.

5.2.7 Position of arrears

The position of outstanding revenue during the last five years ending 31 March 2008 is detailed below:

(Rupees in crore)		
Year	Number of cases	Amount
2003-04	31,744	51.52
2004-05	35,544	75.17
2005-06	37,957	65.36
2006-07	38,304	77.18
2007-08	36,769	71.51

Thus, the arrears of revenue of Rs. 71.51 crore as on 31 March 2008 was outstanding of which Rs. 13.22 crore was outstanding for more than five years. No time bound action plan has been prepared by the department for recovery of the arrears. However, yearly targets for recovery of arrears have been fixed from 2006-07 onwards. The DIGR stated in September 2008 that recoveries are not effected primarily due to lack of correct details/addresses of the defaulters. Though executive instructions were issued by the IGR in February 2007 for production of documents establishing the identity of the executants, it could not improve the arrear position as there is no provision in the Act/Rule for production of proof of permanent residential address of the executants at the time of presenting the documents and its verification in SR offices.

Audit findings

System deficiencies

5.2.8 Non-realisation of revenue due to lack of provision of time limit for instituting RRCs after the demands have been established

The IS Act provides that all duties, penalties and other sums required to be paid under the Act may be recovered by distress and sale of movable property of the person from whom the same are due, or by any other process for the time being in force for recovery of arrears of land revenue. However, no time limit has been prescribed by the department for issue of revenue recovery certificate (RRC) after the demand has been established.

Test check of the records in five districts¹ revealed that 477 cases involving revenue of Rs. 4.89 crore were decided by the DRs between January 2002 and March 2007 but no follow up action was initiated by the department after issue of RRC. This resulted in non-realisation of revenue of Rs. 4.89 crore. In 24 out of the above 477 cases registered between March 2002 and February 2007 in DR office Gwalior, it was seen that the cases were registered in the RRC² register after lapse of four to 29 months from the date of decision. Out of these, demand notice was not issued in seven cases after registering the case in the RRC register. In three cases, *kurki*³ warrants were issued between February and August 2005 but no further action for court attachment of property and its disposal was initiated.

In DR office, Morena and Sagar recovery proceedings in 141 cases decided between September 2003 and May 2007 involving revenue of Rs. 18.55 lakh were not started even after a lapse of nine to 53 months.

After the cases were pointed out, the IGR and GOMP stated (October 2008) that in the *Vishistha Stamp Adhiniyam* of MP State which is under consideration before the Government, stamp duty would be made as a charge to the property.

The Government may consider prescribing a time limit for instituting RRCs after the demands have been established.

5.2.9 Failure to check the records of public offices and lack of co-ordination with other departments

Section 33 of the IS Act provides that it would be obligatory on every public officer⁴ to impound cases which are unduly stamped and initiate action under Section 38 of the above Act. Audit scrutiny revealed that the Registration Department has not prescribed any return on the number of documents presented, those not found duly stamped etc to be furnished by the

¹ Bhopal, Gwalior, Hoshangabad, Jabalpur and Morena

² The DR also acts as additional *tahsildar* for recovery of dues as arrears of land revenue. After the dues are noted in the RRC register, recovery process is initiated under the MP Land Revenue Code.

³ A notice for court attachment of immovable property

⁴ Government departments, Housing board, Local bodies, Corporations and Banks were declared as public office for the purpose of the IS Act vide notification no. 196-six-SR-80 dated 20 March 1980.

public offices. In the absence of this return, the Registration Department was unaware of the number of documents registered and whether correct stamp duty was paid. As per para 469 of *Karyapalik Anudesh* (executive instructions) of Registration Department, the DR is required to inspect the records of public offices to see whether stamp duty was being paid correctly and the documents which require registration are submitted in SR offices. It was noticed that department has not fixed any norm or target for the inspection of public offices by the DRs. Besides, no return was prescribed by the department to monitor the inspections conducted by the DR. As a result, substantial revenue remained unrealised, which is highlighted in the subsequent paragraphs.

5.2.9.1 Scrutiny of the records of Commissioner, MP Housing Board (MPHB) Bhopal revealed that land measuring 23,885 square metre (sq. mt.) was allotted by the Government to MPHB (October 2006) on permanent lease for commercial purposes. The MPHB executed an agreement on stamp paper of Rs. 100 with a company for setting out the terms of development and construction of the project and the subsequent disposal of the project land on lease. The land was provided by MPHB for a period of 30 years on premium of Rs. 64.56 crore and rent at 7.5 *per cent* of the premium was also reserved. This document was required to be stamped and registered as a lease deed that was not done. Though MPHB had been declared as a public office, yet it failed to discharge its duty regarding levy of appropriate duty on the instrument and submission thereof in the SR office for registration. This led to short realisation of stamp duty of Rs. 7.46 crore and non-realisation of registration fee of Rs. 5.59 crore. The inspection of MPHB office was also not conducted by the DR.

After the case was pointed out, the Dy. Housing Commissioner, MPHB stated in July 2008 that the agreement was of nature of license agreement and not a lease agreement and the developer was required to execute the lease deed on payment of entire bid value. The reply is not acceptable because all terms and conditions in respect of premium/rent and those relating to lease were settled in the document. The possession was also given for construction and the tenant was authorised to mortgage the land for obtaining loans from financial institutions. As such, the document was required to be stamped as a lease deed and registered in SR office.

5.2.9.2 Scrutiny of the records of Divisional Manager, Madhya Pradesh Road Development Corporation (MPRDC), Ujjain, revealed that an agreement for maintenance of road and collection of toll⁵ was executed between a contractor and Madhya Pradesh *Rajya Setu Nirman Nigam*⁶ (MPRSNN) in November 2001 for a period of 5,440 days at a total project cost of Rs. 65.19 crore. The above agreement was executed on stamp paper of Rs. 100 without getting it registered. In this case, stamp duty of Rs. 4.89 crore and registration fee of Rs. 3.67 crore was leviable⁷. Though the corporations had been declared as public offices for the purpose of IS Act, yet it failed to discharge its duty in ensuring that documents presented to them

⁵ Ujjain-Agar- Jhalawad road; State Highway 27 from km. 54 to km. 191

⁶ MPRSNN has since been merged with MPRDC with effect from 14 July 2004

⁷ Stamp duty at 7.5 *per cent* of Rs. 65.19 crore and registration fee-three fourth of stamp duty

were duly stamped. This resulted in short realisation of stamp duty of Rs. 4.89 crore and non-realisation of registration fee of Rs. 3.67 crore. The inspection of the office was also not conducted by the DR.

5.2.9.3 Scrutiny of the records of Executive Engineer, Public Works Department (PWD) Division No. 2, Indore revealed that an agreement for maintenance of road and collection of toll⁸ was executed between the PWD and a contractor in December 1999 for a period of 2,419 days at a total project cost of Rs. 8.34 crore. The Executive Engineer neither took any action to ensure registration of the agreement nor was any inspection conducted by the DR. Consequently, stamp duty and registration fee of Rs. 1.09 crore though leviable on this agreement, was not levied.

5.2.9.4 Scrutiny of the records of PWD, Ratlam revealed that the bid for maintenance, reconstruction and repair of medium and minor bridges, culverts, widening, upgradation etc. of three roads⁹ under built operate and transfer (BOT) scheme including authorisation to collect toll tax between May 2003 and December 2006 was accepted by the division at an agreed value of Rs. 10.55 crore and an agreement was executed with the tenderer in August 2002. This agreement was a registerable document, chargeable with stamp duty of Rs. 21.10 lakh and registration fee of Rs. 15.83 lakh. The inspection of the office was not conducted by the DR and nor was any action taken by PWD to ensure that the document was duly stamped. Thus, failure of the Executive Engineer to discharge his duty as public officer coupled with lack of inspection resulted in non-levy/realisation of stamp duty and registration fee of Rs. 36.93 lakh.

5.2.9.5 Scrutiny of the records of PWD, Satna revealed that an agreement for construction and maintenance of Satna bypass road was executed between PWD and a contractor in May 2000 under the BOT scheme with the entrepreneur's own capital including authorisation to collect toll tax for 3,190 days. The estimated amount of contract was Rs. 3.27 crore. This agreement was a registerable document, chargeable with stamp duty and registration fee of Rs. 42.92 lakh. It was however, noticed that the document was neither stamped nor was it got registered by the department. This resulted in non-realisation of revenue of Rs. 42.92 lakh.

5.2.9.6 As per paragraph 28 of Revenue Book Circular (RBC) Volume 4 Part-I, lease is required to be registered within a reasonable time. Further, lease for more than 12 months is a compulsorily registerable document.

Scrutiny of the records of *Nazul* Office, Jhabua, and *Rajdhani* Project, Bhopal revealed that permanent leases valued as Rs. 3.98 crore were granted to 10 local bodies and institutions between September 2003 and September 2006. These lease deeds were required to be registered and stamp duty and registration fee of Rs. 57.29 lakh was chargeable. It was however, seen that the lease deeds were not registered even after a lapse of 14 to 51 months.

