

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

FOR THE YEAR ENDED 31 MARCH 2008

**(REVENUE RECEIPTS)
GOVERNMENT OF GUJARAT**

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PREFACE

This Report for the year ended 31 March 2008 has been prepared for submission to the Governor under Article 151(2) of the Constitution.

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

The cases mentioned in this report are among those which came to notice in the course of test audit of records during the year 2007-08 as well as those noticed in earlier years but could not be included in the previous years' reports.

OVERVIEW

This Report contains 37 paragraphs including three reviews relating to non/short levy of tax, penalty, interest etc. involving Rs. 304.96 crore. Some of the major findings are mentioned below:

1. General

The total revenue receipts of the Government of Gujarat in 2007-08 were Rs. 35,689.85 crore as against Rs. 31,002.22 crore during 2006-07. The revenue raised by the State from tax receipts during 2007-08 was Rs. 21,885.57 crore and from non-tax receipt was Rs. 4,609.31 crore. State's share of divisible Union taxes and grant-in-aid from the Government of India were Rs. 5,426.09 crore and Rs. 3,768.88 crore, respectively. Thus the revenue raised by the State Government was 74 *per cent* of the total revenue receipts. The main source of tax revenue during 2007-08 was sales tax (Rs. 15,104.54 crore) and taxes and duties on electricity (Rs. 2,046.52 crore). The main receipt under non-tax revenue was from non-ferrous mining and metallurgical industries (Rs. 2,082.14 crore).

(Paragraph 1.1)

The arrears of revenue aggregating Rs. 8,673.54 crore remained unrealised under some principal heads of revenue at the end of 2007-08. The arrears were mainly in respect of sales tax and electricity duty.

(Paragraph 1.5)

2. Sales Tax

A review of Administration and recovery of deferred sales tax disclosed that:

- Industrial policies declared by the Department of Industries allowed deferment of sales tax in four clusters over a 20 year period from 1980-81 to 1999-2000. Under the schemes 4,118 beneficiaries availed deferments of Rs. 9,118 crore till 31 March 2007.
- A single beneficiary, namely Reliance Petroleum Ltd., availed the largest share of deferment incentive, totaling Rs. 5,336 crore, which constituted 59 *per cent* of total deferment availed since inception of the scheme in 1980.

(Paragraph 2.2.6)

- Units did not maintain prescribed records. Audit could not verify the correctness of grant of deferment of Rs. 242.60 crore to 263 beneficiaries.

(Paragraph 2.2.8)

- Department fixed instalments, late in case of 28 beneficiaries in eight units and short in case of nine beneficiaries in four units which resulted in non-recovery of Rs. 6.41 crore.

(Paragraph 2.2.13)

- The benefit under the *Vechan Vera Samadhan Yojana* was restricted to dealers not enjoying other benefits under the Act. Department allowed remission of interest of Rs. 5.40 crore incorrectly to 13 beneficiaries under the *Yojana*.

(Paragraph 2.2.15)

- Department allowed refund of set off of Rs. 12.97 crore to two beneficiaries in contravention of the deferment scheme.

(Paragraph 2.2.16.1)

Incorrect classification of goods resulted in under assessment of Rs.55.76 crore in the case of 109 dealers.

(Paragraph 2.4)

Concession of Rs.27.40 crore was allowed to 85 dealers without obtaining the required declaration/certificates.

(Paragraph 2.8)

3. Land Revenue

Conversion tax of Rs. 5.77 crore was either not levied or levied at incorrect rate on change in mode of land use in 310 cases.

(Paragraph 3.2)

Non-levy of premium at the prescribed rate in 11 cases resulted in short levy of Rs. 86.49 lakh.

(Paragraph 3.3)

4. Taxes on Vehicles

Review of Administration of Motor Vehicles Tax disclosed that:

- Growth in lump-sum (one time) component of MVT, applicable to LMVs, was static. In other segments of MVT, too there was disconnect between growth in vehicular traffic and collections.

(Paragraph 4.2.7)

- Audit test checks revealed cases of non-realisation of MVT totalling over Rs. 299.92 crore.

(Paragraph 4.2.8)

- Audit test checks also revealed short collection of various kinds of fees totalling Rs 16.75 crore. Besides shortfall in collections, absence of structured mechanism to identify cases requiring fitness certificate, renewal of permit, renewal of licenses of motor driving schools, etc. had road safety implications.

(Paragraph 4.2.9)

- GMVD did not follow any well-defined procedure in disposing of unclaimed seized vehicles. It did not have any central information as regards number of seized vehicles in the state.

(Paragraph 4.2.12)

- Internal control procedures in GMVD were weak having significant revenue implications. Revenue recovery process and reporting system between RTOs and CoT was flawed. GMVD did not have any departmental manual of instructions and guidelines. Its internal audit system was not commensurate with the size of its operations.

(Paragraph 4.2.13)

5. Stamp Duty and Registration Fees

Information Technology (IT) review on implementation of Registration of Documents System revealed that:

- The system software lacked adequate system security. The department has not laid down any security policies and procedures.

(Paragraph 5.2.7)

- The input controls in system are inadequate and weak, which may cause misleading/loss of data, leading to loss of revenue. The system did not cover the requirement of classification of documents essential for determining the duty leviable.

(Paragraph 5.2.8)

- The centralised data bank was not maintained. Adequate back up of data base was also not maintained.

(Paragraph 5.2.12)

- The department does not have any training plan to run the system by its staff.

(Paragraph 5.2.14)

Non-execution of 114 agreements with ONGC resulted in non-realisation of stamp duty and registration fees of Rs. 70.63 crore.

(Paragraph 5.3)

Forty-eight instruments of amalgamation of companies were not presented before the Superintendent of Stamps. Stamp duty and registration fees involved in 10 out of 48 cases were Rs. 32.68 crore .

(Paragraph 5.4)

6. Other tax and non-tax receipts

Non-levy of tax on oil massage/sauna bath/jacuzzi *etc.*, provided by a hotel resulted in short levy of luxury tax of Rs.67.65 lakh.

(Paragraph 6.2)

Failure to raise demand resulted in short levy of royalty, dead rent *etc.* of Rs. 1.41 crore.

(Paragraph 6.6)

CHAPTER-I : GENERAL

1.1 Trend of revenue receipts

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

		(Rupees in crore)				
		2003-04	2004-05	2005-06	2006-07	2007-08
I	Revenue raised by the State Government					
	• Tax revenue	11,173.43	12,957.70	15,698.11	18,464.63	21,885.57
	• Non tax revenue	3,271.96	3,090.50	3,353.37	4,948.78	4609.31
	Total	14,445.39	16,048.20	19,051.48	23,413.41	26,494.88
II	Receipts from the Government of India					
	• State's share of divisible Union taxes	1,965.48	2,219.30	3,372.43	4,425.95	5,426.09
	• Grants-in-aid	1,836.65	1,997.45	2,642.96	3,162.86	3,768.88
	Total	3,802.13	4,216.75	6,015.39	7,588.81	9,194.97
III	Total receipts of the State	18,247.52	20,264.95	25,066.87	31,002.22	35,689.85¹
IV	Percentage of I to III	79	79	76	76	74

The above table indicates that during the year 2007-08 revenue raised by State Government was 74 *per cent* of the total revenue receipts (Rs. 35,689.85 crore). The balance 26 *per cent* of receipts was from the Government of India.

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

¹ For details, please see statement No.11, Detailed Accounts of Revenue by Minor Heads in the Finance Accounts of the Government of Gujarat. Figures under the Heads "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, 0045-Other taxes and duties on commodities and services", share of net proceeds assigned to States booked in the Finance Accounts under A-'Tax Revenue', have been excluded from revenue raised by the State and included in State's share of divisible union taxes in this statement.

(Rupees in crore)

Sl. No.	Heads of revenue	2003-04	2004-05	2005-06	2006-07	2007-08	Percentage of increase (+) or decrease (-) in 2007-08 over 2006-07
1.	Sales tax/ VAT	5,772.58	6,702.03	8,646.13	10,886.21	13,199.04	(+) 21.25
	Central sales tax	1,397.00	1,606.59	1,915.21	1,931.25	1,905.50	(-) 1.33
2.	State excise	46.25	47.09	48.06	41.94	47.20	(+) 12.54
3.	Stamp duty and registration fees	824.67	962.80	1,153.16	1,425.03	2,018.43	(+) 41.64
4.	Taxes and duties on electricity	1,592.19	1,829.07	1,899.68	2,087.77	2,046.52	(-) 1.98
5.	Taxes on vehicles	936.39	1,060.93	1,153.97	1,191.15	1,310.09	(+) 9.99
6.	Taxes on goods and passengers	171.79	160.11	156.30	5.96	151.62	(+) 2,443.96
7.	Other taxes on income and expenditure	99.41	132.91	119.32	131.07	149.67	(+) 14.19
8.	Other taxes and duties on commodities and services	206.36	221.29	226.05	265.54	374.41	(+) 41.00
9.	Land revenue	126.79	234.88	380.23	498.71	683.09	(+) 36.97
	Total	11,173.43	12,957.70	15,698.11	18,464.63	21,885.57	(+) 18.53

The reasons for variations in receipts during the year 2007-08 from those of 2006-07 as reported by the departments are mentioned below:

Sales tax: The State Government launched a special scheme-*Vechanvera Samadhan Yojana-2007* by which an amount of Rs. 122.24 crore was recovered. Moreover, the prices of petroleum had upward revision on two occasions.

Stamp duty and registration fees: More documents were registered in the month of March 2008 as the Government increased the specified rate of land i.e. *Jantri* for registration in the month of February 2008 effective from 1 April 2008. The executants of instruments availed the benefit of old rate in the month of March 2008 which resulted in increase of receipt.

Taxes on goods and passengers: The Gujarat State Road Transport Corporation paid passenger tax, which was not paid during the year 2006-07.

The other departments did not inform (November 2008) the reasons for variation despite being requested (May 2008).

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

(Rupees in crore)							
Sl. No.	Heads of revenue	2003-04	2004-05	2005-06	2006-07	2007-08	Percentage of increase (+) or decrease (-) in 2007-08 over 2006-07
1.	Interest receipts	897.12	469.72	130.91	283.07	329.88	(+) 16.54
2.	Dairy development	0.34	0.45	0.45	0.48	0.45	(-) 6.25
3.	Other non tax receipts	390.79	474.58	607.86	914.20	870.55	(-) 4.77
4.	Forestry and wild life	49.85	42.39	42.76	36.91	35.08	(-) 4.96
5.	Non ferrous mining and metallurgical industries	1,342.34	1422.42	1,880.18	2,173.76	2,082.14	(-) 4.21
6.	Miscellaneous general services (including lottery receipts)	159.92	174.26	217.57	968.96	588.53	(-) 39.26
7.	Power	77.08	52.13	21.26	0.06	6.57	(+) 10850
8.	Major and medium irrigation	202.78	207.09	248.62	330.61	452.82	(+) 36.97
9.	Medical and public health	41.60	48.87	53.83	66.68	66.25	(-) 0.64
10.	Co-operation	14.28	14.94	16.55	16.18	15.68	(-) 3.09
11.	Public works	18.53	30.92	26.99	30.64	27.19	(-) 11.26
12.	Police	41.43	48.85	71.28	90.66	86.24	(-) 4.88
13.	Other administrative services	35.90	103.88	35.11	36.57	47.93	(+) 31.06
	Total	3,271.96	3,090.50	3,353.37	4,948.78	4,609.31	(-) 6.86

The reasons for variations in receipts during the year 2007-08 from those of 2006-07, were not furnished by the departments (November 2008) despite being requested (May 2008).

1.2 Variations between the budget estimates and actuals

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

(Rupees in crore)					
Sl. No.	Heads of revenue	Budget estimates	Actuals	Variation excess (+) or short fall (-)	Percentage of variation
Tax revenue					
1.	Sales tax	15,080.00	15,104.54	(+) 24.54	(+) 0.16
2.	Taxes and duties on electricity	2,140.00	2,046.52	(-) 93.48	(-) 4.37
3.	Stamp duty and registration fees	1,450.00	2,018.44	(+) 568.44	(+) 39.20
4.	Taxes on vehicles	1,284.00	1,310.09	(+) 26.09	(+) 2.03
5.	Taxes on goods and passengers	223.02	151.62	(-) 71.40	(-) 32.02
6.	Land revenue	267.50	683.09	(+) 415.59	(+) 155.36
7.	State excise	50.00	47.20	(-) 2.80	(-) 5.60
8.	Other taxes on income and expenditure	123.00	149.58	(+) 26.58	(+) 21.61
Non-tax revenue					
9.	Non-ferrous mining and metallurgical industries	2,150.00	2,082.14	(-) 67.86	(-) 3.16
10.	Interest receipts	186.95	329.88	(+) 142.93	(+) 76.45
11.	Major and medium irrigation	317.00	452.82	(+) 135.82	(+) 42.85
12.	Medical and public health	58.00	66.25	(+) 8.25	(+) 14.22
13.	Forestry and wild life	49.86	35.08	(-) 14.78	(-) 29.64
14.	Education, sports, arts and culture	73.30	67.13	(-) 6.17	(-) 8.42
15.	Police	112.05	86.24	(-) 25.81	(-) 23.03
16.	Public works	45.00	27.19	(-) 17.81	(-) 39.58
17.	Miscellaneous general services	148.00	588.53	(+) 440.53	(+) 297.66

The reasons for the variations between budget estimates and actual receipts as reported by the concerned department are mentioned below:

Stamp duty and registration fees: The Government increased the specified rate of land for registration in the month of February 2008 effective from 1 April 2008. The executants of instruments availed the benefit of old rate in the month of March 2008 which resulted in increase of receipt.

The other departments did not inform (November 2008) the reasons for variation despite being requested (May 2008).

1.3 Analysis of collection

The break-up of the total collection at the pre-assessment stage and after regular assessment of sales tax and motor spirit tax for the year 2007-08 and the corresponding figures for the preceding two years as furnished by the department is mentioned below:

(Rupees in crore)

Heads of revenue	Year	Amount collected at pre-assessment stage	Amount collected after regular assessment (additional demand)	Amount refunded	Net collection	Percentage of column 3 to 7
(1)	(2)	(3)	(4)	(6)	(7)	(8)
Sales tax	2005-06	7,969.63	418.77	110.21	8,278.19	96
	2006-07	12,463.47	397.57	630.76	12,230.28	102
	2007-08	14,918.87	447.05	712.85	14,659.07	102
Motor spirit tax	2005-06	2,282.67	-	-	2,282.67	100
	2006-07	587.18	-	-	587.18	100
	2007-08	451.47			451.47	100

The percentage of collection of revenue at pre-assessment stage ranged between 96 and 102 *per cent* under sales tax during the years 2005-06 to 2007-08 and was 100 *per cent* under motor spirit tax.

1.4 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 2005-06, 2006-07 and 2007-08 along with the relevant all India average percentage of expenditure on collection to gross collection for 2006-07 are mentioned below:

(Rupees in crore)

Heads of revenue	Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage of cost of collection for the year 2006-07
Sales tax	2005-06	10,561.34	74.83	0.71	0.82
	2006-07	12,817.46	83.03	0.65	
	2007-08	15,104.54	98.43	0.65	
Taxes on vehicles and taxes on goods and passengers	2005-06	1,310.27	31.90	2.44	2.47
	2006-07	1,197.11	26.15	2.18	
	2007-08	1,461.71	38.57	2.64	
Stamp duty and registration fees	2005-06	1,153.16	22.67	1.97	2.33
	2006-07	1,425.03	25.02	1.76	
	2007-08	2,018.44	26.23	1.30	
State excise	2005-06	48.06	5.09	10.59	3.30
	2006-07	41.94	5.06	12.06	
	2007-08	47.20	7.65	16.21	

The percentage of expenditure on collection under taxes on vehicles and taxes on goods and passengers and state excise was higher than the all India average and Government needs to look into this aspect.

1.5 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2008 in respect of some principal heads of revenue amounted to Rs. 8,673.54 crore of which Rs. 2,147.88 crore was outstanding for more than five years as mentioned below:

(Rupees in crore)

Sl. No.	Head of revenue	Amount outstanding as on 31 March 2008	Amount outstanding for more than 5 years as on 31 March 2008	Remarks
1.	Sales tax	7,939.50	1,839.01	Out of Rs. 7,939.50 crore, demand of Rs. 943.81 crore was covered by recovery certificate. Recovery of Rs. 2,805.59 crore was stayed by High Court of Gujarat and other judicial authorities. Recovery of Rs. 145.36 crore was held up due to dealers being insolvent. Rs. 159.59 crore was unlikely to be recovered and hence proposed to be written off and Rs. 3,885.15 crore was under various stages of recovery.
2.	Electricity duty	651.43	258.81	Out of Rs. 651.43 crore, case for recovery of Rs. 13.92 crore from Vadodara Municipal Corporation is

				pending with Government. Rs. 40.15 crore could not be recovered as the cases are pending in BIFR. Rs. 2.74 crore to be recovered under land revenue code. Recovery of Rs. 594.62 crore was stayed by High Court of Gujarat.
3.	Entertainments tax	6.88	0.34	Out of Rs. 6.88 crore, recovery of Rs. 64 lakh was stayed by High Court and other judicial authorities. Stage of recovery of Rs. 6.24 crore was not intimated.
4.	Taxes on vehicles	75.73	49.72	Out of Rs. 75.73 crore, demand of Rs. 15.97 crore was covered by recovery certificates.
Total		8673.54	2147.88	

1.6 Arrears in assessments

The details of assessment cases pending at the beginning of the year 2007-08, cases becoming due for assessment during the year, cases disposed during the year and number of cases pending at the end of the year 2007-08 along with the figures for the preceding four years as furnished by the Commercial Tax Department² are mentioned below:

Year	Opening balance as on 1 April	Additions during the year	Total (2+3)	Clearance during the year	(No. of cases)	
					Closing balance at the end of the year(4-5)	Percentage of column 6 to 4
1	2	3	4	5	6	7
2003-04	13,75,237	1,77,285	15,52,522	7,16,847	8,35,675	54
2004-05	8,35,675	3,86,757	12,22,432	2,91,089	9,31,343	76
2005-06	9,31,343	4,58,817	13,90,160	7,07,451	6,82,709	49
2006-07	6,82,709	4,24,113	11,06,822	3,78,420	7,28,402	66
2007-08	7,28,402	3,84,961	11,13,363	4,00,588	7,12,775	64

Thus, the percentage of closing balance at the end of each year during 2003-04 to 2007-08 to total cases becoming due for assessment ranged between 49 and 76 per cent.

1.7 Evasion of tax

The details of cases of evasion of tax detected by the Commercial Tax, Motor Vehicle and Stamp Duty and Registration Fees departments, cases finalised

² In respect of sales tax/VAT, profession tax, purchase tax on sugarcane, lease tax, luxury tax and tax on works contracts

and the demands for additional tax raised as reported by the departments are mentioned below:

Sl. No.	Name of tax/duty	Cases pending as on 31 March 2007	Cases detected during 2007-08	Total	No. of cases in which assessments/ investigations completed and additional demand including penalty etc., raised		No. of cases pending finalisation as on 31 March 2008
					No. of cases	Amount of additional demand (Rupees in crore)	
1.	Sales tax/VAT	861	402	1263	483	207.95	780
2.	Motor vehicle tax	72,321	24,932	97,253	28,092	59.73	69,161
3.	Stamp duty and registration fees	1,27,119	14,728	1,41,847	30,074	34.66	1,11,773

1.8 Refunds

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

(Rupees in crore)

Sl. No.	Category	Sales tax/VAT	
		No. of cases	Amount
1.	Claims outstanding at the beginning of the year 2007-08	4,041	198.25
2.	Claims received during the year	6,714	1,521.93
3.	Refunds made during the year	8,095	1,520.15
4.	Balance outstanding at the end of the year	2,660	200.03

1.9 Results of audit

Test check of records of sales tax, land revenue, state excise, motor vehicles tax, stamp duty and registration fees, electricity duty, other tax receipts, forest receipts and other non tax receipts conducted during the year 2007-08 revealed under assessment/short levy/loss of revenue amounting to Rs. 967.05 crore in 1,480 cases. During the year, the departments accepted under assessment of Rs. 17.30 crore in 923 cases and recovered Rs. 2.10 crore in 283 cases pointed out in 2007-08 and earlier years.

This report contains 37 paragraphs including three reviews relating to non/short levy of taxes, duties, interest and penalties involving Rs. 304.96 crore. The departments/Government accepted audit observations involving Rs. 86.28 crore of which Rs. 1.40 crore had been recovered. No reply has been received in respect of remaining cases.

1.10 Failure to enforce accountability and protect interest of Government

Principal Accountant General (Commercial and Receipt Audit) (PAG), Gujarat, arranges to conduct periodical inspection of the Government departments to test check the transactions and verify the maintenance of important accounting and other records as per the prescribed rules and procedures. These inspections are followed up with inspection reports (IRs). When important irregularities detected during inspection are not settled on the spot, these IRs are issued to the heads of offices inspected with a copy to the next higher authority. The heads of offices and respective next higher authorities are required to ensure compliance with the observations contained in the IRs and rectify the defects and omissions promptly and report their compliance to the PAG. Serious irregularities are also brought to the notice of the heads of the departments by the office of the PAG through draft paragraphs. A half yearly report of the pending IRs and audit observations is sent to the Secretary of the concerned department to facilitate monitoring of the audit observations in the pending IRs.

