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Report of the Comptroller and Auditor General of India

for the year ended 31 March 2002

(Revenue Receipts)

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

for the year ended 31 March 2002

(Revenue Receipts)

Government of Madhya Pradesh

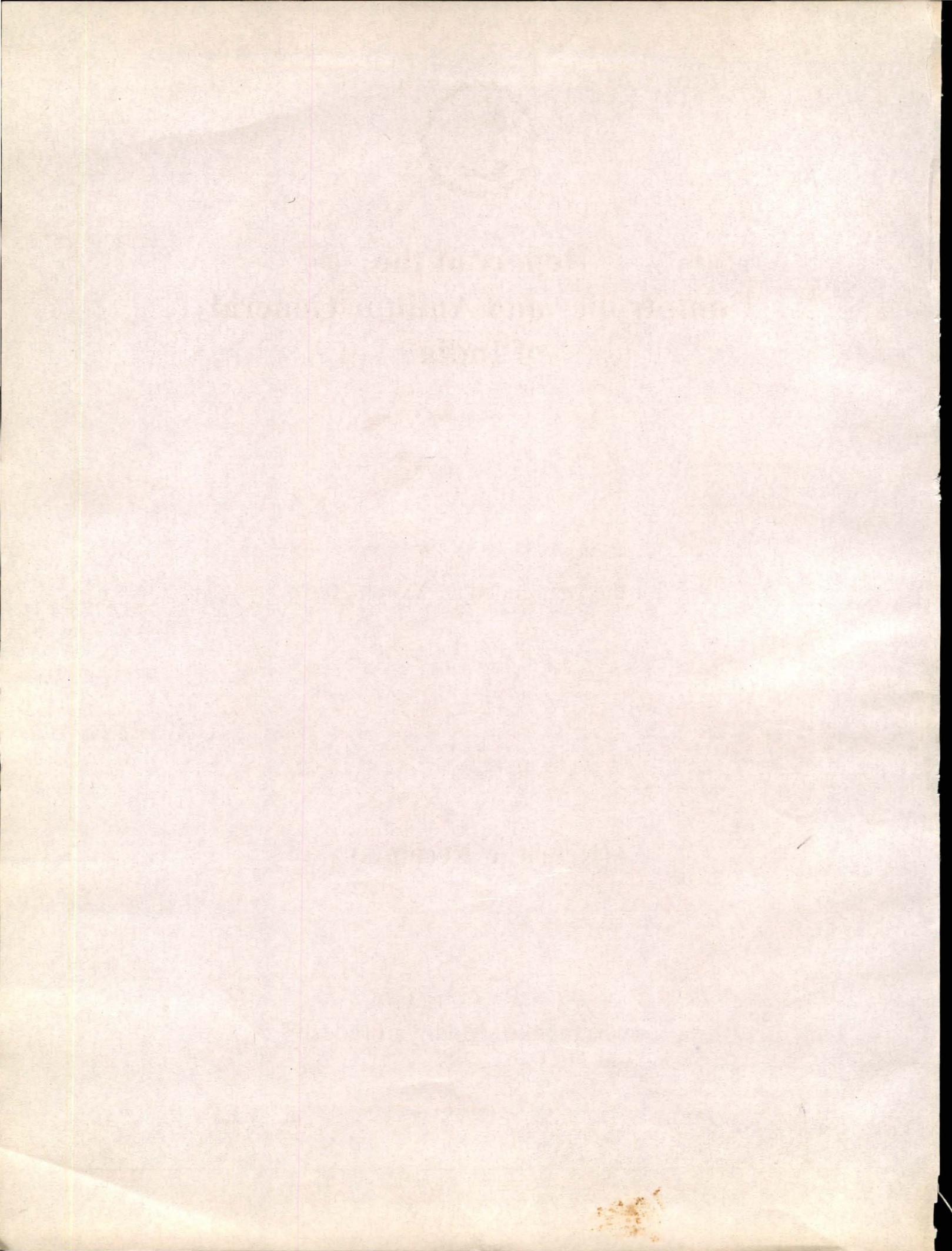


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PREFATORY REMARKS

This Report for the year ended 31 March 2002 has been prepared for submission to the Governor under Article 151 (2) of the Constitution.

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

The cases mentioned in this Report are among those which came to notice in the course of test audit of records during the year 2001-2002 as well as those noticed in earlier years but not covered in previous years' Reports.

OVERVIEW

This report contains 49 paragraphs, including 2 reviews, relating to non/short levy of tax, interest, penalty etc., involving Rs.221.22 crore. The Government has accepted audit observations involving Rs.56.21 crore and recovered Rs.50 lakh upto October 2002. Some major findings are mentioned below:

(1) *General*

- (i) The Government of Madhya Pradesh raised a total revenue of Rs.6280.66 crore in 2001-2002, comprising tax revenue of Rs.4678.98 crore and non-tax revenue of Rs.1601.68 crore. The Government also received Rs.4930.42 crore from the Government of India as its share of the net proceeds of divisible Union taxes (Rs.3439.30 crore) and grant-in-aid (Rs.1491.12 crore). Total receipts during the year were thus Rs.11211.08 crore. Taxes on sales, trade etc. (Rs.2360.74 crore) formed a major portion (50 per cent) of the tax revenue. Receipts from non-ferrous mining and metallurgical industries (Rs.528.39 crore) accounted for 33 per cent of the non-tax revenue.

