

**REPORT OF THE
COMPTROLLER AND AUDITOR GENERAL
OF INDIA**

FOR THE YEAR ENDED 31 MARCH 2005

(REVENUE RECEIPTS)

Government of Rajasthan

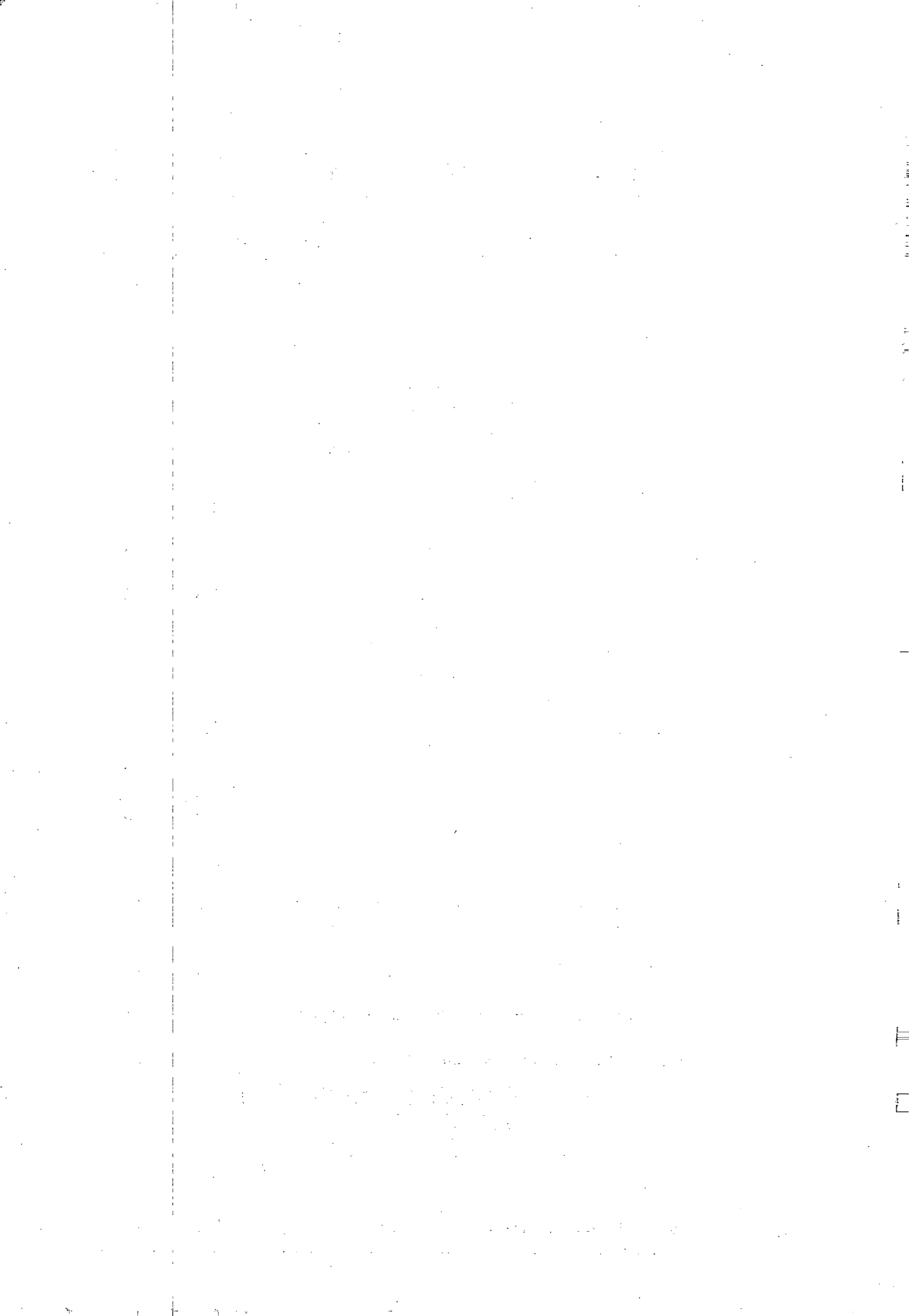


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Preface

This Report for the year ended 31 March 2005 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 sales tax, taxes on motor vehicles, land revenue, stamp duty and registration fees, state excise, and other tax and non tax receipts of the state.

The cases mentioned in this Report are among those which came to notice in the course of test audit of records during the year 2004-2005 as well as those noticed in earlier years but could not be included in previous Reports.

Overview

This Report contains 27 paragraphs including two reviews, relating to non/short levy of tax, interest, penalty *etc.* involving Rs.276.63 crore. Some of the major findings are mentioned below:

I. General

The State Government's receipts for the year 2004-05 amounted to Rs.17,763.59 crore as against Rs. 15,423.84 crore for the year 2003-04. While the revenue raised by the Government amounted to Rs.10,560.97 crore (tax revenue: Rs.8,414.82 crore and non-tax revenue: Rs.2,146.15 crore), the balance Rs.7,202.62 crore was received from the Government of India as the state's share of divisible Union Taxes (Rs.4,305.61 crore) and grants-in-aid (Rs.2,897.01 crore).

(Paragraph 1.1)

Arrears aggregating Rs.2,977.66 crore remained unrealised under the principal heads of revenue at the end of 2004-05. The arrears were mainly in respect of taxes on sales, trade etc., state excise, taxes on immovable property other than agricultural land, major and medium irrigation, sale of land and property, land revenue and non-ferrous mining and metallurgical industries.

(Paragraph 1.5)

Test check of records of sales tax, land revenue, state excise, motor vehicles tax, stamps and registration fees, electricity duty, other tax receipts, forest receipts and other non-tax receipts conducted during the year 2004-05 revealed under-assessment/short levy/loss of revenue amounting to Rs.658.29 crore in 16,964 cases. During the course of the year, the departments accepted under-assessment of Rs.49.52 crore in 7,866 cases.

(Paragraph 1.10)

II. Sales Tax

Review, 'Assessment and Collection of Sales Tax' revealed the following points:

- In 19 circles, 323 industrial units engaged in cutting of marbles were irregularly allowed tax exemption of Rs.129.69 crore.

(Paragraph 2.2.8)

- Ten industrial units engaged in preparation of mineral water were irregularly sanctioned exemption benefit of Rs.8.93 crore.

(Paragraph 2.2.9)

- Seventy six industrial units which were already availing benefit under other Sales Tax Incentive Scheme of 1987/1989 were irregularly granted exemption of Rs.149.67 crore under the Sales Tax Exemption Scheme for Industries 1998.

(Paragraph 2.2.11)

- Non-withdrawal of benefit on breach of condition by 54 units resulted in non-recovery of tax and interest of Rs.39.09 crore.

(Paragraph 2.2.12)

III. Taxes on Motor Vehicles

Penalty of Rs.2.73 crore was not levied on late payment of special road tax in respect of stage carriages owned by RSRTC.

(Paragraph 3.2)

Special road tax of Rs.2.28 crore in respect of stage carriage vehicles of RSRTC, was realised short.

(Paragraph 3.3)

Special road tax of Rs.89.42 lakh in respect of contract carriages was either realised short or was not levied.

(Paragraph 3.4)

IV. Land Revenue

Undervaluation of agricultural land allotted for non-agricultural purpose resulted in short recovery of cost of land amounting to Rs.1.38 crore.

(Paragraph 4.2.1)

Conversion charges of Rs.98 lakh payable in respect of Government land in three tehsils was not recovered.

(Paragraph 4.3)

V. Stamp Duty and Registration fee

Undervaluation of properties transferred through conveyance deeds resulted in short levy of stamp duty and registration fee aggregating Rs.3.89 crore.

(Paragraph 5.2)

Stamp duty and registration fee aggregating to Rs.1.09 crore was levied short.

(Paragraph 5.3.1)

VI. Non-tax receipts

Mines and Geology Department

Review, '**Receipts from Mines and Minerals**' revealed the following points:

- In two cases excavation and despatch of mineral valued at Rs.105.22 crore was made unauthorisedly beyond the period of working permission.

(Paragraph 7.3.8)

- Holder of prospecting licence carried away 22,892 MT of various minerals valued at Rs.1.76 crore in excess of quantities specified in licence without payment of cost thereto.

(Paragraph 7.3.13)

- Royalty of Rs.4.89 crore on use of brick clay for production of bricks was not charged.

(Paragraph 7.3.17)

- Cost of minerals amounting to Rs.11.75 crore due to excess excavation than permitted was not charged.

(Paragraph 7.3.18)

CHAPTER-I: General

1.1 Trend of revenue receipts

1.1.1 The tax and non tax revenue raised by the Government of Rajasthan during the year 2004-05, 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 given below:

(Rupees in crore)

Sl. No.	Particulars	2000-2001	2001-2002	2002-2003	2003-2004	2004-2005
I.	Revenue raised by the State Government					
	(a) Tax revenue	5,299.96	5,671.17	6,253.34	7,246.18	8,414.82
	(b) Non tax revenue	1,687.98	1,508.46	1,569.00	2,071.64	2,146.15
	Total	6,987.94	7,179.63	7,822.34	9,317.82	10,560.97
II.	Receipts from Government of India					
	(a) State's share of divisible Union taxes	2,836.61	2,882.36	3,063.10	3,602.22	4,305.61
	(b) Grants in aid	2,577.23	2,091.30	2,196.42	2,503.80	2,897.01
	Total	5,413.84	4,973.66	5,259.52	6,106.02	7,202.62
III.	Total receipts of the State (I and II)	12,401.78	12,153.29	13,081.86	15,423.84	17,763.59¹
IV.	Percentage of I to III	56	59	60	60	59

¹ For details, please see 'Statement No. 11-Detailed Accounts of Revenue by Minor Heads' in the Finance Accounts of the Government of Rajasthan for the year 2004-05. Figures under the head 0020-Corporation Tax, 0021-Taxes on Income other than Corporation Tax, 0028-Other Taxes on Income and Expenditure, 0032-Taxes on Wealth, 0037-Customs, 0038-Union Excise Duties, 0044-Service Tax and 0045-Other Taxes and Duties on Commodities and Services - share of net proceeds assigned to State booked in the Finance Accounts under A-Tax Revenue have been excluded from revenue raised by the State and included in 'State's share of divisible Union Taxes' in this statement.

1.1.2 Details of tax revenue raised during the year 2004-05 alongwith the figures for the preceding four years are given below:-

(Rupees in crore)

Sl. No.	Revenue heads	2000-2001	2001-2002	2002-2003	2003-2004	2004-2005	Percentage of increase (+)/ decrease (-) in 2004-2005 over 2003-2004
1.	(a) Taxes on Sales, Trade etc.	2,644.51	2,869.23	3,229.79	3,751.80	4,500.78	(+) 20
	(b) Central Sales Tax	176.70	199.80	208.11	233.63	296.75	(+) 27
2.	State Excise	1,118.48	1,110.27	1,142.34	1,163.15	1,276.07	(+) 10
3.	Stamp Duty and Registration Fee	436.73	478.89	515.73	611.77	817.83	(+) 34
4.	Taxes and Duties on Electricity	251.90	250.88	239.85	280.29	442.76	(+) 58
5.	Taxes on Vehicles	511.30	566.33	646.14	904.31	817.21	(-) 10
6.	Taxes on Goods and Passengers	19.55	23.10	130.44	150.50	144.01	(-) 4
7.	Other taxes on Income and Expenditure, Tax on Professions, Trades Callings and Employments	10.99	15.56	17.23	20.11	1.85	(-) 91
8.	Other Taxes and Duties on Commodities and Services	52.89	54.04	47.12	46.85	47.56	(+) 2
9.	Land Revenue	44.81	79.17	57.98	71.44	68.86	(-) 4
10.	Other Taxes	32.10	23.90	18.61	12.33	1.14	(-) 91
	Total	5,299.96	5,671.17	6,253.34	7,246.18	8,414.82	

Reasons for increase/decrease in receipts during 2004-05 as compared to those of 2003-04, as intimated by the respective departments, are given below:-

Taxes on Sales, Trade etc. and Central Sales Tax: Increase (20 per cent and 27 per cent respectively) was due to check on tax evasion and recovery efforts of the Department.

State Excise: Increase (10 per cent) was mainly on account of actual contract amount of liquor, bhang and lanced poppy heads.

Stamp Duty and Registration Fee: Increase (34 per cent) was due to increase in registration of documents including lease deeds of Housing Board, JDA² and UIT³ documents.

Taxes and Duties on Electricity: Increase (58 per cent) was due to imposition of electricity duty on captive power generation sets.

Taxes on vehicles: Decrease (10 per cent) was due to lesser book adjustment (Rs.9.31 crore) of Special Road Tax from RSRTC during 2004-05 as against Rs.177.10 crore during 2003-04.

Other Taxes on Income and Expenditure, Tax on Professions, Trades, Callings and Employments: Decrease (91 per cent) was due to abolition of Professional Tax.

1.1.3 Details of major non-tax revenue raised by the State during the year 2004-05 alongwith the figures for the preceding four years are given below:-

(Rupees in crore)

Sl. No.	Heads of Revenue	2000-2001	2001-2002	2002-2003	2003-2004	2004-2005	Percentage of increase (+)/ decrease (-) in 2004-05 over 2003-04
1.	Interest Receipts	589.55	583.77	607.04	685.12	754.94	(+) 10
2.	Forestry and Wild Life	37.02	44.82	41.63	39.53	39.41	-
3.	Non-ferrous Mining and Metallurgical Industries	370.13	412.98	449.38	513.70	645.35	(+) 26
4.	Miscellaneous General Services	241.92	46.23	43.88	340.50	90.47	(-) 73
5.	Power	0.10	0.02	1.40	0.02	0.10	(+) 400
6.	Major and Medium Irrigation	36.48	18.43	20.74	43.23	56.50	(+) 31
7.	Medical and Public Health	16.13	24.57	22.40	16.28	29.84	(+) 83
8.	Cooperation	7.33	6.79	7.90	6.93	8.71	(+) 26
9.	Public Works	22.33	17.49	19.69	16.45	17.85	(+) 9
10.	Police	57.43	48.66	57.59	46.16	54.04	(+) 17
11.	Other Administrative Services	43.65	34.76	38.21	50.65	91.79	(+) 81
12.	Other Non-Tax Receipts	265.91	269.94	259.14	313.07	357.15	(+) 14
Total		1,687.98	1,508.46	1,569.00	2,071.64	2,146.15	

² Jaipur Development Authority

³ Urban Improvement Trust

Reasons for increase/decrease in receipts during 2004-05 as compared to those of 2003-04, as intimated by the respective departments, are given below:-

Interest Receipts: Increase (10 *per cent*) was due to more receipts of interest from departmental commercial undertakings, investment of cash balances and from public sector and other undertakings.

Non-Ferrous Mining and Metallurgical Industries: Increase (26 *per cent*) was due to revision in rates of royalty.

Miscellaneous General Services: Decrease (73 *per cent*) was due to less receipts under the sub-head "Other Receipts".

Power: Increase (400 *per cent*) was due to increase in licence fees from electricity companies.

Major and Medium Irrigation: Increase (31 *per cent*) was due to increase in receipts from Chambal Project, Bhakra Dam Irrigation Branch and Gang Canal. Irrigation Department also intimated that budget estimates were not increased according to demand.

Medical and Public Health: Increase (83 *per cent*) was mainly due to increase in receipts from Employees State Insurance Scheme.

Cooperation: Increase (26 *per cent*) was due to increase in receipts of Rs.1.87 crore from NCDC⁴ as compared to previous year.

Police: Increase (17 *per cent*) was due to more receipt on account of Police Force supplied to other Governments and to other parties.

Other Administrative Services: Increase (81 *per cent*) was due to increase in other receipts under the minor head "Elections".

1.2 Variations between revised estimates and actuals

The variations between the revised estimates and actuals of revenue receipts for the year 2004-05 in respect of the principal heads of tax and non tax

⁴ National Cooperative Development Corporation

revenue are given below:-

(Rupees in crore)

Sl. No.	Heads of Revenue	Revised estimates	Actuals	Variation excess (+) or shortfall (-)	Percentage of variation
Tax revenue					
1.	Taxes on Sales, Trade etc.	4,720.00	4,797.53	(+) 77.53	(+) 2
2.	State Excise	1,300.00	1,276.07	(-) 23.93	(-) 2
3.	Stamp Duty and Registration Fee	790.00	817.83	(+) 27.83	(+) 4
4.	Taxes and Duties on Electricity	471.01	442.76	(-) 28.25	(-) 6
5.	Taxes on Vehicles	785.00	817.21	(+) 32.21	(+) 4
6.	Land Revenue	70.08	68.86	(-) 1.22	(-) 2
7.	Taxes on Immovable Property other than Agricultural Land	0.37	1.15	(+) 0.78	(+) 211
Total		8,136.46	8,221.41	(+) 84.95	(+) 1
Non tax revenue					
1.	Nonferrous Mining and Metallurgical Industries	625.00	645.35	(+) 20.35	(+) 3
2.	Interest Receipts	772.93	754.94	(-) 17.99	(-) 2
3.	Miscellaneous General Services	75.20	90.47	(+) 15.27	(+) 20
4.	Forestry and Wild Life	37.20	39.41	(+) 2.21	(+) 6
5.	Police	66.14	54.04	(-) 12.10	(-) 18
Total		1,576.47	1,584.21	(+) 7.74	(+) 0.49

Taxes on Immovable Property other than Agricultural Land:- Increase (211 per cent) was due to non finalisation of proposed refund of Rs.91.67 lakh.