The number of IRs and audit observations relating to revenue receipts issued up to 31 December 2007 and pending settlement by the departments as on 30 June 2008 along with corresponding figures for the preceding two years is mentioned below:

Particulars	As at the end of		
	June 2006	June 2007	June 2008
Number of outstanding IRs	3,769	3,548	3,794
Number of outstanding audit observations	9,145	9,493	10,607
Amount of revenue involved (Rupees in crore)	3,127.96	3,447.39	4,120.44

IRs issued upto December 2007 pertaining to the offices of sales tax/commercial tax, profession tax, forest, land revenue, motor vehicles tax, stamp duty and registration fees, entertainments tax and luxury tax disclosed that 10,607 observations relating to 3,794 IRs remained outstanding at the end of June 2008. Of these, 1,600 IRs containing 4,396 observations had not been settled for more than seven years. Even the initial replies which were required to be received from the heads of offices within one month from the date of issue were not received in respect of 229 IRs issued during the year 2007-08. As a result, serious irregularities commented upon in these IRs had not been settled as of June 2008.

The department wise break up of IRs and audit observations pending as on 30 June 2008 is detailed in the Annexure-I.

1.11 Departmental audit committee meetings

In order to expedite the settlement of outstanding audit observations contained in the IRs, departmental audit committees are constituted in all the departments of Government. These committees are chaired by Secretaries of the concerned administrative departments and attended by the concerned officers of the State Government and officers of the PAG(C&RA), Ahmedabad/Accountant General (Civil Audit), Rajkot.

In order to expedite the clearance of the outstanding audit observations, it is necessary that the audit committees meet regularly and ensure that final action is taken on all audit observations outstanding for more than a year, leading to their settlement. The information regarding number of audit committee meetings held, IRs and paragraphs settled during the year 2007-08 is mentioned below:

Sl. No.	Name of the Department	No. of audit committee meetings held	No. of IRs/Paras settled		Money Value of paras settled
			IRs	Paras	
1.	Sales tax	2	10	201	153.09
2.	Land revenue	There was no response from other departments to hold audit committee meeting during 2007-08.			
3.	Stamp duty and registration fees				
4.	Motor vehicle tax				
5.	Geology and Mining				
6.	Luxury tax				

1.12 Response of the departments to draft audit paragraphs

According to the hand book of Instructions for speedy settlement of draft paragraphs issued by the Finance Department on 12 March 1992, results of verification of facts contained in the draft paragraphs are required to be communicated to the Accountant General (AG) within six weeks from the date of their receipt. In exceptional cases where it is not possible to furnish final reply to the draft paragraph within the above time limit, an interim reply should be given to the AG.

66 draft paragraphs proposed (clubbed into 37 paragraphs) for inclusion in the Report of the Comptroller and Auditor General of India for the year ended 31 March 2008 (Revenue Receipts) were forwarded to the Secretaries of the respective departments between April and September 2008 through demi-official letters. The Secretaries of the respective departments sent replies to 12 draft paragraphs. These paragraphs have been included in this report after incorporating the response of the secretaries of the departments.

1.13 Follow up on Audit Reports-summarised position

As per instructions issued by the Finance Department on 12 March 1992, administrative departments are required to submit explanatory notes on paragraphs and reviews included in the Audit Reports (ARs) within three months of presentation of the ARs to the legislature, without waiting for any notice or call from the Public Accounts Committee, duly indicating the action taken or proposed to be taken.

The ARs for the years 2005-06 and 2006-07 were presented to the State Legislature on 26th March 2008 and 29th September 2008 respectively. Explanatory notes in respect of paragraphs included in AR 2005-06 were not furnished by the concerned departments (November 2008).

1.14 Compliance with the earlier Audit Reports

During the years between 2002-03 and 2006-07 the department/Government accepted audit observations involving Rs. 876.11 crore of which an amount of Rs. 48.01 crore had been recovered till 31 March 2008 as mentioned below:

(Rupees in crore)

Year of Audit Report	Total money value	Accepted money value	Recovery made
2002-03	677.60	141.24	3.66
2003-04	1,076.89	151.93	13.71
2004-05	247.14	131.34	6.96
2005-06	441.53	427.76	21.94
2006-07	94.53	23.84	1.74
Total	2,537.69	876.11	48.01

The recovery in respect of the accepted cases was very low (five *per cent* of accepted money value). The Government may advise the concerned departments to take necessary steps for speedy recovery.

1.15 Amendment to Acts/Rules

During the years February 2006 to April 2008, the Government amended Acts/Rules addressing the concerns raised by audit through ARs. These changes are mentioned below:-

Reference of audit report(AR) paragraph	Issue raised in audit	Amendment to Acts/Rules
Paragraph 2.14.2 of AR 2004-05	Bombay Motor Spirit Taxation (BMST) Act does not contain provision for levy of interest on delay in payment of tax. In the absence of enabling provision, interest could not be levied in the assessments under the Central Sales Tax Act also in respect of goods covered under BMST Act.	Amendment in the Act was made in February 2006.
Paragraph 2.17.1 of AR 2004-05	Deferment of tax and grant of moratorium period granted through Government resolutions was not covered under the Gujarat purchase tax on sugarcane Act.	Amendment in the Act was made in March 2006 to validate the grant of deferment of payment of tax and to waive the interest.
Paragraph 5.6 of AR 2005-06	Non-revision of rates of <i>Jantri</i> for over seven years and consequent potential loss of revenue by way of stamp duty and registration fees.	The Government revised the rate of <i>Jantri</i> with effect from 1 st April 2008.

CHAPTER-II : SALES TAX

2.1 Results of audit

Test check of the records in various commercial tax offices conducted in audit during the year 2007-08 revealed under assessment of Rs. 569.46 crore in 631 cases which fall under the following categories:

(Rupees in crore)

Sl. No.	Category	No. of cases	Amount
1.	Incorrect rate of tax and mistake in computation	69	22.60
2.	Irregular grant of set off	68	19.56
3.	Irregular concessions/exemptions	57	7.89
4.	Non/short levy of tax, interest and penalty	276	344.82
5.	Other Irregularities	160	133.86
6.	Administration and recovery of deferred sales tax (A review)	1	40.73
Total		631	569.46

During the year 2007-08, the department accepted under assessment of Rs. 10.53 crore in 115 cases and recovered Rs. 1.18 crore in 61 cases, of which 33 cases involving Rs. 89.19 lakh were pointed out during 2007-08 and rest in earlier years.

A few illustrative cases involving important audit observations and a review of **Administration and recovery of deferred sales tax** involving Rs. 134.90 crore are discussed in the following paragraphs:

2.2 Administration and recovery of deferred sales tax

Highlights

- Industrial policies declared by the Department of Industries allowed deferment of sales tax in four clusters over a 20 year period from 1980-81 to 1999-2000. Under the schemes 4,118 beneficiaries availed deferments of Rs. 9,118 crore till 31 March 2007.
- A single beneficiary, namely Reliance Petroleum Ltd., availed the largest share of deferment incentive, totalling Rs. 5,336 crore, which constituted 59 *per cent* of total deferment availed since inception of the scheme in 1980.

(paragraph 2.2.6)

- Units did not maintain prescribed records. Audit could not verify the correctness of grant of deferment of Rs. 242.60 crore to 263 beneficiaries.

(paragraph 2.2.8)

- Department fixed instalments, late in case of 28 beneficiaries in eight units and short in case of nine beneficiaries in four units which resulted in non-recovery of Rs. 6.41 crore.

(paragraph 2.2.13)

- The benefit under the *Vechan Vera Samadhan Yojana* was restricted to dealers not enjoying other benefits under the Act. Department allowed remission of interest of Rs. 5.40 crore incorrectly to 13 beneficiaries under the Yojana.

(paragraph 2.2.15)

- Department allowed refund of set off of Rs. 12.97 crore to two beneficiaries in contravention of the deferment scheme.

(paragraph 2.2.16.1)

2.2.1 Introduction

The Department of Industries (DoI) of Government of Gujarat (Government) had implemented tax incentive schemes (schemes) in four clusters over a 20 year period from 1980-81 to 1999-2000, with the general objective of promoting industrialisation and balanced economic and regional growth. The schemes provided, *inter alia*, for grant of sales tax incentive in the form of exemption, deferment and composition of both at the option of the beneficiaries. This review covers deferment component of the schemes introduced in the last two clusters, namely 1990-95 and 1995-2000.

2.2.2 Organisation

Industries Commissioner and General Manager-District Industries Centre under DoI issued eligibility certificates to the applicant industrial units, under the schemes keeping Department of Sales Tax (DoST) informed which implemented the schemes. DoST in Finance Department (FD), headed by the Commissioner of Sales Tax (CoST), is organised in seven administrative divisions, each headed by an additional/joint commissioner (Addl/JC). A division has 'circles', each headed by a Deputy Commissioner (DC); there are 25 circles in the State. A circle would have assessment units each headed by Assistant Commissioners/Sales Tax Officers (ACs/STOs); there are 103 units in the State. Besides, there are staff positions in the office of CoST for inspection, audit *etc.*, dealing, *inter alia*, with matters relating to redemption of deferred sales tax. Assessing Officers (AOs) have the direct responsibility of watching correctness of the availment of deferred sales tax facility by the eligible beneficiaries, and of its recovery after the deferment has run its course. DC of circles, Addl/JC of Divisions, CoST along with his officers of inspection and audit has the constructive responsibility of monitoring implementation of the scheme.

2.2.3 Scope of audit and methodology

Audit requested DoST (November 2007) and IC (January 2008) to furnish universal data on incentive holders to enable it to draw up suitable statistical sample for audit review. In the absence of data, audit could not construct any statistical sample; and, was constrained to select the units on the basis of number of beneficiaries. During the period between November 2007 and May 2008, audit examined the records maintained by the JC (Admn), nine circles (47 *per cent* of all circles dealing with deferments) and 14 units¹ (26 *per cent* of all units dealing with deferments) of DoST, besides related and available documents of beneficiaries under 1990-1995 and 1995-2000 schemes maintained by DoI, IC and FD. The number of selected beneficiaries for audit analysis consisted 52 *per cent* of total number of beneficiaries (1,350) and covered 73 *per cent* of total sanctioned amount (Rs. 8,579 crore) under the two schemes.

¹ 11 Ahmedabad, Ankleshwar, Bharuch, 1,2 Bhavnagar, Gandhinagar, 3 Jamnagar, 2 Junagadh, Kadi, Kalol, 1,2 Surendranagar, 7 Vadodara and 2 Vapi.

2.2.4 Audit objectives

The review was conducted with a view to ascertain:

- whether the Government Resolutions (GRs) issued contain sufficient provisions to prevent its misuse and misapplication;
- whether the systems are in place to ensure that the revenue forgone due to grant of concessions is adequately mitigated by industrial and economic development as envisaged;
- whether DoST had systems in place to identify and track beneficiaries to whom the incentive of deferred sales tax payments was provided;
- whether the department diligently followed up cases to redeem deferred payments after the scheduled period; and
- the quality of internal control procedure and internal audit systems to watch recovery of deferred sales tax, and to identify possible misuse of the schemes.

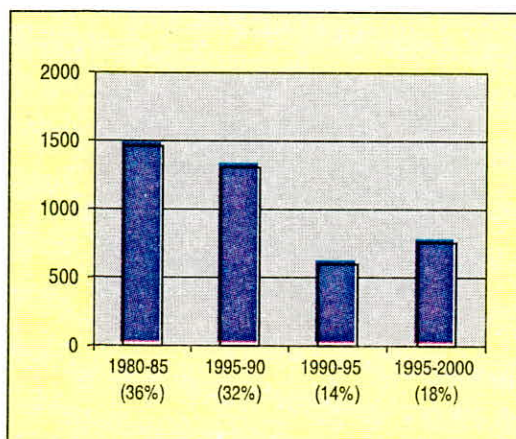
2.2.5 Acknowledgement

Indian Audit and Accounts Department acknowledges the cooperation of the DoI, Finance Department and CoST in providing necessary information and records for audit. The draft review was forwarded to CoST and the Government in August 2008; with a request to forward the reply and also to discuss the topic. The Audit Review Committee meeting was held on 4 December 2008. The views of the Department/Government have been incorporated in the review.

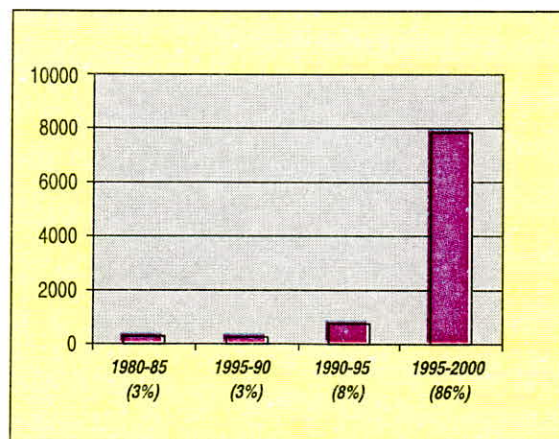
2.2.6 The Schemes

All the deferment schemes of four clusters from 1980 onwards covered 4,118 beneficiaries involving a total availed deferment of Rs. 9,118 crore; of this, 1,350 beneficiaries pertained to the two clusters from 1990-95 and 1995-2000, involving availed deferments totalling Rs. 8,579 crore. Charts below show the distribution graphically:

Number of beneficiaries availing deferment



Deferment availed (Rs. in crore)



(Source: DoST)

The fourth and last scheme, pertaining to the 1995-2000 cluster, accounted for 86 *per cent* of the total deferment incentives availed, in fiscal terms, up to March 2007. In terms of the number of beneficiaries, this period accounted for only 18 *per cent* of the total number of beneficiaries covered in all the four clusters. A single beneficiary, namely Reliance Petroleum Ltd., availed the largest share of deferment incentive, totalling Rs. 5,336 crore, which constituted 68 *per cent* of the total deferment incentive availed under the 1995-2000 cluster and 59 *per cent* of total deferment availed since inception of the scheme in 1980.

2.2.7 Analysis of cost benefit of scheme

Audit scrutiny of DoI files revealed that DoI made no such cost benefit estimation either by itself or in consultation with Finance Department, while formulating the industrial policies. There was no periodic evaluation or impact analysis of the previous cluster of schemes either, which the Department could have used for course corrections while formulating new ones.

2.2.8 Improper maintenance of beneficiary records

Report of the Comptroller and Auditor General of India (Revenue Receipts) for the year ended 31 March 2002 had brought the matter of insufficient documentation at the units to the notice of the Government/DoST (*vide* paragraph 2.2.13). The prescribed procedures of DoST (*vide*, especially, instructions dated 6 July 1983) require the units to maintain complete record of beneficiaries, with the details of amount sanctioned, amount availed, recovery effected, actions initiated on defaulters, *etc.*, periodically attested by designated officers. The units did not maintain documents as prescribed and the overall record management was poor as revealed below. This had implications on correct implementation of the scheme as well as on its monitoring. Some illustrative instances seen in the test audit are as follows:

- In nine units², the details of availment by 90 beneficiaries having sanctioned deferment incentive of Rs. 166.27 crore were not posted in the register.
- Out of 708 beneficiary-wise recovery files, seven units³ could not produce 95 files (13 *per cent*) to audit stating that those were non-traceable. The sanctioned deferment to these beneficiaries amounted to Rs. 55.25 crore.
- In eight units⁴ in the case of 59 beneficiaries, though recovery of Rs. 16.90 crore was recorded in deferment register, the units could not produce proof of payment, *i.e.* challans. Further, the relevant recovery entries were also not countersigned by the controlling officers.

² 11 Ahmedabad, , Bharuch, Gandhinagar, 1 Junagadh, Kadi, Kalol, 2 Surendranagar, 7 Vadodara and 2 Vapi

³ 11 Ahmedabad, Gandhinagar, 1 Junagadh, Kadi, Kalol, 2 Surendranagar and 2 Vapi.

⁴ 11 Ahmedabad, Gandhinagar, 1 Junagadh, Kadi, Kalol, 2 Surendranagar, 7 Vadodara and 2 Vapi.

- Four units⁵ did not include outstanding recovery of Rs. 2.65 crore of 10 beneficiaries in the report of defaulters. The interest recoverable from them was Rs.1.98 crore up to March 2008.
- Three units⁶ reported outstanding dues of Rs.1.82 crore instead of Rs. 3.35 crore in case of nine beneficiaries, less by Rs. 1.53 crore. The interest recoverable on total outstanding up to March 2008 worked out to Rs. 2.12 crore.

2.2.9 Position of recovery of deferred tax

JC (Admn) under CoST obtains beneficiary-wise annual reports regarding sanction, availment, recovery and details of defaulters from the field units through their respective circle and divisional offices. The industrial incentive section under JC (Admn) at DoST collates those reports for submission to CoST. Table below gives the summary of deferred sales tax recovery, constructed from those annual reports, during the five year period from 2002-03 to 2006-07.

Status of recovery of deferred sales tax

(Rupees in crore)

Period	Deferred tax recoverable	Recovery effected	Amount outstanding	Percentage of outstanding with reference to recoverable
2002-03	526	392	134	25
2003-04	628	464	164	26
2004-05	723	575	148	20
2005-06	743	615	128	17
2006-07	815	711	104	13

The total outstanding recovery at the end of March 2007 as reported by DoST was Rs. 103 crore on which interest due worked out to Rs.102.15 crore.

2.2.10 Security under deferment scheme

GRs provide for obtaining security against the sanctioned deferment amount, in the form of *parri passu* charge or second charge on the assets of the beneficiary or personal guarantee in prescribed form of security bond. GRs also allow furnishing guarantee in the form of surety bond, if beneficiary could not furnish *parri passu* or second charge or personal guarantee. Audit found the following deficiencies in this matter:

- In four units⁷, 12 beneficiaries closed down their business after availing tax deferment of Rs. 3.26 crore. DoST cancelled their registration certificates before realisation of deferred tax. The security obtained in those cases was not available on record. The units started recovery action

⁵ 11 Ahmedabad, 2 Bhavnagar, Junagadh and 7 Vadodara

⁶ 2 Bhavnagar, 1 Junagadh and 7 Vadodara.

⁷ 11 Ahmedabad, 2 Bhavnagar, 1 Junagadh and Kalol

much later in these cases, *i.e.* one to six years from the due date of repayment. The amount remained unrecovered.

- In unit-11, Ahmedabad, for effecting recovery of deferment due of Rs. 37.47 lakh as arrears of land revenue, AOs issued notices to three beneficiaries under Bombay Land Revenue Code, 1879. Security obtained, if any, from the beneficiaries were not available on record and the amount remained unrecovered.
- In unit-2, Surendranagar, one beneficiary, namely M/s. Kum Kum Industries availed sales tax deferment of Rs. 89.16 lakh upto January 2006; and first instalment repayment was due in May 2006. The beneficiary pledged (April 2001) their manufacturing premises as security against the deferment incentive; but sold his manufacturing premises in March 2005 to M/s. Shubha Industries (purchaser) nonetheless. The purchaser availed himself deferment incentive of Rs. 57.12 lakh during 2005-06 in the name of original beneficiary. DoST refused the purchaser's request (February 2007) to register under Gujarat Value Added Tax Act, 2003 in June 2007, as the property had been pledged by the original beneficiary. The departmental appellate authority ordered (July 2007) DoST to consider the purchaser's request for registration and to initiate separate action for recovery from the seller. DoST has not taken any effective action on this case. Meanwhile, repayments totalling Rs. 1.19 crore, including interest of Rs. 29.42 lakh up to March 2008, remain pending.

2.2.11 Monitoring and Internal Controls

DoST implemented the schemes as a matter of course, without any coordination with IC to periodically monitor the implementation and to evaluate the outcome. There was little coordination either between the concerned administrative departments who had issued GRs for the schemes, namely DoI and FD for this purpose.

The schemes have had grave fiscal implications upon the State revenues. FD, in particular, did not do much to satisfy itself that the cost of deferred revenues did yield direct or indirect fiscal benefits.

Internal inspection wing of DoST under DC (Inspection) conducts administrative inspection of all offices under CoST, including scrutiny of record maintenance. There was little follow up on the detailed CoST instructions issued in March 1993 regarding verification of records related to incentive scheme. Continued poor record maintenance, especially at unit level, shows that the internal inspection was all but dysfunctional in monitoring the deferment schemes.