(Paragraph 1.1)

- (ii) Test-check of records of the Commercial Tax, State Excise, Motor Vehicle Tax, Land Revenue and other departments conducted during 2001-2002 revealed under-assessment, losses etc., of revenue amounting to Rs.618.96 crore in 131998 cases. During the year 2001-2002, the departments accepted under-assessment etc. of Rs.283.49 crore involved in 122392 cases, of which 121126 cases involving Rs.205.18 crore were pointed out in audit during 2001-2002 and the rest in earlier years.

(Paragraph 1.5)

(2) *Commercial Tax*

1. Review on "**Disposal of appeal and remand cases**" revealed that:

- As on 31 March 2001, 7445 cases involving Rs.56.94 crore were pending finalisation with appellate authority.

(Paragraph 2.2.5 (A) (i))

- There was delay in receiving 160 cases by the assessing authority from the appellate/revisional authority resulting in blockage of Rs.6.59 crore.

(Paragraph 2.2.6 (i))

- 50 remand cases involving Rs.57.76 crore were pending finalisation for a period from 2 to 15 years.

(Paragraph 2.2.6 (v))

- Defective assessment of remanded cases resulted in incorrect deferment of tax of Rs.63.05 lakh.

(Paragraph 2.2.6 (vi))

- 2. Application of incorrect rate in composition of tax resulted in short-levy of tax of Rs.73.74 lakh.

(Paragraph 2.3)

- 3. Incorrect exemption from payment of tax resulted in non-levy of tax aggregating Rs.1.80 crore.

(Paragraph 2.7)

- 4. Incorrect determination/concealment of turnover resulted in non-levy of tax aggregating Rs.93.73 lakh

(Paragraph 2.8)

(3) State Excise

- 1. An amount of Rs.2.88 crore recoverable from the defaulted licencees was not recovered by the department.

(Paragraph 3.3)

- 2. Short-yield of beer and alcohol resulted in loss of excise duty of Rs.1.77 crore.

(Paragraph 3.5)

(4) Taxes on Vehicles

- 1. Composition fee of Rs.1.64 crore was realised short on 13400 vehicles.

(Paragraph 4.2.2(i))

- 2. Vehicle tax of Rs.7.87 crore including penalty of Rs.5.25 crore was neither paid by 1493 vehicles nor was it demanded by the department.

(Paragraph 4.3 (a))

(5) Land Revenue

- Incorrect application of the rates of premium and ground rent resulted in short-assessment of revenue of Rs.1.10 crore.

*(Paragraph 5.2)***(6) Other Tax Receipts*****Stamp Duty and Registration Fees***

1. Review on “**Misclassification of Instruments**” revealed that:

- 503 Instruments involving revenue of Rs.2.40 crore impounded and referred to Collector were not finalised as on 31 March 2001, of these, 54 cases were more than 10 years old

(Paragraph 6.2.6)

- 20 Instruments comprising of distinct matters were incorrectly treated as one matter in each instrument resulting in short-realisation of Stamp Duty and Registration Fees of Rs.50.04 lakh.

(Paragraph 6.2.7)

- In 83 documents of Power of Attorney, executed for transfer of property, Stamp Duty and Registration Fee of Rs.32.51 lakh was short-levied.

(Paragraph 6.2.8)

2. Under-valuation in 58 instruments resulted in short-realisation of revenue of Rs.25.09 lakh.

(Paragraph 6.3)

3. Incorrect grant of exemption to primary Co-operative Housing Societies resulted in loss of revenue of Rs.57.69 lakh.

*(Paragraph 6.5)***(7) Forest Receipts**

1. Loss of Rs.7.22 crore was due to auction of timber poles at a price lesser than the upset price.

(Paragraph 7.2)

2. Low yield of timber and Bamboo resulted in loss of Rs.1.24 crore.

(Paragraph 7.3)

(8) Mining Receipts

1. Incorrect application of rates of royalty resulted in short-realisation of Rs.1.64 crore

(Paragraph 8.4)

(9) Other Non-Tax Receipts

Food and Civil Supplies Department

1. Essential commodities valued Rs.1.41 crore confiscated and not disposed of resulted in blockage of revenue to that extent.

(Paragraph 9.6)

Chapter :1 – General

1.1 Trend of revenue receipts

The tax and non-tax revenue raised by the Government of Madhya Pradesh during the year 2001-2002, the State's share of divisible Union taxes and grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding two years are given below:

(Rupees in crore)

S. No.	Particulars	1999-2000	2000-2001	2001-2002
1.	Revenue raised by the State Government			
	(a) Tax revenue	5795.21	5639.58	4678.98
	(b) Non-tax revenue	2468.97	1724.33	1601.68
	Total-1	8264.18	7363.91	6280.66
2.	Receipts from the Government of India			
	(a) State's share of divisible Union taxes	3261.64	3955.51	3439.30 ¹
	(b) Grants-in-aid	1677.85	1519.88	1491.12
	Total-2	4939.49	5475.39	4930.42
3.	Total receipts of the State (1+2)	13203.67	12839.30	11211.08
4.	Percentage (1 to 3)	63	57	56

¹ For details, please see Statement No.11 "Detailed Accounts of Revenue by Minor Heads", in the Finance Accounts of the Government of Madhya Pradesh for the year 2001-2002. Figures under the head "0021-Taxes on Income other than Corporation Tax-Share of net proceeds assigned to States" booked in the Finance Accounts under A-Tax Revenue have been excluded from Revenue raised by the State and included in State's share of divisible Union taxes in this statement.