Miscellaneous General Services: Increase (20 per cent) was due to increase in sale of land and property.

1.3 Cost of collection

The gross collection in respect of major revenue receipts, expenditure incurred on collection and the percentage of such expenditure to gross collection during the years 2002-03, 2003-04 and 2004-05, alongwith the relevant all India

average percentage of expenditure on collection to gross collection for 2003-04 were as follows:

(Rupees in crore)

Sl. No.	Heads of Revenue	Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India Average percentage for the year 2003-2004
1.	Taxes on Sales, trade etc.	2002-03	3,437.90	32.69	1.0	1.15
		2003-04	3,985.43	37.05	0.9	
		2004-05	4,797.53	41.85	0.9	
2.	State excise	2002-03	1,142.34	18.60	1.6	3.81
		2003-04	1,163.15	19.82	1.7	
		2004-05	1,276.07	22.39	1.8	
3.	Taxes on vehicles	2002-03	646.14	10.27	1.6	2.57
		2003-04	904.31	11.49	1.3	
		2004-05	817.21	13.30	1.6	
4.	Stamp duty and registration fee	2002-03	515.73	10.40	2.0	3.66
		2003-04	611.77	11.23	1.8	
		2004-05	817.83	14.32	1.8	

1.4 Collection of Sales Tax per assessee

(Rupees in lakh)

Year	No. of assesseees	Sales tax revenue	Revenue/assessee
2000-2001	1,79,418	2,82,121	1.57
2001-2002	1,87,281	3,06,903	1.64
2002-2003	2,19,052	3,43,790	1.57
2003-2004	2,09,216	3,98,543	1.90
2004-2005	2,16,462	4,79,753	2.21

1.5 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2005 in respect of some principal heads of revenue amounted to Rs.2,977.66 crore of which Rs.540.05 crore was outstanding for more than five years as detailed below:

(Rupees in crore)

Sl. No.	Heads of revenue	Amount outstanding as on 31 March 2005	Amount outstanding for more than 5 years	Remarks
1.	2.	3.	4.	5.
01.	Taxes on Sales, Trade etc.	2,249.17	370.40	Out of Rs.2,249.17 crore, demand for Rs.368.67 crore was stayed by the court and judicial authorities. Demand for Rs.114.18 crore was covered under recovery certificate under Land Revenue Act and Revenue Recovery Act. Recovery of Rs.60.37 crore was held up due to dealers becoming insolvent. Demand of Rs.1.76 crore was likely to be written off. Demand of Rs.166.73 crore was pending against the dealers who were not traceable. Recovery of Rs.62.09 crore was pending against Government departments. Arrears of Rs.1,475.37 crore were at various stages of recovery.
02.	State Excise	213.34	56.70	Total demand was covered under Land Revenue Act.
03.	Taxes on vehicles	20.55	8.84	Out of Rs.20.55 crore, demand for Rs.2.29 crore was stayed by the court/Government. Demand for Rs.16.67 crore was covered under recovery certificates. Arrears of Rs.1.59 crore were at other stages of recovery
04.	Taxes on passenger and goods	1.90	1.90	Stages of recovery not intimated by Transport Department.
05.	Stamp duty and Registration fee	53.77	7.62	Out of Rs.53.77 crore, demand for Rs.27.47 crore was covered by recovery certificates. Demand for Rs.26.30 crore was stayed by High Court and other judicial authorities.
06.	Land Revenue	67.91	21.84	Out of Rs.67.91 crore, demand for Rs.6.22 crore was stayed by Government and Rs.5.66 crore was stayed by the High Court and other judicial authorities. Arrears of Rs.56.03 crore were at various stages of recovery.
07.	Taxes on Immovable property other than Agricultural land.	58.88	11.11	Out of Rs.58.88 crore, demand of Rs.28.22 crore had been stayed by the High Court/judicial authorities. Rs.15.25 crore were covered under recovery certificates and Rs.15.41 crore were at other stages of recovery.
08.	Water supply and Sanitation receipts from Rural/Urban water supply scheme	54.34	17.77	Out of Rs.54.34 crore, demand of Rs.0.24 crore had been stayed by the High Court/Judicial authorities and Rs.0.39 crore were stayed by the Government. Demand for Rs. 1.56 crore was likely to be written off. Rs.0.03 crore was covered under recovery certificates and Rs.52.12 crore were at other stages of recovery.

1.	2.	3.	4.	5.
09.	Non ferrous Mining and Metallurgical Industries	67.39	26.38	Out of Rs.67.39 crore, demand of Rs.28.21 crore was stayed by the High Court/other judicial authorities and Rs.2.72 crore was stayed by the Government. Demand for Rs.27.84 crore was covered under recovery certificates under LR Act and PDR Act. Arrears of Rs.1.80 crore was likely to be written off. Recovery of Rs.0.06 crore was held up due to rectification/review of application. Arrears of Rs.6.76 crore were at various stages of recovery.
10.	Miscellaneous General Services-Sale of Land	126.76	5.54	Out of Rs.126.76 crore, demand of Rs.0.59 crore was stayed by the High Court/other judicial authorities and Rs.69.71 crore was stayed by the Government. Remaining amount of Rs.56.46 crore were at other stages of recovery.
11.	⁵ Major and Medium irrigation	63.65	11.95	Out of Rs.63.65 crore, arrears of Rs.52.95 crore pertaining to Board of Revenue were pending collection at various stages of recovery. Stages of recovery for remaining Rs.10.70 crore not intimated by the Commissioner, CAD Chambal, Kota and Chief Engineer, IGNP, Bikaner.
Total		2,977.66	540.05	

1.6 Arrears in assessments

The details of cases pending assessment at the beginning of the year 2004-05, cases becoming due for assessments during the year, cases disposed off during the year and number of cases pending finalisation at the end of the year 2004-05 as furnished by the departments are as follows:

Heads of Revenue	Opening balance	New cases due for assessment	Total	Cases disposed of	Balance	Percentage of Column 5 to 4
Finance Department						
Sales Tax	81,346	2,12,397	2,93,743	2,28,913	64,830	77.93
Entertainment Tax	2,060	2,514	4,574	2,606	1,968	56.97
Taxes on Immovable property other than Agricultural Land	26,230	-	26,230	25,137	1,093	95.83
Nonferrous Mining and Metallurgical Industries	7,714	6,346	14,060	7,705	6,355	54.80

⁵ This information pertains to Board of Revenue, Rajasthan, Ajmer; Commissioner, Command Area Development(CAD), Chambal, Kota and Chief Engineer, Indira Gandhi Nahar Pariyojna(IGNP), Bikaner.

1.7 Evasion of Tax

The details of cases of evasion of tax detected by the departments, cases finalised and the demand for additional tax raised during 2004-05 as reported by the departments are given below:

Sl. No.	Heads of Revenue	Opening balance as on 1 st April 2004	Cases detected	Total	No. of cases in which assessments/investigations completed and additional demands including penalty etc., raised.		No. of cases pending finalisation as on 31 st March 2005
					No. of cases	Amount of demand (Rupees in crore)	
1.	Taxes on Sales, Trade etc.	455	12,162	12,617	12,336	51.48	281
2.	Non ferrous Mining and Metallurgical Industries	5,330	4,667	9,997	1,730	Not intimated	8,267
3.	Stamp Duty and Registration Fee	17,444	9,609	27,053	12,495	Not intimated	14,558

1.8 Write off and waiver of revenue

During the year 2004-05, demands for Rs.8.75 crore in 5,286 cases were written off/waived/remitted as detailed below:

(Rupees in lakh)

Sl. No.	Name of Department	Number of cases	Amount	Reasons
1.	Commercial Taxes	1,330	723.27 ⁶	Waived due to death of dealers not having movable/immovable property, leaving of business point by dealers.
2.	State Excise	7	1.29	Waived/written off as whereabouts of defaulters were not known.
3.	Registration and Stamps	3,949	150.61	In 2,030 cases penalty of Rs.80.61 lakh was remitted and 1,919 cases of Rs.70.00 lakh were waived/written off for other reasons.
	Total	5,286	875.17	

⁶ It includes Rs.352.75 lakh waived under Amnesty Scheme.

1.9 Refunds

The number of refund cases pending at the beginning of the year 2004-05, claims received during the year, refunds allowed during the year and cases pending at the close of the year 2004-05 as reported by departments are given below:

(Rupees in crore)

Name of department	Opening balance		Claims received		Refunds allowed		Closing balance	
	Number of cases	Amount	Number of cases	Amount	Number of cases	Amount	Number of cases	Amount
Commercial Taxes	846	7.31	5,134	39.70	4,608	39.23	1,372	7.78
Registration and Stamps	1,917	1.30	1,348	2.13	1,183 ⁷	1.79	2,082	1.64
Land Revenue	19	0.07	42	0.08	56	0.08	5	0.07
Colonisation	37	0.10	39	0.16	32	0.14	44	0.12
Land and Building Tax	18	0.80	9	0.41	7	0.21	20	1.00
Non ferrous Mining and metallurgical Industries	226	0.57	122	0.36	179	0.62	169	0.31
Total	3,063	10.15	6,694	42.84	6,065	42.07	3,692	10.92

Interest of Rs.4.39 crore in 610 cases was paid by the Commercial Taxes Department due to belated refunds and Rs.1.38 crore in 517 cases due to other reasons which were not specified.

It would thus be seen that the balance at the end of the year was 8 per cent higher than the claims outstanding at the beginning of the year.

1.10 Results of audit

Test check of records of sales tax, land revenue, state excise, motor vehicles tax, stamps and registration fee and other non-tax receipts conducted during the year 2004-05 revealed under-assessment, short levy and loss of revenue amounting to Rs.658.29 crore in 16,964 cases. The concerned Departments accepted under-assessment etc. of Rs.49.52 crore involved in 7,866 cases of which 3,714 cases involving Rs.26.37 crore had been pointed out in audit during the year 2004-05 and the rest in earlier years. The Department recovered an amount of Rs.3.37 crore in 1,164 cases at the instance of audit during the year 2004-05.

This report contains 27 paragraphs including two reviews relating to non-levy/short levy of taxes, duties, interest and penalties etc., involving Rs.276.63 crore. The Department/Government accepted audit observations involving Rs.4.22 crore of which Rs.54.06 lakh had been recovered upto July 2005.

⁷ It includes 125 cases of Rs.0.08 crore rejected by the Department.

1.11 Outstanding inspection reports and audit observations- Lack of responsiveness and erosion of accountability

Audit observations on under assessments, short determination/ realisation of taxes, duties, fees *etc.* and defects in the maintenance of initial records, which are not settled on the spot, are communicated to the heads of the departments through inspection reports. Important irregularities are also reported to Government/departments through inspection reports by the office of Accountant General (Commercial & Receipt Audit) to which replies are required to be furnished by them within one month of their issue.

The number of inspection reports and audit observations relating to revenue receipts issued upto 31 December 2004, which were pending settlement with the departments as on 30 June 2005, alongwith figures for the preceding two years, are given below:-

Sl. No.	Particulars	As on 30 June		
		2003	2004	2005
1.	Number of inspection reports pending settlement	2,914	2,971	2,800
2.	Number of outstanding audit observations	6,102	7,477	7,701
3.	Amount of revenue involved (Rupees in crore)	892.82	1,117.84	1,511.54

Departmentwise break up of the inspection reports and audit observations outstanding as on 30 June 2005 is given below:-

Sl. No.	Department	Number of outstanding inspection reports	Number of outstanding audit observations	Amount (Rupees in crore)	Earliest year to which reports relate	Number of inspection reports where even first compliance not received
1.	Commercial Taxes	647	1,938	296.33	1989-90	-
2.	Land Revenue	541	1,045	200.02	1988-89	37
3.	Registration and Stamps	654	1,446	54.87	1994-95	53
4.	Transport	412	1,386	54.40	1996-97	10
5.	Forest	158	393	4.24	1997-98	14
6.	Mines and Geology	169	754	477.90	1994-95	21
7.	State Excise	94	264	396.61	1998-99	-
8.	Lands and Buildings Tax	95	411	25.34	1992-93	17
9.	Electrical Inspectorate	30	64	1.83	1995-96	-
	Total	2,800	7,701	1,511.54		152

It would be seen from the above details that period of pendency in settlement of audit comments ranged between seven to 16 years. According to Rule

327(1) of General Financial Rules, the retention period for various accounting records ranges between one and three years after audit. As a result of failure of departmental officers to comply with the observations of Inspection reports within the prescribed retention period of records, the possibility of their settlement in future appeared to be bleak due to non availability of records.

The Government should look into the matter to ensure that (a) action is taken against the officials who failed to send replies to the audit findings within the prescribed time schedule (b) to recover revenue and (c) to streamline the system to ensure prompt action and proper response to audit observations.

The above position was brought to the notice of the Government in October 2005.

1.12 Departmental Audit Committee Meetings.

Audit Committee meetings were to be arranged by each Department, twice a year on half yearly basis upto June and December respectively. Departmentwise position of Audit Committee meetings held during 2004 was as under:

Sl. No.	Name of Department	Number of meetings held during 2004		
		Half year ending June 2004	Half year ending December 2004	Total
1.	Commercial Taxes	1	1	2
2.	State Excise	Nil	1	1
3.	Transport	1	1	2
4.	Registration and Stamps	1	1	2
5.	Land and Building	1	1	2
6.	Land Revenue	Nil	1	1
7.	Mines and Geology	Nil	1	1
	Total	4	7	11

1.13 Response of the Departments to Draft Audit Paragraphs

The Finance Department issued directions to all departments in August 1969 to send their response to the draft audit paragraphs proposed for inclusion in the Report of the Comptroller and Auditor General of India within three weeks of their receipts. The draft paragraphs are forwarded by the respective audit offices to the Secretaries of the concerned Department through demi official

letters drawing their attention to the audit findings and requesting them to send their response within three weeks. The fact of non receipt of replies from the Government is invariably indicated at the end of each such paragraph included in the Audit Report.

Draft paragraphs included in the Report of the Comptroller and Auditor General of India (Revenue Receipts) for the year ended 31 March 2005 were forwarded to the Secretaries of the respective departments between June 2005 and August 2005 through demi official letters. Out of the 71 cases (clubbed into 27 paragraphs) issued, the Department has accepted audit observations in 31 cases.

1.14 Follow up on Audit Reports-summarised position

According to instructions issued by the Finance Department, all departments are required to furnish explanatory memoranda duly vetted by Audit to the Rajasthan Legislative Secretariat in respect of paragraphs included in the Audit Report within three month of their being laid on the table of the House.

The position of paragraphs which have appeared in the Audit Reports and those pending discussion as on 31 July 2005 is given in *Annexure-'A'*. It would be seen that during the year, 27 audit paragraphs were discussed by the Public Accounts Committee. As a result thereof, no audit paragraph pertaining to reports upto the year 1999-2000 is pending for discussion in the Public Accounts Committee and 92 paragraphs pertaining to the period 2000-01 to 2003-04 were pending.

As per the Rules and Procedures of the Committee on Public Accounts of the Rajasthan State Assembly framed in 1997, the concerned Department shall take necessary steps to send its Action Taken Notes (ATNs) on the recommendation of the Public Accounts Committee (PAC) on the Audit Reports within six months from the date of its presentation to the House. The position of outstanding ATNs due is given in *Annexure-'B'*. It would be seen that the pendency of ATNs ranged from four months to 25 months.

CHAPTER-III: Sales Tax

2.1 Results of audit

The test check of records of the offices of Commercial Taxes Department conducted in audit during the year 2004-05 revealed under assessments etc. of tax amounting to Rs.185.47 crore in 2,285 cases which broadly fall under the following categories:

Sl. No.	Category	Number of cases	Amount (Rs. in crore)
1.	Non-assessment of taxable turnover	309	3.24
2.	Under-assessment due to irregular or incorrect allowances of deductions	127	6.53
3.	Short-levy of tax due to application of incorrect rate of tax	268	8.16
4.	Irregular grant of exemption	224	30.14
5.	Non-levy of purchase tax	83	0.65
6.	Non-levy of penalty/interest	332	6.41
7.	Other irregularities	941	32.97
8.	Review on "Assessment and Collection of Sales Tax"	1	97.37
	Total	2,285	185.47

During the year 2004-05 the Department accepted under assessments etc. of Rs.6.27 crore involved in 455 cases of which 227 cases involving Rs.75.19 lakh had been pointed out in audit during 2004-05 and rest in earlier years. Further the Department recovered Rs.4.76 lakh in 27 cases during the year 2004-05 of which nine cases involving Rs.0.99 lakh related to the year 2004-05 and rest to the earlier years.