⁸

Indore – Sanwer - Ujjain

⁹

Nagda-Lebed Road, Ratlam Jaora Road and Ratlam by Pass Road total length 125.40 km

Failure of the department to get the deeds registered resulted in non-realisation of stamp duty and registration fee of Rs. 57.29 lakh.

5.2.9.7 The IS Act provides that any instrument where co-owners of a property divide or agree to divide property or orders for effecting partition, gift or release etc. of property are passed by any revenue authority, such instruments are liable for payment of duty in accordance with schedule 1-A of the Act. Further, the documents are also required to be registered under section 17 of the Registration Act.

Scrutiny of the records of *tahsil*, Indore and Kurwai (Vidisha) revealed that mutation orders in 15 cases of land and buildings valued at Rs. 5.42 crore for gift, partition or release were passed between October 2003 and September 2005 which required to be registered and stamp duty and registration fee of Rs. 32.57 lakh was chargeable. It was however, seen that neither any stamp duty was levied nor was the document submitted for registration in the SR office. This resulted in non-levy and realisation of stamp duty and registration fee of Rs. 32.57 lakh. The inspection of these offices was also not conducted by the DR.

5.2.9.8 According to the instructions issued by Government of Madhya Pradesh, Mineral Resources Department on 15 March 1993, in case of agreements for mining leases, the royalty payable for expected quantity of minerals as shown in the application or in the mining plan, dead rent, average of actual royalty paid by the lessee during the last three years, whichever is more, is to be considered for calculation of stamp duty under article 33 of schedule 1-A of IS Act.

Scrutiny of the records of four mining offices¹⁰ revealed that in case of six mining leases, stamp duty and registration fee of Rs. 10 crore as against Rs. 12.12 crore was levied due to incorrect assessment of the estimated royalty. This resulted in short levy of stamp duty of Rs. 1.21 crore and registration fee of Rs. 90.67 lakh. The inspection of the office was also not conducted by the DR.

After the cases were pointed out, the Mining Officer, Anuppur and Rewa stated between February and April 2008 that the cases would be referred to District Registrar for necessary action. Mining Officer, Katni and Sidhi stated between March and April 2008 that action would be taken after scrutiny.

5.2.9.9 According to Rule 35(1) of Madhya Pradesh Minor Mineral Rules, 1996, no lessee shall transfer or sub-let his lease to any person nor make any agreement with anybody, whereby even indirectly, any right over the leased area is passed into any other person without sanction in writing from the competent authority. Sub-rule 3 further provides that on receipt of sanction from competent authority, a lease deed in form XIV shall be executed within three months from the date of such orders.

Scrutiny of the records of mining officer, Hoshangabad revealed that MP State Mining Corporation to which right of extraction of sand was reserved by the State Government, had sub-let this right to a private contractor for 36 months in respect of 35 quarries for Rs. 59.18 crore. No lease deed was

¹⁰ Anuppur, Katni, Rewa and Sidhi

executed and registered which resulted in non-realisation of stamp duty and registration fee of Rs. 1.38 crore.

5.2.9.10 According to Rule 24 A (6) of Mineral Concession (MC) Rules, 1960, if an application for renewal of mining lease is not disposed of by the GOMP before the date of expiry of lease, the period of that lease shall be deemed to have been extended by a further period till the GOMP passes order thereon.

Scrutiny of the records of two mining offices¹¹ revealed that four applications for renewal of mining leases were received in the department between July 1997 and July 2002 of which one case was pending with the mining officer and three cases were pending for renewal at GOMP level even after a lapse of six to ten years. The lessees were working continuously during the said period. This resulted in non-realisation of stamp duty and registration fee of Rs. 10.91 crore.

After the cases were pointed out, Mining Officer, Chhindwara stated (January 2008) that proposals would be prepared and sent to GOMP. Mining Officer, Satna stated (October 2007) that cases are pending with GOMP and stamp duty and registration fee would be recovered on receipt of GOMP orders.

5.2.9.11 According to Rule 31(1) of MC Rules, every lessee of mining lease has to execute lease deed in form 'K' within six months from the date of sanction/renewal. Further, according to sub-rule (2) of the above rule, the period of lease will be from the date on which the lease was executed/registered.

Scrutiny of the records of Mining Office, Shahdol revealed that 14 mining leases of South Eastern Coal Limited sanctioned under MC Rule, were renewed for a period of 30 years vide Government of India orders dated 25 April 2003. The lessee had not executed/registered the renewal lease deed and was continuously working on the mine. Neither the DMO had initiated any step to register the lease deeds nor was any inspection conducted by the DR due to which the error remained undetected. This resulted in non-realisation of stamp duty and registration fee of Rs. 14 crore.

5.2.9.12 Scrutiny of the records of SR, Obedullahganj revealed that *Audyogik Kendra Vikas Nigam* (AKVN) granted lease of land in October 1984 for 99 years to an industrialist. The industrialist constructed a factory on the land. The factory with plant and machinery was sold to another industrialist and sale deed was registered in September 2005. As the land belongs to AKVN, a lease deed for remaining period of 78 years was also required to be executed between AKVN and the industrialist who purchased the factory and registered in SR office. The records of SR office however, revealed that lease deed was not registered even after lapse of two years from the date of sale of the factory. This resulted in non-levy/realisation of stamp duty and registration fee of Rs. 45.54 lakh.

¹¹ Chhindwara and Satna

It would be seen from above that due to non-registration of these cases, the GOMP was not only deprived of stamp duty and registration fee of Rs. 53.28 crore, but also interest¹² of Rs. 2.98 crore per year.

After the cases were pointed out, the IGR and GOMP stated between July and October 2008 that it was already obligatory under section 33 of the IS Act for a public officer to refer cases to the Collector (stamps) for recovery of stamp duty. Nevertheless, this provision has not proved to be much effective. It was further added that after giving due consideration to these facts, the DRs were directed to conduct more inspections of public offices. However, no reply about present status of these cases was given.

The Government may consider prescribing a periodic return on the number of documents presented and found unduly stamped by the public offices. The offices may also be made accountable for cases of short payment of stamp duty. In addition, norms for regular inspection of public offices by the DRs may be laid down.

5.2.9.13 As per notification of June 2005 issued by the Commercial Tax Department, sale deed of sick industries are exempted from payment of stamp duty provided the exemption is available one time only and the unit is started by the purchaser within 18 months, failing which the exempted amount along with interest at the rate of 0.75 *per cent* per month is to be recovered. The notification is silent about the procedure of recovery and no mechanism has been prescribed for co-ordination between the Stamp and Registration Department and the Industries Department to ascertain the date on which the industry had started its operation.

Scrutiny of the records of SR, Obedullahganj revealed that exemption from payment of duty of Rs. 45.50 lakh was granted on the sale deed of a factory in September 2005. The department had no official information about restarting of the unit even after a lapse of 29 months from the execution of sale deed. The stamp duty and interest for this period amount to Rs. 55.40 lakh.

After the case was pointed out, the IGR and GOMP stated between July and August 2008 that amount would be recovered under Section 48 of the IS Act. It was further stated that the DRs are being directed to ascertain from the Industry Department whether the industry had started operation within 18 months.

The Government may consider prescribing a mechanism for co-ordination between the Registration and the Industries Department to ensure recovery of stamp duty and interest in case of failure to start the industry within the stipulated period.

5.2.10 Absence of time limit prescribed for sending cases of under valuation by the SR to the DR

Under the provisions of the IS Act, the Collector of stamps has been authorised to determine market value of property and amount of leviable duty thereon in cases of under valuation referred to him by the concerned SR.

¹² Calculated at the minimum interest rate of 5.6 *per cent* on which Government borrowed loans from market during the period 2002-03 to 2006-07

Scrutiny revealed that no time limit has been fixed in the Act/Rules for sending the cases by the SR for further action by the Collector. There is also no system to monitor the actual number of cases referred from the SR office and those registered in the DR office. In Chhattarpur and Jabalpur, eight cases involving revenue of Rs. 1.83 lakh referred by the respective SRs between November 2003 and December 2005 were not found registered in the Court of Collector of Stamps.

After the cases were pointed out, the IGR and GOMP stated between July and October 2008 that as per extant departmental instructions such cases should not be kept pending by SRs. Further, instructions for submission of monthly returns depicting the number of cases referred by the SRs and those registered/disposed by the DR have been issued (October 2008). No reply was furnished about eight cases forwarded by the SRs but not found registered in the DR offices.

5.2.11 Internal control mechanism

5.2.11.1 Database of revenue foregone

The Government grants concessions and exemption in stamp duty in pursuit of some defined objectives and in this process, substantial revenue is foregone. It was found that the department does not have any database to evaluate the propriety of its decisions to grant exemptions.

After this was pointed out, the IGR and GOMP stated between July and October 2008 that the computerisation work was in progress and this requirement would be duly incorporated.

The Government may ensure that the software, which is under development, may capture data on concessions and exemptions allowed.

5.2.11.2 Internal audit

The internal audit wing of a department is a vital component of its internal control mechanism and generally defined as the control of all controls to enable the department to assure itself that the prescribed systems are functioning reasonably well.