(i) The details of tax revenue raised by the State Government during the three years from 1999-2000 to 2001-2002 are given below:

(Rupees in crore)

S. No.	Head of Revenue	1999-2000	2000-2001	2001-02	Percentage of increase(+)/ decrease (-) in 2001-2002 over 2000-2001
1.	Taxes on Sales, Trade etc.	2555.08	2766.57	2360.74	(-) 14.66
2.	State Excise	1073.38	974.94	704.68	(-) 27.72
3.	Taxes and Duties on Electricity	611.48	447.91	268.19	(-) 40.12
4.	Taxes on Goods and Passengers	428.36	333.85	262.40	(-) 21.40
5.	Taxes on Vehicles	402.01	405.90	393.33	(-) 3.09
6.	Stamp Duty and Registration Fees	470.12	477.08	444.96	(-) 6.73
7.	Land Revenue	43.26	38.47	48.21	(+) 25.32
8.	Other Taxes and Duties on Commodities and Services	26.94	22.95	19.99	(-) 12.89
9.	Other Taxes on Income and Expenditure	179.58	167.50	173.05	(+) 3.31
10.	Hotel Receipts Tax	5.00	4.41	3.43	(-) 22.22
	Total	5795.21	5639.58	4678.98	(-) 17.03

(ii) The details of major non-tax revenue received during the year 1999-2000 to 2001-2002 are given below:

(Rupees in crore)

S. No.	Head of Revenue	1999-2000	2000-2001	2001-02	Percentage of increase(+)/ decrease (-) in 2001-2002 over 2000-2001
1.	Forestry and Wildlife	315.28	372.56	306.45	(-) 17.74
2.	Non-ferrous Mining and Metallurgical Industries	867.84	721.04	528.39	(-) 26.72
3.	Interest Receipts	257.07	184.56	246.59	(+) 33.61
4.	Major, Medium and Minor Irrigation	66.85	47.17	39.15	(-) 17.00
5.	Water Supply and Sanitation	10.11	11.15	11.51	(+) 3.23
6.	Others	951.82	387.85	469.59	(+) 21.07
	Total	2468.97	1724.33	1601.68	(-) 7.11

The significant fall in taxes and duties on State Excise was due to comparative reduction in sale proceeds in auction and hotel receipts due to new tourism policy.

Reasons for short-fall in taxes and duties in respect of other tax and non-tax receipts though called for, have not been received from concerned Departments (July 2003).

1.2 Variation between budget estimates and actual

The variations between the budget estimates and actual receipts for the year 2001-2002, under the principal heads of revenue are as under:

Head of Revenue	Budget estimates	Actual receipts	Variation Increase (+) Decrease(-)	Percentage of variation
(A) Tax Revenue	<i>(Rupees in crore)</i>			
1. Taxes on Sales, Trade etc.	2500.00	2360.74	(-) 139.26	(-) 5.57
2. State Excise	950.00	704.68	(-) 245.32	(-) 25.82
3. Taxes and Duties on Electricity	350.00	268.19	(-) 81.81	(-) 23.37
4. Taxes on Goods and Passengers	300.00	262.40	(-) 37.60	(-) 12.53
5. Taxes on Vehicles	435.00	393.33	(-) 41.67	(-) 9.58
6. Stamp Duty and Registration Fees	473.00	444.96	(-) 28.04	(-) 5.93
7. Land Revenue	25.58	48.21	(+) 22.63	(+) 88.47
8. Other Taxes and Duties on Commodities and Services	22.00	19.99	(-) 2.01	(-) 9.14
9. Other Taxes on Income and Expenditure	106.00	173.05	(+) 67.05	(+) 63.25
10. Hotel Receipts Tax	3.00	3.43	(+) 0.43	(+) 14.33
Total	5164.58	4678.98	(-) 485.6	(-) 9.40
(B) Non-Tax Revenue				
1. Forestry and Wildlife	323.00	306.45	(-) 16.55	(-) 5.12
2. Non-ferrous Mining and Metallurgical Industries	522.75	528.39	(+) 5.64	(+) 1.08
3. Interest Receipts	311.32	246.59	(-) 64.73	(-) 20.79
4. Major, Medium and Minor Irrigation	48.37	39.15	(-) 9.22	(-) 19.06
5. Water Supply and Sanitation	2.98	11.51	(+) 8.53	(+) 286.24
6. Others	204.51	469.59	(+) 265.08	(+) 129.62
Total	1412.93	1601.68	(+) 188.75	(+) 13.36

The reasons for substantial variations between budget estimates and actual receipts in respect of State Excise was stated to be due to comparative reduction in sale proceeds in auction.

The reasons for substantial variations in respect of other heads, though called for, have not been received from the concerned Departments (July 2003).