2.2.12 Follow up of recovery

GRs governing deferment benefit provide for repayment of availed amount of the deferred sales tax in six equal annual instalments. Audit test check found that the units did not raise demands totalling Rs. 16.10 crore including interest in the following cases:

- In seven units⁸, demand for Rs. 5.35 crore was not raised against 15 beneficiaries. The interest leviable on unrealised demand up to March 2008 worked out to Rs. 3.46 crore. After this was pointed out by audit, one (namely, Idar) unit did recover (July 2007) Rs. 25.31 lakh (including interest of Rs. 2.50 lakh) from one beneficiary.
- In six units⁹, 16 beneficiaries had not paid the dues of Rs. 2.05 crore. DoST did not initiate or follow up action for recovery. The interest on such outstanding amount worked out to Rs. 93.10 lakh till March 2008.
- Unit-11, Ahmedabad raised demand for Rs. 3.16 crore only, from three beneficiaries against the recoverable amount of Rs. 4.15 crore up to March 2008. There was no recovery. The interest on the outstanding worked out to Rs. 3.32 crore.

2.2.13 Fixation of instalments

The first repayment instalment of the availed deferred tax should begin within sixty days from the end of financial year during which the sanctioned deferment expires.

Audit test check revealed that recovery of Rs. 6.41 crore including interest remained outstanding due to late or short fixation of instalment, as detailed below:

- In eight units¹⁰, AOs fixed date of first instalment of 28 beneficiaries late; and, recovered short by Rs. 2.70 crore (Rs. 7.75 crore against Rs.10.45 crore due) up to May 2007. The interest involved worked out to Rs. 3.34 crore up to March 2008.
- In four units¹¹, AOs fixed the annual instalment incorrectly at Rs. 80.10 lakh against Rs. 86.21 lakh from nine beneficiaries. Incorrect fixation led to non-raising of due demand of Rs. 24.60 lakh. Interest thereon would work out to Rs. 11.98 lakh up to March 2008.

2.2.14 Interest on belated payment

GRs promulgated for implementation of the schemes of deferred sales tax did not contain provision for levy of interest on delayed repayments. However, DoST levied interest on delayed repayment upon the beneficiaries, on the pattern of delayed sales tax payments as provided in GST Act. In following cases, AOs did not raise demand for interest of Rs. 1.58 crore on late repayments:

⁸ Gandhinagar, Idar, 1 Junagadh, Kadi, Kalol, 2 Surendranagar and 2 Vapi

⁹ 11 Ahmedabad, 2 Bhavnagar, Gandhinagar, Kalol, Kadi and 7 Vadodara

¹⁰ Ankleshwar, 2 Bhavnagar, Gandhinagar, 1 Junagadh, Kadi, Kalol, 2 Surendranagar and 7 Vadodara

¹¹ 2 Bhavnagar, Kalol, 7 Vadodara and 2 Vapi

- In seven units¹², 29 beneficiaries made late repayments of deferred tax of Rs. 11.92 crore. AOs did not raise interest demand of Rs. 1.39 crore leviable on such repayments.
- In Kalol unit, CoST allowed (June 2000) further relaxation in the number of repayment instalment to one beneficiary M/s. Sintex Industries Limited (Plastic Division), without any authority to do so in the governing GR. Although the beneficiary did pay up dues totalling Rs. 1.50 crore during the period between July 2000 and December 2001, AO did not levy due interest of Rs. 19 lakh for delayed repayment.

2.2.15 Vechan Vera Samadhan Yojana

The State Government introduced (March 2005, March 2006 and April 2007) *Vechan Vera Samadhan Yojana* (Yojana) for speedy recovery of outstanding tax. The Yojana allowed remission of interest and penalty on payment of outstanding tax during the currency of the Yojana. The benefit under the Yojana was not available to the beneficiaries under any other scheme.

In five units¹³, AOs irregularly allowed remission of interest of Rs. 5.40 crore on delayed repayment of deferred tax to 13 beneficiaries.

2.2.16 Other topics of interest

2.2.16.1 In a clarificatory order of March 1996, DoST had clarified that AOs should adjust the net amount after deduction of set off against deferment incentive. In Kalol unit, in the case of two beneficiaries, AOs allowed the deferment incentive before adjusting set off on inputs and refunded amount of set off along with interest. Grant of refund of Rs. 12.97 crore including interest of Rs. 2.18 crore was irregular.

2.2.16.2 In Kadi unit, one beneficiary, namely M/s. Satyam Cotton Industries had deferment incentive of Rs. 87.22 lakh for the period from May 2000 to May 2007. The beneficiary availed deferment incentive of Rs. 10.50 lakh during 1999-2000, i.e. before sanction period. The assessment record was not available to confirm the fact. The beneficiary availed entire sanctioned amount between 2000-01 and 2005-06. Though the first instalment of Rs. 14.54 lakh was due in May 2006; the beneficiary paid the amount only in May 2007. As at the end of March 2008, Rs. 19.34 lakh including interest of Rs. 4.80 lakh was due from the beneficiary, for which demand was not raised.

2.2.16.3 In three offices, audit noticed the following deficiencies:

- In one assessment for 2003-04, DCST, Mehsana irregularly adjusted purchase tax against deferment limit instead of cash recovery. The amount due was Rs. 61.05 lakh including interest and penalty of Rs. 7.23 lakh and Rs. 20.18 lakh, respectively.

¹² 11 Ahmedabad, 2 Bhavnagar, Gandhinagar, Kadi, 2 Surendranagar, 7 Vadodara and 2 Vapi

¹³ Ankleshwar, Kadi, Kalol, 2 Surendranagar and 7 Vadodara

- Tax of Rs. 6.00 lakh was adjusted short against deferment limit by AO, Kadi in one assessment for the period 2003-04 due to computation error. DoST accepted (May 2007) the audit observation, passed reassessment order and adjusted the sum against deferment limit.
- In one assessment for 2001-02, DCST, Gandhidham computed tax on inter state sales of goods valued Rs. 1.06 crore at the concessional rate of four *per cent* though the purchasing dealer did not possess registration certificate during the period of transaction, applicable rate being 10 *per cent*. This resulted in short adjustment of Rs. 6.37 lakh from deferment limit. Further, in the same assessment four *per cent* of value of goods consigned out of Gujarat was not adjusted from deferment limit. DoST accepted (February 2007) the audit observation on consignment transaction and adjusted Rs. 1.14 lakh from deferment limit.

2.2.17 Recommendations

- Department of Industries and Finance Department should establish a well-structured system for monitoring of the implementation of tax incentive schemes to ensure its proper functioning.
- Government should cause a periodic joint evaluation of the scheme by Department of Sales Tax and Industries Commissioner to assure itself that both the fiscal and socioeconomic objectives of the schemes are moving forward as designed.
- The Government should introduce a system of annual reporting to the legislature of the costs and benefits of the fiscal incentive schemes in general and tax incentive schemes in particular, in a comprehensive way.
- Department of Sales Tax should consider securing recovery of deferred taxes better through bank guarantees or any other means, and should conduct annual verification of sureties.

2.3 Incorrect grant of benefits under sale tax incentive schemes

2.3.1 Section 4A of the GST Act specifies that additional tax (AT) at the rate of 10 *per cent* of sales tax, general sales tax or purchase tax shall be levied from 1 April 2000 to 28 February 2003 on every dealer liable to pay tax under Section 3, 3A or 4 of the Act.

Under sales tax incentive schemes 1990-95 and 1995-2000, there was no provision to adjust AT against tax exemption limit¹⁴. In accordance with notification of 3 March 2001, AT was allowed to be adjusted against exemption limit. Therefore, the AT on purchase tax and sales tax was to be paid in cash by dealers holding exemption certificate up to 2 March 2001. Besides, delay in payment of tax attracts interest and penalty under the provisions of the Act.

¹⁴ Exemption limit means an aggregate amount of tax payable by the eligible unit which is allowed to be adjusted against sanctioned amount for a specified period.

During test check of assessment of eight dealers in seven offices¹⁵ for the period between January 2000 and March 2003 assessed between May 2004 and March 2007 that it was noticed between December 2006 and November 2007, AT was not levied in case of four dealers, and it was incorrectly adjusted against the ceiling limit instead of recovering in cash in case of other four dealers. This resulted in short realisation of AT of Rs. 1.94 crore including interest of Rs. 49.89 lakh and penalty of Rs. 53.18 lakh.

After the cases were pointed out, the department accepted between January 2007 and April 2008 the audit observations involving Rs. 1.89 crore in case of seven dealers and recovered Rs. 2.17 lakh from three dealers. A report on recovery and reply in the remaining case has not been received (November 2008).

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

2.3.2 Sales tax incentive schemes provide that the eligible unit¹⁶ shall remain in production continuously during the period mentioned in the eligibility certificate. The eligible unit shall also furnish to the Commercial Tax Department details regarding production, availment of benefit etc. as provided in the GST Act and rules made thereunder. Further, if the eligible unit contravenes any of the conditions, the incentive shall cease to operate. Accordingly, the entire amount of tax that would have been payable on sale and purchase effected by the eligible unit shall be paid by the unit within a period of 60 days from the date of contravention. If the unit failed to do so, the AO shall recover the amount from the eligible unit as an arrear of land revenue.

During test check of the records of ACCT-11, Surat in September 2007, it was noticed that a unit enjoying sales tax exemption had discontinued production from 1999 as per the returns. The Enforcement wing of CTD had detected (January 2003) unaccounted inter-state transactions of Rs.3.25 crore during the period between 1999-2000 and 2002-03. While finalising the assessment for the period 2001-02 in March 2006, the AO incorrectly adjusted the tax of Rs. 21.67 lakh assessed on the said transaction of Rs. 3.25 crore against the exemption limit. The AO did not take any action to recover benefit of Rs.1.19 crore, including Rs. 73.15 lakh allowed earlier up to the period 2000-01 along with interest and penalty of Rs. 24.70 lakh.

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

2.3.3 Under the sales tax incentive schemes, eligible units are allowed to purchase raw materials, processing material, consumable stores and packing material against declaration on payment of tax at the rate of 0.25 *per cent*.

¹⁵ Deputy Commissioner of Commercial Tax(DCCT): 14 B Ankleshwar and 12 Vadodara. Assistant Commissioner of Commercial Tax(ACCT): Ankleshwar, Kalol, 2 Nadiad, 1 Surat and Porbandar.

¹⁶ Eligible unit means a unit permitted by Industries department to avail sales tax incentives of either exemption or deferment of tax.

Balance tax on purchases is calculated at the prescribed rates and adjusted against the ceiling limit of exemption. Similarly, tax saved on sale of manufactured goods is also adjusted against the ceiling limit of exemption. In the event of breach of the recitals of the declaration, purchase tax saved is to be recovered under Section 50 of the GST Act with interest and penalty.

During test check of the records of 13 offices¹⁷ it was noticed between December 2006 and December 2007, in the assessment of 17 dealers for the period between 1997-98 and 2003-04 and finalised between June 2003 and April 2006 that in the case of eight dealers, tax saved on purchases valued Rs. 2.06 crore of glazed mixture, chemical, copper wire, oxygen gas, furnace oil, frit, china clay and *ayurvedic* medicines against declarations was computed at incorrect rates. Similarly, tax on sale of manufactured goods like ceramic tiles, high density poly ethylene (HDPE) bags, packing material, clock, thermoplastic sheets and yarn valued at Rs. 21.86 crore was also computed at incorrect rates in the case of nine dealers. This resulted in short levy of tax of Rs. 1.13 crore including interest of Rs. 3.26 lakh and penalty of Rs. 3.15 lakh.

After the cases were pointed out between May 2007 and February 2008, the department accepted audit observations of Rs. 9.27 lakh in four cases and adjusted Rs. 5.48 lakh between June 2007 and October 2008 in case of three dealers. A report on recovery and reply in remaining cases has not been received (November 2008).

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

2.3.4 Under the sales tax incentive schemes, goods manufactured by an eligible unit are to be sold within the State of Gujarat. In the event of transfer of the manufactured goods by the eligible unit to its branch or to the place of business of its agent outside the State, aggregate amount computed at the rate of four *per cent* or the rate of tax applicable to the goods under the GST Act, whichever is lower, of the sale price of the goods so transferred is to be adjusted against the tax exemption limit admissible.

During test check of the records of two offices¹⁸, it was noticed between June and November 2007 in the assessment of two dealers for the period 2000 and 2003-04 finalised between December 2004 and January 2007, that the dealers had consigned/transferred the manufactured goods valued Rs. 11.71 crore to their branches outside the State. The AOs did not adjust the amount of tax computed at the rate of four *per cent* of the sale price of the goods so transferred against the ceiling limit. This resulted in non adjustment of Rs. 46.83 lakh.

After the cases were pointed out between November 2007 and February 2008, the department accepted in April 2008 the audit observation involving Rs. 36.71 lakh in case of one dealer. A report on recovery and reply in other case has not been received (November 2008).

¹⁷DCCT: 7 Gandhinagar and 22 Rajkot.

ACCT: 11 Ahmedabad, 1 Bhavnagar, Deesa, Mehsana, 4 and 5 Rajkot, 1 and 11 Surat, 1 Surendranagar, 2 Vapi and Viramgam.

¹⁸ ACCT: Kalol and 2 Nadiad.

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

2.3.5 Sales tax incentive scheme provides that sale of manufactured goods is exempt from payment of tax and deduction from turnover of sales against certificates prescribed under the provisions of the Act shall not be allowed. The tax computed at the rates prescribed in the schedules is to be adjusted against the exemption limit.

During test check of the records of two¹⁹ offices, it was noticed between September 2004 and June 2007, in the assessment of two dealers for the period 1999-2000 to 2002-03 and finalised between July 2003 and March 2004 that tax on sales of Rs. 1.23 crore made against certificates was admitted and tax at reduced rate was adjusted against exemption limit instead of adopting the rates prescribed in the schedules. This resulted in short adjustment of tax of Rs. 11.10 lakh.

After the cases were pointed out between September 2004 and October 2007, the department accepted in January 2007 and July 2008 audit observation involving Rs. 11.10 lakh in case of two dealers and recovered Rs. 41,580 in one case. A report on recovery of the remaining amount has not been received (November 2008).

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

2.3.6 The benefit of sales tax exemption is admissible in respect of the goods specified in the eligibility certificates issued by the Industries Department to the units. Tax on sale of the goods not specified in eligibility certificate is required to be recovered along with interest and penalty.

During test check of the records of two²⁰ offices, it was noticed in June and October 2007 that while finalising the assessments between June 2006 and March 2007 in the case of two dealers for the period between 2001-02 and 2002-03, the AOs allowed sales tax exemption of Rs. 4.18 lakh on sale of copper wire and stainless steel rod valued Rs. 1.49 crore and adjusted tax against ceiling limit though such goods were not specified in the eligibility certificate issued by the Industries Department. The amount of tax of Rs. 4.18 lakh so adjusted was required to be recovered along with interest of Rs. 2.12 lakh and penalty of Rs. 2.11 lakh.

After the cases were pointed between June and October 2007, the department accepted in May 2008 the audit observation involving Rs. 89,000 in case of one dealer. A report on recovery and reply in another case has not been received (November 2008).

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

2.4 Non/short levy of tax due to incorrect classification of goods

2.4.1 It has been judicially held²¹ that poly propylene/high density poly ethylene (PP/HDPE) fabrics will be classified as plastic instead of textile

¹⁹ ACCT: Ankleshwar and Viramgam.

²⁰ ACCT: 11 Ahmedabad and 2 Nadiad,

²¹ Union of India V/s Pramact Plastic Pvt. Ltd.-2000(119) E.L.T.A 173 (SC)

material for the purpose of levy of central excise duty. Assessment manual of Sales Tax Department clarify that if any entry in schedule to the Act is linked with Central Excise Act, any amendment made in the Central Excise Act shall have effect in entry under the Sales Tax Act as well. In absence of clarification from the CCT, the AOs allowed HDPE fabrics as textile material (exempted goods) though tax was leviable at the rate of eight *per cent* treating it as 'plastic'.

During test check of the records of 25²² offices, it was noticed between January 2007 and December 2007 for the period 2001-02 and 2004-05 finalised between November 2003 and March 2007 in the assessment of 94 dealers under the GST Act and ten dealers under the CST Act that the AOs did not levy tax on sale of HDPE fabrics. In view of the above judicial pronouncement, tax was leviable at eight *per cent* and 10 *per cent* under the GST Act and CST Act respectively. Incorrect classification resulted in underassessment of Rs. 45.74 crore.

After the cases were pointed out between May 2007 and February 2008, the department accepted in June 2008 the audit observation involving Rs. 5.84 lakh in one case. In other cases, the department did not accept the observations stating that the classification was correctly made under fabric as per the GST Tribunal decisions²³. The reply is not acceptable as the judgment by Hon'ble Supreme Court was pronounced after the decisions of the Tribunal and the department had taken contradictory view on the issue of similar nature of objection.

The matter was reported to the Government (May 2008). The Government accepted (August 2008) the observation in one case; the reply in other cases has not been received (November 2008).

2.4.2 The GST Act provides to levy tax at the rates as provided in the schedules to the Act, depending upon the classification of goods. However, where the goods are not covered under any specific entry of the schedule, rate of tax given for residuary entry is applicable.

During test check of the records of eleven²⁴ offices, it was noticed between May 2006 and November 2007 that 15 dealers paid tax at lower rate on goods valued at Rs. 77.26 crore during 2001-02 to 2005-06 due to incorrect classification of goods. The AOs while finalising the assessments between May 2005 and September 2006 failed to assess the tax at correct rate. This resulted in short realisation of tax of Rs. 10.02 crore including interest of Rs. 1.51 crore and penalty of Rs. 3.88 crore as mentioned below:

²² DCCT: Gandhinagar

ACCT: 11, 15, 17, 18, 21 and 22 Ahmedabad, Anand, Ankleshwar, Bharuch, 1 and 3 Jamnagar, Kadi, Kalol, 2 and 23 Rajkot, 5, 7 and 12 Surat, 1 and 6 Vadodara, 1 and 2 Vapi, Viramgam.

CTO: Visnagar

²³ M/s.Netlon India (2000 GSTB Part II) and M/s.B.G.Arora Extrusion Pvt. Ltd. (2000 GSTD Part II)

²⁴ ACCT: 8, 11, 14, 20, 21 Ahmedabad, 1 Bhavnagar, Deesa, 2 Nadiad, 1 Surendranagar, 2 Surat and Vadodara.

(Rupees in crore)

Sl. No.	No. of dealers	Commodity	Classified/ Classifiable under entry No.	Rate of tax leviable/ levied	Amount of tax non/short levied including interest and penalty
1.	8	Sugar candy	86/167	6/Nil	7.76
2.	1	Frit	19/195	12/4	1.37
3.	1	Optical brightening agent	19/195	13.2/6 13.2/12	0.46
4.	5	Other goods	Different entries	Different rates	0.43
Total	15				10.02

After the cases were pointed out between April 2007 and February 2008; the department accepted in April 2008 audit observation involving Rs. 5 crore in two cases. A report on recovery and reply in remaining cases has not been received (November 2008).

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

2.5 Loss of revenue due to time bar assessment and excess payment of interest

2.5.1 Under Section 42 of GST Act, no order of assessment for a year or part of such year shall be made under section 41(3) or (4) at any time after the expiry of three years from the end of the year in which the last monthly, quarterly or as the case may be, annual return is filed. However, order under Section 41(2) could be passed any time by accepting the returns filed by the dealer. Further, the field units of the department maintain register no. 11 (P register) for watching timely completion of the assessments.

During test check of records of ACCT, unit-5, Ahmedabad, it was noticed in January 2007 that the AOs had finalised seven assessments of two dealers for the period from 1985-86 to 1989-90 during the period between March and September 1994. The tax assessed in the said assessments was Rs. 19.99 crore. The dealers preferred appeal against the assessment orders. The appellate authorities viz. Gujarat Sales Tax Tribunal and ACCT (Appeal) set aside (between March 2002 and October 2003) all the finalised assessments on the ground that orders of assessment were passed beyond the limitation period. Thereafter, the AOs finalised the assessments under Section 41(2) during the period between April 2004 and June 2005 and levied tax of Rs. 12.25 crore. The AOs did not finalise these assessments in time due to improper maintenance of the P register which resulted in loss of revenue of Rs. 7.74 crore.

The matter was reported to the department in May 2007 and Government in April 2008; their reply has not been received (November 2008).

2.5.2 Section 54 of GST Act provides that where an amount required to be refunded by the Commissioner to any person by virtue of any other order (other than assessment order) is not so refunded to him within a period of 90

days of the date of the order, the State Government shall pay to such person interest at the rate of nine *per cent* (14 *per cent* up to 31 August 2001) from the date following the expiry of specified period to the date of refund.

During test check of two ²⁵ offices, it was noticed in the assessment of two dealers for the periods 1985-86 to 1989-90 finalised during 2005-06 under Section 41(2) that interest on refund was computed from the date of order instead of from 90 days of the date of order. This resulted in excess payment of interest of Rs. 10.89 lakh.

After the cases were pointed out between August 2007 and December 2007, the department accepted in August 2007 audit observation involving Rs. 4.18 lakh in case of one dealer. A report on recovery and reply in remaining case has not been received (November 2008).