A few illustrative cases and findings of the review on **Assessment and Collection of Sales Tax** involving Rs.98.44 crore are given in the succeeding paragraphs:

2.12 **Review on Assessment and Collection of Sales Tax***Highlights*

In 19 circles, 323 industrial units engaged in cutting of marbles were irregularly allowed tax exemption of Rs.129.69 crore.

(Paragraph 2.2.8)

Ten industrial units engaged in preparation of mineral water were irregularly sanctioned exemption benefit of Rs.8.93 crore.

(Paragraph 2.2.9)

Seventy six industrial units which were already availing benefit under other Sales Tax Incentive Scheme of 1987/1989 were irregularly granted exemption of Rs.149.67 crore under the Sales Tax Exemption Scheme for Industries 1998.

(Paragraph 2.2.11)

Exemption was not withdrawn on breach of condition by 54 units and resulted in non-recovery of tax and interest of Rs.39.09 crore.

(Paragraph 2.2.12)

2.2.1 Introduction

Assessment, levy and collection of sales tax in Rajasthan is governed under the Rajasthan Sales Tax Act, 1994 (RST Act) and Central Sales Tax Act, 1956 (CST Act) and Rules made thereunder. Assessment of cases is done by the assessing authority to determine and levy tax alongwith penalties, if any under the provisions of Act *ibid*. Assessments are also made by virtue of Deemed Assessment Scheme and Self Assessment Scheme.

Further, the Act *ibid* provides that where any tax, interest and penalty etc. is payable in consequence of any order passed thereunder, a notice of demand shall be served upon the assessee. The amount specified as payable in the notice of demand shall be paid within 30 days. The Act further provides that where an appeal is filed against the order of the assessing authority, the tax shall be paid in accordance with the notice of demand even though an appeal has been preferred.

2.2.2 Organisational set up

The Commissioner Commercial Taxes is the administrative head of the Department. He is assisted by six Additional Commissioner, 23 Deputy Commissioner (DCs), 44 Assistant Commissioner (ACs), 91 Commercial Taxes Officer (CTOs) and 274 Assistant Commercial Taxes Officer (ACTOs) for the purposes of administering the laws relating to the RST Act and CST Act. ACs, CTOs and ACTOs are the assessing officers in respect of areas

assigned to them by the Commissioner, to scrutinise the accounts of the dealers, complete the assessments, raise demand of tax and ensure realisation. There are 108 circles where the assessments are made.

2.2.3 Audit objectives

The review was conducted to ascertain as to whether :

- adequate system and procedure exist for timely and correct assessment and collection of tax in the Commercial Taxes Department.
- exemptions under various schemes were allowed correctly and action was taken against defaulter units for breach of conditions of the schemes and
- any other irregularities which caused revenue loss.

2.2.4 Scope of Audit

A test check of the assessment records in 35 out of 108 circles covering the period of five years from 1999-2000 to 2003-04 was undertaken between May 2004 and March 2005.

The audit findings were reported to the Government/Department in May 2005 Meeting of Audit Review Committee to discuss findings in the review was held on 20 July 2005 so that the viewpoint of the Government/Department could be taken into account before finalising the review. Government was represented by the Deputy Secretary (Tax) and the Commercial Taxes Department represented by the Financial Advisor. The viewpoint of Government/ Department in the meeting has been considered while finalising the review. The salient points of the review are discussed in the succeeding paragraphs.

2.2.5 Budget estimates and trend of revenue

The variation between revised budget estimate and actual receipts in respect of sales tax from 1999-2000 to 2003-04 are given below:

(Rupees in crore)			
Year	Revised budget	Actual	Short fall in percentage
1999-2000	2,550	2,424.52	(-) 5
2000-2001	2,920	2,821.21	(-) 3
2001-2002	3,150	3,069.03	(-) 3
2002-2003	3,500	3,437.90	(-) 2
2003-2004	4,200	3985.43	(-) 5

2.2.6 Internal control

The Commercial Taxes Department is administering 11 different taxes including sales tax. The Department is a major contributor of the tax revenue collected by the Government, as 60 *per cent* of the tax revenue received by the State is derived from levy of commercial taxes.

The Department has an internal audit wing which comprises of 11 parties, supervised by two accounts officers and headed by Financial Advisor. All circles and wards are audited annually. The important findings are reported to the Commissioner Commercial Taxes. There is also one post of Assistant Commissioner (Audit).

Deputy Commissioner of a zone conducts administrative inspections of CTOs and submits his report on their working to the Commissioner.

Although there exists an internal control system but sensitivity to error signals generated through internal audit as well as external audit were not satisfactory as is evident from huge number of outstanding audit findings as well as continuous repetition of objections of similar nature pointed out by central audit in subsequent inspection reports. This indicates that despite the fact that there is no pendency in internal audit and the system is in place, no remedial action was initiated to avoid repetition of mistakes pointed out at the instance of audit.

2.2.7 Computerisation in Sales Tax Department

The Department introduced computerisation to improve quality of information for effective monitoring and policy making. Computerisation work started in 1999-2000 for automation of business processes of the Department.

Eleven zones are connected with computer network. Dealer's registration and tax recovery modules are fully operative. Another important programme is Border Check Post Document Management System (BCPDMS) which governs the movement of goods between two states passing through Rajasthan. This programme is to ensure that the vehicle going to other State has actually crossed Rajasthan. So only seven border check posts are working on line for information of transit passes, while 17 other check posts are not yet fully computerised.

The Department has not developed any database for detection of tax evasion and levy of correct tax. Despite the fact that the Department commenced computerisation five years back, Information and Communication Technology (ICT) has not been used in the state for effective monitoring of inter state movement of goods and dealers profile.

Exemption to ineligible units under Sales Tax Exemption Schemes

With a view to attract entrepreneurs for new industrial investment and to promote growth of industries in the State, the Government of Rajasthan notified Sales Tax Incentive, Exemption and Deferment Schemes from time to

time. For the first time a scheme was notified in 1987, followed by another scheme during 1989 which were in operation upto 31 March 1997 and 31 March 1999 respectively. Another scheme notified in April 1998 was operative till 30 March 2000. Benefits under these schemes were admissible only to the manufacturers of goods subject to the conditions prescribed in these schemes on recommendation of screening committee. The Government may *suo motu* or otherwise revise an order passed by any screening committee wherever it is found to be erroneous and prejudicial to the interest of the State revenue after affording an opportunity of being heard to the beneficiary industrial unit.

The irregularities in grant of exemption under these schemes as noticed in audit were as under:

2.2.8 Incorrect grant of exemption to marble cutting units

Under sales tax incentive schemes of 1987, 1989 and 1998 only manufacturing units are eligible for tax exemption. It was judicially held¹ that cutting of marble blocks into slabs or tiles does not amount to manufacture. In the light of these decisions, marble units are not manufacturers and are thus not entitled to exemption of tax under any of these exemption schemes.

Test check of the assessment records in 19 circles revealed that 323 units engaged in cutting of marbles were irregularly allowed tax exemption of Rs.129.69 crore out of which the units had availed between 1999-2000 to 2001-02 the benefit of Rs.54.79 crore. A few examples by way of illustrations are shown below:

(Rs. in lakh)					
Sl. No.	Name of Circles	No. of units	Exemption granted	Exemption availed	Balance E.C benefit as on 1 April 2002
1.	2.	3.	4.	5.	6.
1	CTO Special Circle, Ajmer	112	4,738	2,701	2,037
2	CTO Special Circle, Alwar	11	210	184	26
3	CTO Circle 'B', Alwar	05	230	28	202
4	CTO Circle, Banswara	27	397	215	182
5	CTO Special Circle, Bhilwara	58	2,107	1,160	947

¹CIT V/s Lucky Minerals (Pvt.) Ltd. I.T.R. 226 (1996) 245.

Rajasthan State Electricity Board Vs. Associated Stone Industries & Anr. JT 2000 (6) SC 522
M/s Aman Marble Industries V/s C.C.E. Jaipur 2003 (58) RLT 595 (S.C.).

1.	2.	3.	4.	5.	6.
6	CTO Special Circle-II, Jaipur	05	497	146	351
7	CTO Special Circle-III, Jaipur	02	108	78	30
8	CTO Special Circle-IV, Jaipur	02	212	100	112
9	CTO Circle 'A', Jaipur	03	438	69	369
10	CTO Circle, Kishangarh	59	1,333	271	1,062
11	CTO Special Circle, Udaipur	03	358	84	274
12	CTO Circle 'B', Udaipur	27	1,932	265	1,667

No action to revoke the exemption has been initiated by the Department (July 2005).

2.2.9 Incorrect grant of exemption on preparation of mineral water

Under the RST Act and CST Act the State Government notified (April 1998) the "Sales Tax Exemption Scheme for Industries 1998" whereunder industrial units were exempted from payment of tax on the sale of goods manufactured by them within the State or in the course of inter state trade or commerce in the manner and to the extent and for the period as covered under the scheme. "Manufacture" shall mean the use of raw materials and production of goods commercially different from raw materials used. When no new product as such comes into existence there is no process of manufacture. Preparation of mineral water does not amount to manufacture. This view is further confirmed² by Hon. Kerala High Court.

During test check of records relating to the year 2002-03 in eight circles³ it was noticed that 10 units engaged in preparation of mineral water were irregularly sanctioned during the period June 1999 to March 2001 exemption benefit of Rs.8.93 crore for 11 years. The dealers have availed the benefit of Rs.57.30 lakh during 2002-03 after the judgement. The Government should have *suo motu* revoked the orders of the screening committee regarding grant of exemption which was not done. The omission resulted in grant of exemption of Rs.8.93 crore to ineligible units.

² (2002) 128 STC 216 (Kerala)-M/s Teejan Breweries Ltd.

³ CTO Circle, Ajmer, CTO Circle 'A', Bikaner, CTO Circle, Bhiwadi, CTO Circle, Bikaner, CTO Circle 'C', Jaipur, CTO Circle 'G', Jaipur, CTO, Sirohi and CTO, Barmer.

2.2.10 Irregular tax exemption to stone crushing units

It was judicially held⁴ that stone crushing i.e. preparation of stone *gitti* is not a manufacturing activity because stone continues to remain stone even after crushing. Since this activity is not a manufacturing activity, the units engaged in stone crushing were not eligible for the benefit of tax exemption under any of the three schemes (1987, 1989 and 1998).

Test check of assessment records in two⁵ Commercial Taxes Offices revealed that two dealers engaged in stone crushing were granted exemptions for Rs.58.52 lakh during the period from 1999-2000 to 2000-01. These units had availed tax exemption benefit of Rs.18.26 lakh upto 2001-02 and the remaining exemption benefit of Rs.40.26 lakh for future availment was required to be withdrawn.

2.2.11 Irregular grant of exemption under 1998 scheme to the units already availing exemption benefit

Under the RST Act and CST Act, the State Government notified (April 1998) the 'Sales Tax Exemption Scheme for Industries 1998' whereunder industrial units were exempted from payment of tax on the sales of goods manufactured by them within the State or in the course of inter-state trade or commerce in the manner and to the extent and period as covered by the scheme. Further, the scheme provided that no industrial unit shall be permitted to claim benefits under this scheme, if it was already availing benefits under any other specific or general tax exemption or tax deferment scheme.

Test check of records of 23⁶ Commercial Taxes Offices revealed that in disregard of the above provisions 76 industrial units, which were already availing benefit of tax exemption under other Sales Tax Incentive Schemes of 1987/1989, were further sanctioned between August 1998 and March 2002 benefit of exemption of tax of Rs.149.67 crore under the scheme 1998. This resulted in irregular grant of exemption aggregating to Rs.149.67 crore.

This is indicative of fact that the Department while according approval for grant of tax exemption did not take cognizance of the existing provisions governing the grant of such benefits.

2.2.12 Non withdrawal of benefits on breach of condition

Under the RST Act and CST Act the Government notified (May 1987) the 'Sales Tax Incentive Scheme for Industries 1987' whereunder industrial units were entitled to exemption of 100 *per cent* of their tax liability subject to the maximum quantum and period of benefit prescribed in the scheme. Further,

⁴ Commissioner Sales Tax Vs Lal Kuan Stone Crusher Pvt. Ltd (SC) (2000) 118 STC 287 .

⁵ CTO Circle, 'A' Jaipur, and 'E' Jaipur

⁶ CTO Special Circle Ajmer and Alwar, CTO Circle 'A' and 'B' Alwar, CTO Special Circle Bhilwara, CTO Circle, Bhiwadi, CTO Circle 'A' Bikaner, CTO Circle Churu, CTO Circle 'C' and 'E' Jaipur, CTO Special Circle II, IV, and V Jaipur, CTO Circle Jalore, CTO Circle 'C' Jodhpur CTO Special Circle-I & II Jodhpur, CTO Circle 'B' Kota, CTO A/E-I Kota, CTO Circle and Special Circle Pali, CTO Circle Sirohi and CTO Circle 'B' Sriganganagar.

the scheme provided that the beneficiary industrial unit shall, after having availed benefit of the scheme, continue its production for at least the next five years not below the level of the average production generated during preceding five years. In case of breach of any condition, the dealer was liable to charge tax at normal rates together with the interest due thereon at the prescribed rates on the sale of goods previously exempted under the scheme.

Test check of assessment records in 19 circles revealed that 54 industrial units, which were granted eligibility certificates between 1992-93 to 1997-98 and availed the tax benefits, had stopped their production between 1999-2000 and 2002-03 after having availed benefit of tax exemption of Rs.15.64 crore. These units were required to continue their production even after full availment of the benefit, for the next five years.

There is no system in place to check whether these units are continuing their production as prescribed after availing the benefits. The omission resulted in non-recovery of tax and interest of Rs.39.09 crore as detailed below:

(Rs. in lakh)

S. No.	Name of CTO office	No. of units	Amount of exemption availed	Interest	Total
1.	2.	3.	4.	5.	6.
1.	CTO Special circle, Alwar	3	330.24	473.85	804.09
2.	CTO Circle 'A', Alwar	2	20.07	25.28	45.35
3.	CTO Circle, Barmer	5	15.65	25.14	40.79
4.	CTO A Circle, Bhilwara	1	24.69	39.39	64.08
5.	CTO Circle, Bhiwadi	7	443.46	491.25	934.71
6.	CTO Circle 'A', Bikaner	1	7.27	7.17	14.44
7.	CTO B Circle, Bikaner	1	6.84	4.52	11.36
8.	CTO Circle, Churu	6	76.76	137.58	214.34
9.	CTO Circle, Dausa	4	34.34	45.02	79.36
10.	CTO Circle, Hanumangarh	1	5.27	4.64	9.91
11.	CTO Circle 'C', Jaipur	2	40.49	70.36	110.85
12.	CTO Circle 'F', Jaipur	1	31.57	52.98	84.55
13.	CTO Circle, Jhunjhunu	7	12.32	16.79	29.11
14.	CTO C Circle, Jodhpur	3	17.80	30.60	48.40
15.	CTO Circle, Kishangarh	1	19.33	27.66	46.99
16.	CTO A Circle, Kota	1	12.17	15.84	28.01
17.	CTO Special Circle, Pali	1	61.24	116.52	177.76
18.	CTO Circle, Sirohi	6	26.87	35.87	62.74
19.	CTO (Special Circle), Sriganganagar	1	377.95	724.47	1102.42
	Total	54	1,564.33	2,344.93	3,909.26

The omission resulted due to non-existence of proper system of monitoring to ensure that the units availing tax exemption benefits fulfills conditions of the scheme.

2.2.13 Excess grant of exemption on switch over from 1987 to 1989 exemption scheme

Government notified two Sales Tax Incentive Schemes for Industries (May 1987 and July 1989 schemes) under the RST Act and the CST Act whereunder tax exemption benefit was linked with fixed capital investment subject to the maximum quantum and period of the benefit prescribed in the schemes. The scheme further provided that an industrial unit, which has already been granted exemption under the 1987 Scheme, may also opt for the new incentive scheme by making a simple application on plain paper to the assessing authority. The assessing authority, after due verification of the facts mentioned in the application, shall issue exemption certificate under the new incentive scheme for the remaining eligible amount of the old scheme and for the remaining period thereunder after obtaining the prior approval of the commissioner.

In Commercial Taxes Office, Bhiwadi, it was noticed that an industrial unit was allowed on 9 September 2000 to switch over to tax exemption scheme 1989 from the scheme of 1987. Instead of allowing the tax exemption of balance amount of Rs.3.23 crore of 1987 scheme, the eligible amount was recalculated as Rs.4.31 crore under scheme of 1989. This resulted in grant of excess exemption of Rs.1.08 crore out of which the unit had availed exemption of Rs.72.05 lakh.

2.2.14 Non levy of difference tax on raw material

Under the RST Act, the State Government prescribed in September 1980 tax rate of four *per cent* on the purchase of raw material required for manufacture of exempted goods. Indian Made Foreign Liquor (IMFL) is exempted from sales tax. Further, if any dealer has not paid the tax within prescribed period, he is liable to pay interest at the prescribed rates from the date by which he is required to pay the tax until the date of payment.