It was observed that though an internal audit wing was in operation in the department, information on the organisational structure of the wing, existence of audit plan, whether any follow up action is taken on internal audit findings etc. was not furnished by the department though called for.

After this was pointed out, the IGR and GOMP stated between July and October 2008 that this work is hampered due to shortage of staff. It was also stated that necessary action for arrangement of effective internal audit was being taken. The Government may consider taking immediate steps to strengthen the internal audit wing to ensure observance of Act/Rules and prevent leakage of revenue.

5.2.11.3 Inadequate inspection

Para 469 of *Karyapalik Anudesh* of Registration Department provides that a DR must inspect SR offices of his district twice every year. Besides, he should

also pay surprise visit of these offices from time to time. It was however, seen that DRs of respective 25 SRs offices conducted 58 as against 208 inspections between April 2003 and March 2008. It is evident that internal checks and supervision was not adequate.

After this was pointed out, the IGR and GOMP stated in July and August 2008 that all the DRs were being directed to conduct inspection of SR offices in accordance with the prescribed roster.

The Government may consider prescribing a report/return to be furnished by the DRs mentioning the quantum of inspection done against the targets fixed.

Compliance issues

5.2.12 Short levy of stamp duty and registration fee on lease deeds

Article 33 of schedule 1-A of the IS Act provides for levy of stamp duty on lease deeds at prescribed rates according to the period of lease. Further, as per article 2 of the registration table under Registration Act, registration fee at three fourth of the stamp duty is chargeable on such documents.

Scrutiny of the records of 10 SR offices¹³ revealed that stamp duty and registration fee of Rs 1.42 crore against Rs 9.09 crore was levied on 52 documents of lease deeds registered between November 2002 and November 2007 by treating lesser period of lease in 24 cases and due to computation mistake in 28 cases. It was also seen that 43 cases were not pointed out in departmental inspections conducted in five out of ten SR offices. This resulted in short levy and realisation of stamp duty and registration fee of Rs. 7.67 crore.

After the cases were pointed out, the IGR and GOMP stated in October 2008 that out of 52 cases of 10 SR offices, the DRs disposed 22 cases after registering the cases of which 21 cases were decided as duly stamped and Rs. 1,650 were recovered in one case. It was also stated that the disposal of remaining 30 cases was in progress. However, the reply did not contain case wise details of instruments that were found to be duly stamped.

5.2.13 Short levy of duty and fee on instruments of power of attorney

Schedule 1-A of the IS Act provides that when power of attorney (POA) is given without consideration and authorising the agent to sell, gift, exchange, or permanently alienate any immovable property situated in Madhya Pradesh for a period not exceeding one year, duty of Rs. 100 is chargeable on such instruments. Further, when such rights are given with consideration or without consideration for a period exceeding one year or when it is irrevocable or when it does not purport to be for any definite term, the same duty as a conveyance on market value of the property is chargeable on such instruments.

Scrutiny of the records of 16 SRs offices¹⁴ revealed that in 309 instruments of power of attorney registered between February 2006 and November 2007,

¹³ Chhindwara, Datia, Harda, Indore, Khandwa, Mandsaur, Neemuch, Obdullahganj, Satna and Sheopur

¹⁴ Bhopal, Bina, Chhattarpur, Chhindwara, Gwalior, Indore, Itarsi, Jabalpur, Khandwa, Morena, Neemuch, Ratlam, Satna, Sehore, Sheopur and Vidisha,

the power to sell, gift, exchange or permanent alienation of immovable properties was given, but there was no mention in the documents to show whether the POA was without consideration for a period not exceeding one year. It was also noticed in 12 instruments that POA was irrevocable. In all these cases, the instruments were treated as POA to sell without consideration for a period not exceeding one year and duty was levied accordingly. This resulted in short levy of duty and registration fee of Rs. 4.21 crore.

After the cases were pointed out, the IGR and GOMP stated in October 2008 that out of 261 cases of 16 SR offices, 69 cases were disposed by the DRs after registering the cases. Of the 69 cases, 50 cases were decided as duly stamped and RRCs were issued in 19 cases. Progress of recovery, action taken in the remaining 192 cases and reply in respect of 48 cases has not been received (December 2008).

5.2.14 Non-realisation of revenue due to non-registration of lease deed

As per article 33 of schedule 1-A to the IS Act, lease, including an under lease, or sublease and any agreement to let or sub-let or any renewal of lease is charged at the rates prescribed therein. Further, such instruments having lease period of more than 12 months are to be compulsorily registered under section 17 of the Registration Act, and three fourth of the stamp duty is chargeable as registration fee.

Scrutiny of the records of SR, Indore revealed that two documents of sale deed and one document of revised agreement were registered in May 2007. The recital of these documents revealed that M/s Hope Textile Ltd., (HTL) was in possession of 22 acres of commercial land on lease upto 2038. The recital of the documents further revealed that M/s HTL sub leased (August 2002) a part of the land measuring 44,145 square meter to Princes' Apollo Realty Pvt. (PARP) under an agreement. This agreement of sub-lease was a document to be registered and chargeable with stamp duty and registration fee of Rs. 4.13 crore. It was however, found on verification of the records of sub-registrar office that the said agreement of sub-lease was not registered. Non-registration of the lease deed resulted in non-realisation of stamp duty and registration fee of Rs. 4.13 crore.

After the case was pointed out, the IGR and GOMP stated in October 2008 that the action for disposal after registering the case was being taken by DR, Indore. Further progress in the matter had not been received (December 2008).

5.2.15 Non-reimbursement of duty and fee

According to the Government notification dated 12 July 2002, 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)* to the Government on the basis of the demand letter produced by the respective SR.

Test check of the records in eight SR offices¹⁵ revealed that 5,795 documents were executed/registered between April 2002 and March 2008 in favour of persons displaced on account of NVDP. However, stamp duty and registration fee of Rs. 3.49 crore though reimbursable to Government was not reimbursed, neither was any demand raised by the respective SRs to NVDA. This resulted in non-realisation of revenue of Rs. 3.49 crore.

After the cases were pointed out, the IGR and GOMP stated in October 2008 that Rs. 1.09 crore were recovered in 3,032 cases and recovery of balance amount was in progress. Further report in the matter had not been received (December 2008).

5.2.16 Incorrect determination of market value

Under section 47-A of the IS Act, if the registering officer, while registering any instrument found that the market value of any property set forth was less than the market value shown in the market value guidelines, he should, before registering such instrument, refer the same to the Collector for determination of the correct market value of such property and duty leviable thereon.

Test check of the records of 24 SR offices¹⁶ revealed that in 261 instruments registered between May 2003 and September 2007, the market value as per guidelines was Rs. 57.37 crore against registered value of Rs. 30.58 crore. The SRs did not refer these instruments to the concerned Collector for determination of correct value of properties and duty leviable thereon. This resulted in short levy of stamp duty and registration fee of Rs. 1.85 crore. It was also seen that this was also not pointed out during departmental inspections conducted in 16 out of 24 SR offices.

After the cases were pointed out, the IGR and GOMP stated in October 2008 that 31 cases were disposed out of which Rs. 2.90 lakh has been recovered in 11 cases, seven cases were decided as duly stamped and RRCs were issued in 13 cases. Progress of recovery and action taken in remaining cases has not been received (December 2008).

5.2.17 Short levy of stamp duty and registration fee due to misclassification

Under the IS Act, stamp duty is leviable on instruments as per their recital at the rates specified in schedule I-A or prescribed by the Government through notifications.

Scrutiny of the records of 14 SR¹⁷ offices revealed that 95 instruments valued at Rs. 40.77 crore registered between August 2002 and November 2007 were misclassified due to deficiencies like agreement with possession treated as without possession, builder agreement instead of conveyance deed, mortgage deed treated as simple agreement, instruments relating to several distinct

¹⁵ Bhopal, Harda, Hoshangabad, Indore, Jabalpur, Khandwa, Obedullahganj, and Sehore

¹⁶ Bhopal, Bina, Chhattarpur, Chhindwara, Datia, Depalpur, Gwalior, Harda, Indore, Jabalpur, Katni, Khandwa, Mandsaur, Morena, Neemuch, Obedullahganj, Ratlam, Rewa, Sagar, Sanwer, Sehore, Sheopur, Ujjain and Vidisha

¹⁷ Bhopal, Gwalior, Indore, Jabalpur, Katni, Khandwa, Mandsaur Morena, Ratlam, Rewa, Sanver, Sehore, Ujjain, and Vidisha

matter treated as single matter etc. This resulted in short levy of stamp duty and registration fee of Rs. 1.81 crore.

After the cases were pointed out, the IGR and GOMP stated in October 2008 that nine cases have been disposed off. Of these, an amount of Rs. 1.20 lakh was recovered in one case, seven cases were decided as duly stamped and RRC was issued in one case. Action for disposal of the remaining cases was being taken by the DRs. Further report in the matter had not been received (December 2008).