1.3 Cost of collection

The gross collections in respect of major revenue receipts, expenditure incurred on their collection and the percentage of such expenditure to gross collection during the years 1999-2000 to 2001-2002, along with the relevant all India average percentage of expenditure on collection to gross collections for 2000-2001 are given below:

Head of revenue	Year	Gross collection	Expenditure on collection	Percentage of expenditure to gross collection	
				Madhya Pradesh	All India Average (2000-2001)
		<i>(Rupees in crore)</i>			
Taxes on Sales, Trade etc.	1999-2000	2555.08	46.12	1.81	1.31
	2000-2001	2766.57	46.38	1.68	
	2001-2002	2360.74	37.42	1.59	
State Excise	1999-2000	1073.38	104.11	9.70	3.10
	2000-2001	974.94	98.47	10.10	
	2001-2002	704.68	87.64	12.44	
Taxes on Vehicles	1999-2000	402.01	16.86	4.19	3.48
	2000-2001	405.90	11.87 ^s	2.92	
	2001-2002	393.33	10.94	2.78	
Stamp Duty and Registration Fees	1999-2000	470.12	19.63	4.18	4.39
	2000-2001	477.08	56.04	11.75	
	2001-2002	444.96	59.87	13.46	

It is evident from the table that cost of collection of State Excise and Stamp Duty and Registration Fees (except 1999-2000) was much higher than the All India average. Necessary action [is necessary] to bring down the cost of collection of these taxes and fees.

1.4 Arrears of revenue

Arrears of revenue, as reported by the concerned departments, as on 31 March 2002 were as under:

Revenue Head	Amount of		Remarks
	Arrears as on 31 March 2002	Outstanding for more than five years as on 31 March 2002	
	(Rupees in crore)		
(1)	(2)	(3)	(4)
Taxes on Sales, Trade etc.	872.80	242.17	Recoveries of Rs.240.25 crore stayed by judicial authorities/Government. Recoveries of Rs.10.49 crore likely to be written off
Taxes on Vehicle	18.39	Not furnished	Not furnished
Stamp duties and Registration Fee	17.78	Not furnished	Not furnished
Taxes and duties on electricity	15.97	0.76	Rs.2.32 crore intimated for recovery as land revenue
Forest Department	44.67	15.50	Rs.5.83 crore intimated for recovery as arrears of land revenue, recoveries of Rs.5.51 crore stayed by judicial authorities/Government and recoveries of Rs.56.36 lakh likely to be written off.
Co-operation	8.72	2.24	Rs.3.01 crore intimated for recovery as arrears of land revenue. Position of remaining arrears of Rs.5.71 crore not reported.
Water Resources	98.69	Not furnished	Not furnished

Similar information, though called for from the other Departments, was not received (July 2003).

1.5 Results of audit

Test-check of records of the Commercial Tax, State Excise, Motor Vehicle Tax, Land Revenue and other departments conducted during 2001-2002 revealed under-assessment, losses etc., of revenue amounting to Rs.618.96 crore in 131998 cases. During the year (2001-2002), the departments accepted under-assessment etc., of Rs.283.49 crore involved in 122392 cases, of which 121126 cases involving Rs.205.18 crore were pointed out in audit during 2001-2002 and the rest in earlier years.

This report contains 49 paragraphs including 2 reviews involving revenue of Rs.221.22 crore. The departments concerned accepted observations involving Rs.56.21 crore. No reply has been received from the Department in respect of the remaining observations (July 2003).

1.6 Outstanding inspection reports and audit observations

(i) Audit observations on incorrect assessments, short-levy of taxes, duties, fees etc. and also defects in the maintenance of initial records which are not settled on the spot are communicated to the heads of the offices and other departmental authorities through inspection reports. The more important irregularities are reported to the heads of the department and the Government. The heads of the offices are required to furnish replies to the inspection reports through the respective heads of the departments within a period of two months.

(ii) The number of inspection reports and audit observations relating to revenue receipts issued up to 31 December 2001, which were pending settlement by the departments as on 30 June 2002, along with corresponding figures for the preceding two years are as below:

	At the end of June		
	2000	2001	2002
Number of inspection reports pending settlement	6155	6170	5494
Number of outstanding audit observations	22296	21661	19871
Amount of revenue involved (Rupees in crore)	3005	4006	3162

(iii) Departmentwise details of the inspection reports and audit observations outstanding as on 30 June 2002 are given below:

S.No.	Nature of Receipts/ Name of Department	Outstand- ing Audit observa- tions	Amount involved (Rs. in crore)	Number of Inspection Reports outstanding	
				Total	Issued between January and December 2001 and remaining unreplied
1.	2.	3.	4.	5.	6.
1.	Taxes on Sales, Trade etc.	5946 (1221)	407.54 (46.81)	844 (375)	131
2.	Land Revenue	3125 (912)	577.50 (137.50)	1166 (557)	--
3.	Forestry and Wildlife	1554 (951)	543.64 (102.47)	540 (365)	--
4.	State Excise	1054 (422)	418.47 (104.30)	282 (158)	23
5.	Entertainment Duty	246 (163)	5.75 (3.94)	169 (113)	--
6.	Stamp Duty and Registration Fees	2241 (1428)	44.74 (12.42)	1046 (662)	30
7.	Water Resources	976 (745)	116.34 (53.43)	240 (176)	--
8.	Public Works	854 (612)	33.49 (16.07)	224 (162)	--
9.	Mining	547 (139)	328.70 (33.71)	182 (77)	--
10.	Motor Vehicle Tax	1382 (874)	398.47 (75.87)	198 (138)	04
11.	Electricity Duty	228 (136)	151.84 (35.26)	67 (47)	--
12.	Others	1718 (1501)	135.52 (91.85)	536 (475)	12
	Total	19871 (9104)²	3162.00 (713.63)²	5494 (3305)²	200

The matter was brought to the notice of the Government; intimation regarding steps taken by the Government to settle the outstanding inspection reports and audit observations has not been received (July 2003).