In two CTOs, (Alwar Special and Bhiwadi) it was noticed that seven manufacturers of IMFL and beer purchased between 1999-2000 and 2001-02 spirit as raw material valued at Rs.69.56 crore on the strength of declaration form S.T 17. On cross verification of purchases from selling dealers it was observed that the assessee incorrectly paid tax at the rate of three *per cent* instead of the prescribed rate of four *per cent*. While finalising the assessments of these manufacturers (between August 2003 to March 2004), the assessing authorities also failed to levy difference of tax and surcharge thereon. The omission resulted in non-levy of tax and interest amounting to Rs.1.38 crore.

This indicates that the records relating to purchases of raw material are not properly scrutinised while framing the assessment

2.2.15 Non levy of interest

Under the RST Act, if any dealer has not paid the tax within prescribed period, he is liable to pay interest at the prescribed rates from the date by which he was required to pay the tax until the date of payment.

Test check of records revealed that in three circles⁷ demands of interest of Rs.43.84 lakh in three cases were not raised on belated payment of tax relating to the period from 1997-98 to 2001-02 which was paid by the dealers during the period from 1999-2000 to 2003-04. The delay ranged between one day to 32 months.

After this was pointed out, one assessing authority (Special Rajasthan, Jaipur) raised in March 2005 demand of interest of Rs.23.65 lakh. Report on recovery and action taken in remaining amount have not been received.

2.2.16 Short recovery of tax due to computation error

Under the RST Act, the tax leviable at the prescribed rate is determined by the assessing authority on the turnover of different commodities. The net recoverable amount is worked out after deducting advance tax deposited by the dealer from total amount of tax so determined. In case of beneficiaries of sales tax incentive schemes, the leviable tax is recovered by way of adjustment against the exemption limit provided to the dealer.

During the audit of records of three offices⁸, it was noticed that the assessing authorities while finalising between February 2004 and April 2004 the assessments of three dealers (beneficiaries of exemption scheme) for the year 2001-02 made less adjustment of Rs.19.97 lakh against available tax exemptions as a result of computation error.

2.2.17 Conclusion

- Large number of ineligible units were sanctioned sales tax exemption under various schemes.
- On breach of conditions under these schemes, tax benefit granted was not withdrawn.
- Also impact of judicial pronouncements on exemptions was not properly monitored.

2.2.18 Recommendations

The Government may consider that

- the Department while according approval to grant benefit of exemptions should closely monitor provisions governing grant of such benefits.
- impact of judicial pronouncement should be circulated to all assessing authorities for implementation thereto.

⁷ AE-III, Jaipur, AE Zone II Jaipur and Special Circle Jaipur

⁸ CTO Circle, Bhiwadi, 'B', Makrana and Sirahi.

- effective steps for recovery of tax in all cases of breach of conditions prescribed under various exemptions schemes should be taken. System should be streamlined to effect recovery of tax.
- ICT should be used for correct levy of tax and for detection of tax evasion.

The above audit findings were pointed out to the Department and reported to Government (May 2005); their replies have not been received (July 2005).

2.3 Excess grant of exemption to edible oil industries

Under the CST Act, the State Government notified on 6 July 1989 the "Sales Tax New Incentive Scheme for Industries 1989" (scheme) whereunder industrial units were exempted from payment of tax on the sale of goods manufactured by them in the course of inter state trade or commerce subject to the conditions as prescribed in the scheme. Further, with effect from 26 July 1991, the oil manufacturing and extracting units were entitled to claim exemption from tax to the extent of 75 *per cent* of their tax liability in case of new industries and for expansion/diversification the limit was 60 *per cent*. Further if any dealer has not paid the tax within prescribed period, he is liable to pay interest at the prescribed rates from the date by which he was required to pay the tax until the date of payment.

In three Commercial Taxes Offices⁹, it was noticed between September 2003 and December 2004 that three oil manufacturing and extracting units were eligible for exemption for their expansion/diversification under the scheme. However, test check of the assessment records of these units for the years 2000-01 and 2001-02 revealed that the assessing authorities while finalising the assessments of the dealers for the relevant years between July 2002 and December 2003, incorrectly allowed exemption of Rs.87.17 lakh to the extent of 75 *per cent* of tax liability of Rs.1.16 crore instead of the admissible exemption of Rs.69.74 lakh comprising 60 *per cent* of tax liability. This resulted in excess grant of exemption of tax of Rs.17.43 lakh and interest of Rs.13.86 lakh.

After this was pointed out (between October 2003 and January 2005), the Department intimated (November 2004) that in the case of Jaipur a demand of Rs.9.49 lakh including interest has been raised. Report on recovery and reply in respect of remaining two cases has not been received (July 2005).

The matter was reported to Government in January 2005; their reply has not been received (July 2005)

⁹ Special-III Jaipur, Raisinghnagar and Sriganaganagar.

2.4 Excess grant of exemption from tax

Under the RST Act and the CST Act, the State Government notified on 7 April 1998 the "Sales Tax Exemption Scheme for Industries 1998" (scheme) whereunder industrial units were exempted from payment of tax on the sale of goods manufactured by them in the course of inter state trade or commerce in the manner and to the extent for the period as covered by the scheme. Further the benefit of exemption of sales tax for expansion of units under this scheme shall be available only on production which is in excess of 80 *per cent* of the installed capacity.

In Tonk, it was noticed in May 2004 that an industrial unit manufacturing edible oil with an installed capacity of 4,800 MT was eligible for benefit of tax exemption of Rs.7,276 on sale of 12.23 MT oil comprising production in excess of 80 *per cent* production of the original installed capacity. However, the assessing authority while finalising in November 2003 the assessment of the dealer for the year 2001-02 incorrectly allowed exemption of Rs.7.34 lakh on the total sale of edible oil valuing Rs.3.86 crore in the course of inter-state sale instead of Rs.7,276 on the sale of production beyond 80 *per cent* of installed capacity. This resulted in excess grant of exemption of tax of Rs.7.27 lakh besides interest of Rs.3.82 lakh.

After this was pointed out in July 2004, the Department intimated that a demand of Rs.11.74 lakh including interest had been raised in April 2005. Report on recovery has not been received (July 2005).

The matter was reported to Government in January 2005; their reply has not been received (July 2005).

2.5 Excess grant of exemption to small scale units

Under the RST Act and the CST Act, the Government notified on 6 July 1989 the "Sales Tax New Incentive Scheme for Industries 1989" (scheme) whereunder industrial units were exempted from payment of tax on the sale of goods manufactured by them within the state or in the course of inter state trade or commerce in the manner and to the extent and for the period as covered by the scheme. Further, the new small scale industrial units were eligible for a maximum quantum of sales tax exemption to the extent of 125 *per cent* of their fixed capital investment (FCI) and for their expansion/diversification, the limit was 100 *per cent* of their FCI, as determined by the District Level Screening Committee (DLSC).

In Jaipur, it was noticed in October 2004 that an existing small scale industrial unit and going in for expansion/diversification with FCI of Rs.40.83 lakh was found eligible by the DLSC for exemption under the scheme. However, test check of the assessment records of the unit for the year 2001-02 finalised in December 2003, revealed that the assessing authority incorrectly issued

eligibility certificate for 125 *per cent* of the FCI instead of the admissible exemption of 100 *per cent* of the FCI for its expansion. This resulted in excess grant of exemption of Rs.10.21 lakh.

The omission was pointed out to the Department (October 2004) and reported to the Government (November 2004); their replies have not been received (July 2005).

2.6 Excess grant of exemption due to computation error

Under the RST Act and the CST Act, the State Government notified (7 April 1998) the "Sales Tax Exemption Scheme for Industries 1998" (scheme) whereunder industrial units were exempted from payment of tax on the sale of goods manufactured by them within the state or in the course of inter-state trade or commerce in the manner, to the extent and for the period as covered by the scheme. Further, the industrial units with FCI upto Rs.1.50 crore were eligible for a maximum quantum of sales tax exemption to the extent of 125 *per cent* of their FCI as determined by the DLSC.

In Beawar, it was noticed (October 2004) that an industrial unit having FCI of Rs.56.43 lakh was found eligible by the DLSC for exemption under the scheme to the extent of 125 *per cent* of its FCI. However, test-check of the assessment records of the unit for the year 2001-02 finalised in November 2003 revealed that the assessing authority incorrectly computed the amount of exemption of 125 *per cent* of FCI as Rs.77.33 lakh instead of Rs.70.54 lakh. This resulted in excess grant of exemption of Rs.6.79 lakh.

After this was pointed out in October 2004, the Department intimated (October 2004) that the eligibility certificate of the unit has been revised and the amount of exemption has been restricted to the prescribed limit.

The matter was reported to the Government (December 2004); their reply has not been received (July 2005).

2.7 Irregular sanction of exemption

Under the RST Act and the CST Act, Government notified (7 April 1998) the "Rajasthan Sales Tax Exemption Scheme for Industries 1998" (effective from 1 April 1998). The Scheme provides that an industrial unit, of which, the application under the Incentive Scheme, 1989 is pending on the date of commencement of this scheme before any screening committee, may opt for this scheme by making a fresh application in accordance with this scheme before the screening committee, not later than 90 days from the date of commencement of this scheme.

In Sriganagar, it was noticed in February 2005 that an industrial unit whose application was pending on 1 April 1998 for grant of incentive under 1989 scheme was sanctioned incentive under the said scheme for Rs.43.43 lakh for seven years from 3 April 1998. The unit applied on 4 September 1998 for benefit under the 1998 scheme which was allowed for Rs.47.81 lakh from the same date. As the application under 1998 scheme was made on 4 September 1998 at the expiry of 156 days as against prescribed 90 days from the commencement of the scheme, the sanction of exemption benefit aggregating Rs.47.81 lakh was irregular.

The irregularity was pointed out to the Department in March 2005 and reported to Government in April 2005; their reply has not been received (July 2005).

CHAPTER-III: Taxes on Motor Vehicles

3.1 Results of audit

Test check of the records in the offices of the Transport Department conducted in audit during the year 2004-05 revealed short realisation of taxes, fees and penalty amounting to Rs.16.40 crore in 6,274 cases which broadly fall under the following categories:

Sl. No.	Category	Number of cases	Amount (Rs in crore)
1.	Non/short payment of tax, surcharge, penalty, interest and compounding fee	5,277	9.97
2.	Non/short determination/computation of Special Road Tax	888	6.34
3.	Other irregularities	109	0.09
Total		6,274	16.40

During the year 2004-05, the Department accepted short determination of road tax, special road tax etc. in 5,573 cases involving Rs.11.46 crore of which 2,497 cases involving Rs.4.82 crore were pointed out in audit during 2004-05 and rest in earlier years. Further, the Department recovered Rs.32.52 lakh in 551 cases of which 150 cases involving Rs.19.69 lakh were pointed out in audit during the year 2004-05 and the rest in earlier years.

A few illustrative cases involving Rs.7.82 crore and highlighting important audit observations are given in the succeeding paragraphs.

3.2 Non levy of penalty

Under the Rajasthan Motor Vehicles Taxation Act, 1951 (RMVT Act) and the Rules made thereunder, special road tax (SRT) at prescribed rates in respect of stage carriages (other than those plying within the municipal limits) owned by a fleet owner is payable monthly in advance on or before fourteenth day of the month to which it relates. If tax due is not paid within the prescribed period the defaulter shall be liable to pay, a penalty at the rate of 1.5 *per cent* per month of the amount of tax due for each month or part thereof but not exceeding double the amount of tax due.

Scrutiny of records of Regional Transport Office (RTO) Jaipur revealed in November 2004 that SRT in respect of stage carriages (other than those plying within the municipal limits) owned by Rajasthan State Road Transport Corporation (RSRTC) was paid short by Rs.26.08 crore from time to time during April 2003 to January 2004. The delay ranged between one month to 10 months. This resulted in non-levy of penalty amounting to Rs.2.73 crore.

After this was pointed out in December 2004, the Department stated in March 2005 that as per Government decision in February 2004, on payment of 10 months tax remaining two months tax was adjustable against free/concessional services provided by the Corporation. RSRTC has paid 10 months tax in the same financial year hence penalty was not leviable. The reply was not tenable as two months tax was adjustable only on full and regular payment of 10 months tax. Since the RSRTC has not paid SRT regularly on due dates, therefore penalty was leviable.

The matter was reported to Government in December 2004; their reply has not been received (July 2005).

3.3 Short realisation of special road tax in respect of stage carriages vehicles of Rajasthan State Road Transport Corporation (RSRTC)

Under the RMVT Act and the Rules made thereunder, SRT in respect of stage carriages shall be payable at the rates prescribed by the State Government based on the cost of chassis. Transport Commissioner has to determine the cost of the vehicle in the beginning of each financial year. As per Government notification issued in August 2003 the tax payable for the year 2003-04 shall not exceed the tax payable during the year 2002-03.

In RTO Jaipur, it was noticed in November 2004 that SRT in respect of stage carriages vehicles owned by RSRTC (a fleet owner) was paid short for the period April 2003 to January 2004 due to undervaluation of cost of chassis of vehicles for the purpose of computation of tax. The undervaluation of the cost of chassis resulted in short realisation of SRT amounting to Rs.2.28 crore.

The omission was pointed out to the Department and reported to the Government in December 2004; their replies have not been received (July 2005).

3.4 Non/short-realisation of special road tax in respect of contract carriages

Under the RMVT Act, and the Rules made thereunder, SRT in respect of contract carriages having seating capacity of more than 30 excluding driver and conductor is payable at the rate of 36 *per cent* of the cost of chassis. The tax is payable monthly in advance on or before seventh day of the month for which tax relates.

In RTOs Jaipur and Sikar, it was noticed in September 2004 that SRT was either not paid or paid short by the owners of 31 contract carriage vehicles for the period between April 2002 and March 2004. This resulted in non/short realisation of SRT amounting to Rs.89.42 lakh.

After this was pointed out in October 2004, the Department stated between March 2005 and July 2005 that Rs.15.80 lakh in respect of nine vehicles had been recovered in Jaipur and Sikar. Intimation of remaining vehicles has not been received (July 2005).

The matter was reported between November 2004 and March 2005 to the Government; their reply has not been received (July 2005).

3.5 Non/short realisation of motor vehicles tax and special road tax in respect of goods vehicles

Under the RMVT Act and the Rules made thereunder, motor vehicles tax (MVT) on all motor vehicles used or kept for use in the State shall be levied and collected at the rates prescribed by the State Government from time to time. In addition to MVT, SRT on all transport vehicles at the rates prescribed shall also be payable.

In seven District Transport Offices¹ (DTO), it was noticed between July 2004 and February 2005 that MVT and SRT relating to the period between April 2000 and March 2004 in respect of 371 goods vehicles were either not paid or paid short by the owners of these vehicles. The Department also did not initiate action to realise the tax due. The omission resulted in non/short realisation of tax amounting to Rs.55.11 lakh.

¹ Baran, Jaipur, Jalore, Jhunjhunu, Sawaimadhopur, Sirohi, and Sriganganagar.

After this was pointed out between August 2004 and March 2005, the Department stated in July 2005 that Rs.4.93 lakh in respect of 42 vehicles had been recovered in Baran, Jhunjhunu and Sriganganagar. Intimation of remaining vehicles has not been received (July 2005).

The matter was reported between November 2004 and March 2005 to the Government; their reply has not been received (July 2005).

3.6 Non/short realisation of motor vehicles tax and special road tax in respect of contract carriages

Under the RMVT Act and the Rules made thereunder, MVT and SRT in respect of contract carriage vehicles having seating capacity of upto 10 is payable at the rates prescribed by the State Government from time to time quarterly in advance on or before 10th day of the first month of the quarter to which tax relates.

In seven RTOs/DTOs², it was noticed between May 2004 and December 2004 that MVT and SRT for the period between April 2001 and March 2004 in respect of 426 vehicles having seating capacity upto 10 and plying on contract carriage permits were either not paid or paid short by the owners of these vehicles. The taxation officer also did not initiate any action to recover the tax due. This resulted in non/short realisation of MVT and SRT amounting to Rs.53.93 lakh.

After this was pointed out between June 2004 and January 2005, the Department stated in July 2005 that Rs.6.69 lakh in respect of 57 vehicles had been recovered in Banswara, Baran and Jaipur. Intimation of remaining vehicles has not been received (July 2005).

The matter was reported to the Government between January 2005 and March 2005; their reply has not been received (July 2005).

3.7 Non/short realisation of special road tax on stage carriages

Under the RMVT Act and the Rules made thereunder, SRT in respect of stage carriages is payable monthly in advance on or before seventh day of the month and the owner is also required to submit declaration to this effect within first 14 days of the month. If the tax has not been correctly paid or owner has not submitted declaration the taxation officer shall proceed to compute and recover the amount of tax due.

² Banswara, Baran, Jaipur, Jalore, Pali, Rajsamand and Sirohi.