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

As per the Government notification of 24 October 1980¹⁸, instruments executed by or in favour of primary co-operative housing societies (societies) for acquisition of land for housing purpose of its members were exempted from payment of stamp duty and registration fee. The exemption was available upto 5 September 2004¹⁹.

5.2.18.1 Test check of the records in SR, Gwalior revealed that in four instruments valued at Rs. 97.56 lakh, there was no mention of purchase of land for housing purpose of its members, while in another instrument valuing Rs. 46.47 lakh, though the land was purchased for housing purpose but the document was executed/registered after 5 September 2004 when the exemption was not available to the societies. Thus, exemption from payment of stamp duty and registration fee of Rs. 16.14 lakh was given incorrectly.

5.2.18.2 Test check of the records of SR, Bhopal revealed that in one instrument valued as Rs. 5.78 lakh, there was no mention about purpose of purchase of land while in one instrument valued as Rs. 15 lakh, the purpose of purchase of land was commercial. It was however, seen that exemption from payment of stamp duty and registration fee of Rs. 2.33 lakh was incorrectly given to both the cases.

After the cases were pointed out, the IGR and GOMP stated (October 2008) that action for disposal of the cases was in progress.

5.2.18.3 Test check of the records of SR Bhopal, Gwalior and Indore revealed that land valued at Rs. 10.40 crore purchased between December 1999 and May 2004 for housing purposes through 52 instruments by 30 societies was not utilised for housing purpose of the members of the societies and was subsequently disposed of between February 2003 and March 2007 to persons other than members of societies such as builders, individuals etc. Thus, stamp duty and registration fee of Rs. 1.11 crore on these instruments became recoverable. However, no action was taken by the registering officers to recover the amount.

After the cases were pointed out, the IGR and the GOMP stated in October 2008 that action for disposal of the cases was in progress.

¹⁸

No. 773-1155-VI-R of 24 October 1980

¹⁹

It was deleted by the Government notification of 6 September 2004

5.2.19 Irregular exemption

The Government in its notification dated 25 September 2006 exempted documents of mortgage deeds from payment of duty, which are executed by agriculture landholders for obtaining loans not exceeding Rs. 10 lakh from banks for agriculture purpose, irrespective of their holding. Prior to it, the exemptions were available to land holders belonging to SC/ST or possessing land not exceeding 10 hectares. Further, agriculture purpose was also defined by the Government and the specific purpose for which loan was to be obtained was required to be mentioned in the documents.

Test check of the records of 20²⁰ SR offices revealed that exemption from payment of duty of Rs. 62.93 lakh was granted on 364 documents of mortgage deeds executed by the landholders for obtaining loans of Rs. 16.21 crore from banks between February 2005 to March 2008. During the scrutiny of these documents, it was seen that the specific purpose of loan was not mentioned in 331 documents while in 12 documents, the purpose of loan was other than agriculture and in four cases, the holding of land was more than 10 hectare. Besides, in 17 documents executed between September 2006 and March 2007, the loan amount in each case was more than Rs. 10 lakh. It was however, seen that exemption was granted on the ground of agriculture purpose disregarding the monetary limit of loan. This resulted in grant of irregular exemption from payment of duty of Rs. 62.93 lakh on 364 documents.

After the cases were pointed out, the IGR and the GOMP stated (October 2008) that out of 356 cases, 210 cases have been disposed off by the DRs. Of these, 203 cases were decided as duly stamped and RRCs were issued in seven cases. Progress of recovery, action taken in remaining cases and reply in respect of eight cases had not been received (December 2008).

5.2.20 Delay in disposal of cases referred by Sub-Registrars

As per the departmental instructions of July 2004, a maximum period of three months has been prescribed for disposal of cases referred to the Collector by the SR offices.

In four districts²¹, it was noticed that 132 cases involving revenue of Rs. 2.46 crore registered by the respective Collector of Stamps between June 2000 and November 2005 were decided between February 2002 and March 2007, after delay ranging between four to 55 months.

In 13 sub-registrar offices²², 1,035 cases referred by the registering authorities between March 2002 and December 2007 for determination of market value of properties had not been finalised though the period of three months had already lapsed. The difference of stamp duty recoverable on these documents based on the proposal of SRs worked out to Rs. 7.80 crore which remained unrealised.

²⁰ Bina, Chhindwara, Datia, Depalpur, Gwalior, Harda, Hoshangabad, Indore, Jabalpur, Katni, Khandwa, Mandsaur, Obedullahganj, Ratlam, Rewa, Sagar, Satna, Sehore, Sheopur and Vidisha

²¹ Bhopal, Hoshangabad, Indore and Jabalpur

²² Bhopal, Burhanpur, Chhindwara, Harda, Hoshangabad, Jabalpur, Khandwa, Morena, Ratlam, Sagar, Satna, Sehore and Sheopur

After the cases were pointed out, the IGR and GOMP stated in October 2008 that out of 1,035 cases, 762 cases were decided. Of these, 35 cases were decided as duly stamped, Rs 99.54 lakh were recovered in 468 cases, RRCs were issued in 259 cases and action for disposal of remaining 273 cases was in progress. Further report in the matter had not been received (December 2008).

5.2.21 Short levy of stamp duty and registration fee due to undervaluation of land

Market value guidelines²³ (guidelines) are prepared by a Committee constituted under the Rules and issued to registering officers before commencement of every financial year. The guidelines are prepared district-wise which consist of area-wise rates of properties situated therein. As per guidelines prior to 2007-08, agricultural land upto 0.40 hectare situated in municipal corporation area is to be valued as below:

Area of land	Developed plot	Diverted agriculture land	Undiverted agriculture land
(a) 0.05 hectare or less.	At plot rates.	At plot rates.	60 per cent of plot rates during 2004-05 and 2005-06, 80 per cent of plot rates during 2006-07.
(b) more than 0.05 hectare but less than 0.40 hectare.	- do -	First 0.05 hectare in accordance with (a) and remaining land at two and half times of the value of agriculture land.	First 0.05 hectare in accordance with (a) and remaining land at two times of agriculture land.
(c) more than 0.40 hectare.	- do -	One and half time of the value of agriculture land.	As agriculture land

As per provisions of guidelines of 2007-08, land measuring more than 0.40 hectare is sold or purchased by various owner of land through a single document indicating the share of each seller or purchaser, the land is to be valued treating the each share as separate transaction in accordance with above rates. This provision was not in existence prior to April 2007 and land in such cases was to be valued at flat rates.

Test check of the records in five SR offices²⁴ between January and April 2008 revealed that in 13 instruments registered between August 2004 and March 2007, land measuring more than 0.40 hectare was sold to more than one purchaser. The value of land of each purchaser worked out to Rs. 5.25 crore against the registered value of Rs. 1.93 crore. This resulted in short levy of stamp duty and registration fee of Rs. 34.68 lakh.

²³ The set of values of immovable properties in different villages, municipalities, corporation and other local areas in the state, arrived at by the respective committees from time to time under Madhya Pradesh Preparation and Revision of Market value Guideline Rules 2000.

²⁴ Gwalior, Khandwa, Mandsaur, Ratlam and Satna

After the cases were pointed out, the IGR and GOMP stated in July and August 2008 that necessary provisions have been made in the guidelines during the year 2007-08. It was also stated in October 2008 that the respective DRs had registered cases and action for disposal of the cases was being taken.

5.2.22 Conclusion

It was noticed in audit that the systems instituted by the department for assessment and levy of stamp duty and registration fee were deficient. Lack of clear provisions in the Act/Rules constrained the department in effecting recovery from defaulters. Lack of provisions in the market valuation guidelines led to short realisation of revenue. The department failed to coordinate with other bodies/departments to collect timely information on the number of registerable documents leading to substantial loss of stamp duty and registration fee. Moreover, the department failed to follow various provisions of the Act/rules resulting in significant amount of non/short assessment and realisation of stamp duty and registration fee.

5.2.23 Summary of recommendations

The Government may consider implementation of the following recommendations for rectifying the system and compliance deficiencies:

- inserting provision in the Act/Rules for mandatory production of proof of permanent residential address of the executants while presenting instruments for registration in SR offices;
- prescribing time limit for issue of RRCs after the demand is established;
- consider instituting a system for timely exchange of information from other bodies/departments to safeguard against leakage of revenue;
- prescribing a mechanism for coordination between the Registration and Industry Department to ensure recovery of stamp duty and interest in case of failure to start the factory within the stipulated period; and
- taking immediate steps to strengthen the internal audit wing to ensure observance of Acts/Rules and prevent leakage of revenue.

B. ENTERTAINMENT DUTY

5.3 Non-recovery of entertainment duty from cable operators

The Madhya Pradesh Entertainment Duty and Advertisement Tax Act, 1936 and Madhya Pradesh Cable Television Network (Exhibition) Rules, 1999 provide that every proprietor of cable television network and hotel or lodging houses providing entertainment through cable service shall pay entertainment duty at the prescribed rates.