² Figures in bracket indicate figures representing for more than 5 years

High Power Committee, consisting of representatives from the Government, the Heads of the Department and the Senior Deputy Accountant General met in the month of August 2002 and settled 33 objections in respect of Forest Department.

1.7 Follow up on Audit Reports

The Report of the Comptroller and Auditor General of India for the year ended 31 March 2001 (Revenue Receipts) was laid on the table of *Vidhan Sabha* in April 2002. Reports up to the year 1988-89 have been discussed.

The Audit Reports for the period 1989-90 to 1994-95 have been discussed partially and recommendations of Public Accounts Committee (PAC) has been received. First follow up action taken reports on the PAC recommendation up to 1985-86 have been received; in respect of Audit Reports 1986-87, the reports have been received only from eight departments.

In pursuance of the recommendation (March 1993) of the High Power Committee appointed by the Comptroller and Auditor General of India to review the response of the State Government to audit observations, the PAC in its meeting dated 12 July 1994 decided that explanatory notes of Government on various paragraphs of the Reports should be submitted by the Government within three months of their tabling in *Vidhan Sabha*. No follow up action has, however, been taken by the Government and the explanatory notes on Reports are being delayed inordinately. Out of 670 paragraphs (including reviews) included in the Reports for the years 1991-92 and 1999-2000, explanatory notes from Government have not been received in respect of 95 paragraphs (July 2003).

1.8 Response of the State Government to Draft Audit Paragraphs

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

101 Draft paragraphs included in this Report were sent to the Principal Secretaries/Secretaries of the respective department by name (between May 2000 and May 2002). The Principal Secretaries/Secretaries of the departments did not send replies to the draft paragraphs. The position was brought to the notice of Principal Secretary, Finance Department demi-officially in September 2002 to ensure early reply of the Department alongwith comments of Finance Department. These paragraphs have been included in this report without the response of the Principal Secretaries/Secretaries of the Departments.

Chapter 2 : Commercial Tax

2.1 Results of audit

Test-check of assessment cases and other records relating to commercial tax (sales tax) during 2001-2002 revealed under-assessments, non/short-levy of tax/penalty, application of incorrect rate of tax etc., involving Rs.198.49 crore in 1475 cases which can broadly be categorised as under:

(Rupees in crore)

S. No.		Number of cases	Amount
(i)	Incorrect grant of exemption/deduction	376	21.38
(ii)	Non/short-levy of tax	201	7.51
(iii)	Application of incorrect rate of tax	290	7.42
(iv)	Incorrect determination of taxable turnover	132	2.78
(v)	Others	476	159.40
	Total	1475	198.49

During the year 2001-2002, the Department accepted under-assessment of tax to the extent of Rs.3.26 crore in 63 cases pointed out during 2001-2002.

A few illustrative cases arising out of review on 'Disposal of Appeal and Remand cases' and other important observations involving Rs.141.97 crore are given in the following paragraphs:

2.2 Disposal of appeal and remand cases

2.2.1 Introduction

Madhya Pradesh General Sales Tax Act, 1958 (MPGST Act), Madhya Pradesh *Vanijyik Kar Adhiniyam*, 1994 (*Adhiniyam*) (effective from April 1995), Central Sales Tax Act, 1956 (CST Act) and Madhya Pradesh *Me Mal Ke Pravesh Par Kar Adhiniyam*, 1976 (*Pravesh Kar Adhiniyam*) provide laws/rules relating to levy and collection of tax on sale, purchase and entry of goods in the State. Section 61 and 62 of the *Adhiniyam*, deal with appeal and revision cases.

The dealer can go in appeal if aggrieved by the assessments made by the assessing authority. The first appellate authority may hear the appeal and may either reject or accept the appeal and allow relief sought for or may remand the case to the assessing authority for re-assessment. The first appellate authority is the Deputy Commissioner (DC) in respect of assessment made by Assistant Commercial Tax Officer (ACTO), Commercial Tax Officer (CTO) and Assistant Commissioner (AC). The revisional

authority viz. the Deputy Commissioner, Additional Commissioner, Commercial Tax (Addl.CCT), Commissioner, Commercial Tax (CCT) and Board of Revenue (BOR) may also remand cases to the assessing authorities for re-assessment.

2.2.2 Organisational set-up

A Commercial Tax Department, is headed by the CCT who is responsible for control, direction, monitoring and evaluation of activities of the Department and administration of the Acts and Rules in the State. The CCT is assisted by 8 Addl. CCTs functioning in different zones, who have been delegated with the powers of appeal and revision. Besides, 15 DCs including two DCs of administration functioning as appellate authority, are also vested with revisioning powers and may also remand cases to the assessing officers.

2.2.3 Scope of audit

1 Test-check of records of 6¹ out of 13 DCs (Divisional Offices) and 25¹ out of 55 ACs and 25¹ out of 104 CTOs was conducted covering the period from 1996-97 to 2000-2001 to ascertain the effectiveness and adequacy of internal control, compliance of provisions of laws and instructions issued for disposal of appeal and remand cases from time to time.

2.2.4 High lights

- As on 31 March 2001, 7445 cases involving Rs.56.94 crore were pending finalisation with appellate authorities.

(Paragraph 2.2.5 (A)(i))

- There was delay in receiving 160 cases by the assessing authority from the appellate/revisional authority resulting in blockage of Rs.6.59 crore.

(Paragraph 2.2.6 (i))

- 50 remand cases involving Rs.57.76 crore were pending finalisation for a period from 2 to 15 years.