In four DTOs³, it was noticed between June 2004 and February 2005 that SRT in respect of 94 stage carriages were either not paid or paid short by the owners of these vehicles during the period between April 2000 and March 2004. The taxation officers also did not initiate any action to recover the tax due. The omission resulted in short/non realisation of SRT amounting to Rs.42.32 lakh.

After this was pointed out between July 2004 and March 2005 the Department stated in July 2005 that Rs.1.38 lakh in respect of five vehicles had been recovered in Jhunjhunu. Intimation of remaining vehicles has not been received (July 2005).

The matter was reported to the Government in March 2005; their reply has not been received (July 2005).

3.8 Non realisation of motor vehicles tax on passenger vehicles kept without non-temporary permits⁴

Under the RMVT Act, MVT in respect of a passenger vehicle not covered by a non temporary permit shall be payable at full rate of tax prescribed for passenger vehicles from time to time.

In three RTO/DTOs⁵, it was noticed between July 2004 and September 2004 that MVT was not paid by owners of 89 passenger vehicles for the periods between April 2002 and April 2004 during which their vehicles remained without any non temporary permit. The taxation officer also did not initiate any action to realise the amount of the tax due. This resulted in non realisation of MVT amounting to Rs.32.21 lakh.

After this was pointed out between August 2004 and October 2004, the Department stated between March 2005 and July 2005 that tax amounting to Rs.2.13 lakh in respect of 13 vehicles had been recovered in Bikaner, Jaipur and Sriganganagar. Intimation of remaining vehicles has not been received (July 2005).

The matter was reported to the Government between November 2004 and January 2005; their reply has not been received (July 2005).

³ Bundi, Dholpur, Jhunjhunu and Nagaur.

⁴ Permanent permit.

⁵ Bikaner, Jaipur and Sriganganagar,

3.9 Non/short realisation of special road tax in respect of stage carriages of other states

Under the RMVT Act and the Rules made thereunder, SRT at the prescribed rates in respect of stage carriages of other states plying on inter state routes is payable monthly in advance on or before seventh day of the month to which it relates and the owner is also required to submit a return/declaration to this effect on or before fourteenth day of the said month. If the taxation officer is satisfied that the tax has not been correctly paid or the owner has not furnished the return/declaration, he shall, after giving reasonable opportunity to the owner of vehicle being heard, proceed to compute and recover the tax due.

In Shahjahanpur, it was noticed in December 2004 that four stage carriage permits were issued by Regional Transport Authority, Faridabad between November 1997 and November 2002 in favour of Faridabad Depot of Haryana Roadways to ply four vehicles on Delhi-Jaipur inter state route with single trip per day. Out of these four permits, two permits were transferred in June 1999 to Delhi depot of Haryana Roadways. A test check of returns/challans submitted by Delhi Depot revealed that SRT in respect of above two permits was being paid by Delhi Depot with effect from May 2002 instead of from the date of transfer in June 1999. The taxation officer also did not initiate any action to recover the tax due. This resulted in non/short realisation of SRT amounting to Rs.8.52 lakh during the period from June 1999 to April 2002.

The matter was pointed out to the Department in January 2005 and reported to the Government in March 2005; their replies have not been received (July 2005).

CHAPTER-IV: Land Revenue

4.1 Results of Audit

Test check of land revenue records conducted in audit during the year 2004-05 revealed underassessments and loss of revenue etc. amounting to Rs.93.71 crore in 4,011 cases which broadly fall under the following categories.

Sl. No.	Category	Numbers of cases	Amount (Rs. in crore)
1.	Non regularisation of cases of trespassers on Government land	1,846	3.86
2.	Non recovery of conversion charges from khatedars	419	2.39
3.	Non recovery of premium and rent from Central/State Government departments/ undertakings	300	66.14
4.	Non recovery of price of command/uncommand/custodian ceiling land etc.	197	1.58
5.	Non/short recovery of cost of land	20	0.04
6.	Loss of revenue due to non realotment of land	150	0.06
7.	Other irregularities	1,079	19.64
	Total	4,011	93.71

During the year 2004-05, the Department accepted underassessments etc. of Rs.52 lakh involved in 208 cases of which 126 cases involving Rs.2 lakh had been pointed out in audit during 2004-05 and rest in earlier years. Further, the Department recovered Rs.19 lakh in 127 cases during the year 2004-05 which pertained to earlier years.

A few illustrative cases involving Rs.3.17 crore highlighting important audit observations are given in the succeeding paragraphs.

4.2 Short recovery of cost of land

Government order of March 1987 prescribed that Government land situated in urban area and within its periphery (1 km) shall be allotted to Central Government departments and undertakings on the prevailing market price applicable for abadi/periphery area. Where the use of allotted land was for commercial purpose, the cost of such land was to be recovered at commercial rate as approved by the District Level Committee (DLC).

4.2.1 In Tehsil Kushalgarh, (Banswara district) it was noticed in July 2004 that Government agricultural land measuring 3,48,480 square feet (20 bigha) situated within the radius of 1 km of municipal area of Kushalgarh was allotted in August 2003 to Central Warehousing Corporation Behror, (a commercial organisation) for establishment of godown at village More. The cost of land was recovered at the rate applicable to agricultural land instead of prevalent commercial rate. The cost of land thus worked out to Rs.1.39 crore as against which Rs.1.50 lakh was charged. The undervaluation of land resulted in short recovery of Rs.1.38 crore.

After this was pointed out in March 2005, the Department stated in May 2005 that the allotted land was situated at a distance of 1.5 km from periphery area of municipality and hence cost was recovered as per DLC rates prescribed for rural area. The reply is not tenable because as per the records of Tehsildar, Kushalgarh (July 2004) the village More in which land is situated was within the periphery of 1 km and as such the commercial rate of land was applicable in this case.

The matter was reported to the Government (April 2005); their reply has not been received (July 2005).

4.2.2 In Tehsil Ramganjmandi (district Kota), it was noticed in August 2004 that Government land measuring 19.59 hectares was allotted in February 2003 to Railway Department for laying Ramganjmandi-Bhopal rail track on recovery of cost of land. Out of 19.59 hectare, land measuring 0.7908 hectare (85,090 sq.ft.) was situated in urban area of Ramganjmandi (village Ransoli) and the cost thereto was recoverable at commercial rate where as the recovery was effected at abadi rate. The omission resulted in short recovery of Rs.59.56 lakh.

The matter was pointed out in September 2004 to the Department and reported to the Government (April 2005); their replies have not been received (July 2005).

4.3 Non recovery of conversion charges

As per Government order dated 2 March 1987, on allotment of Government agricultural land in rural areas to Central Government departments,

corporations and undertakings for use other than agricultural purpose, the prevailing market price of agricultural land together with capitalised value equal to 40 times of the annual land revenue and conversion charges were recoverable.

In three tehsils it was noticed between May and August 2004 that Government land measuring 50.6655 hectares was allotted between January 2003 and October 2003 to Railways. The prevailing market price of agricultural land together with capitalised value was recovered but conversion charges payable on the land were not recovered. This resulted in non recovery of Rs.98 lakh as detailed below:

Sl. No.	Name of tehsil	Period of allotment of land	Area of land (hectare)	Conversion charges (Rs. in lakh)
1.	Kolayat (Bikaner)	March 2003	25.4640	50.79
2.	Phalodi (Jodhpur)	January 2003 and October 2003	6.5235	16.82
3.	Ramganjmandi (Kota)	February 2003	18.6780	30.39
	Total		50.6655	98.00

After this was pointed out between June 2004 and September 2004, the department stated between June 2005 and July 2005 that concerned Collectors had been directed to raise demand and recover the amount.

The Government to whom the matter was reported between March 2005 and May 2005, confirmed between June 2005 and July 2005, the reply of the department in respect of Kolayat and Phalodi. The reply in case of Ramganjmandi was, however, not received (July 2005).

4.4 Short recovery of fine

According to Rajasthan Land Revenue (Conversion of agricultural into non agricultural land) Rules, 1961 (Rules) the Collector may regularise cases of conversion of agricultural land for use of construction of factory or mill or setting up of a small scale industry or a tourism unit which have been set up without prior permission of the State Government. Rules further provide that regularisation in such cases can be allowed on payment of fine which shall be calculated at the rate of not less than five times the prevalent highest market price in the neighbourhood if the land is situated in urban area.

In Tehsil Vallabh Nagar (District Udaipur), it was noticed in February 2005 that a resort was constructed on Khatadari land¹ admeasuring 2,377 square

¹ Khatadari land is the land held by an individual with tenancy right from the Government.

metres in Udaipur without prior permission. The District Collector, Udaipur, however, regularised in July 2000 the said conversion for use on payment of one time of land price of Rs.3.84 lakh instead of five times of prevalent market cost amounting to Rs.19.18 lakh. The omission resulted in short realisation of Rs.15.34 lakh.

After this was pointed out (March 2005) in audit, the Department did not accept the observation and stated (July 2005) that since the village Tush Dagian falls under tehsil Vallabh Nagar and thus does not fall within municipal area to attract cost at higher rates. The reply is not tenable because as per notifications issued in June 1983 and subsequently in April 1999, the village Tush Dagian is included in the periphery of Udaipur urban area.

The matter was reported (April 2005) to Government; their reply has not been received (July 2005).

4.5 Short recovery of cost of Government land

Rajasthan Colonisation (Allotment and Sale of Government land in Indira Gandhi Nahar Project Area) Rule, 1975, stipulates that the cost of Government land situated within municipal periphery area of three kms having population between 25,000 but less than 50,000, should be charged four times of double the reserved rate fixed for same class of land in the said area. The State Government notification (April 2001) have enhanced the rates.

In Tehsil Rawatsar, it was noticed in September 2004 that in four cases, small patches of Government land measuring 10.21 bigha² situated within periphery area of three kms of Rawatsar Municipality having population of 28,387 were allotted between September 2001 and November 2002 to cultivators. The cost of land was assessed at Rs.2.05 lakh instead of Rs.7.90 lakh based on revised rates as prescribed in Rules. The omission resulted in short recovery of cost of land of Rs.5.85 lakh.

After this was pointed out in October 2004, the department stated in July 2005 that a demand of Rs.5.85 lakh had been raised in the revenue accounts.

Government, to whom the matter was reported in April 2005, confirmed (July 2005) the reply of the department.

² Uncommand 6.00 bigha and Nahari 4.21 bigha.

CHAPTER-V: Stamp Duty and Registration Fee

5.1 Results of audit

Test check of the records of the Department of Stamps and Registration conducted by audit during the year 2004-05 revealed short recovery of stamp duty and registration fee amounting to Rs.12.10 crore in 2,495 cases which broadly fall under the following categories:-

Sl. No.	Category	Number of cases	Amount (Rs.in crore)
1.	Misclassification of documents	647	8.76
2.	Undervaluation of properties	1,715	3.08
3.	Other irregularities	133	0.26
	Total	2,495	12.10

During the year 2004-05, the Department accepted underassessments amounting to Rs.2.27 crore pertaining to 854 cases of which 523 cases amounting to Rs.1.90 crore were pointed out by audit during 2004-05 and the rest in earlier years. Further, the Department recovered Rs.13.85 lakh in 220 cases during the year 2004-05, of which two cases amounting to Rs.0.29 lakh related to the year 2004-05 and the rest to earlier years.

A few illustrative cases involving Rs.5.20 crore highlighting important audit observations are given in the succeeding paragraphs.

5.2 Short levy of stamp duty and registration fee due to undervaluation of property

5.2.1 As per Rajasthan Stamp Law (Adaptation) Act, 1952, stamp duty shall be chargeable on market value of the property. The Rajasthan Stamp Rules, 1955 provide that market value of the property shall be determined on the basis of the rates recommended by the District Level Committee (DLC) or the rates approved by the Inspector General of Stamps, whichever is higher.

In seven Sub-Registrar Offices (SRO), it was noticed between October 2004 and January 2005 that in 16 cases of conveyance deeds (registered between May 2001 and October 2003) involving commercial/residential plots and agricultural land, the value of the property was determined either at the rates of residential land instead of commercial land or at rates lower than those approved by DLC. This resulted in short levy of stamp duty (SD) and registration fee (RF) aggregating to Rs.3.11 crore as per the details given in the table:

(Rupees in lakh)

Name of SROs	No. of cases	Nature of property	Market value of property as per DLC rates	Value adopted	SD and RF		Short levy of SD and RF
					Leviable	Levied	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Sikar	1	Residential	110.03	13.20	12.35	1.58	10.77
Nathdawara (Rajsamand)	5	Agricultural/Commercial	100.91	45.98	11.94	6.86	5.08
Mahwa (Dausa)	4	Commercial	449.64	43.53	50.46	5.22	45.24
Kekri (Ajmer)	1	Commercial	59.28	10.00	6.77	1.20	5.57
Gangrar (Chittorgarh)	2	Commercial	580.93	33.44	64.37	4.01	60.36
Duddu (Jaipur)	2	Commercial	1,601.74	37.27	176.69	4.47	172.22
Sindhari (Barmer)	1	Commercial	131.40	24.30	14.70	2.91	11.79
Total	16						311.03

After this was pointed out between November 2004 and February 2005, the Department in the case of Duddu in May 2005 stated that the land was being used for agricultural purpose at the time of registration of the sale deed which formed the basis for charge of SD at agricultural rate. The reply is not tenable since the land was purchased by an oil company and in view of the circular issued in July 2003, the value of the land for levy of SD was to be based on the commercial rate if land was to be used for commercial purpose in future. While in case of SRO, Gangrar, it was stated in June 2005 that the matter was under consideration in Finance Department and the SROs, Sikar and Mahawa had referred the cases to the Collector (Stamps) for adjudication. In remaining cases reply has not been received (July 2005).

The matter was reported to Government between December 2004 to April 2005, their replies have not been received (July 2005).

5.2.2 As per clarification issued in April 2002 by the State Government, private educational institutions are to be considered as commercial institutions for recovery of land conversion charges.

In three SROs it was noticed between July 2004 and January 2005 that in contravention of the above clarification, the value of land mentioned in the deeds registered between January 2003 and May 2003 in favour of educational institutions was determined at agricultural rate instead of commercial rate. The omission resulted in short levy of SD and RF aggregating to Rs.66.11 lakh as indicated below: -

(Rs. In lakh)

Name of the SROs	Institution to whom sold	Market value as per Commercial rate	Value adopted	SD and RF		Short levy of SD and RF
				Leviable	Levied	
Alwar	Public Rose Siksha Samiti ,Alwar	236.46	17.05	26.26	2.05	24.21
Jhunjhunu	Islamia Arabia, Anwarululam (School), Jhunjhunu	74.87	2.25	8.49	0.27	8.22
Vazirpur (Sawaimadho pur)	Private Educational Institution	307.95	3.73	34.13	0.45	33.68
Total						66.11

After this was pointed out between August 2004 and February 2005 the Department stated in May 2005 that in Alwar a case had been registered with the Collector (stamps) for adjudications. In case of Jhunjhunu, the Department did not accept the observations and stated (May 2005) that purchased land was agricultural land at the time of execution of documents and did not fulfil the condition that land conversion charges was to be determined at commercial rate. The reply of the Department is not tenable as the land attached to the institute was purchased by the same private educational institution and cost of land was to be determined at commercial rate for conversion charges. No reply has been received in other case (July 2005).

The omission was reported to Government between January 2005 and March 2005; their replies have not been received (July 2005).

5.2.3 In pursuance of instructions issued by Inspector General of Stamps in October 1999, valuation of land situated in Rajasthan State Industrial Development and Investment Corporation (RIICO) area should be assessed at RIICO rate, while for land situated outside the RIICO area, valuation of land should be done at industrial rate as decided by DLC. In absence of these rates prevailing reserved rates of nearby RIICO area are to be applied.

In SRO, Duddu (Jaipur district), it was noticed in November 2004 that agricultural land measuring 43.125 bigha (1,14,133.76 sq.m.) was sold to a company through 10 sales deeds registered between May and November 2002 at valuation of Rs.40.61 lakh at agricultural rate on which SD and RF of Rs.4.87 lakh were charged.

Since the land purchased was for establishment of a project for laying 6 line road work at National Highway No. 8, the value of land was to be worked out at the rate of nearby RIICO area in absence of DLC rate. The value of land would thus work out to Rs.1.43 crore on which SD and RF of Rs.17.12 lakh was chargeable. Incorrect computation of market value of land resulted in short levy of SD and RF of Rs.12.25 lakh.

This was pointed out in November 2004 to the Department and to the Government in January 2005; their replies have not been received (July 2005)

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

5.3.1 Under the Rajasthan Stamp Law (Adaptation) Act, 1952, where the lease purports to be for a period of not more than 20 years, stamp duty for a consideration equal to the amount of the average rent of two years is chargeable. However, where the lease period exceeds 20 years, stamp duty is to be charged as on conveyance on the market value of the property. The term of a lease shall include not only the period stated in the document but shall be deemed to be the sum of such stated period alongwith all previous periods immediately without a break for which the lessee and lessor remained the same. Further, as per Rajasthan Stamp Rules, 1955, the market value of the land shall be assessed on the basis of the rates recommended by DLC or the rates approved by the Inspector General of Stamps, whichever is higher.