Test check of the records of nine district excise offices (DEO) and assistant excise commissionerates (AEC)²⁵ between February 2007 and March 2008 revealed that entertainment duty of Rs. 32.57 lakh from 433 cable operators and 44 proprietors of hotels or lodging houses providing entertainment through cable service during April 2002 to February 2008 was not recovered by the department. This resulted in non-realisation of duty of Rs. 32.57 lakh.

After the cases were pointed out, the Excise Commissioner (EC) stated (June 2008) that an amount of Rs 27.31 lakh has been recovered and action for recovery of the balance amount is in progress. Reply of the Government has not been received (December 2008).

5.4 Non-levy of entertainment duty on cinema houses

The Madhya Pradesh Entertainment Duty and Advertisement tax Act provides that where cinematographic exhibitions are carried out in a cinema hall, no duty shall be levied on an amount not exceeding Rs. two per ticket charged on account of facilities provided to persons admitted in the cinema hall. The details of facilities provided and the amount spent thereon certified by a chartered accountant (CA) shall be presented by the proprietor of the cinema hall to the Collector of the district through AEC/DEO latest by 30th June of the following financial year. If the Collector is not satisfied with the facilities provided, he may recover the duty in respect of the amount allowed for facilities from the proprietor of the cinema.

Test check of the records of three AECs and four DEOs²⁶ between October 2007 and January 2008 revealed that 47 proprietors of cinema houses collected Rs. 62.60 lakh between April 2005 and March 2007 on sale of tickets for providing facilities to spectators in the cinema houses. Though the details of facilities provided in cinema halls and accounts of expenditure thereof certified by the CA were not submitted by the proprietors to the Collectors within the prescribed period, but the concerned AECs/DEOs did not send the cases to the Collectors for levy of entertainment duty. Thus, entertainment duty of Rs. 20.49 lakh leviable on Rs. 62.60 lakh was not levied.

After the cases were pointed out, the EC stated (June 2008) that action to recover entertainment duty of Rs.1.33 lakh relating to Rewa district is being taken while in other cases, the details certified by the CA have been submitted or is being submitted by the proprietors of cinema halls. The reply is not

²⁵ AECs-Bhopal, Gwalior, Indore and Rewa.

DEOs- Anuppur, Chhattarpur, Khargone, Ratlam, and Shahdol.

²⁶ AECs-Gwalior, Indore and Rewa. DEOs- Anuppur, Mandla, Ratlam and Shahdol.

tenable as action should have been initiated to recover the entertainment duty on such amount in case of non-receipt of details of facilities provided and the amount expended thereon duly audited by a CA within the prescribed period i.e. 30 June of the following year which was not done. Reply of the Government has not been received (December 2008).

5.5 Non-levy/recovery of advertisement tax

The Madhya Pradesh Entertainment Duty and Advertisement Tax Act provides that every proprietor of an entertainment shall pay advertisement tax on every advertisement exhibited at a rate not exceeding Rs. 50 per month.

Test check of the records of five DEOs²⁷ between April 2006 and March 2008 revealed that advertisement tax for the period from April 2003 to February 2008 was neither paid nor recovered from 599 cable operators. This resulted in non-levy/realisation of advertisement tax of Rs. 5.09 lakh.

After the cases were pointed out, the EC stated (June 2008) that action to recover the amount of advertisement tax from cable operators is being taken and will be intimated after recovery. Reply of the Government has not been received (December 2008).

C. LAND REVENUE

5.6 Non-raising of demand of premium, diversion rent and fine

According to paragraph 14 of the Madhya Pradesh Revenue Book Circular (RBC) issued under MP Land Revenue Code (MPLRC) 1959, the sub-divisional officer (revenue) shall intimate to the concerned *tahsildar* the dues recoverable from each land holder in a statement called B-1. This statement consists of the demand for premium, diversion rent and fine imposed under the penal provisions of MPLRC. The *tahsildar* on receipt of statement B-1 is to effect the recovery of dues through the *patwaris*²⁸.

Test check of *Diara*²⁹ register maintained in the office of the Sub-Divisional Officer, (SDO), *tahsil*, Indore (Revenue) in April 2007 revealed that diversion rent, premium and fine of Rs. 2.80 crore was due in 32 cases of Indore city urban area between October 2003 to September 2006. The SDO did not prepare the statement form B-1 for onward transmission to the *tahsildar*, Indore for raising the demand. This resulted in non-realisation of Rs. 2.80 crore.

The matter was reported to the Commissioner, Land Record and Settlement and Government in March 2008; their reply has not been received (December 2008).

²⁷ Anuppur, Chhattarpur, Khargone, Neemuch and Shahdol

²⁸ An official appointed for the maintenance and updation of land records

²⁹ The register in which revenue cases are registered for proceedings

5.7 Non-realisation of revenue due to non-recovery of anticipated premium and ground rent in the case of advance possession

As per provision of Paragraph 29 of RBC, whenever advance possession of Government land is given to the applicant in anticipation of the final sanction, the anticipated premium and ground rent should be recovered on the basis of estimated premium and ground rent. In the mean time, the applicant should provide an undertaking that he will pay premium and ground rent, which the Government finally decides. This was reiterated by the Government direction of February 1985, which stipulated that the amount of anticipated premium and ground rent should be compulsorily deposited in case of advance possession.

Test check of the records of Collectorate, Bhopal (*Nazul* section) in January 2008 revealed that advance possession of Government land measuring 5.50 acre in which 4.88 acre was for public use and free from premium and ground rent and 0.42 acre allotted for commercial use was given (August 2005) to the Municipal Corporation, Bhopal to set up a bus stand at Shajahanabad in anticipation of final sanction. But the anticipated amount of Rs. 1.01 crore, premium Rs. 87.94 lakh and ground rent of Rs. 13.20 lakh was not recovered from the Municipal Corporation, Bhopal. This resulted in non-realisation of Rs. 1.01 crore.

After the case was pointed out, the *Nazul* officer stated (January 2008) that the allotment was done by Government order and letter is being written to BMC to deposit the premium and ground rent. The reply is not tenable because no action was taken by the *Nazul* officer to recover the anticipated premium and ground rent as per provisions of RBC and Government directions at the time of handing over the advance possession of the land.

The matter was reported to the Commissioner, Land Record and Settlement and Government (April 2008); their reply has not been received (December 2008).

5.8 Non-realisation of revenue due to non-disposal of attached properties

Under the provisions of the MPLRC, arrears of land revenue payable to the Government shall be recovered by the *tahsildar* by attaching the property and sale of movable and immovable properties of the defaulters. Further, the *tahsildar* is required to conduct quarterly review of the attached property register with a view to take action for early disposal of attached property.

Test check of the records of Indore *tahsil* in April 2007 revealed that movable and immovable properties in 11 cases were attached between October 2003 to September 2006 for recovery of Rs. 66.23 lakh³⁰ but no action was taken by the department to realise the dues by disposing of the attached properties. This resulted in non-realisation of Rs. 66.23 lakh.

³⁰

Labour Court Dhar - (03 items) Amount Rs. 6.02 lakh, Diversion Section-Collectorate Indore (08 items) Amount Rs. 60.21 lakh.

The case was reported to the Commissioner, Land Record and Settlement and Government (March 2008); their reply has not been received (December 2008).

5.9 Non-recovery of collection charges

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

Test check of the records of 16 *tahsils*³¹ between April 2007 to February 2008 revealed that revenue of Rs. 5.63 crore was collected and credited by the *tahsildars* to *Panchayat Raj Nidhi* without deducting collection charges of Rs. 56.33 lakh. This resulted in non-recovery of revenue of Rs. 56.33 lakh.

After the cases were pointed out, the *tahsildars* stated (February 2008) that collection charges were not deducted and these would be deducted after receiving the orders from the collectors. Reply is not acceptable as the collection charges should have been deducted prior to crediting the revenue into the Government account as per the provision of the *Adhiniyam*.

The matter was reported to the Commissioner, Land Record and Settlement and Government (between July 2007 to April 2008); their reply has not been received (December 2008).

5.10 Non-levy/recovery of process expenses

As per Section 4 of the Madhya Pradesh *Lokdhan Shodhya Rashiyon ki Vasuli Adhiniyam*, 1987, process expenses at the rate of three *per cent* of principal amount shall be recovered from the defaulters and deposited in the treasury.

Test check of the records of six *tahsils*³² between April 2007 to February 2008 revealed that process expenses of Rs. 37.62 lakh were recoverable from the defaulters in 6,777 cases, but were not included in the relevant demand notices of the principal amount of Rs. 12.54 crore. This resulted in non-levy of process expenses of Rs. 37.62 lakh.

The matter was reported to the Commissioner, Land Record and Settlement and Government (between March 2008 to April 2008); their reply has not been received (December 2008).