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

2.6 Short levy of tax

Section 55 B of the GST Act allows a dealer whose aggregate turnover of specified sales (rent income) of shamiyana, electrical fans, electrical goods, furnitures or utensils exceeds one lakh rupees in a year to pay composition tax of Rs.2,000 for each Rs. 1 lakh or part thereof in excess of Rs. 1 lakh during a year. As per Rule 33B of GST Rules, composition amount is to be computed on the aggregate turnover of specified sales.

During test check of the records of ACCT, Unit-8, Ahmedabad in September 2007, it was noticed that aggregate turnover of specified sales of the dealer included the turnover of exempted specified sales. The AO levied composition tax on turnover allowing deduction of amount of exempted specified sales instead of aggregate turnover of specified sales. This resulted in short levy of tax of Rs.25.49 lakh.

The matter was reported to the department in February 2008 and Government in May 2008; their reply has not been received (November 2008).

2.7 Non/short levy of penalty

Section 45(6) of GST Act provides that where the amount of tax assessed or reassessed exceeds the amount of tax paid with the returns by a dealer by more than 25 *per cent*, penalty not exceeding one and one half times of difference shall be levied. Further, the Commissioner vide circular dated 3 June 1992 has laid down slab rates for levy of penalty. By virtue of section 9(2) of the CST Act, the above provisions apply to assessments under the CST Act as well.

During test check of the records of 20²⁶ offices, it was noticed between October 2004 and February 2008 in the assessment of 29 dealers for the assessment period between 1994-95 and 2004-05 that though the difference between tax assessed and tax paid with returns exceeded by 25 *per cent* of the

²⁵ ACCT: 22 Ahmedabad and 6 Vadodara.

²⁶ DCCT: 4 Ahmedabad, 7 Gandhinagar, 24 Jamnagar and 18 Valsad.

ACCT: 8 and 21 Ahmedabad, 1 Anand, 1, 2 Bhavnagar, 24 Gandhinagar, Kalol, Palanpur, 4 Rajkot, 1 and 11 Surat, 1 and 20 Surendranagar, 1 and 3 Vadodara and 2 Vapi.

amount of tax paid, the assessing authority while finalising the assessments between September 2003 and March 2007 did not levy penalty at the rates prescribed in the Commissioner's circular of June 1992. This resulted in non/short levy of penalty of Rs. 1.70 crore.

After the cases were pointed out between May 2007 and February 2008, the department accepted between May 2007 and November 2007 audit observations involving Rs. 1.08 crore in case of ten dealers and recovered Rs. 9.92 lakh in case of two dealers. A report on recovery and reply in remaining cases has not been received (November 2008).

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

2.8 Non/short levy of central sales tax

2.8.1 As per Rule 12(10) of the Central Sales Tax (Registration and Turnover) Rules, 1957, the dealer has to furnish to the prescribed authority, a certificate in form H, duly filled in with all details *viz.* agreement number and date relating to such export, particulars of goods along with evidence of export of such goods in support of his claim for export.

During test check of the records of 11²⁷ offices, it was noticed between May 2007 and December 2007 in the assessment of 31 dealers for the period between 1996-97 and 2005-06 finalised between March 2004 and 2007 that the AOs allowed export sales valued at Rs. 398.25 crore either without production of form H/bill of lading or against incomplete certificates in form 'H'. This resulted in underassessment of Rs. 20.62 crore including interest of Rs. 76.19 lakh and penalty of Rs.79.02 lakh.

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

2.8.2 Under the CST Act, tax leviable on inter state sale of goods shall be at the rate of 10 *per cent* or at the rate applicable for sale or purchase of such goods inside the State, whichever is higher. In the case of declared goods, tax shall be calculated at twice the rate applicable to the sale of such goods inside the State. However, in case of inter state sale supported by declaration in form C or certificate in form D, tax is leviable at the rate of four *per cent* or the rate applicable to the sale or purchase of such goods inside the State, whichever is lower. In respect of the dealers availing tax exemption benefit vide entry 255 or 69 under section 49(2) of GST Act, tax shall be computed at the concessional rate on production of form 29 or 43, or else tax shall be computed at the applicable rates for adjustment against exemption limit.

²⁷ DCCT: 11 Vadodara.

ACCT: 8, 11 and 15 Ahmedabad, 24 Gandhinagar, , Jamkhambalia, 2 and 4 Rajkot, 10 and 11 Surat and 1 Vapi.

During test check of the records of 27²⁸ offices, it was noticed between December 2005 and 2007 in the assessment of 43 dealers for the period 1989-90 and 2005-06 finalised between May 1995 and March 2007 that sales of various goods valued at Rs. 196.49 crore were not supported by form 'C' or form 29 or 43. However, AOs levied/computed tax at the concessional rate. This resulted in short levy of tax of Rs. 5.10 crore including interest of Rs. 1.08 crore and penalty of Rs. 1.02 crore.

After the cases were pointed out between September and December 2007, the department accepted in August 2007 audit observations involving Rs. 44.84 lakh in case of seven dealers and recovered Rs. 11.97 lakh in case of five dealers. A report on recovery of balance amount and reply in the remaining cases has not been received (November 2008).

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

2.8.3 Section 5(2) of the CST Act provides that a sale or purchase of goods shall be deemed to take place in the course of import of the goods into the territory of India only if the sale or purchase either occasions such import or is effected by a transfer of documents of title to the goods before the goods have crossed the custom frontiers of India. Further, Section 41(3) of GST Act provides that the assessing authority after considering all the evidences which may be produced in support of declaration made by the dealer shall assess the amount of tax due from the dealer.

During test check of the records of ACCT Unit-3, Jamnagar, it was noticed in June 2007 in the assessment of a dealer for the period 2001-02 finalised in March 2006 that AO allowed deduction of high sea sales²⁹ of Rs. 4.03 crore but did not keep the prescribed documents viz. agreement between the importer and purchaser, bill of entry endorsed in favour of the purchaser, sales bill, proof of payment of customs duty etc. on record in support of the deduction. Before allowing the deduction of high sea sales, the AO should have considered and kept the prescribed documents on record as evidence in support of the deduction. In the absence of relevant documents, correctness of deduction allowed from turnover could not be verified. The tax involved in these transactions worked out to Rs. 34.50 lakh including interest of Rs. 8.70 lakh and penalty of Rs. 9.67 lakh.

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

2.8.4 Under CST Act, where sale of any goods in the course of inter state trade or commerce has either occasioned the movement of such goods from one State to another or has been effected by a transfer of documents of title to such goods during their movement from one State to another, any subsequent sale during such movement effected by a transfer of documents of title to such goods (sale in transit) to the Government or to a registered dealer shall be exempt from tax. The exemption is subject to production of a certificate in

²⁸ DCCT: Petro 1 Ahmedabad, 4 Ahmedabad, 22 Rajkot

ACCT: 1, 8, 10, 11, 18 and 21 Ahmedabad, Anand, Ankleshwar, 1 Bhavnagar, 24 Gandhinagar, Jamkhambalia, 1 Jamnagar, 1 Junagadh, Kalol, Mehsana, 4, 12 and 22 Rajkot, 11 Surat, 3 and 6 Vadodara, 1 Vapi and Vyara.

CTO: Botad

²⁹ Sales of goods before crossing the custom frontiers of India, by endorsing the import documents in favour of the purchaser by importer.

from E-I or E-II duly filled and signed by the registered dealer from whom the goods were purchased and declaration in form 'C' or certificate in form 'D' obtained from the buyer.

During test check of the records of three³⁰ offices, it was noticed between February and November 2007 in the assessment of four dealers for the period between 2001-02 and 2003-04 finalised between March and May 2006 that the AOs did not levy tax though sales were not supported by 'E-I/E-II' and 'C'/'D' forms. Tax involved in those transactions worked out to Rs. 97.00 lakh including interest of Rs. 22.68 lakh and penalty of Rs. 27.86 lakh.

After the cases were pointed out between February 2007 and November 2007, the department accepted in July 2007 audit observation involving Rs. 24.52 lakh in case of one dealer. A report on recovery and reply in the remaining cases has not been received (November 2008).

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

2.8.5 The CST Act and rules made thereunder provides that where any dealer transfer goods from one state to another not by reason of sale, he shall furnish to the AO, a declaration in form 'F', duly filled and signed by the principal officer of the other place of business, along with the evidence of dispatch of such goods. If the dealer fails to furnish such declaration, then the movement of such goods shall be deemed to have been occasioned as a result of sale.

During test check of the records of three³¹ offices, it was noticed between September and December 2007 in the assessment of three dealers for the period 2000-01 and 2001-02 finalised between March 2005 and 2006 that the AOs allowed claim of transfer of goods to other place of business without any declaration or evidence for dispatch of such transfer. This resulted in short levy of tax of Rs. 19.22 lakh including interest of Rs. 5.08 lakh and penalty of Rs. 4.76 lakh.

After the cases were pointed out between December 2007 and February 2008, the department accepted in June 2008 the audit observation involving Rs. 1.14 lakh in case of one dealer. A report on recovery and reply in remaining cases has not been received (November 2008).

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

2.8.6 Section 4 A of GST Act read with Section 9(2) of the CST Act provides that additional tax at the rate of 10 *per cent* on tax is chargeable from 1 April 2000 to 28 February 2003.

During test check of the records of three³² offices, it was noticed between January 2007 and November 2007 in the assessment of three dealers for the period between 2001-02 and 2002-03 finalised between October 2005 and March 2007 that additional tax was not levied on inter state sales of various

³⁰ ACCT: 8, 17 Ahmedabad and 4 Vadodara

³¹ ACCT: 15 Ahmedabad and 1 and 2 Vapi.

³² DCCT: 8 Mehsana

ACCT: Kalol and 4 Rajkot.

goods valued at Rs. 4.58 crore made after 1 April 2000. This resulted in non-levy of additional tax of Rs. 16.78 lakh including interest of Rs. 3.05 lakh and penalty of Rs 8.07 lakh.

The matter was reported to the department between May 2007 and February 2008 and the Government in April 2008; their reply has not been received (November 2008).

2.9 Non/short levy of purchase tax

2.9.1 Section 15 B of the GST Act provides that where a dealer purchases directly or through commission agent any taxable goods other than declared goods and uses them as raw material, processing material or consumable stores in the manufacture of taxable goods, purchase tax at prescribed rate is leviable in addition to any tax leviable under any other section of the Act. Purchase tax so levied is admissible as set off under the Gujarat Sales Tax (GST) Rules, 1970, provided the goods manufactured are sold by the dealer in the state of Gujarat. High Court of Gujarat³³ held that a dealer is liable to pay purchase tax under Section 15 B of the Act on the goods purchased from sales tax exemption holders and used in the manufacture of goods, as the goods are generally taxable goods under the Act though they may be exempted from payment of sales tax pursuant to the notification under Section 49(2) of the Act.

During test check of the records of 10³⁴ offices, it was noticed between January and December 2007 in the assessment of 16 dealers for period between

1997-98 and 2005-06 finalised between July 2004 and February 2007 that purchase tax was either not levied or levied short on purchases made from exemption holders. This resulted in underassessment of Rs. 82.80 lakh including interest of Rs. 10.02 lakh and penalty of Rs. 6.18 lakh.

After the cases were pointed out between April 2007 and February 2008, the department accepted between May and October 2008 the audit observations involving Rs. 30.27 lakh in case of six dealers. A report on recovery and reply in remaining cases has not been received (November 2008).

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

2.9.2 Section 13 of GST Act provides that a registered dealer, on production of declaration in form '19', can purchase goods (other than prohibited goods) without payment of sales tax for use by him as raw materials or processing materials or consumable stores in the manufacture of taxable goods for sale within the State. In the event of breach of condition of declarations, the dealer is liable to pay purchase tax under Section 16 at the prescribed rates.

During test check of the records of four³⁵ offices, it was noticed between February and December 2007 in the assessment of six dealers for the period

³³ M/s. Madhu Silica (85 STC 258) and M/s Cheminova India Ltd (2001-GSTB-286).

³⁴ DCCT: 24 Jamnagar, 10 Vadodara and 18 Valsad.

ACCT: 1 Ahmedabad, Ankleshwar, Kalol, 6 Surat 2 and 5 Vadodara, and 1 Vapi.

³⁵ DCCT: 7 Gandhinagar and 24 Jamnagar

ACCT: 1 Jamnagar and 5 Surat.

between 2000-01 and 2004-05 finalised between May 2005 and December 2006 that the dealers purchased materials valued at Rs. 4.44 crore against form 19 and used for a purpose otherwise than in manufacture. The AOs did not levy purchase tax for the breach of condition of the declarations. This resulted in non-levy of purchase tax of Rs. 26.81 lakh including interest of Rs. 5.31 lakh and penalty of Rs.5.59 lakh.

After the cases were pointed out between February 2007 and November 2007, the department accepted in June 2008 the audit observation involving Rs.35,527 in one case. A report on recovery and reply in the remaining cases has not been received (November 2008).

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

2.10 Non/short levy of turnover tax

Section 10A of the GST Act provides that where the turnover of sales of a dealer, liable to pay tax, first exceeds Rs. 50 lakh, the dealer is liable to pay turnover tax at prescribed rate on the turnover of sales of goods other than declared goods after allowing permissible deduction under the Act. From April 1993, sales made against various declarations and sales exempted from tax under Section 49(2) were excluded from the permissible deductions making such sales liable to turnover tax. While working out the liability and applicability of rate of turnover tax, the taxable turnover of sales of all the branches of the dealer within the state is to be considered.

During test check of the records of seven³⁶ offices, it was noticed between March 2007 and December 2007 in the assessment of eight dealers for the period between 1993-94 and 1996-97 finalised between June 2004 and November 2006 that turnover tax was either not levied or short levied due to non-consideration of taxable sales exempted under Section 49(2) of the Act and incorrect application of slab rates. This resulted in short levy of turnover tax of Rs. 83.59 lakh including interest of Rs. 20.17 lakh and penalty of Rs. 18.37 lakh.

After the cases were pointed out between August 2007 and February 2008, the department accepted in August 2007 the audit observations involving Rs. 5.25 lakh in case of four dealers and recovered Rs. 83,000 in case of two dealers. A report on recovery and reply in the remaining cases has not been received (November 2008).

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

2.11 Irregular/excess grant of set off

2.11.1 Rule 44 of the GST Rules provides that the dealer who had paid tax on purchase of goods is eligible for set off from the tax payable on inter state sale of such goods.

³⁶ DCCT: 10 and 12 Vadodara

ACCT: 10 Ahmedabad, Bharuch, 1 Bhavnagar, Gandhinagar and 2 Junagadh.

During test check of the records of three offices³⁷, it was noticed between February and July 2007, in the assessment of three dealers for the period between 2000-01 and 2004-05 finalised between November 2005 and March 2006 that AOs allowed excess set off of Rs. 92.51 lakh, on account of sale of cotton seeds emerged as a result of ginning process of cotton, which is not a process of manufacture, in the State in two cases, and incorrect computation of set off in one case. This resulted in excess grant of set off of Rs. 1.93 crore including interest of Rs. 32.76 lakh and penalty of Rs. 67.86 lakh.

After the cases were pointed out between August and December 2007, in two cases, the department stated in October 2007 that the total cost of purchase qualify for set off as held by the Supreme Court³⁸. The reply is not acceptable as ratio of the judgement cannot be applied in view of the fact that the case decided involved manufacturing process whereas the two cases under scrutiny were related to resale. The determination order³⁹ passed by the Commissioner of Sales Tax in 1998 under Section 62 of GST Act shall apply in this case. Reply in the remaining case has not been received (November 2008).

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

2.11.2 Rule 42 of GST Rules provides that a dealer who has paid tax on the purchase of goods (other than prohibited goods) to be used as raw or processing materials or consumable stores in the manufacture of taxable goods, is allowed set off at the rate applicable to the respective goods from the tax payable on the sale of manufactured goods subject to fulfillment of general conditions prescribed in Rule 47 of the Rules.

During test check of the records of 18⁴⁰ offices, it was noticed between August 2005 and December 2007 in the assessment of 26 dealers for the assessment period between 1999-2000 and 2005-06 finalised between March 2004 and March 2007 that AOs allowed excess set off of Rs. 27.12 lakh as detailed below:

Sl. No.	No. of dealers	Excess set-off allowed (Rs. in lakh)	Nature of irregularity
1.	2	2.70	Set off was allowed on the purchases of prohibited goods i.e. CI casting, PVC resin.
2.	5	4.68	Excess grant of set off was allowed on craft paper, sand, auto parts, sugar molasis, machinery and medicines.
3.	5	2.35	Two <i>per cent</i> of purchase price on submersible pumps, electronic machines, oil engine and its parts was not reduced from set off allowed.
4.	2	2.68	Excess set off was allowed under Rule 42(G).

³⁷ ACCT: , Jamnagar, Junagadh and Rajkot.

³⁸ M/s. Pulgaon Cotton Mills Ltd. 85-STC-220.

³⁹ M/s. Nursey Brothers 98-2-228-D.

⁴⁰ DCCT: 24 Jamnagar, 23 Rajkot and 12 Vadodara.

ACCT: 8, 9, 16, 18 and 21 Ahmedabad, 1 Jamnagar, 2 Junagadh, 2, 4 and 5 Rajkot, 1, 8 and 11 Surat, 5 Vadodara and 2 Vapi.

5.	11	11.82	Four <i>per cent</i> of value of goods branch transferred outside the State was not deducted from set off.
6.	1	2.89	Set off of Rs. 14.45 lakh was allowed as against Rs. 11.56 lakh.
Total	26	27.12	

This resulted in short recovery of Rs. 39.67 lakh including interest of Rs. 9.66 lakh and penalty of Rs. 2.89 lakh.

After the cases were pointed out between April 2007 and February 2008, the department accepted between December 2007 and January 2008 the audit observations involving Rs. 7.57 lakh in case of seven dealers and recovered Rs. 4.11 lakh from four dealers. A report on recovery and reply in the remaining cases has not been received (November 2008).

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

2.12 Non/short levy of interest

Section 47(4A) of the GST Act provides that if a dealer does not pay the amount of tax within the prescribed period and if the amount of tax assessed or reassessed exceeds the amount of tax already paid by more than ten *per cent*, simple interest at the rate of 24 *per cent* per annum for the period up to 31 August 2001 and at 18 *per cent* per annum thereafter is leviable on the amount of tax remaining unpaid for the period of default. By virtue of section 9(2), the above provisions apply to assessments under the CST Act as well.

During test check of the records of 10⁴¹ offices, it was noticed between February and December 2007 in the assessment of ten dealers for the period between 1993-94 and 2002-03 finalised between March 2006 and March 2007 that interest of Rs. 10.47 lakh was either not levied or levied short on the amount of unpaid tax.

After the cases were pointed out between August 2007 and February 2008, the department accepted between April and June 2008 the audit observations involving Rs. 2.35 lakh in case of three dealers and recovered Rs.50,000 in one case. A report on recovery of the balance amount and reply in remaining cases has not been received (November 2008).

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

2.13 Incorrect allowance of deduction from sales

Resale for the purpose of Sections 7, 8, 10, 15 and 19B of the GST Act, means a sale of purchased goods in the same form in which they were purchased or without doing anything to them which amounts to, or results in manufacture. Section 41(3) of the GST Act further provides that the assessing officer after considering all the evidences in support of declaration made by the dealer shall assess the amount of tax due from the dealer. Further, the CoST issued instructions on 15 April 2004 that copies of trading account, profit and loss

⁴¹ DCCT: Petro II Ahmedabad, 4 Ahmedabad, 24 Jamnagar and 22 Rajkot.
ACCT: 8 and 21 Ahmedabad, 1 Bhavnagar, Palanpur, 6 Vadodara and Vyara.

account, audit report, registration details of dealers from whom purchases are made etc. shall be kept on assessment record.

During test check of the records of 11⁴² offices, it was noticed between August and December 2007 for the period between 2000-01 and 2005-06 in the assessment of 74 dealers finalised between July 2004 and March 2007 that the AOs allowed claim of resales of the dealers of Rs. 729.22 crore though evidence in support of tax paid purchases were not available on record. The AOs did not follow the instructions issued by the CoST. In absence of details of selling dealers such as registration number of the dealers, place of business, quantity and value of goods purchased etc., the correctness in grant of deduction from taxable turnover involving tax of Rs. 42.27 crore including interest of Rs. 20.57 lakh and penalty of Rs. 28.59 lakh was not susceptible for verification.

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

⁴² ACCT: 1, 6, 8, 11, 14, 15 Ahmedabad, 24 Gandhinagar, Jamkhambalia, , Mehsana, and 6,11 Surat.

CHAPTER-III : LAND REVENUE

3.1 Results of audit

Test check of the assessment records in the offices of Collectors, District Development Officers, Taluka Development Officers, District Inspector of Land Records and City Survey Superintendents conducted during 2007-08 disclosed underassessment amount of Rs. 41.34 crore in 144 cases which fall under the following categories:

(Rupees in crore)			
Sl. No.	Category	No. of cases	Amount
1.	Non/short recovery of occupancy/ premium price	19	20.10
2.	Non/short recovery of conversion tax	43	18.85
3.	Non/short recovery of NAA, non-raising of NAA demand	12	1.35
4.	Other irregularities	70	1.04
Total		144	41.34

During the year 2007-08, the department accepted underassessment of Rs. 28.17 lakh in 63 cases and recovered Rs. 12.84 lakh in 14 cases.