In five SROs, it was noticed between June 2004 and January 2005 that in case of lease deeds pertaining to more than 20 years registered between August 2002 and December 2003, the SD was not recovered as on conveyance on the

market value of property. This resulted in loss of SD and RF aggregating to Rs.1 crore as per the details given in the table:

(Rs. in lakh)

S. No.	Name of SROs	Name of lessee	Market value	Value adopted	SD and RF		Short levy of SD and RF
					Leviabale	Levied	
1.	Nathdawara	Bharat Petroleum Corporation	448.87	9.34	49.63	1.12	48.51
2.	Udaipur-I	Allahabad Bank	145.26	40.43	16.23	1.06	15.17
3.	Bali	M/S Gopichand Roshanlal Petro-chemicals Ltd.	43.04	0.72	4.98	0.09	4.89
4.	Bhilwara	National Insurance Company	38.27	1.15	4.46	0.03	4.43
5.	Udaipur-II	Sri Nimbark Shiksha Prashishan College	249	1.20	27.64	0.14	27.50
	Total						100.50

After this was pointed out between July 2004 and March 2005, the Department in the case of Bali and Bhilwara stated (May 2005) that cases have been registered with the Collector (Stamps) for adjudication. In remaining cases replies have not been received (July 2005).

The matter was reported to Government between January 2005 and March 2005; their replies have not been received (July 2005).

- In SRO Sri Dungargarh (Bikaner), it was noticed (June 2004) that a lease deed of a plot measuring 3.50 bigha (8,840 sq.m.) was registered in February 2003 for a period of 30 years (January 2003 to December 2032) in favour of Sesomu Education Society for running of a school. The valuation of land was assessed at agricultural rate and SD and RF of Rs.0.40 lakh was charged. As the land was leased out for more than 20 years to a private education society for running of a school, the valuation of land was to be determined at commercial rate of Rs.79.56 lakh on which SD and RF of Rs.9 lakh was chargeable. This resulted in short recovery of SD and RF aggregating to Rs.8.60 lakh.

After this was pointed out in June 2004 the Department stated in June 2005 that the case has been registered with the Collector (Stamps) for adjudication.

The matter was reported to the Government in December 2004; their reply has not been received (July 2005).

5.3.2 Under provision of Rajasthan Stamp Law (Adaptation) Act, 1952, on transfer of lease by way of assignment, stamp duty for a consideration equal to the amount of market value of the property under transfer is chargeable. Further as per circular issued in October 1999 by Inspector General of Stamps, Ajmer, documents executed as supplementary documents inter alia on change of legal status of firm or change of partners or dissolution of partnership shall be categorised as 'transfer of lease by way of assignment.'

In SRO Amer (Jaipur), it was noticed in October 2004 that an industrial plot admeasuring 23,814 sq. m. was allotted in November 2000 on consideration of Rs.72.91 lakh to an industrial unit by RIICO in industrial area Kukas (Jaipur). The lease agreement was registered on 30 July 2003. RIICO further accorded sanction for change in the name of industrial unit with reduction in the number of Board of Directors to two from existing five. The correction deed was registered in December 2003 and SD of Rs.100 and RF Rs.150 levied thereon. As there was change in name of firm as well as legal status of Board of Directors as mentioned in Articles of Association presented to RIICO by new firm, the subsequent document was to be classified as 'transfer of lease by way of assignment' attracting valuation of the property for charge of stamp duty on market value. The SD and RF on market value of Rs.1.31 crore would thus work out to Rs.14.65 lakh. The omission of considering it as correction deed instead of 'transfer of lease by way of assignment' resulted in loss of SD and RF of Rs.14.65 lakh.

After this was pointed out in November 2004 the Department stated in March 2005 that a case had been registered with the Collector (stamps) for adjudication. Further progress has not been received.

The matter was reported to Government in January 2005; their reply has not been received (July 2005).

5.4 Non registration of lease deeds

Under the Registration Act, 1908, lease of immovable property for any term exceeding one year is compulsorily registrable. Where the lease purports to be for a term of 20 years or more or in perpetuity or where the term is not mentioned, stamp duty is chargeable as on a conveyance on the market value of the property.

In SR, Rajsamand and Nathdawara, it was noticed in November 2004 that in four cases, land valued at Rs.58.20 lakh was allotted between June and July 2002 to Rajasthan Rajya Vidyut Prasaran Nigam Limited on lease for 99 years, but leases were not presented for registration by Nigam in these cases. It resulted in non-realisation of SD and RF of Rs.6.98 lakh.

After this was pointed out in December 2004 the Department ordered in May 2005 to call for documents from concerned parties for effecting recovery of the amount.

The matter was reported in December 2004 to Government; their reply has not been received (July 2005).

CHAPTER-VI: State Excise

6.1 Results of audit

Test check of the records of the State Excise Offices, conducted in audit during the year 2004-05, revealed non/short recovery of excise revenue amounting to Rs.21.47 crore in 195 cases, which broadly fall under the following categories:

Sl. No.	Category	Number of cases	Amount (Rs. in crore)
1.	Non/short realisation of excise duty and licence fee	21	1.04
2.	Loss of excise duty on account of excess wastage of liquor	10	0.02
3.	Other irregularities	164	20.41
	Total	195	21.47

During the year 2004-05, the Department accepted short realisation etc. in 38 cases involving Rs.7.46 crore of which 25 cases involving Rs.5.15 crore had been pointed out in audit during 2004-05 and rest in earlier years. The Department recovered Rs.1.16 crore in 44 cases of which 12 cases involving Rs.10.11 lakh had been pointed out in audit during the year 2004-05 and rest in earlier years.

A few illustrative cases involving Rs.1.15 crore highlighting important audit observations are given in the succeeding paragraphs.

6.2 Non-recovery of stock transfer fee

Rajasthan Excise Rules, 1956 provide that in the event of transfer of closing stock of Indian Made Foreign Liquor (IMFL)/beer and lanced poppy heads (LPH) from one licensee to another licensee, stock transfer fee at the rate of Rs.4 per bulk litre (BL) and Rs.2 per kg respectively shall be charged.

In three district excise offices¹, it was noticed between December 2004 and March 2005 that the closing stock of 3,69,902.04 BL IMFL, 53,421.4 BL beer and 21,978.97 quintal LPH held at the end of contract period of 2002-03 and 2003-04 were transferred to the licensees of the succeeding years. However, stock transfer fee amounting to Rs.43.96 lakh on LPH and Rs.16.93 lakh on IMFL/beer chargeable on above transfer, was not recovered by district excise officers (DEOs). It resulted in non-recovery of stock transfer fee of Rs.60.89 lakh.

After this was pointed out, the Commissioner Excise stated in May and July 2005 that demand of Rs.19.98 lakh had been raised and recovered in respect of the licensees of Barmer and Chittorgarh. Further, it was stated that Rs.40.92 lakh in respect of Sirohi and Chittorgarh was not recoverable as licences were sanctioned to same licensees. The reply is not tenable as licences were sanctioned separately for each year by inviting tenders. Thus, the licences were separate from each other. Moreover, recovery was also made in Barmer from the same licensee.

Government confirmed in July 2005 the reply of the Department.

6.3 Short recovery of excise duty

Government notification issued under Rajasthan Excise Act 1950 provides for excise duty on IMFL at the rate of Rs.100 per London Proof Litre (LPL) from 1 April 1999. Government declared (April 2003) heritage liquor to be IMFL. The Commissioner declared 'Som Ras' as heritage liquor with effect from 1 April 2003.

In four district excise offices² it was noticed between July 2004 and March 2005, that licensees having wholesale licence of IMFL, purchased 79,200 BL (47,520 LPL) of Som Ras Liquor between July 2003 and December 2003, from a manufacturer at Behror (Alwar). The excise duty on this liquor was erroneously levied at the rate of Rs.50 per LPL. As heritage liquor had been declared IMFL from 1 April 2003, levy of excise duty at incorrect rates resulted in short recovery of excise duty amounting to Rs.23.76 lakh.

After this was pointed out between July 2004 and March 2005, the Department stated in May 2005 that excise duty on heritage liquor was

¹ Barmer, Chittorgarh and. Sirohi

² Alwar, Chittorgarh, Sikar and Sriganganagar.

realised at the rate of Rs.50 per LPL as prescribed. The reply was not tenable as heritage liquor was categorised as IMFL with effect from 1 April 2003 and excise duty on heritage liquor was, therefore, chargeable as applicable for IMFL.

Government confirmed in July 2005 the reply of the Department.

6.4 Short recovery of exclusive privilege amount

As per conditions of licence for the year 2003-04 for retail sale of IMFL and beer, the rebate allowed to the licensee of a group in fulfilment of EPA³ on account of excise duty shall be withdrawn in respect of quantity of liquor which remained undisposed or unsold at the end of licence period. Accordingly, rebate allowed in respect of quantity of liquor which remained in balance at the end of licence period out of the quantity of liquor sold to hotels/club bars was to be withdrawn.

In three district excise offices⁴, it was noticed between April 2004 and December 2004 that three retail licensees of liquor groups for the year 2003-04 issued IMFL/beer to 61 licensees of hotel/club bars situated in groups and availed fulfilment towards EPA on 12,837.731 LPL IMFL and 46,313.823 BL beer which remained undisposed with these hotels /club bars at the end of licence period. The rebate of Rs.18.98 lakh granted thereon was thus, required to be withdrawn but it was neither withdrawn nor recovered which resulted in short recovery of EPA of Rs.18.98 lakh.

After this was pointed out the Department stated in May 2005 that Rs.8.71 lakh have been recovered from Alwar and Jodhpur. The replies in other cases were awaited (July 2005).

The matter was reported between June 2004 and April 2005 to the Government; their reply has not been received (July 2005).

6.5 Irregular grant of rebate in exclusive privilege amount

As per condition of licence for the year 2003-04 for retail sale of beer, the rebate equivalent to excise duty paid by Hotel/Club bar on purchase of beer from the wholesaler of EPA shall be allowed to retail licensee under EPA system towards fulfilment of its monthly guarantee.

³ Exclusive privilege amount is the amount on which a licence to sell liquor for a year is sanctioned in favour of licensee which is divided in 12 monthly instalments.

⁴ Alwar, Jodhpur and Udaipur.

In Jaipur, Kota and Alwar, it was noticed in October 2004 & December 2004 that hotel/club bars purchased beer from Rajasthan Tourism Development Corporation (RTDC) which was not having wholesale licence under EPA system. In disregard of the provisions, rebate of Rs.10.81 lakh of excise duty was allowed by the Department to retail licensee in its fulfilment of EPA despite the fact that RTDC was not the wholesale licensee under EPA system. This resulted in irregular grant of rebate amounting to Rs.10.81 lakh.

After this was pointed out in November 2004 and February 2005, the Department stated in May 2005 that an amount of Rs.1.11 lakh has been recovered from licensee in Alwar but in respect of balance amount of Rs.9.70 lakh relating to licensees at Jaipur and Kota it was stated that beer was issued to RTDC hotel bars as such amount was not recoverable. The reply is not tenable as RTDC was not the wholesale licensee under EPA system. Further reply was awaited (July 2005).

Government confirmed in July 2005 the reply of the Department.

CHAPTER-VII: Non-Tax Receipts

7.1 Results of audit

Test check of the records of the Mining Department, conducted in audit during the year 2004-2005, revealed non/short recovery of mining revenue amounting to Rs.329.14 crore in 1,704 cases, which broadly fall under the following categories:

Sl. No.	Category	Number of cases	Amount (Rs. in crore)
A. Devasthan Department			
1.	Devasthan Receipts and Property Management	1	4.25
B. Mines and Geology Department			
1.	Non/short recovery of dead-rent and royalty	144	49.97
2.	Unauthorised excavation	129	97.77
3.	Non forfeiture of security	116	0.40
4.	Non levy of penalty/interest	397	5.57
5.	Other irregularities	916	14.58
6.	Review "Receipts from Mines and Minerals"	1	156.60
Total		1,704	329.14

During the year 2004-05, the Department accepted short realisation etc., of Rs.21.54 crore in 738 cases, of which 316 cases involving Rs.13.73 crore had been pointed out in audit during the year 2004-05 and rest in earlier years. Further, the Department recovered Rs.1.50 crore in 195 cases of which 14 cases involving Rs.83 lakh had been pointed out in audit during the year 2004-05 and rest in earlier years.

Important audit observation on Devasthan Receipts and Property Management and audit findings of the review on Receipts from Mines and Minerals involving Rs. 160.85 crore are given in following paragraphs:

A. Devasthan Department

7.2 Devasthan Receipts and Property Management

7.2.1 Introduction

Devasthan Department controls and maintains all the temples and other religious endowments of the State. The Department is also entrusted with the registration of public trusts. It controls 994 temples under various categories i.e. direct charge 390, self supporting 204 and supurdgi¹ 400.

The Department derives revenue mainly from the (i) rent of buildings/dharmshalas, land and shops/hotels attached to the temples and religious institutions; (ii) offerings (cash and kind) from devotees; and (iii) proceeds by disposal of properties and interest on interest bearing personal deposit (PD) account.

The records in the offices of the Commissioner, Devasthan, Rajasthan, who is head of the department and 10 Assistant Commissioners (ACs)² covering the period from 1999-2000 to 2003-04 were test-checked in audit during July 2004 to February 2005 which revealed the following:-

7.2.2 Financial management

- The budget estimates and actuals thereagainst during the last five years ending March 2004 was as under:

(Rs. in lakh)

Year	Budget estimates	Actuals	Shortfall	Percentage of shortfall
1999-2000	50	30	20	40
2000-2001	100	91	9	9
2001-2002	100	99	1	1
2002-2003	112	74	38	34
2003-2004	115	97	18	16

The above table shows that targets of revenue realisation were not achieved during 1999-2000, 2002-03 and 2003-04. The shortfall during these years ranged between 16 and 40 *per cent*. The targets achieved during 2000-01 and 2001-02 were on account of increase of rental income due to implementation of new rent policy from April 2000. The reasons for shortfall in revenue realisation, were attributed by Commissioner in July 2005 mainly

¹ Temples which were constructed by ex rulers or their family members and handed over to pujaries for day to day management and puja.

² Ajmer, Bharatpur, Bikaner, Jaipur (temple and trust), Jodhpur, Kota, Rishabhdeo, Udaipur and Vrindavan.

to litigation and non recovery of outstanding rent from Government departments.

- The Rajasthan Treasury Rules, require that departmental receipts collected daily should be deposited into treasury immediately.

It was noticed in the office of AC (Temple), Jaipur that the rent realised from the properties of various temples were not deposited in the treasury, in contravention of above rules. Heavy cash balances remained with AC as shown under:

(Rs. in lakh)	
Year	Amount
1999-2000	8.44
2000-2001	11.32
2001-2002	9.25
2002-2003	8.58
2003-2004	7.34

7.2.3 Position of arrears

Records of Commissioner Devasthan, Rajasthan, Udaipur and eight ACs³ revealed that a sum of Rs.2.16 crore was outstanding as on 31 March 2004 against tenants on account of rent of residential/commercial properties attached to various temples and other religious endowments. Year-wise break up of arrears though called for was not made available to audit. The various stages of arrears are as under:

(Rs. in crore)		
1.	Arrears due from various Government departments	1.07
2.	Arrears locked under litigation/other reasons	1.09
	Total	2.16

After this was pointed out, the Department stated (July 2005) that directions have been issued in May 2005 to effect the recovery in accordance with the provisions of Land Revenue Act, 1956.

7.2.4 Property management

Manual of Devasthan Department prescribes that the Department should (i) conduct survey of immovable properties including agricultural land attached to the temples and valuation thereof, (ii) verify the title after due investigation from old records of their own Department and keep such records in safe

³ Bharatpur Rs.1.10 lakh, Bikaner Rs.0.60 lakh, Jaipur Rs.123.56 lakh, Jodhpur Rs.54.06 lakh, Kota Rs.7.61 lakh, Rishabhdeo Rs.2.51 lakh, Udaipur Rs.22.89 lakh and Vrindavan Rs.3.75 lakh.

custody, (iii) take immediate action in case of unauthorised occupation and make report to the Collector concerned for taking action under Rajasthan Land Revenue Act, 1956 (Act). In case, agricultural land pertaining to temples is transferred in the revenue records unauthorisedly in the name of pujari/other person necessary action may be taken under the Act to get the land restored.

As per information made available by seven ACs⁴, details of agricultural land measuring 10,363 bigha⁵ and 11 biswa⁶ attached to 63 direct charge temples in the departmental records was as under: -

	Bigha
Records of entrustment not available	2,496.02
Unauthorised possession of trespassers/pujaris	5,832.10
In the name of other persons / pujaris	936.06
Under departmental possession	1,098.13
Total	10,362.31
	say 10,363.11

Due to non-availability of records of entrustment in respect of 2,496.02 bigha land valued at Rs.1.30 crore the Department failed to derive any income therefrom or to initiate action for restoration in case it was under unauthorised possession. The land measuring 5,832.10 bigha valued at Rs.3.03 crore (worked out at minimum rates approved by DLC) was under unauthorised possession of trespassers/pujaris. Records were, however, silent as to whether any efforts were made at any stage to get the land restored in accordance with the provisions of Act to evict trespassers.