³¹ Bairasiya (Bhopal), Dabra (Gwalior), Depalpur (Indore), Dindori, Indore, Kurwai (Vidisha) Lakhnadaun (Seoni), Laundi (Chhattarpur), Multai (Betul), Nasrullaganj (Sehore), Patan (Jabalpur), Rehli (Sagar) Rajgarh, Rajanagar (Chhattarpur), Sanver (Indore) and Seoni

³² Barod (Shajapur), Ghattiya (Ujjain), Khaniyadhana (Shivpuri), Mahidpur (Ujjain), Narwar (Shivpuri) and Seoni

CHAPTER VI: FOREST RECEIPTS

6.1 Results of audit

Test check of the records of forest receipts during 2007-08 revealed loss of revenue amounting to Rs. 91.59 crore in 117 cases which can be categorised as under:

(Rupees in crore)			
Sl. No.	Category	Number of cases	Amount
1.	Non-realisation of revenue due to non-exploitation of bamboo/timber coupes	13	9.48
2.	Short realisation due to low yield of timber/bamboo against estimated yield	19	6.66
3.	Non-realisation due to deterioration/shortage of forest produce	08	1.37
4.	Short realisation of revenue due to re-measurement of timber	03	0.45
5.	Short realisation due to sale below upset price	05	0.22
6	Other irregularities	69	73.41
Total		117	91.59

During the year 2007-08, the department accepted loss of Rs. 95 lakh in seven cases. All these cases were pointed out during 2007-08. An amount of Rs. 43,000 was recovered in one case.

A few illustrative cases involving Rs. 82.55 lakh are mentioned in the following paragraphs.

6.2 Loss of revenue due to low yield of timber

The timber coupes that are due for exploitation as per the working plan are marked by the territorial division and handed over to production division alongwith the records containing the estimated yield of coupes. The departmental instructions (January 1984) allow variations upto a maximum of 10 per cent between the estimated and actual yield of timber. Further, the departmental instructions of March 2004 prescribe that revision in estimated yield may be done after a joint inspection of coupes by gazetted officers of territorial and production divisions if any variation is found between estimated and actual yield at the time of exploitation.

Test check of the records of the Divisional Forest Officers (Production), Khandwa and West Sidhi in October 2007 and December 2007 revealed that 21,172 trees were marked and felled in six coupes during 2006-07 and against the estimated yield of 1,446 cubic meter (cum.) of timber and 2,008 cum. of fuel stacks, the actual yield was 607 cum. and 1,616 cum. respectively. Even after allowing 10 per cent variation, the shortfall in actual yield was 694 cum. for timber and 191 cum. for fuel stacks. The percentage of shortfall after allowing 10 per cent variation was 48 per cent for timber whereas it was 9.5 per cent for fuel stacks. No action was taken to reconcile the variations as required under the departmental instructions of March 2004. As a result of low yield of timber, the Government suffered a loss of Rs. 73.02 lakh. The figures of estimated and actual yield, shortfall and percentage of shortfall for two divisions are as mentioned below.

Sl. No.	Forest division	No. of coupes	No. of trees		Yield (cum.)				Shortfall in actual yield after allowing 10 per cent variation		Percentage of shortfall after allowing 10 per cent variation		Loss of revenue (Rs. in lakh)
			Marked	Felled	Estimated		Actual		Tim-ber	Fuel stacks	Tim-ber	Fuel Stacks	
					Tim-ber	Fuel stacks	Tim-ber	Fuel stacks					
1.	Khandwa	4	10,190	10,190	955	1,031	392	768	467	160	49	16	56.76
2.	West Sidhi	2	10,982	10,982	491	977	215	848	227	31	46	3	16.26
	Total	6	21,172	21,172	1,446	2,008	607	1,616	694	191	--	--	73.02

After the case was pointed out, the Divisional Forest Officer (Production), Khandwa replied (October 2007) that action for recovery would be taken for two coupes in which there was shortfall of 55 cum. of timber and 24 fuel stacks and reasons would be investigated after joint inspection for the remaining two coupes. The DFO (Production), West Sidhi replied (December 2007) that joint inspection would be done and results reported to audit accordingly. The replies are not acceptable as joint inspections were required to be done at the time of exploitation under departmental instructions.

The matter was reported to the Principal Chief Conservator of Forest and the Government (January and March 2008); their replies have not been received (December 2008).

6.3 Loss of revenue due to low yield of bamboo in flowered bamboo area

The departmental instructions regarding working in flowered bamboo area clarify that exploitation in flowered bamboo area is done through clear felling and bamboo is obtained in large quantity. As per the departmental procedure, the estimated quantity of bamboo is determined by the territorial division by survey, demarcation and drawing sample plots in the bamboo coupes due for felling, and handed over to the production division. The departmental instructions (January 2003) also prescribe that after taking over the charge of coupe by the staff of production division, if any necessity in change of estimated quantity is required, the territorial division may be informed accordingly.

Test check of the records of the Divisional Forest Officer (Production) {DFO (P)} Mandla, in October 2007 revealed that the DFO territorial division determined the estimated yield of 755.750 notional tonnes (NT) of industrial bamboo and 6.804 NT of commercial bamboo from five compartments of flowered bamboo area of Motinala range during 2006-07 and handed over to the DFO (P). It was, however, noticed that the actual yield was 32.804 NT of industrial bamboo only. The percentage of shortfall in actual production ranged between 70 and 100 *per cent* in respect of industrial and commercial bamboo respectively. This resulted in short realisation of revenue of Rs. 9.53 lakh due to short production of 729.75 NT bamboo.

After this was pointed out, the DFO (P) Mandla stated in March 2008 that the overall actual production of bamboo during 2006-07 was more than the estimated quantity, whereas audit has considered only the figures of those compartments in which the production was short. The reply is not in consonance with the departmental circular of January 2005 which prescribed that coupe wise loss should be worked out in case of short production against estimated yield instead of all coupes of the division. Further, the fact of variation between the estimated and actual yield was also not taken up with the territorial division as per departmental circular of January 2003.

The mater was reported to the Principal Chief Conservator of Forest and Government in January 2008 and March 2008; their replies have not been received (December 2008).

CHAPTER VII: MINING RECEIPTS

7.1 Results of audit

Test check of the records relating to assessment and collection of mining receipts during the year 2007-08 revealed non/short levy 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. 513.88 crore in 1,474 cases which can be categorised as under:

(Rupees in crore)			
Sl. No.	Category	Number of cases	Amount
1.	"Mining Receipts" (A Review)	1	395.76
2.	Non/short levy of royalty	139	30.67
3.	Short realisation of interest on royalty	21	2.44
4.	Non-levy of dead rent	269	1.85
5.	Loss of interest	35	0.07
6.	Others	1,009	83.09
Total		1,474	513.88

During the year 2007-08, the department accepted underassessment of royalty and dead rent of Rs. 97.25 crore involved in 1,457 cases. All these cases were pointed out during 2007-08. An amount of Rs. 129.74 crore had been recovered in 53 cases relating to 2007-08 and earlier years.

A review of **"Mining receipts"** involving Rs. 395.76 crore is mentioned in the following paragraphs.

7.2 Mining Receipts

Highlights

- Non-imposition of penalty of Rs. 2.44 crore due to non-maintenance of records to monitor receipt of returns from lessees.

(Paragraph 7.2.9)

- Failure of the department to prescribe any system to monitor demand and collection register resulted in non/short realisation of revenue of Rs. 54.70 crore.

(Paragraph 7.2.10)

- Absence of any system for cross verification of figures of extraction of minerals with other departments resulted in non-realisation of revenue of Rs. 1.03 crore.

(Paragraph 7.2.12)

- Non/short assessment of road development tax of Rs. 327.30 crore.

(Paragraph 7.2.18)

- Short realisation of revenue of Rs. 1.36 crore due to irregular issue of temporary permits.

(Paragraph 7.2.20)

- Short payment of royalty of Rs. 7.98 crore by Madhya Pradesh State Mining Corporation.

(Paragraph 7.2.21)

7.2.1 Introduction

Receipts from mining in Madhya Pradesh are regulated under the Mines and Mineral (Regulations and Development) Act, (MMRD Act) 1957, Coal Bearing (Acquisition and Development) Act, 1957, Mineral Conservation and Development Rules, 1988, Mineral Concession Rules, (MC Rules) 1960, Minor Minerals Rules (MM Rules), 1996 and Madhya Pradesh Minerals (Prevention of illegal mining, transportation and storage) Rules, 2006.

Madhya Pradesh has deposits of bauxite, coal, copper, diamond, dolomite, diaspore, limestone, manganese, pyrophyllite and rock phosphate. Besides, the state is fast emerging as a producer of dimensional stone, which includes multi-coloured granite, marble, flag stone and sand stone.

Mining receipts comprise mainly of application fees for lease/permit/prospecting license, royalty, dead rent, surface rent, fines and penalties and interest for belated payment of dues.

Audit reviewed the functioning of the Mining Department regarding assessment, levy and collection of mining receipts. It revealed a number of system and compliance deficiencies which are mentioned in the succeeding paragraphs.

7.2.2 Organisational setup

The Mining Department functions under the overall charge of Secretary, Mining, Government of Madhya Pradesh. The Director, Geology and Mining is the head of the department who is assisted by Deputy Directors at headquarter and District Mining Officers (DMO) at the district level. The latter is assisted by Assistant DMOs and Mining Inspectors (MI). The DMO, Assistant DMOs and the Mining Inspectors are under the administrative control of the Collector at the district level.