A few illustrative cases involving Rs. 6.91 crore are mentioned in the following paragraphs:

3.2 Non/short levy of conversion tax

The Bombay Land Revenue Code, 1879 (BLR Code), as applicable to Gujarat and Rules made thereunder provide to levy conversion tax at prescribed rates for conversion of use of land from agricultural to non-agricultural purpose or from one non-agricultural purpose to another. Different rates of conversion tax are prescribed for residential/charitable and other purposes. The conversion tax shall be paid in advance by a challan in Government treasury.

During test check of the records of four Collectors¹, five district development offices² and five taluka development offices³, it was noticed between October 2006 and December 2007 that in 310 cases for change in mode of land use relating to the period 2002-03 to 2006-07, though conversion tax was leviable, the departmental officials had either not levied or levied it at incorrect rate on 95.92 lakh sq. mtrs. of land. This resulted in non/short levy of conversion tax amounting to Rs. 5.77 crore.

After the cases were pointed out between October 2006 and December 2007, the department accepted the audit observations involving Rs. 11.33 lakh in 28 cases and recovered Rs. 2.37 lakh in four cases. A report on recovery and reply in the remaining cases has not been received (November 2008).

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

3.3 Non/short levy of premium price

The Government decided in July 1983 and September 1984 to permit land holders holding the land under new and restricted tenure to convert their land into old tenure and to sell/transfer the same subject to payment of premium computed on the difference between the estimated sale price of the land and the occupancy prices recovered at the time of allotment of the land. This was further subject to payment of difference on actual sale price. The premium is recoverable at 70/50 *per cent* of the difference, if the land is held for more than 20 years and is permitted to be sold for non-agricultural or agricultural purpose respectively.

During test check of the records of three Collectors,⁴ three *prant* offices⁵ and district development office, Patan it was noticed between April and November 2007 that in 11 cases, land measuring 6.21 lakh sq. mtrs. held under new and restricted tenure was allowed to be sold/transferred but the departmental officials did not recover premium at the prescribed rate in five cases and recovered at incorrect rates in remaining six cases. This resulted in non/short recovery of premium of Rs. 86.49 lakh.

After the cases were pointed out between April and November 2007, the department accepted the audit observations involving Rs. 7.80 lakh in three cases and recovered Rs. 5.95 lakh in one case. A report on recovery and reply in the remaining cases has not been received (November 2008).

¹ Bhuj, Junagadh, Kheda and Surat

² Ahmedabad, Bhavnagar, Bhuj, Gandhinagar and Rajkot

³ Hansot, Paddhari, Rapar, Savali and Vanthali

⁴ Anand, Dahod and Godhara

⁵ Anand, Anjar and Bhuj

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

3.4 Non/short levy of non-agricultural assessment

The BLR Code and the Rules made thereunder provide to levy non-agricultural assessment (NAA) on land used for non-agricultural purposes at the rates prescribed by the Government. The rates of NAA were revised from August 2003 under two categories of use i. e. residential/charitable and others. The charitable purpose was explained as use of land to run dispensary without profit motive, *gaushala*, *panjrapole* and *ashram* for old age persons.

During test check of the records of three Collectors⁶, district development office, Bhavnagar and prant office, Anjar, it was noticed (between December 2006 and November 2007) that in 32 cases, on land measuring 92.36 lakh sq. mtrs. used for non-agricultural purposes during the periods between 1982-83 and 2006-07, though NAA was leviable, the departmental officials had either not levied or levied it at incorrect rates. This resulted in non/short levy of NAA of Rs. 19.33 lakh.

After the cases were pointed out between December 2006 and November 2007, the department accepted audit observation involving Rs. 2.33 lakh in 14 cases and recovered Rs. 9,000 in one case. A report on recovery and reply in the remaining cases has not been received (November 2008).

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

3.5 Non/short levy of penalty

The BLR Code and the Rules made thereunder provide that agricultural land cannot be used for non-agricultural purposes without the prior permission of the Collector. In case of unauthorised non-agricultural use, a fine not exceeding 40 times the amount of NAA is leviable. In August 1980, the Government had prescribed the amount of fine to be levied for different types of unauthorised use of land.

During test check of the records of the Collector, Surat, three district development offices⁷ and taluka development office, Jodia, it was noticed between February 2007 and November 2007 that in 17 cases, relating to the periods 2001-02 to 2005-06, though penalty for unauthorised use of land measuring three lakh sq. mtrs., used for residential colonies, petrol pump, saw mill, cement pipe factory, etc. at the prescribed rate was leviable, the departmental officials either did not levy it or levied short than the rates prescribed by the Government. This resulted in non/short levy of penalty of Rs. 8.42 lakh.

After the cases were pointed out between February and November 2007, the department accepted audit observations involving Rs. 2.28 lakh in 10 cases. A report on recovery and reply in the remaining cases has not been received (November 2008).

⁶ Bhuj, Junagadh and Surat

⁷ Bhuj, Patan and Rajkot

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

CHAPTER-IV: TAXES ON VEHICLES

4.1 Results of audit

Test check of the assessment records in the offices of Commissioner of Transport, Regional Transport Officers and Assistant Regional Transport Officers conducted during 2007-08 disclosed underassessment of Rs. 134.61 crore in 289 cases. These cases fall under the following categories:

(Rupees in crore)			
Sl. No.	Category	No. of cases	Amount
1.	Non/short levy of motor vehicles tax	84	29.14
2.	Other irregularities	204	22.39
3.	Administration of Motor Vehicles Tax in Gujarat (A review)	1	83.08
Total		289	134.61

During the year 2007-08, the department recovered an amount of Rs. 30.47 lakh in 37 cases.

Results of review of **Administration of Motor Vehicles Tax in Gujarat** involving Rs. 83.08 crore are discussed in the following paragraphs:

4.2 Administration of Motor Vehicles Tax

Highlights

- Growth in lump-sum (one time) component of MVT, applicable to LMVs, was static. In other segments of MVT, too, there was disconnect between growth in vehicular traffic and collections.

(Paragraph 4.2.7)

- Audit test checks revealed cases of non-realisation of MVT totalling over Rs 299.92 crore.

(Paragraph 4.2.8)

- Audit test checks also revealed short collection of various kinds of fees totalling Rs 16.75 crore. Besides shortfall in collections, absence of structured mechanism to identify cases requiring fitness certificate, renewal of permit, renewal of licenses of motor driving schools, etc. had road safety implications.

(Paragraph 4.2.9)

- GMVD did not follow any well-defined procedure in disposing of unclaimed seized vehicles. It did not have any central information as regards number of seized vehicles in the state.

(Paragraph 4.2.12)

- Internal control procedures in GMVD were weak having significant revenue implications. Revenue recovery process and reporting system between RTOs and CoT was flawed. GMVD did not have any departmental manual of instructions and guidelines. Its internal audit system was not commensurate with the size of its operations.

(Paragraph 4.2.13)

4.2.1 Introduction

Motor vehicles tax (MVT) is the collective name for tax on motor vehicles and passengers, and license fees, registration fees, fitness fees and permit fees which the State Government levies under various Acts and Rules enacted by the central and state Governments. The Gujarat Motor Vehicles Department (GMVD) administers these Acts and Rules and is responsible for planning, assessment, levy and collection of MVT. The Bombay Motor Vehicles Tax Act, 1958 (BMVT Act) authorises GMVD to recover unpaid tax dues as arrears of land revenue under Bombay Land Revenue Code, 1879.

4.2.2 Organisational set up

The State Commissioner of Transport (CoT) heads GMVD under the administrative control of the Secretary to the Government of Gujarat in Ports and Transport Department, assisted by a Joint Commissioner and 82 officials at GMVD head office. There are 25 Regional Transport Offices (RTO) for as many districts in Gujarat, except Dang. There are 10 permanent check posts¹

¹ Ambaji, Amargarh, Bhilad, Dahod, Deesa, Shamlaji, Songarh, Tharad, Waghai and Zalod

and three internal check-posts² working under 10 RTOs. The numbers of sanctioned posts and persons-in-position in GMVD is 1,671 and 1,348 respectively. Audit observed that there are big staff shortages, especially in operating and enforcement position. The posts of RTO, Inspector of Motor vehicles and Mamlatdar were vacant by 55 per cent, 27 per cent and 16 per cent respectively, at an average during Tenth Plan period.

4.2.3 Scope of Audit and Methodology

Audit test checked records of all 25 RTOs and CoT for the five year period from 2002-03 to 2006-07 during the period from April 2007 to March 2008 for the vehicles registered during those years, and made a collateral performance evaluation within a pre-designed structure alongside normal transaction audit of RTOs.

4.2.4 Audit Objectives

The review seeks to determine efficiency and effectiveness of management and administration of MVT by GMVD during Tenth Plan period, with special emphasis on:

- Planning and monitoring of MVT by GMVD and the State Government,
- General management of MVT at the level of GMVD,
- Enforcement of penal provisions of existing law, and
- Adequacy of internal control procedures and internal audit system.

4.2.5 Government Response in audit review committee meeting

Audit findings, of working of Motor Vehicles Department were reported to the Government in June 2008, with specific request to discuss the issues in the Audit Review Committee meeting. The meeting could not take place due to engagement of the officers for election duty. Reply has not been received (November 2008).

4.2.6 Plan and achievements

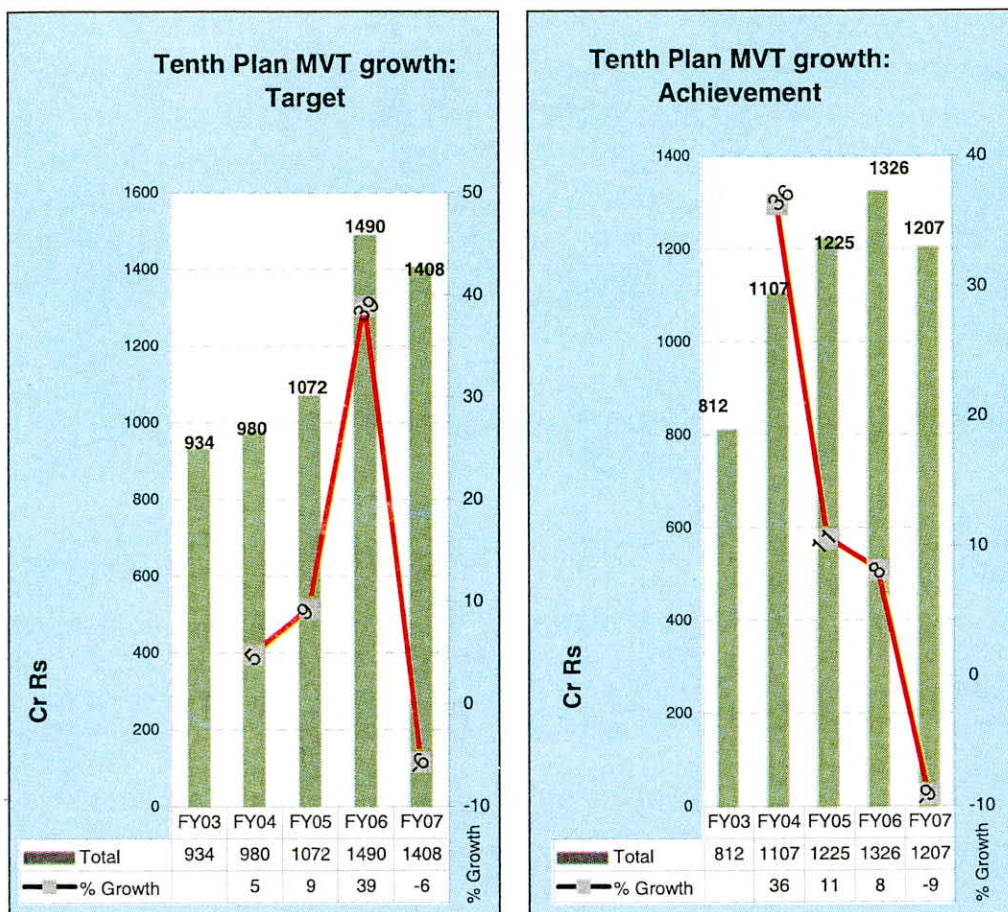
Table below gives the targets and collections of MVT.

Tenth Plan Target and Collections

Year	MVT Revenue Receipts per GMVD		
	Target	Collections	Percentage achievement
2002-03	934.00	811.80	87
2003-04	980.00	1,106.78	113
2004-05	1,072.37	1,224.79	114
2005-06	1,489.49	1,326.20	89
2006-07	1,408.43	1,206.98	86

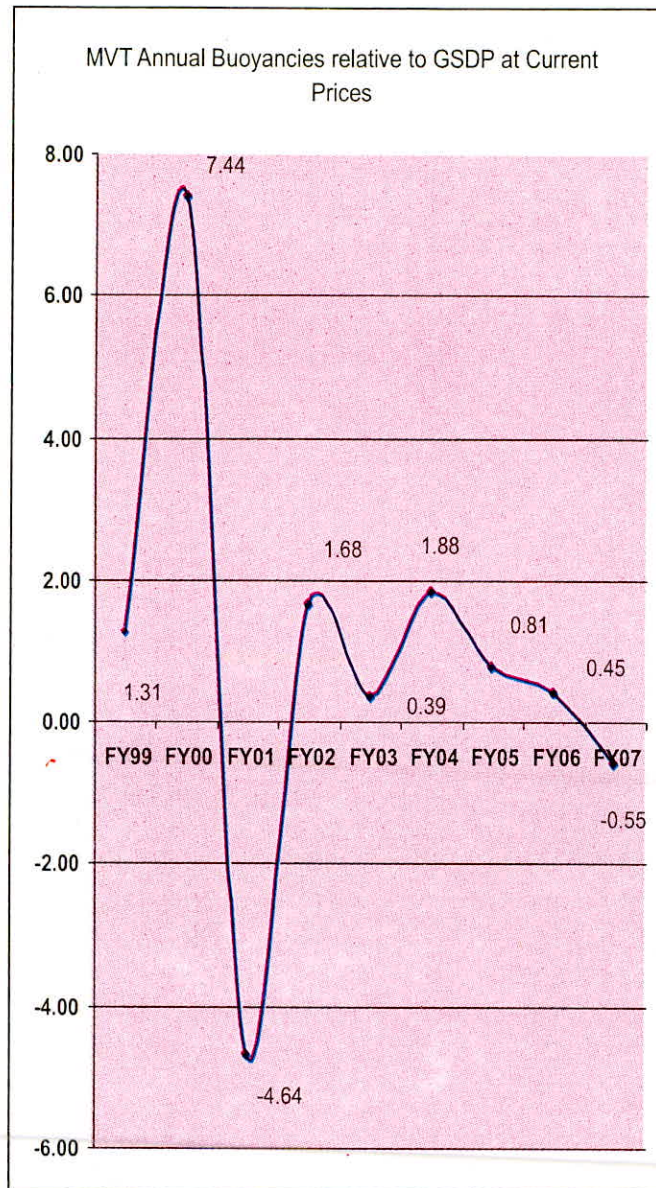
² Budhel (Bhavnagar), Khavdi (Jamnagar) and Samkhiyali (Bhuj)

The charts below depict the percentage growth of MVT as compared to the preceding years in terms of targets and achievement in Tenth Plan period.



Annual MVT targets (estimates) grew nominally during the first four years of the Tenth plan, followed by a decline in 2006-07. Audit observed that there was no definite correlation between the fixing of targets and achievement, as the above graphs would show.

After this was pointed out (March 2008), the department replied (August 2008) that “The budget was prepared as per the guidelines given by the Finance Department. The elements considered for the preparation of budget were (i) actual receipt/expenditure of first four months of current year and (ii) actual receipt/expenditure of last eight months of previous year.” However, this reply can not explain as to how a lower target was fixed for 2006-07, where as the collections had shown an upward trend during 2005-06.



Annual MVT collections grew only marginally during the first four years, before registering a fall in 2006-07. The rate of growth of annual MVT collections declined continuously during Tenth Plan.

Chart alongside shows annual MVT buoyancies³ over a longer time series relative to GSDP at current prices, and their general decline over years. Audit did not find any evidence that GMVD was seized with the question of total disconnect of MVT collections with ever visible growth of vehicular traffic during Tenth Plan. GMVD ascribed reasons (March 2008) for fall in the growth rate to: (a) decision of Hon'ble

Supreme Court preventing overloading of goods carriers even on penalty (leading to fall in penal 'departmental action' receipts effective from January 2006); and (b) non-payment of assessed passenger tax by Fleet owners⁴, namely Gujarat State Road Transport Corporation (GSRTC) and Ahmedabad Municipal Transport Service (AMTS). Citation of court judgement about for fall in penal receipts is not a reasonable explanation. GMVD would do well by not treating this component of receipts as a source of its revenue growth, but as a penal assessment whose decline over years should be welcome.

³ This is calculated as annual percentage change in MVT divided by annual percentage change in GSDP at current prices.

⁴ Fleet owner is the registered owner of a fleet of one hundred or more transport vehicles.

4.2.7 Growth trends of components of MVT

During Tenth plan, total MVT revenues in Gujarat (Rs 5,677 crore) accounted for eight *per cent* of the total state revenues (Rs 67,815 crore). It was the third largest tax receipt after the Sales Tax and Electricity Duty. Table below shows the compositional break-up.

Motor Vehicles Tax⁵ Revenue Composition in Tenth Plan

(Rupees in crore)								
Year	LST	GCT	GT/PT	CCT	Misc.	NPF	DAR	Total
2002-03	177.59	203.20	10.41	92.30	73.25	37.78	217.27	811.80
2003-04	222.67	218.86	171.61	97.26	80.29	44.45	271.64	1,106.78
2004-05	296.16	219.00	160.68	107.27	85.83	49.17	306.68	1,224.79
2005-06	343.33	258.95	156.37	119.19	97.40	46.76	304.19	1,326.20
2006-07	399.66	286.05	5.91	131.16	108.37	69.97	205.86	1,206.98
Total	1,439.41	1,186.06	504.98	547.18	445.14	248.13	1,305.64	5,676.55

Source: GMVD

The following paragraphs present audit analysis of growth trends of some components of MVT.

4.2.7.1 Lump Sum (one time) Tax

GMVD levies lump sum tax (LST) at different rates on different types of vehicles having unladen weight up to 3000 kg (i.e. almost all personal vehicles, taxis, etc. which flood the streets and highways). Audit analysis revealed that growth rate of LST recorded at 25, 33, 16 and 16 *per cent* for the year 2003-04 to 2006-07 over previous year indicates a downward trend.

After this was pointed out in March 2008, the department stated that decline in growth rate was due to change in rate structure from fixed rate to fixed percentage on the cost of vehicles since April 2006.

4.2.7.2 Contract Carriage Tax

GMVD levies contract carriage tax (CCT) from all public vehicles having seating capacity more than six persons excluding driver.

Audit analysis revealed that growth rate of CCT, recorded at five, 10, 11 and 10 *per cent* for the year 2003-04 to 2006-07 over previous year has remained stagnant.

4.2.7.3 Goods Carriage Tax

Audit analysis revealed that goods carriage tax (GCT) recorded no growth in 2004-05 after initial increase of eight *per cent* in 2003-04. Thereafter GCT

⁵ LST = Lump Sum Tax: levied one-time on private vehicles; CCT = Contract Carriages Tax - Annual taxes apply on Contract carriages, GCT = Goods Carriages Tax - Annual taxes apply on Goods carriages, PT = Passenger Tax = is applicable on public sector fleets, NPF = National Permit Fees is applicable on transporters plying inter-state services, DAR = Department Action Receipts.

recorded growth rate of 18 and 10 *per cent* for the year 2005-06 and 2006-07 over previous year.

GMVD stated (March 2008) that certain goods transport vehicles were either scrapped or put in non use or were transferred to other states.

4.2.7.4 Departmental action receipts

Departmental Action (DA) receipts relate to penal charges levied on breach of conditions and offences such as overloading, etc. Audit analysis revealed that DA receipts recorded growth of 25 and 13 *per cent* in 2003-04 and 2004-05 and thereafter a negative growth rate of one and 32 *per cent* during 2005-06 and 2006-07 over previous year.

4.2.7.5 Passenger Tax

Passenger tax is mainly payable by the fleet owners such as GSRTC and AMTS. Audit analysis revealed that growth rate of passenger tax recorded downward trend from six *per cent* in 2004-05 to 96 *per cent* in 2006-07.

GMVD stated (March 2008) that fall in growth rate was due to non payment of passenger tax even after issuance of demand notices and the position was brought to the notice of Government; and that coercive action could not be taken against the defaulters as they are public utility services.

4.2.7.6 National Permit Fee

National permit (NP) fee is paid by transporters to obtain the permit for plying vehicles in more than three states. It is collected by the state where the vehicle is registered and transmitted to the states covered by the permit.