Records of AC Bikaner, Kota, Udaipur and Vrindavan revealed that in 10 cases land measuring 936.06 bigha recorded in the names of 10 direct charge temples, in revenue records, was transferred/recorded in the names of pujaris/other persons. No action was initiated to get the land restored except in six cases involving land measuring 561.05 bigha wherein references made were, however, pending in various revenue courts.

After this was pointed out, the Department stated in July 2005 that action to restore the land and to evict the trespassers was being initiated.

7.2.5 Rent Receipt

Under new rent policy applicable from April 2000, rent of buildings and shops belonging to direct charge temples was recoverable at the rate of 30 *per cent* of rent determined in accordance with PWD standing orders of 1995 from individuals and at the rate of 100 *per cent* from Government departments,

⁴ Ajmer, Bharatpur, Bikaner, Kota, Rishabhdeo, Udaipur and Vrindavan.

⁵ Bigha is a unit of measurement of land which denotes normally 3025 square yards.

⁶ Biswa is unit for measurement of land which denotes 1/20th part of a Bigha.

autonomous bodies and public welfare societies. The rent so determined was to be increased at the rate of 15 *per cent* after every three years. Further, PWD Manual provides that when Government hires private building for official use, the rent is to be determined at the rate of nine *per cent* of cost of building and when Government property is let out to a private person/body, rent at the rate of 10 *per cent* per month is to be recovered.

- Test check of the records of eight ACs⁷ revealed that rent in respect of buildings belonging to direct charge temples let out to private individuals for residential/ commercial purposes was worked out at nine *per cent* of the cost of building instead of 10 *per cent*. Consequently there was short recovery of Rs.12.75 lakh (being 30 *per cent* of the rent so determined at PWD rates) during the period from April 2000 to March 2004.

After this was pointed out, the Department stated in July 2005 that assessment of rent at the rate of nine *per cent* was made in accordance with circular issued by PWD in March 1995. The reply is not tenable as said circular is applicable to hiring of private buildings by Government.

- Records of ACs Jodhpur and Vrindavan revealed that recovery of rent in respect of four buildings was effected from autonomous bodies/public welfare societies during the period from 2000-01 to 2003-04 at the rate of 30 *per cent* instead of 100 *per cent* of the rent determined at PWD rates which resulted in short recovery of Rs.4.03 lakh.

After this was pointed out, the Department stated in July 2005 that no building has been let out to public welfare societies at Vrindavan. The reply is not tenable as properties in two cases at Vrindavan have been let out to public welfare societies.

7.2.6 As per Government orders issued in April 1993, when properties of Devasthan Department are to be let out to Government Departments, autonomous bodies and public welfare societies the rent is to be determined according to their use.

- Records of four ACs⁸ revealed that 29 properties belonging to 17 direct charge temples which were let out to various Government departments, autonomous bodies and public welfare societies for non-residential purpose were erroneously determined at residential land rate instead of commercial land rates, which resulted in short recovery of Rs.2.50 crore during the period from April 2000 to March 2004.

After this was pointed out, the Department stated in July 2005 that it was not appropriate to determine rent in respect of these buildings at commercial rates

⁷ Bharatpur Rs.0.02 lakh, Bikaner Rs.0.11 lakh, Jaipur (temple) Rs.5.18 lakh, Jodhpur Rs.4.30 lakh, Kota Rs.1.39 lakh, Rishbhdeo Rs.0.30 lakh, Udaipur Rs.0.93 lakh and Virandavan Rs.0.52 lakh.

⁸ Jaipur (temple) Rs.210.53 lakh, Jodhpur Rs.24.39 lakh, Kota Rs.14.53 lakh and Udaipur Rs.0.85 lakh.

as these were not being used for commercial purposes. The reply is not tenable as these properties were let out for non residential purposes.

- Records of AC Jaipur (temple) revealed that three portions of a property under direct charge temple Shri Anand Krishan Behariji, Chandni Chowk, Jaipur were let out between December 1986 and December 1993 to "Rajasthan Jyotish Parishad Avam Shodh Sansthan". The rent was determined in one case at the rate of 7.5 *per cent* of commercial land rate and in remaining two cases at nine *per cent* of residential land rate instead of commercial land rate at the rate of 10 *per cent*. Besides as against cent percent recovery of rent determined in accordance with new rent policy for autonomous body/public welfare societies, the rent was recovered at 30 *per cent* thereto. This resulted in short recovery of Rs.6.31 lakh.

After this was pointed out, the Commissioner stated in July 2005 that recovery of rent was made after seeking approval of the administrative department. The reply is not tenable as the said approval was not based on rent policy framed by Government.

7.2.7 As per Government orders issued in October 1996 land measuring 8,076.25 square feet pertaining to Sarai Fateh Memorial at Udaipur (direct charge) was handed over to Indian Oil Corporation (IOC) in October 1996 at monthly rent of Rs.7,500 pending final decision of PWD. The PWD determined in January 1998 monthly rent at the rate of Rs.1.51 lakh. The Commissioner, Devasthan recommended the case to the Government in March 1998 for sanction. The Government returned the case in May 1998 to PWD for reconsideration as the rent determined was considered excessive and impracticable. The Executive Engineer, City Division replied in June 1998 that rent determined was correct and reasonable and in accordance with rules. The Commissioner reported the same to Government in July 1998 followed by reminders in February and June 1999 for sanction. But no sanction has been issued so far. In absence of Government sanction, IOC continued to pay rent at the rate of Rs.7,500 per month.

This resulted in short recovery of rent of Rs.86.10 lakh during the period from April 1999 to March 2004.

After this was pointed out, the Department accepted the facts and intimated (July 2005) that action will be taken to recover the rent as per directions of Government.

7.2.8 As per Government orders issued in September 2000 rent fixed in terms of new rent policy or old rent, whichever is higher will be charged.

Property of the Sarai Fateh Memorial, Udaipur was leased out to Tourism Department in October 1994 on a monthly rent of Rs.13,800. Tourism Department continued to pay rent as per old terms and conditions of lease fixed in December 1993 which included increase of 10 *per cent* every year. Though AC Udaipur determined the rent at the rate of Rs.57,340 per month with effect from April 2000 under new policy but the same was not demanded.

This resulted in short recovery of rent amounting to Rs.15.56 lakh during the period from April 2000 to March 2004.

The AC Udaipur replied that the lessee was making payment of rent after including increase of 10 *per cent* and as such new rent policy was not applicable in this case. The reply of AC was not tenable as higher rent of Rs.57,340 per month was determined under the new policy and accordingly higher rent was thus chargeable.

7.2.9 The Rajasthan Civil Services (Allotment of Residential Accommodation) Rules, 1958 envisaged that Government accommodation allotted to Government employee was required to be vacated within two months in case of retirement. In case, the house was not vacated within the prescribed period, the allottee will be liable to pay the market rate of rent up to next two months. On the expiry of above period, eviction process shall be initiated. The Rules further provide that in case the rent is not paid within the prescribed period, interest at the rate of 18 *per cent* per annum shall be charged.

Records of AC Kota revealed that residential property of direct charge temple Shri Phool Bihariji at Kota allotted to an AC in 1983 was not vacated by him after his retirement from service in December 1996 till date. The Executive Engineer, City Division, Kota determined market rent at the rate of Rs.4,053 per month with effect from 1997 in January 2004. The building was neither vacated by the official nor any rent was paid till date. This resulted in non-recovery of Rs. 3.54 lakh including interest chargeable at the rate of 18 *per cent* thereon during the period from 1999-2000 to 2003-04. The Department had also failed to evict the occupant.

7.2.10 *Loss of revenue due to incorrect regularisation*

In terms of rent policy of 2000, tenancy in favour of sub-tenants of property of Devasthan is to be regularised from April 2000 after recovery of 120 times of determined rent in *lump sum*.

Test check of records of five ACs⁹ revealed that in the case of 27 sub tenants the tenancy was regularised during the period between March 2001 to March 2003 in contravention of above provisions after obtaining 30 *per cent* of determined rent. This resulted in loss of Rs.38.41 lakh.

After this was pointed out, the Department did not accept the observation and stated in July 2005 that *lump sum* amount was recovered at 30 *per cent* being rent payable by tenants. The reply is not tenable as *lump sum* amount was required to be recovered 120 times of the determined rent instead of rent payable in terms of rent policy of 2000.

⁹ Bikaner, Jaipur, Jodhpur, Udaipur and Vrindavan.

7.2.11 Other topics of interest

Commissioner issued instructions in October 2000 that ACs should carry out physical verification of all immovable properties under his jurisdiction every year and furnish a certificate to this effect in the April of following year.

Scrutiny of the records of all ACs revealed that no physical verification of immovable properties was carried out by them during the period from October 2000 to March 2004.

Physical verification conducted in July 2004 by AC Ajmer revealed that direct charge temple of Shri Bannathji was sold out in January 1986 to a private company and the temple of Shri Mahadeoji at Asind in Bhilwara district had become non existent. No action on the findings of physical verification had been initiated as of February 2005.

Had physical verification been carried out regularly such situation could have been avoided. Value of these properties could not be worked out in the absence of full particulars thereto.

After this was pointed out, the Department accepted in July 2005 the facts.

The above matter was reported to Government (April 2005). However, no reply was received (July 2005).

B. Mines and Geology Department

7.3 Review on Receipts from mines and minerals

Highlights

In two cases, excavation and despatch of mineral valued Rs.105.22 crore was made unauthorisedly beyond the period of working permission.

(Paragraph 7.3.8)

Holder of prospecting licence carried away 22,892 MT of various minerals valued at Rs.1.76 crore in excess of quantities specified in licence without payment of cost thereto.

(Paragraph 7.3.13)

Royalty of Rs.4.89 crore on use of brick clay for production of bricks was not charged.

(Paragraph 7.3.17)

Cost of minerals amounting to Rs.11.75 crore due to excess excavation than permitted was not charged.

(Paragraph 7.3.18)

7.3.1 Introduction

Rajasthan is called museum of minerals and different types of minerals are found in different areas.

The exploitation of mineral wealth is carried out by granting mining leases under the provisions of Mines and Mineral (Regulation and Development) Act, 1957 (MMRD), Mineral Concession Rules 1960 (MCR), Mineral Conservation and Development Rules 1988 (MCD) Rules and Rajasthan Minor Mineral Concession Rules, 1986 (RMMCR).

Receipt from mines and minerals mainly consist of application fee, licence fee, permit fee, dead rent, development charges, royalty and prospecting charges.

7.3.2 Organisational set up

Secretary, Mines and Petroleum is the overall incharge of the Mines and Geology Department. The Director, Mines and Geology (DMG) is the head of the Department who is assisted by five Additional Directors (Mines) who exercise control through seven circles headed by Superintending Mining Engineers (SME). There are 38 Mining Engineers/ Assistant Mining Engineers (ME/AME) who are responsible for assessment and collection of revenue and

prevention of unauthorised extraction of mineral wealth in areas under their control. The Department has a separate vigilance wing controlled by two SMEs (Vigilance) Jaipur and Rajsamand.

7.3.3 Audit Objectives

The review was conducted to ascertain as to whether;

- renewal of mining or quarrying leases on expiry was timely,
- proper computation and realisation of various fees, rents and royalty were made,
- adequate internal control and monitoring mechanism have been devised in departmental functioning to prevent loss or leakage of revenue;
- follow up action in case of default or illegal extraction of minerals has been adequate so as to ensure that such instances are pursued to their logical conclusion;

7.3.4 Scope of Audit

With a view to ascertain the adequacy and effectiveness of the system and procedure to realise revenue, records for the years 1999-2000 to 2003-04 of 16¹⁰ out of 38 MEs/AMEs alongwith those maintained by Secretary Mines and Petroleum (Secretary) and Director Mines and Geology at Udaipur were test checked.

The audit findings were reported to the Government/Department in May 2005 Meeting of Audit Review Committee to discuss findings in the review was held on 20 July 2005 so that the viewpoint of the Government/Department could be taken into account before finalising the review. Government was represented by the Deputy Secretary (Mines) and the Mining Department represented by the Financial Advisor. The viewpoint of Government/Department in the meeting has been considered while finalising the review.

7.3.5 Audit findings

Audit findings based on the provisions of the MMRD Act, Rules made thereunder and departmental instructions issued from time to time are recorded in the succeeding paragraphs.

¹⁰ ME:-Ajmer, Amet, Bhilwara, Bikaner, Bundi-II, Jaipur, Rajsamand I, II, Sirohi, Sojat City, and Udaipur ..

AME: Jaisalmer, Kotputli, Rishabhdeo, Sriganganagar and Tonk .

7.3.6 Arrears of revenue

Year-wise details of revenue pending collection during the last five years ending 31 March 2004 was as under:

(Rupees in crore)

Year	Opening Balance	Demand raised during the year	Total	Recovery realised	Balance	Percentage of shortfall
1999-00	36	269	305	267	38	12
2000-01	38	283	321	279	42	13
2001-02	42	330	372	331	41	11
2002-03	41	375	415	364	51	12
2003-04	51	437	488	425	63	13

The stagewise position of arrears was as under:

(Rs. in crore)

S. No.	Description	Amount
(i)	Recoveries stayed by High Court and Judicial authorities.	20
(ii)	Recoveries under Revenue Recoveries Certificates.	29
(iii)	Recoveries stayed by Government/Department.	3
(iv)	Other reasons	11
	Total	63

Major minerals

7.3.7 Non-recovery of financial assurance

MCD Rules provide that financial assurance (cost of rehabilitation of environment) is to be deposited as security at the rate of Rs.25,000 and Rs.15,000 per hectare for A and B category mines¹¹ subject to a minimum of Rs.2 lakh and Rs.1 lakh respectively as fixed deposits receipts with effect from April 2003. If the authority competent has reason to believe that reclamation and rehabilitation measures had not been or will not be carried out by the lessee in the event of closure of mines he shall forfeit the sum assured.

- While checking the records of seven MEs/AMEs¹², it was noticed that cost of rehabilitation of environment amounting to Rs.44.05 crore (at minimum rate) in respect of 316 mining leases covering an area of 28,821 hectares currently in operation was not deposited by the lessees.

¹¹ A category mines: complete mechanised mine having a full time mining engineer and 150 workers.

B category mines: a mine having part time mining engineer and workers below 150.

¹² MEs: Bhilwara, Jaipur, Sirohi and Sojat City, AMEs: Kotputli, Rishabhdeo and Sriganganagar,

- Test check of records of DMG revealed that 13 lessees had abandoned leases covering an area of 894 hectares during April 2003 to March 2004 without payment of financial assurance of Rs.1.34 crore. This resulted in revenue loss of Rs.1.34 crore for reclamation and rehabilitation of mines as the Government would have to bear the expenditure on reclamation and rehabilitation thereto.

The fact that the Department failed to collect the deposits indicated lack of any monitoring mechanism.

7.3.8 Mining without valid sanction

As per provision of MMRD Act, whenever any person raises, without any lawful authority, any mineral from any land, the State Government may recover from such person the mineral so raised or where such mineral has already been disposed of, the price thereof. In addition, the concerned person is liable to pay rent, royalty or tax, as the case may be for the period during which the land was occupied by such person without any lawful authority.

- As per the records of AME Jaisalmer it was noticed that the Rajasthan Mineral Development Corporation (RSMDC) was granted working permission in April 1997 for excavation of limestone (steel grade) over an area of 1,000 hectares near village, Sanu for a period of one year with effect from 1 April 1997. The RSMDC continued mining beyond the period of working permission and excavated 30.32 lakh metric tonne (MT) steel grade limestone which was despatched unauthorisedly during the period from April 1999 to March 2004. As such the cost of mineral amounting to Rs.99.21 crore was recoverable which has not been done.

- Record of AME Sriganganagar revealed (October 2004) that three lessees¹³ excavated gypsum 5.46 lakh MT during 1999-2000 to 2003-04 from eight mines covering an area of 2,281 hectares after expiry of working permission between May 1996 to April 2003. Neither any action was taken to extend the lease nor any working permission granted. Though the lessee had paid the royalty, no action was taken to recover the cost of material valued at Rs.6.01 crore excavated unauthorisedly.

This indicates lack of monitoring system to ensure that mining is done against valid sanction only.

7.3.9 Non-establishing of cement plant by the lessee

As per MCR where mining operations are not commenced within a period of two years from the date of execution of lease or are discontinued for a continuous period of two years after commencement of such operations, the lease shall be lapsed.

Test check of records of four MEs/AMs revealed that four leases of limestone were sanctioned subject to the condition of establishment of cement plants

¹³ RSMDC/RSM and Fertiliser Corporation of India (FCI).

within a specified period. There was, however, no provision in the lease agreements to charge penalty in case of failure to establish the cement plants which could deter the lessees from non adhering to the contractual provisions.