7.2.3 Scope of audit

Test check of the records of the directorate and 20¹ out of 49 DMOs for the period 2003-2004 to 2007-08 was conducted between November 2007 and May 2008. The selection of units was done on the basis of simple random sampling method.

7.2.4 Audit objectives

The review was conducted to ascertain whether:

- the provisions of rules and departmental instructions are adequate and the provisions for assessment, levy & collection of mining receipts were enforced accurately to safeguard revenue; and
- internal control mechanism of the department was effective and adequate to safeguard Government revenue.

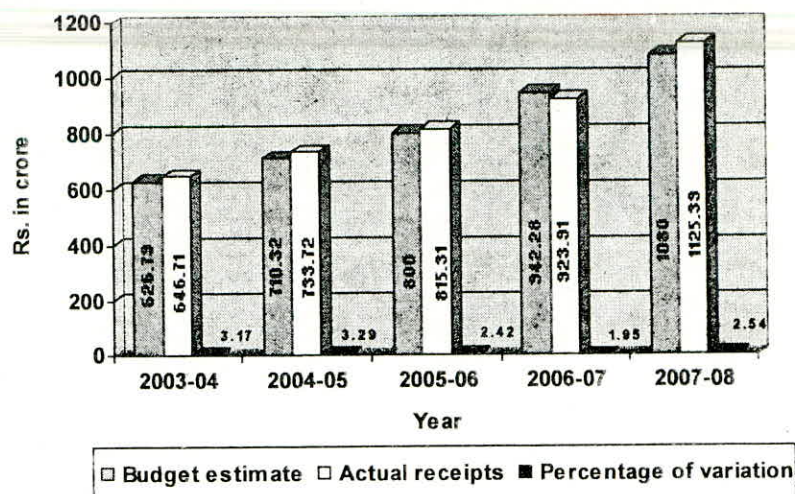
7.2.5 Acknowledgement

Indian Audit and Accounts Department acknowledges the co-operation of the Geology and Mining Department in providing necessary information and records for audit. The draft review report was forwarded to the Government and department in May 2008 and discussed in the audit review committee meeting (exit conference) held in November 2008. The Secretary represented the Government while the Director represented the Geology and Mining Department. The meeting was also attended by the Principal Secretary, Finance Department. The reply of Government/department has not been received (December 2008).

¹ Anuppur, Balaghat, Betul, Chhattarpur, Chhindwara, Damoh, Dhar, Gwalior, Hoshangabad, Jabalpur, Katni, Morena, Narsingpur, Neemuch, Rewa, Satna, Sagar, Shahdol, Sidhi and Umaria

7.2.6 Trend of revenue

The trend of revenue during last five years ending 31 March 2008 is as under:



Thus, the budget estimates (BE) *vis-a-vis* actual receipts during the entire period covered in audit showed an increasing trend except in 2006-07.

It was noticed that while framing the BEs, amount of outstanding arrears was not considered which resulted in huge accumulation of arrears to be recovered as enumerated in the succeeding paragraph.

7.2.7 Position of arrears

Audit observed wide fluctuations in the arrear figures furnished by the department for the period 2003-04 to 2007-08. There was a sharp increase in arrears during 2004-05 and 2006-07 while in 2005-06 there was steep fall as mentioned below:

(Rupees in crore)	
Year	Outstanding arrears
2003-04	49.59
2004-05	153.04
2005-06	11.11
2006-07	113.25
2007-08	12.23

It was noticed that the arrears are as old as 40 years. The department has not prescribed any time limit for sending the cases for recovery as arrears of land revenue. Besides, the percentage of recovery in respect of RRC cases during the years under review was a meager 2.87 per cent.

Audit findings

System deficiencies

7.2.8 Non-monitoring of work done by the prospecting licensees

Rule 16 (1) (2) of the M C Rules lays down that prospecting licensees shall submit to the State Government a six monthly report of the work done by him. The licensees shall also submit, within three months of the expiry of the license, a full report of the work done by him in the course of prospecting operations in the area covered by the license. Further, Rule 8 (1) of Mineral Conservation & Development Rules prescribes a yearly report of the prospecting operation carried out in form B.

Test check of the records of DM offices revealed that no register/record was maintained to monitor receipt of these reports. Neither was any report received from the prospecting licensees in any of the DM offices during the last five years. In the absence of this control register/record there was no mechanism by which the DMOs and the department could verify whether the prospecting operations were carried out in the authorised areas or prospecting was done only for those minerals for which license was granted.

The Government may consider prescribing the maintenance of appropriate records for monitoring the receipt of reports from prospecting licensees for effective control on prospecting activities.

7.2.9 Non-imposition of penalty due to non-submission of returns by the lessees

7.2.9.1 Mining leases

According to the provisions of the MC Rules and condition no. 7 of part VII of the agreement for mining leases, every lessee is required to furnish to such officers and at such times, as the Central Government and State Government may appoint, true and correct abstract of all or any such books of accounts and such information and returns as the State Government may prescribe. If the lessee fails to furnish such information/returns, the State Government may impose such penalty not exceeding twice the amount of annual dead rent as provided in part IX condition No. 3 of the agreement. Rule 45 of Mineral Conservation & Development Rules prescribes submission of monthly and annual returns in various forms indicating therein production, details of royalty, consumption of material, despatches & stock, cost of production etc.

Audit scrutiny revealed that no register for monitoring the receipt of returns from the lessees have been prescribed by the department.

Scrutiny of the lease files of four² DM offices revealed that 50 out of 391 lessees had not furnished monthly and annual returns for the period January 2002 to February 2008. In the absence of any record to monitor receipt of these monthly and annual returns, the DMOs were not in a position to verify the royalty payable on actual despatch of the minerals and initiate any action for recovery of penalty. Besides, the department had not initiated

² Balaghat, Chhindwara, Katni and Umaria

any action to impose penalty for non-submission of the returns as per the rules. This resulted in non-realisation of revenue of Rs. 59.30 lakh³.

7.2.9.2 Quarry leases

According to rule 30 (20) (a)(b)(c) of the Madhya Pradesh Minor Mineral Rules, every lessee of quarry lease shall furnish monthly, six monthly and annual return to the DMOs in the prescribed forms at specified dates, failing which the lease sanctioning authority will impose penalty not exceeding double the amount of annual dead rent. Audit scrutiny revealed that the Government has not prescribed any register for monitoring the receipt of monthly, six monthly and annual returns from the lessees.

Scrutiny of the records of 12⁴ DM offices revealed that out of 216 cases of quarry leases selected for test check, 178 lessees had not submitted monthly, six monthly and annual returns for the period April 2003 to March 2008.

In the absence of any record to monitor receipt of these returns, the DMOs were constrained to verify the correct amount of royalty payable on the despatch of mineral. Assessment of these 216 leases was also pending. Lack of monitoring of submission of returns resulted in non-levy of penalty of Rs. 1.85 crore. The Government may consider prescribing the maintenance of appropriate registers for monitoring the receipt of monthly and annual returns from the lessees to ensure effective control on correct assessment, levy and collection of mining dues.

7.2.10 Non-realisation of revenue due to non-scrutiny of returns and non-maintenance of demand and collection register

According to the instructions issued by Director, Geology and Mining, the DM Offices are required to maintain the demand and collection register (*khatoni*) which contains details of fixed (dead rent) and fluctuating demand (royalty) for mining and quarry leases⁵. It is the primary register in the DM office which contains details of surface rent, dead rent, total fixed demand, amount paid, number of challan, date of payment, quantity extracted, due royalty, interest etc. There was no system to monitor the proper maintenance of *khatoni* and its timely submission to the higher authorities. It was seen in audit that this basic record was not at all maintained in 14⁶ test checked DM offices and in remaining six⁷ DM offices, the *khatoni* was incomplete.

Non-scrutiny of returns and non-maintenance of *khatoni* coupled with cases of non-submission of monthly and annual returns by the lessees makes the entire exercise of assessment, levy and collection of mining dues adhoc. The department was in no position to verify either the correctness of extraction and despatches of minerals, royalty paid by the lessees or timely payment of dues. As a result, the process of framing the budgetary estimates in the

³ Calculated at double the amount of annual dead rent of Rs. 29.65 lakh

⁴ Anuppur, Balaghat, Betul, Chhattarpur, Chhindwara, Damoh, Hoshangabad, Katni, Rewa, Sagar, Sidhi and Umaria

⁵ This was reiterated by the Director in September 2005.