Audit analysis revealed that growth rate of NP recorded at 18, 11 and 50 *per cent* for the year 2003-04, 2004-05 and 2006-07 over previous year, after negative growth of five *per cent* in 2005-06 over previous year.

GMVD stated (August 2008) "The NP holders had not chosen Gujarat state for their operation; hence number of demand drafts and amounts received were less".

4.2.8 Short collection of taxes

Audit test check revealed non-realisation of taxes amounting to Rs. 299.92 crore in the following cases.

4.2.8.1 Non-recovery of MVT on transport vehicles

Section 3 and 4 of the BMVT Act and Rules made thereunder require owners of passenger transport vehicles (PTVs) and goods transport vehicles (GTVs) to pay tax monthly by the 20th day. The BMVT Act authorises GMVD to recover overdue as arrears of land revenue after one month. Delays invite interest and penalty.

Test check of the records of 25 RTOs⁶ disclosed that owners of 2,659 out of 17,040 (16 *per cent*) PTVs registered during 2002-03 to 2006-07 did not pay tax after payment for a few months. The total non-recovery was Rs. 26.05 crore. Similarly, out of 54,400 registered GTVs, 4,515 (eight *per cent*) defaulted resulting in non recovery of Rs 7.59 crore. However, GMVD did not initiate action to recover the dues as arrears of land revenue.

After this was pointed out, the department accepted the audit objection and stated (November 2008) that Rs. 1.54 crore (545 cases) and Rs. 1.72 crore (1,238 cases) have been recovered from owners of PTVs and GTVs respectively. A report on recovery in the remaining cases has not been received (November 2008).

4.2.8.2 Non-recovery of passenger tax from GSRTC and AMTS

Section 3 of the Bombay Motor Vehicle (BMV) (Taxation of passenger) Act, 1958 and Rules made thereunder provide for levy of tax on all passengers carried by a stage carriage at prescribed rate from the fleet owners, with provision for interest and penalty on delayed payments.

Test check of the records (March 2008) revealed that GSRTC and AMTS did not pay passenger tax of Rs. 200.60 crore collected from the passenger for the period from 2002-03 to 2006-07. Besides, interest and penalty of Rs. 63.74 crore was not demanded. GMVD did not initiate action to recover passenger tax alongwith interest and penalty. The BMV (Taxation of Passenger) Act governs the levy and collection of passenger tax and the fare income received by the said fleet owners is inclusive of tax element. Allowing anyone, especially public bodies, to collect but not to remit it in to the state exchequer is a violation of legislative mandate on MVT revenue receipts, for which GMVD is both directly and constructively responsible. Retention of collected tax revenues by GSRTC and AMTS also amounts to temporary misappropriation of government revenues.

GMVD stated (March 2008) that they (did issued demand notices to GSRTC and AMTS but) “could not take strict action as GSRTC and AMTS were public utility service”. They further stated (September 2008) that, demand notice for passenger tax including interest and penalty has now been raised to GSRTC and AMTS. A report on recovery has not been received (November 2008).

4.2.8.3 Non-cross verification of no dues certificates (NDC)

Rule 58 of the Central Motor Vehicles (CMV) Rules, 1989 and Section 48 of the Motor Vehicle (MV) Act, 1988 provides for issue of ‘No Dues Certificate’ (NDC) to the concerned RTO in case of transfer of vehicle to other district due to change of ownership or residential address, so that the receiving RTO could collect tax of transferred vehicle.

⁶ Ahmedabad, Amreli, Anand, Bardoli, Bharuch, Bhavnagar, Bhuj, Dahod, Gandhinagar, Godhara, Himmatnagar, Jamnagar, Junagadh, Mehsana, Nadiad, Navsari, Palanpur, Patan, Porbandar, Rajkot, Rajpala, Surat, Surendranagar, Vadodara and Valsad

Cross check of NDC issued due to change of ownership/address by RTOs⁷ of four major cities showed that NDC issued for 55 vehicles were not received by the receiving RTO either from the owner of the vehicle or issuing RTO. This resulted in non-realisation of tax of Rs. 47.33 lakh.

After this was pointed out in March 2008, the department stated (November 2008) that all RTOs/ARTOs were instructed to issue NDC to receiving RTO, in case of transfer of ownership or address change to safeguard all the dues and to endorse registration certificate to that effect.

4.2.8.4 Non-recovery of MVT on non-transport vehicles

Section 3 and 4 of the BMVT Act require owners of non-transport vehicles (cranes, compressors, rigs, excavators, loaders, etc.) to pay tax six monthly/annually in advance. The law also empowers competent GMVD authorities to detain defaulting vehicles.

Test check of the records of five RTOs⁸ revealed that in 102 cases between April 2005 and March 2008, 98 vehicle owners did not pay tax after payment of few instalments and four vehicle owners did not pay tax at all. The department did not initiate any action to recover the dues. This resulted in non-recovery of tax of Rs. 26.49 lakh.

After this was pointed out in March 2008, the department accepted (April 2007 to May 2007) the objection in 12 cases and recovered Rs. 4.01 lakh. A report on recovery in the remaining cases has not been received (November 2008).

4.2.8.5 Short levy of MVT on registration of imported private vehicles

Section 3 and 4 of the BMVT Act prescribes that tax shall be levied on imported vehicles at double the rate prescribed for domestic vehicles.

Test check of the records of nine RTOs⁹ and CoT, Gandhinagar revealed under assessment of Rs. 71.98 lakh in 71 imported vehicles either due to undervaluation or incorrect application of rate of tax.

After this was pointed out in March 2008, the department accepted (November 2008) the observation and recovered Rs. 2.96 lakh in 24 cases in respect of RTO Godhra and Surat. A report on recovery in the remaining cases has not been received (November 2008).

4.2.8.6 Non-recovery of tax from school buses

Section 3 and 4 of BMVT Act read with notification of March 2000 provides to levy concessional tax rates for the school buses. The school buses owned by educational institutions are charged tax at the concessional annual rate of Rs. 200 per person (sitting capacity of the vehicle) and at the rate of Rs. 500 per person from other operators of school buses. Delay attracts simple interest at the rate of two *per cent* for each month on the amount of tax due.

⁷ Ahmedabad, Rajkot, Surat and Vadodara

⁸ Bhuj, Jamnagar, Nadiad, Surat, and Vadodara

⁹ Ahmedabad, Bharuch, Godhra, Himatnagar, Mehsana, Nadiad, Rajkot, Surat and Vadodara

Further, penalty at the rate of two *per cent* for each month, not exceeding 25 *per cent* of tax is also leviable.

Test check of the records revealed that annual tax due from 174 school buses of other pliers registered with 11 RTOs¹⁰ was Rs. 49.20 lakh including interest and penalty.

After this was pointed out in March 2008, the department accepted (November 2008) the observation and recovered Rs. 18.69 lakh (81 cases) in RTO Ahmedabad, Bhuj, Mehsana, Rajkot, Surat, Vadodara and Valsad. A report on recovery in the remaining cases has not been received (November 2008).

4.2.9 Short collection of fees

The MV Act, 1988 and Rules made thereunder provide for collection of various fees for issue of certificate of fitness, national permit, licence for motor driving training school, trade certificate, etc. The collection of fees was less and there was no proper mechanism to follow realisation of various fees. Audit found non-realisation of fees totalling Rs. 16.75 crore in cases test checked described below:

4.2.9.1 Non-renewal of fitness certificate

Rule 62 and 81 of CMV Rules, 1989 provide that every public transport vehicle has to obtain certificate of fitness annually by payment of fees after completion of two years of registration. Section 56 of the MV Act, 1988 prohibits plying of vehicles on roads without the fitness certificate.

Test check of the records in 23 RTOs¹¹ disclosed that 3,29,337 vehicle owners did not present their vehicles for inspection for issue of fitness certificates. RTOs also did not issue any notices to them. The fees recoverable in those cases were Rs. 12.15 crore as worked out by Audit. There was no structured mechanism in GMVD to record and follow up the requirement of obtaining the fitness certificate. Audit could not, therefore, determine the loss of revenue on account of non-inspection of vehicles. Financial loss is only a pointer to the greater failure of GMVD in allowing vehicles to ply without fitness certificate, with serious implications on the road safety.

After this was pointed out in March 2008, the department stated (November 2008) that all the provisions related to transport vehicles put burden on the owner of a transport vehicle to get the certificate of fitness renewed and if he fails or ignore to renew it and booked on road, there are penal provisions provided in the MV Act. The reply is not tenable as compliance of the provision of said Act is mandatory for the owner in cases of expiry of fitness certificate, and the department should take suitable action to implement the same for road safety.

¹⁰ Ahmedabad, Bardoli, Bhavnagar, Bhuj, Gandhinagar, Junagadh, Mehsana, Rajkot, Surat, Vadodara and Valsad

¹¹ Ahmedabad, Amreli, Anand, Bharuch, Bhavnagar, Bhuj, Dahod, Gandhinagar, Godhara, Himmatnagar, Jamnagar, Junagadh, Mehsana, Nadiad, Navsari, Patan, Porbandar, Rajkot, Rajpipla, Surat, Surendranagar, Vadodara and Valsad

4.2.9.2 Non-renewal of national permit

The MV Act, 1988 requires a public transport vehicle plying in more than three states to obtain national permit and pay an annual fee in the range of Rs. 1,500 to Rs. 5,000 per state. GMVD charges an additional fee of Rs. 500 for authorisation of national permit every year, where it authorises the national permit. This authorisation is a continuous process unless the period expires or permits surrender.

Test check of the records of 21 RTOs¹² revealed that in 1,030 cases, the owners of public vehicles did not apply for renewal of national permits. The amount of fees due from them was Rs. 15.61 lakh for the State and Rs. 4.25 crore towards composite fees pertaining to the other states. RTOs did not have a system to follow up annual authorisations on due dates and to recover prescribed fees.

After this was pointed out in March 2008, the department accepted (November 2008) the observation and stated that suitable instructions would be issued to keep records of national permit vehicles and to devise system for timely renewal of national permit authorisation. A report on recovery in these cases has not been received (November 2008).

4.2.9.3 Non-renewal of licence of motor driving training school

Rule 25 of the CMV Rules, 1989 provides that motor driving training schools need to obtain a licence from RTO and renew it every five years on payment of prescribed fee.

Test check of the records disclosed that 169 training schools of seven RTOs¹³ did not apply for renewal of licence on expiry and continued to function. Absence of follow up mechanism resulted in loss of revenue of Rs. 6.51 lakh.

After this was pointed out in March 2008, the department accepted (November 2008) the observation and recovered tax of Rs. 35,500 in 14 cases in respect of RTO Ahmedabad, Godhra, Nadiad, Rajkot and Surat. A report on recovery in the remaining cases has not been received (November 2008).

4.2.9.4 Non-renewal of trade certificates

Rule 37 and 81 of the CMV Rules, 1989 provide that every trader in vehicles needs to obtain a trade certificate to be renewed annually on payment of prescribed fee.

Test check of the records of 11 RTOs¹⁴, revealed that RTOs had not renewed 'trade certificates' of 615 traders. This resulted into non-recovery of renewal fee of Rs. 12.44 lakh.

¹² Ahmedabad, Anand, Bardoli, Bharuch, Bhavnagar, Bhuj, Dahod, Gandhinagar, Godhara, Himmatnagar, Jamnagar, Mehsana, Nadiad, Navsari, Palanpur, Porbandar, Rajkot, Surat, Surendranagar, Vadodara and Valsad

¹³ Ahmedabad, Bhavnagar, Godhra, Nadiad, Rajkot, Surat and Vadodara

¹⁴ Ahmedabad, Bharuch, Bhavnagar, Dahod, Gandhinagar, Godhara, Himmatnagar, Nadiad, Rajkot, Surat and Vadodara

After this was pointed out in March 2008, the department accepted (November 2008) the observation and recovered Rs. 1.20 lakh in 133 cases. A report on recovery in the remaining cases has not been received (November 2008).

4.2.10 Evasion of entry tax

Gujarat Government (Sales Tax Department) decided (September 2001) to levy entry tax at the rate 12 *per cent* on motor vehicles brought from other states in Gujarat within 15 months from the date of its registration. The GMVD instructions (October 2003) provided that RTOs should verify payment of entry tax by demanding prescribed documents from the vehicles owners.

Test check of the records revealed that 141 motor vehicles brought from other states between 2002-03 and 2006-07 into the jurisdiction of 12 RTOs¹⁵ in the border districts of Gujarat were registered without obtaining proof of payment of entry tax. Tax involved works out to Rs 1.83 crore.

After this was pointed out in March 2008, the department stated (November 2008) that although GMVD was not directly concerned with the realisation of the entry tax, however, instructions have been issued to all concerned RTO/ARTO to verify that the same has been duly paid before registering any vehicle within the State. Thus, due to lack of coordination between these two departments, proper recovery of due entry tax could not be ensured.

4.2.11 Non-levy of service charges

Section 12 of the BMVT Act prescribes that the tax arrears are to be recovered as arrears of land revenue. Further, Rule 117C of Gujarat Land Revenue Rules, 1972 provides to recover five *per cent* of service charges from the defaulters as cost of collections.

Test check of the records disclosed that 15 RTOs¹⁶ did not demand service charge of Rs 64.73 lakh in 5,621 cases.

After this was pointed out the department stated (September 2008) that necessary instructions have been issued to all Registering Authorities to recover the service charges.

4.2.12 Non-disposal of seized vehicles

Section 12, 12A and 12B of BMVT Act, 1958 empowers taxation authorities to detain and keep in custody the vehicles of the owners who defaulted in payment of the Government dues. In case of non-payment, the Act empowers the Mamlatdar (Recovery) to dispose of the vehicle by way of sale in auction after fixation of upset price of the vehicle. However, the Act does not stipulate any time limit for auction or sale of the seized and detained vehicles.

Test check of records of 13 RTOs¹⁷ revealed that 147 vehicles were detained during 2001-02 to 2006-07 and kept in custody of the department for

¹⁵ Ahmedabad, Amreli, Anand, Bhavnagar, Bhuj, Dahod, Gandhinagar, Nadiad, Porbandar, Rajkot, Surat, and Vadodara

¹⁶ Ahmedabad, Amreli, Bhavnagar, Bharuch, Bhuj, Godhra, Himatnagar, Nadiad, Palanpur, Patan, Rajkot, Surat, Surendranagar, Vadodara and Valsad

¹⁷ Ahmedabad, Anand, Bardoli, Bhavnagar, Godhara, Jamnagar, Junagadh, Mehsana, Navsari, Porbandar, Surat, Vadodara and Valsad

non-payment of tax and other dues. In 11 RTOs, MVT of Rs. 72.15 lakh was outstanding against owners of 70 vehicles. In other two RTOs, details of tax dues outstanding against the owners were not available in respect of 77 vehicles. Audit noticed that the dues of 147 vehicles were pending disposal for period ranging between one to six years. GMVD had no mechanism for disposing of the seized or detained vehicles after a given period and for adjusting the proceeds against outstanding dues. It did not have information about the number of seized vehicles awaiting disposal in the State and the expenditure incurred on warehousing the seized vehicles.

After this was pointed out in June 2008 the department stated that (November 2008), 50 vehicles in respect of cases of RTO Ahmedabad, Godhra, Mehsana and Nadiad have been disposed of through public auction and an amount of Rs. 22.55 lakh has been deposited into Government Account and procedure is under process in remaining RTOs and would be intimated in due course.

4.2.13 Internal control mechanism

The internal control mechanism was weak, as is clear from various instances cited in the forgoing paragraphs. Information and communications technology, which could have been used as a cost effective and efficient tool of internal control, was virtually dysfunctional in GMVD. Other instances indicative of weak internal controls are as follows:

4.2.13.1 Flawed revenue recovery process

Submission of proof of address is a pre-requisite to register a motor vehicle. This helps the department to initiate follow up action on annual tax and fee payments. The Act requires RTOs to issue Revenue Recovery Certificate (RRC) against defaulters after one month of non-payment of MVT. At periodical intervals (differs from RTO to RTO), RTO prepares closing of cases in which RRC is to be issued. Out of these cases, the RTO issues RRC on selective basis. There is no system of watching as to how many RRCs were due and how many were issued. Audit scrutiny revealed that in several cases RRCs were issued much after the prescribed time and often with incorrect mailing address. Before issue of certificate of registration, RTO has to verify evidence of address by way of any one of the documents specified in the CMV Rules. However, RTOs failed to verify and maintain updated records of address. The following are the illustrative cases seen in audit test check:

- 22,108 cases of RRC pertaining to 16 RTOs¹⁸ were outstanding as on 31 March 2007. Out of these, in 5,389 cases having tax implication of Rs. 21.69 crore, RRCs were issued late with delay ranging from two months to 14 years.
- Postal department returned demand notices to the vehicle owners in 575 cases due to incorrect address. GMVD did not have any mechanism to update the address of owners of vehicles. Recovery action of revenue of Rs. 6.45 crore in these cases thus failed.

¹⁸ Anand, Bardoli, Bhavnagar, Bharuch, Bhuj, Godhra, Himatnagar, Jamnagar, Junagadh, Mehsana, Patan, Rajkot, Surat, Surendranagar, Vadodara and Valsad

After this was pointed out (March 2008) the department replied (September 2008) that the process of recovery has been initiated in almost all the cases which are at different stages. Efforts would be made to expedite them by constant monitoring and augmentation of revenue staff. Further report has not been received (November 2008).

4.2.13.2 Weak reporting system between RTOs and CoT

Scrutiny of figures of registration of vehicles during 2002-03 to 2006-07 furnished by the respective RTOs and that furnished by the CoT disclosed that number of vehicles registered as per details furnished by 15 RTOs was overstated by 11,560 than that furnished by CoT. Similarly number of vehicles registered as reported by CoT was overstated by 24,941 than that recorded by nine RTOs. This indicated weakness in reporting systems from RTO to CoT.

4.2.13.3 Non-preparation of Departmental Manual

GMVD does not have any departmental manual setting out the functions and responsibilities of staff of all categories in accordance with instructions issued by the Government/Department, which could act as a key document for perspective planning, reference, and internal control. Report of the Comptroller and Auditor General of India (Revenue Receipts) for the year ended 31 March 1996 (vide paragraph 4.2.13(c)) had brought that to the notice of the department/Government. A departmental manual would be also a good beginning point to take up business process reengineering as a precursor to a meaningful computerisation.

After this was pointed out in March 2008, the department stated (November 2008) that the work of preparation of manual was under active consideration of the department.

4.2.13.4 Weak internal audit

Internal audit arrangements in GMVD are not commensurate with the size of its operations. It does have a Chief Internal Audit Officer reporting to Joint Director (Ideally, internal audit chief should report directly to CoT). There are three audit parties consisting of one Senior Auditor and one Sub-Auditor. As against prescribed annual audit for RTO and check posts, GMVD provided only biennial audit. Even with the diluted internal audit, there were huge arrears in internal audit.

During the period between 2002-03 and 2006-07, 131 units were due for inspection (including units in arrears). Internal audit wing could carry out inspection of 16 units, resulting in huge arrears of 115 units. Those 16 audit reports contained 263 paras, out of which action was pending on 248 paras. None of the systemic issues highlighted in this review were brought out by GMVD's internal audit.

After this was pointed out the department replied (November 2008) that there was no specific departmental audit manual prescribed and hence there was no specific format for the reporting of audit observation. Department did not furnish reasons for pending audit of 115 units and 248 outstanding paras.

4.2.14 Conclusion

Maintenance of records and monitoring of collection of tax and fees was not proper. Enforcement activity and action for recovery of outstanding tax was not effective. Internal control and internal audits performance was not commensurate with the size of its operations.

4.2.15 Recommendations

The State Government/GMVD may consider to:

- plan GMVD's annual targets of MVT collections with due diligence based on past collections and future prospects in a way that captures the obvious growth dynamics in vehicular traffic;
- monitor MVT collections through GMVD's supervisory hierarchy with reference to the well-considered targets; and, to propose for consideration of the Government such policy options as would improve overall enhancement of MVT from time-to-time, in a way that would connect with the growth dynamics of vehicular traffic;
- upgrade GMVD's enforcement mechanism with due regard to possibilities offered by appropriate information and communications technology applications;
- issue instructions for maintenance of the records and prescribe a return for monitoring the process of timely renewal of the fitness certificates;
- issue instruction to maintain records of National Permit vehicles and to devise system for timely renewal of National Permit authorisation so as to plug leakage of revenue;
- strengthen GMVD's internal control procedures and internal audit systems, and plug the leakage and loss of revenue; and
- put in place a proper mechanism for disposal of the seized and detained vehicles to facilitate timely action for disposal of the vehicles.

CHAPTER-V : STAMP DUTY AND REGISTRATION FEES

5.1 Results of audit

Test check of the assessment records in the offices of Sub-Registrars/Dy. Collectors (VOP) conducted during 2007-08 disclosed underassessment of Rs. 91.09 crore in 284 cases. These cases fall under the following categories:

(Rupees in crore)			
Sl. No.	Category	No. of cases	Amount
1.	Misclassification of documents	51	31.63
2.	Undervaluation of property	41	5.89
3.	Irregular acceptance of time barred cases resulting in postponement of realisation of duty	3	0.78
4.	Under assessment of stamp duty on instrument of mortgage deeds	16	0.32
5.	Other irregularities	172	52.05
6.	IT Review of implementation of Registration of Documents System	1	0.42
Total		284	91.09

During the year 2007-08, the department accepted under assessment of Rs. 5 crore in 281 cases and recovered Rs. 5.62 lakh in 11 cases.