During the course of audit it was found that no cement plant was established by the lessees as per condition of the lease agreements as shown under :

Sl. No.	Name of ME/AME	Name of lessee	Area	Date by which cement plant was to be established	Period for which lease area held	Capacity of cement plant per year	Usable limestone per year (MT in lakh)
1	Banswara	Mahi Cement Ltd. (19.6.96 to 20 years)	65.82 hectares	19.6.1998	6 years	5 million tonne	76.00
2	Nagaur	Indo Nippon Special Cement Ltd. (21.9.88 to 20 years)	10 sq.km.	21.9.1998	11 years	4 million tonne	60.80
3	Chittorgarh	Oriental Paper Industries Ltd. (16.2.99 to 20 years)	7.2456 sq.km.	16.2.2001	3 years	1.5 million tonne	22.80
4	Sojat City	D.L.F. Industries (13.6.97 to 20 years)	183.53 hectares	13.6.1999	5 years	1.5 million tonne	22.80
	Total						182.40

In spite of non establishment of cement plants no action to cancel the lease was initiated by the Department. Besides, no penalty for non-installation of cement plant could be imposed for want of provisions thereto in the lease agreement.

Thus non establishment of cement plants deprived the Department of royalty chargeable in use of minimum quantity of 182.40 MT of limestone as indicated above.

7.3.10 Non-observance of mineral conservation rules resulted in loss of royalty.

MCDR provides that overburden¹⁴ and waste material obtained during mining operation shall not be mixed with non-saleable or sub-grade ores/minerals and it shall be dumped and stacked separately on the ground earmarked for the purpose. The holder of a mining lease is liable to pay royalty in respect of any minerals removed or consumed from the lease hold area at the rates specified in the second schedule of the Act.

Records of AME Jaisalmer and the returns submitted by RSMM (lessee) revealed in September 2004 that the lessee excavated 7,04,949 MT saleable grits of lime stone (steel grade) of size 10 to 30 mm during 1999-2000 to 2003-04 from the mine but dumped it in the mining area with waste material and earth etc instead of stacking separately. The action of the lessee of mixing

¹⁴ Overburden is useless run out from mines which is excavated/removed to find out the useful mineral.

saleable quantity with waste and earth etc. resulted in loss of royalty and development charges amounting to Rs.4.23 crore because there is no possibility of retrieving the mineral.

7.3.11 Non-recovery of service charge on gypsum

The State Government, in addition to development charges and royalty, levied service charges at the rate of Rs.50 per MT on despatch of gypsum from the areas where mining operation was carried out on working permission by Fertilizer Corporation of India (FCI).

Records of AME Sriganganagar revealed that four mines of gypsum were allocated to the FCI for excavation of mineral on working permission with effect from September 1966. The working permissions were extended from time to time by the Government. Scrutiny of records, however, revealed that though FCI despatched 4.09 lakh MT gypsum during the years 2000-01 to 2003-04 but service charges of Rs.2.05 crore were not recovered from the lessee.

7.3.12 Unauthorised despatch of mineral limestone

As per provision of MMRD Act, whenever any person raises, without any lawful authority, any mineral from any land, the State Government may recover from such person the mineral so raised or where such mineral has already been disposed of, the price thereof. The Rule provides that the lessee is required to submit annual programme and plan for excavation from year to year for five years to State Government.

The records of ME Sojat City revealed that a limestone mining lease covering an area of 803 hectares was sanctioned in November 1995 in favour of a cement industry for a period of 20 years. As per mining plan¹⁵ submitted in February 2002 by lessee, quantities of depletion of reserve of limestone was shown as 49.65 lakh MT during the period from December 1999 till November 2001 as against 54.79 lakh MT limestone shown as despatched during the same period in the assessment records worked out on the basis of rawannas. The excess despatch of 5.14 lakh MT shown in the assessment records was unauthorised. The ME failed to co-relate the information available, in the mining plan regarding depletion of mineral with the quantity assessed by him, as such, the cost of material excavated and despatched unauthorisedly worked out to Rs.20.57 crore.

7.3.13 Unauthorised excavations of minerals during prospecting

As per MCR, if a licensee carries away mineral in excess of those specified in the licence, the cost of mineral so carried away is to be recovered from him. The licensee shall submit a six monthly report of the work done by him to the Department. Further the mine is also required to be inspected by an official authorised by the Department.

¹⁵ Mining plan is a plan of mining which shows depletion of past mineral and future reserves.

Records of AME, Rishabhdeo and five MEs¹⁶ revealed that holders of prospecting licences carried away 22,892 MT various minerals (as worked out in audit) during the period 2000-01 to 2003-04 in excess of the quantities specified in prospecting licence without payment of the cost thereto. This resulted in loss of Rs.1.76 crore being the cost of mineral. The loss occurred due to non-inspection of mines and non-obtaining of returns from the licensee despite provisions laid down in the Rules.

7.3.14 Application of incorrect rate of royalty

The GOI fixed rate of royalty on limestone (steel grade) at rate of Rs.50 per MT with effect from 1 September 2000.

Scrutiny of records of AME Jaisalmer revealed that a lessee despatched 44,561.51 MT limestone (steel grade) and paid royalty at the rate of Rs.32 per MT instead of Rs.50 per MT during January 2004 to June 2004. This resulted in short recovery of royalty Rs.8.02 lakh.

7.3.15 Non levy of interest

- Under provisions of the MCR, the State Government may charge simple interest at the rate of 24 *per cent* per annum on any rent, royalty or fee or other sum due to the Government under the Act from the sixtieth day of the expiry of the date fixed by the Government for payment of such dues till payment of such demand is made.

Test check of the records of seven MEs¹⁷ and two AMEs¹⁸ revealed that interest amounting to Rs.92.29 lakh on belated payment of demands during the years 2002-03 to 2003-04 was not raised by the Department. The delay ranged between 15 days to 458 days.

- RMMCR provides that interest at the rate of 20 *per cent* shall be charged in case the dead rent, royalty or quarry licence fee and royalty collection contract¹⁹ is not paid after 15 days from the date it becomes due.

While checking records of 11 MEs/AMEs²⁰ it was noticed that demand of interest Rs.59.54 lakh on delayed payment of demand relating to 2002-03 and 2003-04 was not raised. The delay ranged between 15 days to 586 days.

Department thus failed to raise the demand due to absence of a system to monitor demand and collection of revenue; despite provisions thereto in the Rules.

¹⁶ Bhilwara Rajsamand-II, Sikar, Sirohi and Sojat City.

¹⁷ Amet, Bharatpur, Bhilwara, Chittorgarh, Karoli, Nagaur and Udaipur.

¹⁸ Jaisalmer and Rishabhdeo.

¹⁹ Contract given by the Department to collect the royalty from the authorised despatches of mineral.

²⁰ Bharatpur, Bundi I & II, Jaipur, Jaisalmer, Kotputli, Nagaur, Ramganjmandi, Rishabhdeo, Sikar and Sojat City.

Minor minerals

7.3.16 Non-recovery of minimum royalty and permit fee from owners of single wheel cutters

In exercise of power conferred by rule 65A of RMMCR the State Government notified in January 2000 the procedure for grant of permit to the processors of irregular lumps of marble with the help of single wheel cutters. Application for obtaining permission was to be supported with a non-refundable fee of Rs.250. The royalty payable for each MT of block cuts was Rs.70 from 1 April 2000 to 23 December 2001 and Rs.85 thereafter.

The State Government prescribed in October 2001 the minimum quantity of blocks to be cut by the owner of a wheel cutter on the basis of diameter of the wheel as under :

Diameter of wheel cutter	Minimum annual quantities in MT	
	From 1.4.2000	From 1.4.2001
Up to 60 centimeter (cm)	145	230
More than 60 but upto 90 cm	260	350
More than 90 cm	400	600

Scrutiny of records of ME Rajsamand I, II, Amet and AME Banswara in audit revealed that 697 single wheel cutters were operating in the area under the jurisdiction of these MEs/AME during the period from 2000-01 to 2003-04. None of the wheel cutter owners had applied for permit. Based on the minimum quantity of blocks to be cut (annually) by wheel cutters as fixed by Government the royalty payable worked out to Rs.6.34 crore during the year 2000-01 to 2003-04. Besides permit fee of Rs.6.97 lakh was also recoverable. Department has not taken any action to recover the same.

7.3.17 Non-recovery of royalty on brick clay

As per RMMCR, royalty on excavation of clay used by the potters for earthenware pots and for making bricks baked through the process of *Ava Kajawa* is fully exempted. The baking of bricks in open, non-continuous bhattas without any form of chimney will be considered as baked through process of *Ava Kajawa*

- As per information collected from District Collectors Bundi, Rajsamand and Udaipur it was noticed that contrary to the above provisions owners of 646 *Ava Kajawa* situated under jurisdiction of four MEs²¹ produced 247.73 crore bricks using 86.70 lakh MT brick clay continuously for commercial purposes, during 1999-2000 to 2003-04 without payment of royalty amounting to Rs.4.89 crore chargeable thereon.

²¹ Amet, Bundi II, Rajsamand-II and Udaipur.

- The Government notified in June 1994 that obtaining short term permit (STP) by brick kiln owners for use of brick earth is compulsory.

Cross examination of records of ME Jaipur with that of Tehsildar, Fagi revealed in February 2005 that four brick kilns were unauthorisedly operating during the period between April 1999 to May 2004 and used 94,516 MT brick clay for manufacturing of bricks. No action was taken by the Department to recover the royalty. This resulted in loss of revenue of Rs.5.67 lakh.

The loss of royalty as pointed out above was due to inadequate monitoring of the various brick kilns running unauthorisedly under the areas of concerned MEs.

7.3.18 Unauthorised excavation of minerals on STP

Under RMMCR, the works contractors shall have to obtain STP in advance from the concerned ME/AME in support of minerals to be used in the works. If the holder of STP excavates and carries more than 25 *per cent* of quantities in excess of the quantities sanctioned in the STP, the quantity excavated and removed over and above the quantity sanctioned in permit shall be treated as unauthorised excavation and the permit holder shall be liable to pay the cost of such excess mineral excavated.

- Records of eight MEs/AMEs²² revealed that 62 works contractors who were issued 68 STPs used various minerals viz. murrum, stone, sand, gravel etc. excavated and carried more than 25 *per cent* in excess of quantities permitted shown in the permits during the period October 2001 to March 2004. The cost of these minerals worked out to Rs.8.54 crore for which no action was taken by Department to recover the same.
- While checking the records of 13 ME/AMEs²³ it was noticed that 30 works contractors used 21.40 lakh MT ordinary sand unauthorisedly without obtaining STPs during October 2001 to March 2004. The cost of the sand worked out to Rs.3.21 crore. No action was taken by Department to recover the same.

7.3.19 Evasion of royalty

RMMCR provides that the lessee shall not remove or despatch or utilise the mineral from the mines except through rawannas bearing the departmental seal. As per Marble Policy introduced from March 2002, the existing lessee is required to submit a mining plan within one year from the date of commencement of this policy.

Scrutiny of mining plans submitted in January and February 2004 by two lessees falling under the jurisdiction of AME, Kotputli and Rishabhdeo revealed that the lessees excavated more mineral than the quantities shown

²² Bhilwara, Jaipur, Karoli, Makrana, Rajsamand-II, Rishabhdeo, Salumber and Sirohi.

²³ Alwar, Amet, Bhilwara, Bundi-II, Jaisalmer, Kota, Makrana, Nagaur, Rajsamand-II, Salumber, Sirohi, Sojat City, and Tonk.

despatched in authorised rawannas. The omission resulted in evasion of royalty amounting to Rs.2.94 crore as detailed below:

Sl. No.	Name of ME/AMEs	Name of lessee Period of mining	Quantity excavated as per mining plan in MT	Quantity despatched with rawannas MT	Excess despatch without rawannas MT	Royalty (Rs. in crore) ²⁴
1.	Kotputli	National Lime Stone Co. Pvt. Ltd. 9/1985 to 9/2003	2,14,100.64	18026.18	196074.46	2.45
2.	Rishabhdeo	Kalpataru Gramy Marmo Pvt. Ltd. 9/1994 to 9/2003	18,900.00	822.00	18078.00	0.23
3.	Kotputli	Smt. Pramila Modi 8/1984 to 6/2004	43,680.00	6,094.00	37,380.00	0.26
		Total				2.94

7.3.20 Loss of revenue due to not taking possession of Bapi pattas mines

As per RMMCR, the Government shall not recognise any Bapi patta (paternal lease) or proprietary right in any mineral bearing land unless otherwise declared so by a court of competent jurisdiction.

Test check of records of ME Makrana revealed in February 2004 that 49 Bapi patta holders were excavating mineral marble from the year 1968 without payment of quarry rent. Government notified in February 1978 for regularisation of these mines on payment of royalty by concerned patta holders. Out of 49 lease holders, 15 Bapi patta holders filed (1979) writ/appeal in High Court at Jodhpur. The Hon'ble High Court, however, dismissed the appeal in March 1998 in favour of revenue.

Even after the court decision, the Department did not take possession of the mines in respect of any of Bapi patta holders who continued to derive the benefit of excavating mineral from the mines without payment of quarry rent. The Department had also not taken any steps to recover quarry rent which worked out to Rs.19.01 lakh for the period from April 1999 to March 2004.

7.3.21 Conclusion

• The Department has failed to realise royalty and other dues on despatch of excess mineral and also to prevent unauthorised excavation which is a clear indication of systems failure.

²⁴ The observation has been made consequent upon Marble policy of 2002. Segregation of period is not possible.

- Monitoring in the manner of regular inspections was also inadequate which led to loss of revenue to the State Government.

7.3.24 Recommendations


In view of the observations made in the review, Government may consider implementation of following recommendations:

- A strong mechanism be developed to ensure speedy recovery of sums due to the Government as also to prevent both unauthorised excavation as well as excess despatch of mineral.
- Effective steps are taken to ensure that the cost of mineral excavated unauthorisedly is recovered in accordance with the rules and procedure.
- Internal control mechanism by way of regular inspections of mines and speedy disposal of unauthorised cases of excavation to safeguard government revenue need be strengthened.

The matter was reported to the State Government in May 2005; their reply is awaited.

JAIPUR,
The


दिसम्बर 2005


(SAROJ PUNHANI)
Accountant General
(Commercial & Receipt Audit) Rajasthan

Countersigned

NEW DELHI,
The

3 DEC 2005


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

Annexure-A
(Refer paragraph 1.14)

Position of paragraphs which appeared in the Audit Reports and those pending discussion as on 31 July 2005:

Name of Tax		2000-01	2001-02	2002-03	2003-04	Total
Taxes on Sales, Trade etc.	Paras appeared in the Audit Report.	12	10	15	7	44
	Paras pending for discussion	-	-	15	7	22
Taxes on Motor Vehicles	Paras appeared in the Audit Report.	8	7	7	3	25
	Paras pending for discussion	-	-	-	3	3
Land Revenue	Paras appeared in the Audit Report.	4	1	2	2	9
	Paras pending for discussion	-	-	2	2	4
Stamp duty and Registration fee	Paras appeared in the Audit Report.	5	4	1	4	14
	Paras pending for discussion	5	4	1	4	14
State Excise	Paras appeared in the Audit Report.	7	5	5	3	20
	Paras pending for discussion	-	-	5	3	8
Lands and Buildings Tax	Paras appeared in the Audit Report.	1	4	3	5	13
	Paras pending for discussion	-	-	3	5	8
Mining	Paras appeared in the Audit Report.	6	9	8	5	28
	Paras pending for discussion	-	9	8	5	22
Others	Paras appeared in the Audit Report.	2	5	4	2	13
	Paras pending for discussion	-	5	4	2	11
Total	Paras appeared in the Audit Report.	45	45	45	31	166
	Paras pending for discussion	5	18	38	31	92

Annexure-B
(Refer paragraph 1.14)

The position of outstanding ATNs due from the departments as on 31 July 2005.

Sl. No.	No. of PAC Report	Date of presentation in Assembly	Name of department	Year of Audit Report	No. of ATNs due
1.	134 th Report of 2002-03	1.7.2003	Mines	1997-98	3
2.	135 th Report of 2002-03	1.7.2003	Mines	1998-99	3
3.	219 th Report of 2003-04	25.8.2003	Irrigation	1998-99 to 2000-01	9
4.	88 th Report of 2004-05	16.2.2005	Sales Tax	2001-02	3
5.	89 th Report of 2004-05	16.2.2005	Land Revenue	2000-01	5
6.	90 th Report of 2004-05	16.2.2005	Land Revenue	2001-02	2
7.	97 th Report of 2004-05	31.3.2005	Stamps and Registration	2000-01	7
8	98 th Report of 2004-05	31.3.2005	State Excise	2001-02	6
9.	99 th Report of 2004-05	31.3.2005	State Excise (Excise Policy)	2001-02	16
	Total				54