(Paragraph 2.2.6 (v3))

- Defective assessment of remand cases resulted in incorrect exemption of tax of Rs.63.05 lakh.

(Paragraph 2.2.6 (vi))

¹ DCS- Gwalior (1), Indore (3) and Bhopal (2)
ACS- Gwalior (2), Indore (15) and Bhopal (8)
CTOs- Gwalior (4), Indore (15) and Bhopal (6)

2.2.5 Position regarding institution and disposal of appeal and remand cases

(A) (i) Cases pending with Appellate Authority

The assessee can go in for appeal if aggrieved by the assessment made by the assessing authority. First appeal is to be filed within 30 days from the date of communication of order against which appeal is to be filed. No time limit has been fixed by the Government/department for the disposal of appeal cases by the appellate authority.

The table below indicates number of appeal/cases filed and number of cases remanded to the assessing authorities for re-assessment during the period from 1996-1997 to 2000-01.

Year	Opening balance	Additions	Total	Number of Cases remanded	Number of cases disposed of	Closing balance	Percentage clearance of remand cases Col. 5+6 to Col.4
1996-97	6136	6501	12637	1966	4371	6300	50.1
1997-98	6300	7991	14291	1803	5789	6699	53.1
1998-99	6699	7174	13873	1282	5151	7440	46.4
1999-00	7440	7385	14825	1700	4531	8594	42.0
2000-01	6219 ²	5701 ²	11920 ²	1828	2647	7445 ²	37.5 ²

The year-wise disposal of cases by the appellate authority ranged between 37.5 and 53.1 percent during the years 1996-1997 to 2000-2001.

Year-wise break up of pending cases with amount is as under:

	No. of cases	Amount (Rs. in core)
Upto 1996-97	1229	6.59
1997-98	642	3.61
1998-99	1216	5.04
1999-2000	1850	11.07
2000-01	2508	30.63
	7445	56.94

²

Excluding Chhattisgarh

(ii) Cases pending with the Board of Revenue

Any dealer or person aggrieved by an order passed in appeal may, in prescribed manner, appeal against such order to the Tribunal i.e. Board of Revenue (BOR) within 60 days from the date of communication of orders.

Table below indicates position of disposal of appeal cases by BOR.

Year	Opening balance	Additions	Total	Number of cases disposed of	Balance as on 31 st December	Percentage of disposal Col 5 to 4
1996	2905	530	3435	421	3014	12.3 ✓
1997	3014	448	3462	440	3022	12.7 ✓
1998	3022	255	3277	365	2912	11.1 ✓
1999	2912	224	3136	478	2658	15.2 ✓
2000	2658	343	3001	531	2470	17.7 ✓

Year-wise disposal of cases by BOR was very low and remained between 11.1 percent and 17.7 percent only during the years 1996 to 2000.

(B) Revision cases

(i) Disposal of revision cases

The CCT issued instructions (August 1979) that old cases may be disposed of on priority basis. However, no time limit has been fixed for disposal of revision cases.

(a) Test-check (between September 2001 and March 2002) of records of DCs Bhopal and Indore Divisions and five Addl. CCTs revealed that 535 cases involving tax of Rs.61.60 crore as detailed below were pending for a long time. Of these, 21 cases involving demand of Rs.44.75 lakh pertained to assessment period between 1976-77 and 1987-88, and were pending for more than 10 to 20 years.

Cases pending for	No. of cases	Amount (Rs. in crore)
10 to 20 years and above	21	0.45
5 to 10 years	123	6.05
2 to 5 years	391	55.10
Total	535	61.60

(ii) Revision of assessment/appeal order shall be initiated within five calendar years from the date of order sought to be revised. CCT shall, however, not revise any order where second appeal is pending or such appeal was decided on merits. No time limit has been fixed for disposal of revision cases.

Table below indicates disposal of revision cases at various levels during 5 years ending 2000-2001.

	Year	Opening Balance	Additions	Total	Disposal	Closing balance	Percentage of disposal Col. 6 to 5
<i>I.</i>	<i>2.</i>	<i>3.</i>	<i>4.</i>	<i>5.</i>	<i>6.</i>	<i>7.</i>	<i>8.</i>
Commissioner	1997-1998	--	633	633	32	601	5.1
	1998-1999	601	129	730	665	65	91.1
	1999-2000	65	--	65	65	--	100
	2000-2001	Information not available					
Additional Commissioner (Addl. CCT)	1996-1997	4506	1942	6448	2816	3632	43.7
	1997-1998	3632	7397	11029	7139	3890	64.7
	1998-1999	3890	4426	8316	4724	3592	56.8
	1999-2000	3592	2395	5987	2843	3144	47.5
	2000-2001	2307 ³	2819	5126	1881	3245	36.7
Deputy Commissioner (DC)	1996-1997	10430	10311	20741	9820	10921	47.3
	1997-1998	10921	9826	20747	9623	11124	46.4
	1998-1999	11124	8958	20082	9927	10155	49.4
	1999-2000	10155	11030	21185	8804	12381	41.6
	2000-2001	10342 ³	7141	17483	5782	11701	33.1

Year-wise break up of cases with Deputy Commissioners (DCs) with amount is given below:

	No. of cases	Amount (Rs. in crore)
Upto 1996-97	1882	3.20
1997-1998	1087	1.87
1998-1999	1221	5.16
1999-2000	2492	8.95
2000-2001	5019	11.80
	11701	30.98

2.2.6. (i) Delay in transit of cases remanded by the appellate/revisonal authorities

The cases remanded by the appellate/revisonal authorities are sent back to the concerned assessing officers for re-assessment. On receipt of the remand cases, the date of remand, its receipt and institution are recorded in the concerned case file and proceedings for re-assessment started by the assessing authority by issue of a notice to the dealer.