An IT review of **implementation of Registration of Documents System** and few illustrative cases involving Rs. 77.79 crore are mentioned in the following paragraphs:

5.2 Implementation of Registration of Documents System

Highlights

The system software lacked adequate system security. The department has not laid down any security policies and procedures.

(Paragraph 5.2.7)

The input controls in system are inadequate and weak, which may cause misleading/loss of data, leading to loss of revenue. The system did not cover the requirement of classification of documents essential for determining the duty leviable.

(Paragraph 5.2.8)

The centralised data bank was not maintained. Adequate backup of database was also not maintained.

(Paragraph 5.2.12)

The department does not have any training plan to run the system by its staff.

(Paragraph 5.2.14)

5.2.1 Introduction

The Government of Gujarat (February 2005) implemented a new system 'Registration of Documents System', designed by NIC¹, in two sub-registrar offices (SROs) on pilot basis in August 2003. The system after initial implementation in 25 SROs was later extended to all the other SROs from April 2007.

The implementation of the system is outsourced to a service provider, who is responsible for providing, installing and maintaining the required hardware, system software, data entry, scanning of documents and maintaining data backup.

5.2.2 Registration of Documents system (system)

The system was to cover all the activities related to registration i.e. market value calculation of immovable property, calculation of stamp duty and registration fee, scanning of the documents and generation of various reports for administration as well as for public. The documents filed by the executants is registered; after due verification of the document by the sub-registrar and on payment of required registration fee and duties determined by him. The document is then scanned and data pertaining to the registration is entered in the system by data entry operator (DEO) and the original document is endorsed and returned to the applicant.

5.2.3 Organisational set up

The overall control on levy and collection of stamp duty and registration fees rests with the Revenue Department at the Government level. The Inspector General of Registration (IGR) is the head of the office and is assisted by one Deputy IGR, four Assistant IGRs and 25 Inspectors of Registration. The sub-

¹ National Informatics Centre

registrars report to the Inspector of Registration. There are 150 SROs in the State.

5.2.4 Scope of audit and methodology

The present review conducted in June 2008 covered the implementation of the system in IGR office during the period May 2005 to March 2008. During the review, data collected from three SROs in Ahmedabad (City, Paldi and Wadaj) for the period from May 2005 to March 2008 was analysed. Records/data were test checked using Standard Audit Analysis Software viz. Structured Query Language (SQL) and Interactive Data Extraction and Analysis (IDEA) package. Audit applied both substantive and compliance tests to evaluate the extent of reliability of various controls.

5.2.5 Audit objectives

The review was conducted with a view to:

- examine the implementation of system with respect to assessment and collection of stamp duty and registration fees;
- examine and evaluate the controls provided in system, for safeguarding the data and the programme, for their availability and effectiveness;
- analyse the data captured by system and other related sources to check for inconsistencies and resultant loss of revenue; and
- evaluate the audit trails as existing in system.

5.2.6 Acknowledgement

Indian Audit and Accounts Department acknowledges the co-operation of the IGR office in providing necessary information and records for audit. Audit findings, on the review were reported to the Government in August 2008. Reply of the Government has not been received (November 2008).

Audit Findings

5.2.7 Access controls

Information Technology (IT) controls in a computerised system are the physical and programmed methods, policies and procedures that ensure the protection of the entity's assets, the accuracy and reliability of its records and the operational adherence to the management standards.

5.2.7.1 Physical Access Controls

Audit observed that no physical access controls existed and any person could enter the area where computers were kept for recording the transactions. It was also observed in the three SROs in Ahmedabad (City, Paldi and Wadaj) that separate secured places were not provided for the server and data storage. The contract agreement with the service provider also did not mandate this.

5.2.7.2 Logical Access Controls

- The system software needs User ID and password to access the system, but the backend data base instance is not locked by NIC. Thus, the

service provider has full unrestricted access to the database, who can change any data without leaving any trace or track of the changes made.

- The IGR office did not have any system security policies and procedures regarding system security login, password etc.
- The software requires User ID and password for its access. The system software allows the password which can even be of just one character and only alphabets instead of the general password policy requirement of minimum six to eight characters and a combination of alphabets, number and special characters. In data analysis of the three SROs, it was observed that out of 57 users name created, 15 had single character passwords.
- The system software should be capable of maintaining audit trail of all functional activities in the system like login time, logout time, log of each changes made by user etc. An analysis of the login table in the SROs showed that the logout time was not recorded.
- Generally, the user rights should be based on need to know basis. In data analysis of the SROs (City, Paldi, Wadaj), it was however noticed that user were assigned rights to all modules except master and initial setup. A user name 'Guest' with a universal password 'g' and all rights except initial setup and master data was found in all places where the system was installed.
- A secure system should restrict the login time based on the server system time. An analysis of the log tables revealed login at odd hours like 00:24 etc. In SRO, Wadaj, the records show that 1,591 logins were made outside office working hours (*i.e.* 10:00 am to 6:00 pm) out of which 1,519 instances were Guest login.

5.2.8 Input controls and data validation

The system operation is handled by the DEO of the service provider who had unrestricted access to the system and its backend data. The department do not have mechanism to check/validate the data entered by the DEO. As such possibility of cases of under valuation or misuse or fraud cannot be denied. The following input control weakness was observed in the system.

5.2.8.1 Incomplete master database tables pertaining to *Jantri*

The system has no provision for verification of the *jantri* (schedule of rates) entered in the master tables while calculating market value of property. In several cases, in the absence of integration of *jantri* rates into the system, these were fed manually where the possibility of human error cannot be denied.

5.2.8.2 Land classification data not maintained

Master database has no provision for entry of the details of purpose of the non-agricultural land ('residential', 'commercial', 'industrial' etc.) for which permission is granted by the Collector. Due to lack of this information, sub-registrar has to rely upon the information furnished by the executants for the purpose of valuation.

5.2.8.3 Mutation of ownership data not maintained

There is no provision for integration of the system with the Collector/Mamlatdar offices to give effect to the changes in the ownership by mutation entries due to application of Section 2 (g) of the Bombay Stamp Act.² As such incorrect mutation entries and consequent evasion of stamp duty and registration fees could not be ruled out.

5.2.9 Processing controls

5.2.9.1 No provision for entry of documents containing distinct matters

The software does not have provision for registration under more than one article as provided under Section 5 of the Bombay Stamp Act, 1958. Some instances where such document has been registered under one Article only resulting in short levy of stamp duty and registration fees of Rs. 42.15 lakh is detailed in Annexure II.

5.2.9.2 Inadequate validation checks

In the receipt of registration fees module, it was observed that stamp duty, registration fee and other fees, though displayed by the system, can be edited by the DEO. In the test data fed with a consideration of Rs. 2,50,000, the system accepted the change in registration fee as Rs. 25,000 and printed the receipt. In the office of the SRO, Paldi, it was observed that even the rates of registration and stamp duty were not displayed on the receipt.

5.2.10 Output controls

In the generation of reports meant for Income Tax Department, for enabling them to catch offenders of income tax evasions, the software throws an error message and quits. Also in consolidated reports which involve data for more than a day, the system generated the reports after prolonged time or just hangs.

5.2.11 Change management system

It was observed from the version table that the software had five version changes after its implementation from April 2005. No formal system of approval of changes by the IGR was established.

5.2.12 Internal controls

5.2.12.1 No segregation of duties

The service provider had engaged a single or double DEO for the entire operation. The single DEO has unrestricted access to all the system modules and backend data also, which increases the risk of data mishandling and fiddling.

5.2.12.2 Non-maintenance of the centralised data bank

The system envisaged creation of a centralised data bank to provide a decision support system for the department. However neither a central database nor a

² As per explanation 1, in case of transfer of property by a co-owner to another co-owner of the property, the transactions are liable to stamp duty and registration fees.

database at district levels has been created, depriving the department of a decision support system and data security.

5.2.13 Outsourcing

5.2.13.1 The service provider has to transfer the data on daily basis to the servers at district level and in the IGR office. However, the service provider did not send the same to IGR office but sent only soft copy of scanned documents on monthly basis.

5.2.13.2 The agreement with the service provider does not provide for delivery of the MS-SQL server data to the sub-registrar on termination/expiry of the agreement.

5.2.14 Training

5.2.14.1 The system after initial implementation and maintenance by the service providers for five years was to be run by departmental staff. However, the Department has neither created pool of sufficiently trained IT staff nor has any plans for training of the staff in the new system.

5.2.14.2 As per the system requirement, the DEO can access the system only after the sub-registrar using his User ID and password starts the system. Further, master data like rates of duty, *jantri* etc. can be accessed only by the sub-registrar. However, the department had not conducted any training for the sub-registrars for the use of the system.

5.2.14.3 The DEOs and the service providers need to be well conversant with the system for the smooth operation of the system. Department had not imparted any training to the service providers and their DEOs.

5.2.15 Business continuity plan and disaster recovery plan

5.2.15.1 The IGR office has not drawn up a formal business continuity and disaster recovery plan.

5.2.15.2 There was no record in the IGR office indicating that the backup of scanned documents had ever been tested.

5.2.15.3 As the sub-registrar or the IGR office does not have the back up of the SQL database in the absence of any alternate arrangement in case of loss of data or termination of the services of the service provider, the database cannot be restored.

5.2.16 Summary of recommendations

Following recommendations are proposed to improve the system.

- the department must have IT strategy to keep abreast with changing Information and Communication Technology environment;
- the system should have proper controls to ensure security by implementing password policy, restricted access to sensitive database;
- the reliability of data can be maintained by making necessary changes in various modules;
- integrity of data can be safeguarded by having a sound policy, train departmental staff to reduce dependency on outside agency; and

- urgent steps need to be taken to incorporate provisions for maintaining backup with IGR.

5.3 Non-realisation of stamp duty due to non-execution of lease deed

The Petroleum and Natural Gas Rules, 1959 empower the State Government to grant a mining lease of petroleum and natural gas on land within the State, with the approval of the Central Government. The Registration Act, 1908, requires that deeds conveying lease hold rights for period beyond one year should be registered compulsorily. The Bombay Stamp Act, 1958 (BS Act), applicable to Gujarat, provides for levy of stamp duty in case of lease of mines in which royalty or share of produce is received as rent or part of a rent at the prescribed rate on average annual royalty. The Superintendent of Stamps has additionally issued instructions which provide for levy of stamp duty in case of lease of mines on aggregate of annual dead rent, annual royalty payable during the first year, surface rent and deposit.

Test check of the records of the Director of Petroleum, Gandhinagar for the period between 2002-03 and 2006-07 revealed that the Government of Gujarat had sanctioned 102 mining leases of oil and natural gas to ONGC Ltd. and three³ private oil companies during the period from 1 April 2002 to 31 March 2007, with the condition that the lessee shall execute the prescribed lease deed. In another 12 cases, the Director of Petroleum allowed extraction of oil and natural gas to ONGC Ltd. without the sanction of the State Government. In none of these 114 leased mining sites, did the Director of Petroleum get the lease deeds executed by the lessees, leading to loss of stamp duty and registration fees totaling Rs. 70.63 crore. The loss of revenue would be much more if all the mining leases sanctioned through the Director of Petroleum are taken into account beyond the cited period covered by audit, as audit found no systemic arrangement in place either with the Director of Petroleum or with the Superintendent of Stamps to capture this revenue.

Audit reported the matter to the department in December 2007 and to the Government in May 2008. The reply of the Government (July 2008) does not touch upon the essential audit point of not getting the lease deed executed from the mining lessees.

5.4 Non-levy of stamp duty on instruments of amalgamation of the companies

The Indian Registration Act (IR Act), 1908 provides that instruments of conveyance should be registered compulsorily after payment of the registration fees. Further, Section 394 of the Companies Act, 1956 provides that every amalgamation order of the High Court is to be filed with the Registrar of Companies (RoC) within 30 days for registration of the amalgamated company. The BS Act provides that stamp duty on conveyance, relating to an order of the High Court in respect of amalgamation of companies, is leviable at the prescribed rate on the market value of shares/immovable property on the appointed date mentioned in the scheme of amalgamation.

³ Joshi Technology International Incorporation, Niko Resources Ltd. and Selan Exploration Technology Ltd

Test check of the records of the Superintendent of Stamps (SoS), Gandhinagar in January 2008 revealed that the department did not set up system for obtaining periodical information of amalgamation of companies from the RoC. From the records available with the RoC it was noticed that 91 cases of amalgamation were registered with the RoC from 2004-05 to 2006-07. Cross checking of these cases with those adjudicated by the SoS revealed that in 48 cases, the transferor companies did not pay stamp duty and registration fees on orders issued for reconstruction or amalgamation as these orders were never presented before the SoS for adjudication. This resulted non-levy of stamp duty and registration fees of Rs. 32.68 crore in 10 cases. In remaining 38 cases, non-levy could not be quantified in absence of details of consideration paid and true market value of the property transferred.

The matter was reported to the department in January 2008 and the Government in May 2008; their reply has not been received (November 2008).

5.5 Short levy of stamp duty and registration fees due to misclassification of deeds

Section 3 of the BS Act provides that every instrument mentioned in Schedule I shall be chargeable with duty at the prescribed rates. For the purpose of levy of stamp duty, an instrument is required to be classified on the basis of its recitals given in the document and not on the basis of its title. Registration fees on such documents are also to be charged *ad valorem* on the amount of the purchase money/loans.

During test check of the records of 22 SROs⁴ and Additional Superintendent of Stamps, Gandhinagar, it was noticed that 138 documents registered between 2005 and 2006 were classified on the basis of their titles and stamp duty and registration fees were levied accordingly. Scrutiny of recitals of these documents revealed that these documents were misclassified. This resulted in short levy of stamp duty and registration fees of Rs. 24.58 crore as mentioned below:

(Rupees in crore)					
Sl. No	Location	No. of documents	Consideration/amount of loan	Short levy	Nature of irregularity
1.	Ahmedabad, Bhavnagar, Gandhinagar and Vadodara	66	282.05	21.47	Though agreements contain recitals such as, possession of the property will be handed over after execution of the agreement, all taxes will be born by purchasers henceforth, vendor will execute irrevocable power of attorney in favour of purchasers, etc., duty was levied as agreement instead of as conveyance.

⁴ Ahmedabad II, III, and VII, Bhavnagar I, Dabhoi, Dhandhuka, Gandhinagar, Jamnagar II, Kadi, Kalol, Kalol (NG), Mehsana, Navsari, Palanpur, Sanand, Savali, Surat II, Surendranagar, Vadodara I, II and IV and Waghodia

2.	Ahmedabad, Banaskantha, Gandhinagar, Jamnagar, Mehsana, Navsari and Vadodara	31	41.20	2.79	Though recitals in respect of handing over possession, acceptance of money by developers from prospective buyers, payment of all taxes by developers after execution of agreement, giving irrevocable power of attorney to developers etc. clearly indicated conveyance of property, stamp duty was levied as development agreements.
3.	Ahmedabad, Gandhinagar, Mehsana, Navsari, Surat, Surendranagar and Vadodara	40	26.09	0.26	Though recitals contained conditions such as payment of compound interest, handing over demand promissory note, power of attorneys, etc., clearly indicating creation of charge over properties, the document was classified as equitable mortgage instead of mortgage.
4.	Gandhinagar	1	230.50	0.06	Though recitals indicated creation of further charge on an already existing mortgage on the property on a portion of loan, duty was levied on entire amount of loan treating the property under a new mortgage.
Total		138	579.84	24.58	

After the cases were pointed out between May 2006 and January 2007, the department accepted audit objection of Rs. 4.64 lakh in eight cases. A report on recovery and reply in the remaining cases has not been received (November 2008).

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

5.6 Non/short recovery of stamp duty on notes sent by brokers/sub-brokers to their principals intimating purchase/sale of shares

The BS Act provides to levy stamp duty at the prescribed rate on note sent by a broker/sub-broker to his principal intimating purchase/sale of shares on account of the principal. Further, non-payment of appropriate stamp duty attracts interest at the rate of 15 *per cent* per annum on the amount due.

During test check of the records of two Dy. Collectors⁵ (VOP) it was noticed between August and September 2007 that five brokers/sub-brokers of shares carried out cash/delivery based transaction and forward contract worth Rs. 19,151.44 crore on account of their respective principals between 2003-04 and 2006-07 and sent notes to that effect to their respective principals. However, the departmental officials either did not recover stamp duty or

⁵ Surat I and Vadodara I

recovered it at incorrect rate resulting in non/short recovery of stamp duty and interest of Rs. 6.43 crore.

After the cases were pointed out between August and September 2007, the department accepted (November 2007) the audit observation involving Rs. 4.05 crore in three cases. A report on recovery and reply in remaining cases has not been received (November 2008).

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

5.7 Short levy of stamp duty and registration fees on documents comprising several distinct matters

Section 5 of the BS Act provides that any instrument comprising or relating to several distinct matters is chargeable with the aggregate amount of the duties for which such separate instrument would be chargeable under the Act.

During test check of the records of 29 Sub-Registrars⁶, it was noticed between May 2006 and January 2008 that 143 documents comprising several distinct matters of immovable properties valued at Rs. 79.85 crore were charged to stamp duty and registration fees for only one matter/transaction resulting in short levy of stamp duty and registration fees of Rs. 5.66 crore. Some important cases noticed in 118 documents involving short levy of Rs. 5.18 crore in properties valued at Rs. 61.47 crore are mentioned below:

(Rupees in lakh)					
Sl. No.	Location	No. of documents	Value of property	Short levy	Remarks
1.	Ahmedabad, Banaskantha, Bhavnagar, Gandhinagar, Mehsana, Porbandar, Vadodara and Valsad	60	3,575.59	289.02	As documents contained two distinct matters, deemed conveyance between vendor and developer for entire property as mentioned in the document and present conveyance of property by vendor and developer to ultimate purchaser, stamp duty (SD) and registration fees (RF) were leviable on both the matters. It was levied only on the second matter.
2.	Ahmedabad, Banaskantha, Bhavnagar, Kheda, Mehsana, Navsari, Panchmahal, Patan and Vadodara	45	1,800.57	157.69	As documents contained two distinct matters, deemed conveyance between mortgagor (the defaulting company) and mortgagee (the Bank) and present conveyance of property by the Bank through auction to the purchaser, SD and RF were leviable on both the matters. It was levied only on second matter.

⁶ Ahmedabad III, IV, V and VII, Ankleshwar, Bhavnagar I, Bhuj, Dabhoi, Deesa, Gandevi, Gandhinagar, Godhara, Jamnagar, Kadi, Kalol, Kheda, Nadiad, Padra, Palanpur, Patan, Porbandar, Vadodara I, II, III and IV, Valsad, Vijapur, Visnagar and Waghodia

3.	Vadodara	13	771.20	71.11	The documents contained two distinct matters i.e. execution of a power of attorney for consideration and present conveyance of land and hence SD and RF were leviable on both matters. It was levied only on the second matter.
Total		118	6,147.36	517.82	

The payment of stamp duty and registration fees for only one matter/transaction resulted in less receipt of Rs. 5.66 crore (November 2008).

The matter was reported to the department between January and August 2006 and the Government in May 2008; their reply has not been received (November 2008).

5.8 Non-levy of service charge

Section 46(2) of the BS Act provides that all duties, penalties, interest and other dues required to be paid under the Act may be recovered by the Collector as arrears of land revenue. Further, Rule 117C of Gujarat Land Revenue Rules, 1972 provides that in cases, where recovery proceedings are to be initiated because of default in payment, five *per cent* of the dues recoverable as arrears of land revenue shall be recovered as service charge from the defaulters.

During test check of the records of eight Dy. Collectors⁷ (VOP), it was noticed between March and September 2007 that Rs. 29.35 crore was recovered in 28,301 cases during 2006-07 as arrears of land revenue from the defaulters. However, service charge was neither levied nor collected from such defaulters. This resulted in non-levy of service charge of Rs. 2.54 crore.

After the cases were pointed out between March and September 2007, the department accepted the audit observation involving of Rs. 56.62 lakh in 6,930 cases. A report on recovery and reply in remaining cases has not been received (November 2008).

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

5.9 Short levy of stamp duty and registration fees due to incorrect application of rate

The BS Act provides that lease including under lease or sublease and any agreement to let or sublet for a term in excess of 10 years but not more than 30 years attracts duty at the rate applicable to conveyance for twice the amount of average annual rent reserved. In case of lease of movable property, the Act provides to levy duty at the rate of two *per cent* on the amount of average annual rent.