⁶ Anuppur, Balaghat, Chhattarpur, Chhindwara, Gwalior, Hoshangabad, Jabalpur, Katni, Morena, Rewa, Sagar, Satna, Shahdol and Sidhi

⁷ Betul, Damoh, Dhar, Narsinghpur, Neemuch and Umaria

CHAPTER VIII: OTHER NON-TAX RECEIPTS

8.1 Results of audit

Test check of the records relating to Co-operative, Food and Civil Supplies, Agriculture and Electricity Duty departments during the year 2007-08 revealed non/short realisation and loss of revenue of Rs. 39.43 crore in 1,85,047 cases which can be categorised as under:

(Rupees in crore)

Sl. No.	Category	Number of cases	Amount
A. ELECTRICITY DUTY			
1.	Short realisation of development cess	2	00.53
2.	Loss of revenue due to non-inspection of electrical installations	1,68,050	00.43
3.	Others	15,566	16.29
Total		1,83,618	17.25
B. FOOD & CIVIL SUPPLIES DEPARTMENT			
1.	Non-disposal of seized goods	241	1.89
2.	Non-levy of interest on belated payment of loan	5	0.16
3.	Others	292	3.97
Total		538	6.02
C. CO-OPERATIVE DEPARTMENT			
1.	Non/short recovery of audit fee	831	1.29
2.	Others	27	13.20
Total		858	14.49
D. AGRICULTURE DEPARTMENT			
1.	Non-deposit of revenue in treasury	10	1.55
2.	Others	23	0.12
Total		33	1.67
Grand total		1,85,047	39.43

During the year 2007-08, the departments accepted underassessment of tax of Rs. 20.62 crore involved in 56,333 cases of which 56,292 cases involving Rs. 18.58 crore were pointed out during 2007-08 and the rest in earlier years. An amount of Rs. 2.08 crore had been recovered in 39 cases.

A few illustrative cases involving Rs. 2.15 crore are mentioned in the following paragraphs.

A. ELECTRICITY DUTY

8.2 Non-realisation of inspection fee

According to Rule 46 of the Indian Electricity (IE) Rules, 1956 and Government of Madhya Pradesh notification dated 22 August 1987, fee at the prescribed rates is leviable for inspection of electrical installations according to their categories. Fee for inspection of electrical installations should be paid before 1 May each year. In case the inspection is not carried out, the fee paid shall be adjusted towards that payable for the subsequent year. Periodicity for conducting inspection of electrical installations of medium voltage is triennial and in other cases, it is annual.

Test check of the records of the Chief Engineer, Electricity Safety (ES) and Chief Electrical Inspector (CEI), Bhopal and three¹ Divisional Electrical Inspectors (DEI) between April 2007 and February 2008 revealed that inspection fee of Rs. 1.31 crore for inspection of 2.61 lakh medium voltage and 45,000 high voltage electrical installations for the period 2003-04 to 2006-07 was not realised from the owners of electrical installations. Besides, inspections were also not carried out by the department. This resulted in non-realisation of revenue of Rs. 1.31 crore as per details given below:

Sl. No.	Category	Year	No. of electrical installations where inspection was to be carried out (in lakh)	Inspection fee to be realised before 1 May of each year (Rs. in lakh)	Fee realised (Rs. in lakh)	Amount of fee not realised (Rs. in lakh)	Inspection carried out (in lakh)	Short fall in inspection (in lakh)
1.	High Voltage	2004-05	0.22	44.95	28.70	16.25	0.13	0.09
		2005-06	0.20	43.31	16.79	26.52	0.14	0.06
		2006-07	0.62	133.55	76.16	57.39	0.31	0.31
2.	Medium Voltage	2003-04	0.08	0.92	0.22	0.70	0.02	0.06
		2004-05	0.44	5.25	0.95	4.30	0.08	0.36
		2005-06	0.92	11.06	1.38	9.68	0.12	0.80
		2006-07	1.56	18.78	2.15	16.63	0.17	1.39
Total				257.82	126.35	131.47		

After the cases were pointed out, the Government replied (June 2008) that inspections are being conducted after fixing the target taking into consideration the available staff. The reply is not acceptable because inspection fee was to be realised before 1 May in each year as per the Government notification and in case the inspections are not carried out, these were to be carried forward to the subsequent year. Further, the basis for fixation of target has not been intimated (December 2008) though called for (August 2008).

¹ Gwalior, Ratlam and Rewa

8.3 Non-imposition of penalty

Under Rule 141 of IE Rules, if the owner of an electrical 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 the records of DEI, Ratlam in January 2008 revealed that while carrying out inspection of 15,343 electrical installations during 2005-06 and 2006-07, though the inspectors detected breach of various provisions of rules, no efforts were made to impose penalty on the defaulters. This resulted in non-levy of penalty of Rs. 46.03 lakh.

After the cases were pointed out, the DEI, Ratlam stated (January 2008) that the concerned owners of electrical installations have been directed to follow the rules during inspection and cases would be referred to the higher authorities. Further reply has not been received (December 2008).

The matter was reported to the Chief Engineer (ES) and CEI and the Government in March and April 2008; their reply has not been received (December 2008).

8.4 Blocking of revenue due to inaction by the department

According to Section 5(2) of the Madhya Pradesh Electricity Duty Act, 1949 any duty which falls due for payment and the interest thereon, if any, may be recovered in the same manner as arrears of land revenue.

Test check of the records of the Chief Engineer (ES) and CEI, Bhopal and DEI, Rewa in February 2008 revealed that revenue of Rs. 41.34 lakh was due for payment on account of electricity duty, interest thereon and inspection fee for the period 1984-85 to 2006-07 in respect of six types of electricity consumers/distributors. Of these, revenue recovery certificate (RRC) in two cases relating to the period July 1999 to July 2001 involving recovery of Rs. 28.92 lakh was issued in March 2004. It was however, observed during audit that RRC issued by the department had not been received by the revenue recovery officer i.e. *Tahsildar Huzur*, Bhopal till February 2008 as confirmed from the tahsil office. In another case, RRC for recovery of Rs 3.16 lakh from owners of generators was issued in January 2006. But the department had not monitored the cases after issue of RRC through verification from the tahsil office. It was further observed that in two cases pertaining to Rural Electricity Co-operative Societies (RECS) and Madhya Pradesh State Electricity Board (MPSEB) the department had not initiated any action for recovery of Rs. 8.82 lakh though it was due for recovery from 1984-85 to 2006-07. As a result, the process of recovery could not be started after a lapse of 1 to 22 years, which resulted in non-realisation of revenue of Rs. 41.34 lakh.

After the cases were pointed out, CEI, Bhopal stated in February 2008 that action to obtain information regarding receipt of RRCs in Collectorate/tahsil would be taken. Further reply has not been received (December 2008).

The matter was reported to the CEI, Bhopal and the Government between February and April 2008; their reply has not been received (December 2008).

8.5 Short levy of electricity duty

According to Section 3 of the Madhya Pradesh Electricity Act, every distributor of electrical energy and every producer shall pay every month to the State Government, at the prescribed time in the prescribed manner, duty calculated at the rate specified on the units of electrical energy sold or supplied to a consumer or consumed by him. Further, for the consumption of industrial power plant auxiliaries, duty is leviable at eight *per cent* of the electricity tariff leviable i.e. 375 paise per unit for 2006-2007.

Test check of the records of Chief Engineer (ES) and CEI, Bhopal in January 2008 revealed that 301.05 lakh units of electrical energy were produced and consumed by three units² of Gas Authority of India Limited during 2006-2007. The leviable duty on consumed energy was Rs. 90.32 lakh against which Rs. 73.70 lakh was levied by the department. Thus, an amount of Rs. 16.62 lakh was not levied by the department.

The matter was reported to the CEI and the Government in March and April 2008; reply has not been received (December 2008).

B. FOOD & CIVIL SUPPLIES DEPARTMENT

8.6 Non-levy of interest on belated/non-repayment of loans

As per instructions of May 2001 of Food and Civil Supplies Department, loans granted to various District Central Co-operative Banks (DCCB) of the State for storage and distribution of food grains in inaccessible areas are to be repaid by 31 October of the same year. In case of default, interest at the rate of 18 *per cent* per annum is chargeable with effect from 1 November to the date of payment.

Test check of the records of District Supply Offices (DSO) Shahdol and Seoni between April and October 2007 revealed that loans of Rs. 3.15 crore were disbursed to DCCB, Shahdol and Seoni during the year 2001-02 to 2005-06 for procurement and storage of food grains in inaccessible areas. Out of this, loan of Rs. 6.25 lakh was not refunded by the DCCB, Shahdol (September 2007). Further, the repayment of these loans was made by the banks after a delay ranging from two to 740 days. However, accrued interest of Rs. 6.66 lakh on unpaid amount of loan calculated upto September 2007 and interest of Rs. 8.24 lakh on delayed payment was not levied. This resulted in non-levy of revenue of Rs. 21.15 lakh.

After the cases were pointed out, both the DSOs stated between April and October 2007 that action for recovery of dues was being taken. Further reply has not been received (December 2008).

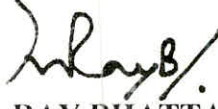
²

Jhabua, Ujjain and Vijaypur

The matter was reported to the Director, Food and Civil Supplies, Bhopal and the Government between May 2007 and April 2008; their reply has not been received (December 2008).

Bhopal,
The

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(M. RAY BHATTACHARYYA)
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Countersigned

4 - FEB 2009



New Delhi,
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