³

Figure excluding Chhattisgarh

Scrutiny of 160 cases, of 35 ACs and CTOs of Gwalior, Bhopal and Indore Divisions involving tax amount of Rs.6.59 crore revealed that there was a delay in transit of cases received by the assessing authorities from the appellate/revisional authorities. An analysis of the delay is given as under:-

Period of delay	No. of cases	Amount (Rs. in crore)
0-6 months	43	2.09
6-12 months	46	1.99
12-24 months	45	1.56
Above 24 months	26	0.95
	160	6.59

(ii) Delay in re-assessment of remand cases

Two cases of a dealer of Gwalior were re-assessed on 18 November 1993 on the basis of scrutiny reports (dated 26 October 1991) of Flying Squad and demand of Rs.29.74 lakh was raised, against which revision was filed. The revisional authority remanded the cases on 30 March 1996, which were re-assessed on 31 December 1998 confirming the demand raised on 18 November 1993. The assessee again filed revision and the case was remanded on 19 December 2000. The cases have not been re-assessed so far (November 2002).

Thus, the delay in re-assessment led to postponement of revenue of Rs.29.74 lakh. On this being pointed out the CCT stated that instructions had been issued (August 2002) to decide the cases within stipulated time period.

(b) Scrutiny of 88 cases of 30 units of 6 Divisions of Gwalior, Bhopal and Indore involving tax of Rs.6.15 crore which were remanded by the appellate/ revisional authorities, revealed that there was no change in the demand of tax after re-assessment which resulted in blockade of revenue to the tune of Rs.6.15 crore for periods ranging 4 to 5 years. It would be appropriate if Government monitors all such cases which are casually remanded in revisions and appeals and considers the issue of appropriate instructions so that Government revenue is not blocked without reason.

(iii) Defective assessment of remand cases

(a) A dealer of Gwalior Division was assessed (30 June 1998) to Central Sales Tax for the year 1994-1995 determining taxable turnover at Rs.17.39 crore. The dealer filed the case with revisional authority who remanded the case (December 1999) with instructions to consider amended exemption certificate covering extension period up to 29 April 1994.

The case was re-assessed (October 2000) by the AC, Gwalior and taxable turnover was determined at Rs.1.76 crore afresh instead of Rs.17.39 crore, there by reducing the turnover by Rs.15.63 crore resulting in short-levy of tax Rs.1.56 crore. As the sales turnover in extended exemption period (1 April 1994 to 29 April 1994) was Rs.1.70 crore only, the determination of taxable turnover as Rs.1.76 crore was not correct. In remand order the revisional authority had directed that the extended period

of exemption certificate be considered. By determining the turnover afresh, the assessing authority exceeded his jurisdiction.

(b) Test-check of a case of Bhopal Division-2 revealed that the dealer had made branch transfer of finished goods valued at 10.24 crore for which he was liable to pay a purchase tax of Rs.40.96 lakh instead of Rs.10.24 lakh levied by the assessing officer. This resulted in short levy of tax Rs.30.72 lakh.

(iv) Irregular exemption of tax in re-assessment of remand cases

As per CST Act, 1956 and rules made thereunder, no tax is payable in respect of any goods disposed of other than by way of sale from one State to another subject to production of declaration forms "F" along with the evidence of despatch of such goods.

In Indore region, in a case of a dealer, the consignment sale of Rs.1.11 crore for the period 1983-84 was assessed (July 1992) as inter-State-Sales in the absence of 'F' forms and other evidence of despatch of goods, and tax including penalty valued at Rs.13.21 lakh was levied. On filing the case for revision, the case was re-assessed (November 1995) and demand of original assessment was maintained. The assessee again filed the case for revision and the case was re-assessed (December 1999) treating the sale out of State as stock transfer without production of declaration in Form 'F' and other evidence of despatch of goods, thus extending exemption of tax (including penalty) amounting to Rs.13.21 lakh to the assessee.

(v) Remand due to non-filing of declaration

As per provisions of the MPGST Act 1958 and *Adhinyam*, 1994 the dealer is required to submit statutory declarations to avail the facility of concessional rate of tax at the time of assessment. Opportunities are, however, available on the orders of appellate and revisional authorities to furnish declaration forms when cases are remanded for fresh assessment.

Scrutiny of 50 cases of 5 Divisions involving tax of Rs.57.76 crore revealed that these cases were remanded during the years 1983-84 to 1995-96 to give opportunity to the dealers to file declarations as the assessee could not file the same at the time of their first assessment. These declarations, however, could not be produced by the assessee despite being given opportunities between one to three times to furnish the same. These cases were still pending as on 31 March 2002. Thus non finalisation of these cases resulted in blockage of revenue of Rs.57.76 crore.

(vi) Incorrect deferment of tax

Under the Deferment Scheme 1986 for expansion units, the facility of deferment of tax is admissible only on the production of goods which is in excess of the original installed capacity.