During test check of the records of Additional Superintendent of Stamps, Gandhinagar, it was noticed in January 2007 in two adjudicated cases that

⁷ Ahmedabad I and II, Bhuj, Gandhinagar, Jamnagar, Navsari, Surat and Vadodara

lease agreements executed in February 2005 and May 2005 between two companies for 24 years and 11 months, and 26 years to provide facility for setting of power plants by a company at annual rent of Rs. 70.47 crore. Though lease agreements related to immovable property, duty was levied at the rate applicable to movable property. This resulted in short levy of stamp duty and registration fees of Rs. 2.47 crore.

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

5.10 Short levy of stamp duty due to undervaluation of properties

Provisions of the BS Act stipulates that if the officer registering the instrument has reasons to believe that the consideration set forth in the document presented for registration is not as per the market value of the property, he shall, before registering the document, refer the same to the Dy. Collector (VOP) for determining the market value of the property. The market value of the property is to be determined in accordance with the Bombay Stamp (Determination of Market Value of the Property) Rules, 1984.

During test check of the records of two Dy. Collectors⁸ (VOP) and 20 Sub-Registrars⁹, it was noticed between May 2007 and January 2008 that the market value of the property was determined incorrectly in 92 documents registered between 2003 and 2006. This resulted in short levy of stamp duty and registration fees of Rs. 1.47 crore as mentioned below:

(Rupees in lakh)				
Sl. No.	Location	No. of documents	Short levy	Nature of irregularity
1.	Amreli, Banaskantha, Bharuch, Gandhinagar, Godhara, Jamnagar, Navsari, Surat and Vadodara	60	97.37	The Government has prescribed <i>jantri</i> for determining market value of land and constructed properties respectively. Instead of adopting <i>jantri</i> , lesser value of the properties as shown in the documents was accepted.
2.	Mehsana	3	17.67	While calculating market value, entire cost of transaction is required to be taken into consideration. In these documents, additional amount to be paid by purchaser in the form of premium was not taken into consideration.
3.	Sabarkantha	1	10.39	The Sub-Registrar (SR) did not adopt general value of non-agricultural land in the vicinity which was higher than the rate adopted.

⁸ Gandhinagar and Navsari

⁹ Ankleshwar, Bharuch, Dahod, Deesa, Gandhidham, Gandhinagar, Godhra, Himatnagar, Jamjodhpur, Jamnagar II, Kadi, Kalol(NG), Kunkavav, Navsari, Padra, Palsana, Rajkot I, Vadodara I and IV and Vagra

4.	Godhara, Jamnagar and Vadodara	5	7.98	Though the deeds were executed for conveyance of non-agricultural land, while determining market value of land, rates prescribed for agricultural land were considered.
5.	Bharuch	3	2.91	While calculating market value, entire cost of transaction is required to be taken into consideration. In these documents, frontage charge to be paid by purchasers was not taken into consideration.
6.	Bharuch, Dahod and Rajkot	4	2.88	While calculating market value, entire area of land is required to be taken into consideration. In these documents, some portion of land was excluded while calculating market value.
7.	Bharuch	1	2.80	While calculating market value, neither the rate prescribed in the <i>jantri</i> was adopted nor the discount given to purchaser was taken into consideration.
8.	Vadodara	1	2.58	In case of sale of property of a company, value of property as fixed by Board of Director and mentioned in the document was not adopted while calculating market value.
9.	Sabarkantha	13	1.48	While calculating market value, the SR adopted incorrect/lowest rate of <i>jantri</i> and excluded certain portion of the land.
10.	Godhara	1	0.72	While calculating market value, only value of land was considered and value of properties attached to land was omitted.
Total		92	146.78	

After the cases were pointed out between May 2007 and January 2008, the department accepted audit observation of Rs. 11.01 lakh in 16 cases and recovered Rs. 1.75 lakh in seven cases. A report on recovery and reply in remaining cases has not been received (November 2008).

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

5.11 Non-realisation of revenue due to non-registration of documents

Section 17 of the IR Act, 1908 provides that registration of every document of sale, mortgage, lease or exchange of the property of the value of Rs. 100 or more is compulsory. Further, the BS Act empowers every person in charge of a public office to impound any instrument, produced before him in the performance of his functions, if it appears that such instrument is not duly stamped.

During test check of the records of three Collectors¹⁰ and three district development offices¹¹, it was noticed between November 2006 and January 2007 that in 13 cases, the concerned Collectors/District Development Officers, while according permission for non-agricultural purposes, did not impound the unregistered/unstamped irrevocable powers of attorney of properties valued Rs. 9.33 crore produced by the parties before them. Failure on the part of the departmental officials to exercise the powers conferred upon them under the BS Act, resulted in non-realisation of revenue in the form of stamp duty and registration fees of Rs. 82.46 lakh.

After the cases were pointed out between November 2006 and January 2007, the department accepted audit observations involving Rs. 15.61 lakh in four cases and recovered Rs. 2.61 lakh in three cases. A report on recovery and reply in the remaining cases has not been received (November 2008).

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

5.12 Non/short levy of stamp duty on allotment of Government land

As per the amendment to the BS Act in 2002, every instrument executed by or on behalf of the Government is chargeable to stamp duty at the rates specified in the Act. Accordingly, the Revenue Department instructed (April 2002) all competent authorities allotting Government land to state undertakings, corporations, companies, private parties to insert condition of payment of proper stamp duty in allotment letters.

During test check of the records of four Collector offices¹² and three taluka development offices¹³, it was noticed between February and November 2007 that in 274 cases of allotment of Government land measuring 4.80 lakh sq. mts. relating to period 2002-03 to 2006-07, condition of payment of stamp duty was not inserted in the *sanads*¹⁴. Possession of land was also handed over without realising stamp duty. *Sanads* executed between revenue officers and allottees of the land were not registered. This resulted in non/short levy of stamp duty and registration fees of Rs. 46.54 lakh.

After the cases were pointed out between February and November 2007, the department accepted audit observations involving Rs. 7.57 lakh in 260 cases and recovered Rs. 1.26 lakh in one case. A report on recovery and reply in the remaining cases has not been received (November 2008).

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

¹⁰ Anand, Junagadh and Vadodara

¹¹ Anand, Bharuch and Kheda

¹² Bhavnagar, Rajkot, Surat and Surendranagar

¹³ Jodia, Rapar and Vanthali

¹⁴ Sanad is an agreement in prescribed form containing conditions and restrictions of usage of land.

5.13 Non/short levy of stamp duty and registration fees on dissolution of partnership

The BS Act provides that where any immovable property is taken as share on dissolution of partnership by a partner other than a partner who brought that property as a share or contribution to partnership, stamp duty is leviable at the rate applicable to conveyance. In all other cases of dissolution of partnership, stamp duty is leviable at a fixed rate of Rs. 100 per document.

During test check of the records of two Sub-Registrars¹⁵, it was noticed between May and December 2007 that in four documents, though at the time of dissolution of partnership, the partner distributed among themselves immovable properties purchased by their respective firms, the departmental officials did not levy stamp duty at the rate applicable to conveyance. This resulted in non/short levy of stamp duty and registration fees of Rs. 27.36 lakh.

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

5.14 Non-levy of stamp duty due to incorrect exemption

The BS Act empowers the Government to reduce or remit stamp duty on any instrument or class of instrument from prospective or retrospective effect by an order published in the official gazette. The Government vide notification issued on 20 January 2001, exempted payment of stamp duty for a period of three years on conveyance or lease of land executed in favour of developer for development of info city project notified by the Government.

During test check of the records of Sub-Registrar Gandhinagar, it was noticed in October 2006 that a company executed three subleases cum conveyance deeds in favour of developers between October 2004 and January 2005 for an info city project at Gandhinagar. Though period of exemption was over, the departmental officials allowed exemption from payment of stamp duty on these subleases, which resulted in non-recovery of duty of Rs. 23.95 lakh.

The matter was reported to the department in July 2007 and the Government in May 2008; their reply has not been received (November 2008).

5.15 Loss of revenue due to grant of irregular benefit of amnesty scheme

The Government vide order in April 2006 introduced an amnesty scheme for the period between 1 May and 30 July 2006 by which 50 *per cent* of stamp duty and entire amount of interest were waived off, if the party paid the remaining amount of 50 *per cent* of stamp duty within the period of the scheme. The scheme was applicable to instruments which were presented for registration prior to 1 April 2000 and wherein order under Section 32A of the BS Act had been passed prior to 1 February 2006.

During test check of the records of two Dy. Collectors¹⁶ (VOP), it was noticed between August and September 2007 that in three cases, though parties did not

¹⁵ Rajkot I and Vadodara I

¹⁶ Navsari and Valsad

pay 50 per cent of the deficit duty within the prescribed time limit, the departmental officials granted the benefit of the amnesty scheme. This resulted in loss of revenue of stamp duty and interest of Rs. 10.34 lakh.

After the cases were pointed out between August and September 2007, the department accepted the audit observations involving Rs. 2.31 lakh in one case. A report on recovery and reply in the remaining cases has not been received (November 2008).

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

5.16 Non/short levy of stamp duty on delivery order

5.16.1 The BS Act provides to levy stamp duty on instrument entitling a person to the delivery of any goods lying in any dock or port or in any warehouse in which goods are stored. By an amendment made in April 2006, the Government of Gujarat enhanced rate of stamp duty on delivery of such goods from a fixed rate of Rs. 20 to Re. 1 for every Rs. 1,000 or part thereof.

During test check of the records of the Dy. Collector (VOP) Jamnagar, it was noticed in August 2007 that a cement company had taken delivery of coal and petcoke¹⁷ valued Rs. 66.23 crore lying at Bedi port between April and September 2006. The departmental officials did not levy stamp duty at prescribed rate on these delivery orders. This resulted in non-levy of stamp duty of Rs. 6.62 lakh.

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

5.16.2 By an amendment made in April 2006, the Government of Gujarat enhanced rate of stamp duty on delivery of goods lying in any dock or port or in any warehouse in which goods are stored, from a fixed rate of Rs. 20 to Re. 1 for every Rs. 1,000 or part thereof. Further, Superintendent of Stamp, Gandhinagar issued instructions in April 2006 to levy stamp duty on gross value of goods shown in delivery orders.

During test check of the records of two Dy.Collectors¹⁸ (VOP) it was noticed between August and September 2007 that in 22 delivery orders, the departmental officials did not include amount of custom duty, insurance charges, freight charges, educational cess etc. in the gross value of the goods while calculating stamp duty. Gross value includes all charges incurred on goods lying in any dock or port or warehouse till the time of delivery of goods from such place. This resulted in short levy of stamp duty of Rs. 6.24 lakh.

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

¹⁷ Petcoke is a carbonaceous solid derived from oil refinery coker units or other cracking processes.

¹⁸ Bhuj and Jamnagar

CHAPTER-VI : OTHER TAX AND NON-TAX RECEIPTS

6.1 Results of audit

Test check of the assessment records in various departmental offices relating to the following receipts conducted in audit during 2007-08 disclosed underassessment amounting to Rs. 130.55 crore in 132 cases as mentioned below:

(Rupees in crore)			
Sl. No.	Category	No. of cases	Amount
1.	Entertainments tax	18	8.67
2.	Luxury tax	14	2.03
3.	Electricity duty	12	0.13
4.	Geology and Mining	88	119.72
Total		132	130.55

During the year 2007-08, the department accepted underassessment of Rs. 1.49 crore in 464 cases and recovered Rs. 42.51 lakh in 160 cases.

A few illustrative cases involving Rs. 2.29 crore are mentioned in the following paragraphs:

LUXURY TAX

6.2 Non-recovery of luxury tax on massage/sauna bath and other facilities provided in hotel

The Gujarat Tax on Luxuries (Hotels and Lodging Houses) Act, 1977 (Act) and the Rules made thereunder provide to levy luxury tax at the prescribed rate on accommodation along with telephone, music and like charges recovered from customers of a hotel. Further, service charges recovered from customers and appropriated by the proprietor and not paid to the staff shall be deemed to be a part of the charges for luxury provided in the hotel. Non-payment of tax attracts simple interest at the rate of two *per cent* of the amount of tax due for each month or part thereof for the period for which the tax remained unpaid.

During test check of the records in the office of the Collector, Surat in November 2005, it was noticed that a proprietor of the hotel collected Rs. 4.06 crore for providing facilities like coconut oil massage/sauna bath/jacuzzi etc. during the year 2004-05. The entire amount collected by the proprietor was liable to luxury tax. The departmental officials did not levy tax on amount collected for providing such facilities. This resulted in non-levy of luxury tax of Rs. 67.65 lakh including interest of Rs. 6.68 lakh.

After the case was pointed out in January 2006, the department stated in March 2006 that such facilities/services do not fall within the meaning of luxury and owner of the hotel is paying service tax on such facilities. The reply is not tenable as the entire amount received was appropriated to the proprietor and was liable to luxury tax under the Act.

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

6.3 Non/short levy of interest on belated payment of luxury tax

The Act and the Rules made thereunder provide to levy luxury tax at the prescribed rates on declared tariff of hotel rooms within 15 days after the expiry of the month to which the tax is due. If the proprietor did not pay tax in time, interest at the rate of two *per cent* per month or part thereof for the period of delay is recoverable.

During test check of the records of three Collector¹ offices, it was noticed between November 2005 and June 2007 that 25 proprietors of hotels did not pay luxury tax for the period of October 2004 to March 2007 within the prescribed time limit. Though interest of Rs. 8.48 lakh was recoverable, the departmental officials recovered Rs. 1.87 lakh. This resulted in non/short levy of interest of Rs. 6.61 lakh.

After the cases were pointed out between January 2006 and February 2008, the department accepted audit observation involving Rs. 1.67 lakh in two cases. A report on recovery and reply in the remaining cases has not been received (November 2008).

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

¹ Ahmedabad, Surat and Vadodara

ENTERTAINMENTS TAX

6.4 Non-recovery of entertainments tax on breach of condition of exemption

The Government of Gujarat vide notification issued in February 2004 allowed the proprietors of, air conditioned/air cooled cinemas to reduce rupees three and other cinemas to reduce rupees two, from the rate of admission recovered from the movie goers while calculating their liability of payment of entertainments tax. The concession is available if cinema owners pay the tax so calculated within due date as prescribed under the Gujarat Entertainments Tax Act, 1977 (the Act). In case of failure of payment of tax in time, entire amount so reduced from the calculation is to be recovered from the proprietors of cinema.

During test check of the records of the offices of two Collectors² and Mamlatdar Choryasi, it was noticed between February 2006 and March 2007 that the proprietors of three cinemas paid tax belatedly for the period from April 2004 to September 2005. The departmental officials did not recover the amount of Rs. 3/2 on each ticket from these defaulting proprietors. This resulted in non-recovery of entertainments tax of Rs. 7.15 lakh.

After the cases were pointed out between June 2006 and November 2007, the department accepted the audit observation involving Rs. 5.46 lakh in one case. A report on recovery and reply in the remaining cases has not been received (November 2008).

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

6.5 Non-raising demand of entertainments tax

The Act and Rules made thereunder provide to levy tax at the prescribed rate for exhibition of television programmes with the aid of antenna or cable television. For this purpose, each operator has to register with the Collector/Mamlatdar offices and file quarterly return in advance accompanied by copies of challan towards payment of tax. Non-payment of tax within the prescribed time attracts simple interest at the rate of 24 per cent per annum.

During test check of the records of three Collectors³ and two Mamlatdar⁴ offices, it was noticed between May 2006 and August 2007 that 50 cable operators did not pay tax during the period April 2002 and March 2006. The departmental officials did not raise demand for collecting the tax. This resulted in non-realisation of entertainments tax of Rs. 5.68 lakh including interest.

After the cases were pointed out between March and November 2007, the department accepted audit observation in all cases and recovered Rs. 36,025 in one case. A report on recovery in the remaining cases has not been received (November 2008).

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

² Gandhinagar and Valsad

³ Bhuj, Gandhinagar and Surat

⁴ Anjar and Mehsana

MINING RECEIPTS

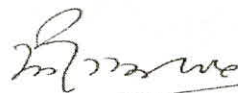
6.6 Non-short levy of royalty/dead rent/surface rent

The Mines and Minerals (Regulation and Development) Act, 1957 (MMDR Act), the Mineral Concession Rules, 1960 and the Gujarat Minor Mineral Rules, 1966 provides that a lessee is liable to pay dead rent or royalty, whichever is higher, at the prescribed rates in respect of each lease for major/minor mineral. The lessee is also liable to pay surface rent on the area of land leased to him for mining activities. The procedure prescribed by the department in December 2000 requires the lessee to pay royalty in advance. Default in payment attracts simple interest at the rate of 24 per cent per annum.

During test check of the records of offices of 11 Geologists/Assistant Geologists,⁵ it was noticed between June and December 2007 that 139 lease holders of major minerals and 285 lease holders of minor minerals removed minerals without payment of royalty/dead rent/surface rent of Rs. 32.73 lakh and Rs. 1.07 crore respectively for the period between 2002-03 and 2006-07. The department neither raised demand of royalty/dead rent/surface rent nor levied any interest. This resulted in non/short levy of Rs. 1.41 crore including interest.

After the case was pointed out between June and December 2007, the department accepted audit observations in 400 cases involving Rs. 1.29 crore and recovered Rs. 35.23 lakh in 149 cases. A report on recovery and reply in the remaining cases has not been received (November 2008).

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



(NIRANJANA PANT)

Principal Accountant General (C&RA)
Gujarat

Ahmedabad,
The

BT MAR 2009

Countersigned



(VINOD RAI)

Comptroller and Auditor General of India

New Delhi,
The

8 APR 2009

⁵ Ahmedabad, Amreli, Bharuch, Gandhinagar, Godhra, Himatnagar, Mehsana, Nadiad, Navsari, Porbandar and Surendranagar

Annexure – I**(Chapter I)****(Reference Paragraph 1.10)****Department-wise break up of Inspections Reports and audit observations pending as on 30 June 2008****(Rupees in crore)**

Sl. No.	Department	Inspection Reports	Paras	Amount involved	Years to which observation relate	No. of IRs to which first replies have not been received
1.	Sales Tax	1,246	4,416	2,001.67	1993-94 to 12/07	89
2.	Stamp Duty and Registration Fees	859	2,176	811.40	1992-93 to 12/07	46
3.	Land Revenue	342	560	81.49	2000-01 to 12/07	55
4.	Motor Vehicles Tax	329	1342	534.61	1991-92 to 12/07	2
5.	Entertainments Tax	419	728	131.97	1992-93 to 12/07	7
6.	Geology and Mining	205	614	352.84	1995-96 to 12/07	12
7.	Valuation of property	180	402	53.01	1994-95 to 12/07	10
8.	Forest	70	119	7.21	1993-94 to 12/07	-
9.	Luxury Tax	69	130	10.08	1996-97 to 12/07	5
10.	Electricity Duty	48	77	136.10	1992-93 to 12/07	1
11.	Profession Tax	16	27	-	2000-01 to 12/07	-
12.	Prohibition and Excise	11	16	0.06	1997-98 to 12/07	2
Total		3,794	10,607	4,120.44		229

Annexure II**(Chapter V)****(Reference paragraph 5.2.9.1)****Short levy of Stamp duty and Registration Fees on documents comprising several distinct matters**

Name of SR	Nature of objection	No of cases	Doc No and Date	Details of objection	Short levy of Stamp duty and Registration Fees Rs. in lakh
SR2 (Wadaj) Ahmedabad	Partition deed cum conveyance treated as conveyance	2	(1) 14046 12/12/2006 (2) 14049 12/12/2006	The document contained two distinct matters (i)Partition of immovable property by cō owners and (ii)Release of the respective share in the property against a consideration which is required to be treated as conveyance	7.14 (SD) + 1.80 (RF) = 8.94 (Total)
SR4 (Paldi) Ahmedabad	Conveyance cum conveyance treated as conveyance	1	4186 09/05/2006	The document contained two distinct matters (1)Deemed Conveyance between seller and confirming party and (2)Conveyance between confirming party and purchaser	19.40 (SD) + 4.89 (RF) = 24.29 (Total)
SR4 (Paldi) Ahmedabad	Conveyance cum conveyance treated as conveyance	2	(1) 1368 20/02/2006 (2) 5526 15/06/2006	The document contained two distinct matters (1)Deemed Conveyance between land owner and bank and (2)Conveyance between bank and purchaser	3.41 (SD) + 0.76 (RF) = 4.17 (Total)
SR4 (Paldi) Ahmedabad	Partition cum release with consideration treated as partition	1	9917 03/11/2006	The document contained two distinct matters (1)Partition between co owners and (2)Release with consideration by co owners at second part in favour of co owners at first part	2.19 (SD) + 0.56 (RF) = 2.75 (Total)
SR4 (Paldi) Ahmedabad	Conveyance cum settlement treated as conveyance	1	2108 18/03/2006	The document contained two distinct matters (1)settlement with consideration and (2)conveyance	0.55 (SD) + 0.10 (RF) = 0.65 (Total)
SR4 (Paldi) Ahmedabad	Conveyance cum development agreement treated as conveyance	1	4043 05/05/2006	The document contained two distinct matters (1) Development agreement with consideration and (2)conveyance	1.35 (SD)
				Total	Rs 42.15