A company engaged in the manufacture of oil and oil cake from soyabean seed, which had availed exemption under 1981 Scheme upto 15 July 1986, was granted eligibility certificate for deferment of tax for the period 15 December 1986 to 14 December 1991 under 1986 Deferment Scheme for expanded capacity. The capacity of the unit was enhanced from 48000 MT to 76800 MT after expansion. The scrutiny of the records of AC Bhopal revealed that the unit during the period of deferment had

crushed soyabean seed and oil cake, which was less than the original capacity. On the assessment made by the assessing authority, the dealer went in revision. The revisional authority remanded the case and in re-assessment, the assessing authority allowed the deferment of Rs.63.05 lakh for 10 years incorrectly as the unit could not achieve even the original capacity.

2.2.7 Improper maintenance of Control register

With a view to watch the re-assessment of cases remanded by the appellate authorities, the Commissioner, Commercial Tax, issued instructions (August 1979) to all assessing authorities to maintain a control register indicating the number of cases remanded, disposed of and pending at the end of each month.

Test-check of appeal/revision control register, however, revealed that the registers were not maintained properly by the assessing authorities as the entries were either not complete or registers were never closed to watch the position of pending remand cases. Due to defective/non-maintenance of the register, audit could not assess the actual number of cases remanded and their subsequent disposal. This indicated the poor internal control mechanism existing in the department.

The above points were reported to the Government between September 2001 and March 2002, their reply has not been received. (July 2003)

2.3 Application of incorrect rate in composition of tax

The *Adhiniyam*, 1994 and rules made thereunder provide that a registered dealer (Contractor) is eligible to opt for composition of tax in lieu of tax payable by him.

Test-check (October 2001) at Regional Office, Bhopal, in the case of a dealer assessed for the period 1996-97 in April 2000 revealed that a dealer was allowed by Circle Officer to pay lump sum composition of tax at the rate of 2 per cent instead of 4 per cent leviable in lieu of tax payable for supply and fitting of sanitary plumbing and electrical goods/equipment in execution of work contract valued at Rs.36.87 crore. This resulted in short levy of tax amounting to Rs.73.74 lakh.

The matter was reported to the CCT and the Government (January 2002); their reply has not been received (July 2003).

2.4 Excess grant of exemption

Under the *Adhiniyam*, 1994 and notification issued thereunder, sale of A. C. pipes for drinking water supply project to a Trust of Anantpur (Andhra Pradesh) was exempted from payment of tax for the period from 1 August 1995 to 31 March, 1996 on production of certificate that the goods purchased were intended for being used for aforesaid purpose.

Test-check (November 2000) at Regional Office, Dewas in case of a dealer assessed in May 1999 for the period 1995-96 revealed that the sale of A.C. pipes valued at Rs.2.52 crore was exempted from payment of tax without certificate of purchases issued by the Trust for the purpose. This resulted in excess exemption of tax amounting to Rs.25.20 lakh.

On this being pointed out the assessing authority replied (November 2000) that exemption was granted as per conditions/period mentioned in the notification. The reply is not tenable as certificate of Purchases issued by the Trust was for Rs.16.19 crore whereas exemption was allowed for Rs.18.71 crore.

The case was reported to the CCT and the Government (May 2001/January 2002); their reply has not been received (July 2003).

2.5 Non-imposing of penalty

Under the *Adhiniyam*, 1994, if the Commissioner or the appellate or revisional authority is satisfied that a dealer has concealed his turnover or has furnished false particulars of his sales, he may impose by way of penalty a sum which shall be five times of the amount of tax evaded.

Test-check at Regional Office, Morena revealed (November 2001) that though the assessing officer determined the concealment of turnover of Rs.3.74 crore by a dealer assessed (April 2000) for the year 1996-97 and levied tax of Rs.8.66 lakh, he did not impose penalty amounting to Rs.43.30 lakh.

On this being pointed out in audit, the assessing authority issued notice (November 2001) to the dealer for initiating proceedings in the case.

The matter was reported to the CCT and the Government (February 2002); their reply has not been received (July 2003).

2.6 Non-levy/incorrect rate of purchase tax

MPGST Act, 1958 and the *Adhiniyam*, 1994 and Rules made thereunder provide that if any raw material purchased without payment of tax is consumed or utilized in the manufacture of the finished goods, tax shall be leviable on the Purchase of such goods. If the product is transferred outside the State, the rate of purchase tax is leviable at full rate.

(i) Test-check of records of Regional Office Indore revealed that one dealer holding eligibility certificate under Exemption Scheme 1994 assessed (December 2000) for the year 1997-98, purchased raw material valued at Rs.8.51 crore and used it in manufacture of finished goods. While finalizing the assessment, the assessing officer did not levy the purchase tax of Rs.27.63 lakh, which resulted in short adjustment against the exemption limit.

On this being pointed out, assessing officer levied (August 2001) purchase tax of Rs.27.63 lakh.

(ii) Test-check of records of Regional Office Indore revealed (February 2001) that in the case of a dealer re-assessed in December 1999 for the period 1993-94, soyabean valued at Rs.2.18 crore was purchased and used as raw material in the manufacture of other goods and the product was transferred out side the State. The purchase tax, however, was levied at the rate of 1 per cent instead of 4 per cent. This resulted in short-levy of purchase tax amounting to Rs.6.55 lakh.

On this being pointed out the assessing officer stated (February 2001) that the point would be considered at the time of re-assessment.

The matter was reported to the CCT and the Government (April 2001 and January 2002); their reply has not been received (July 2003).

2.7 Incorrect exemption from payment of tax to new industries

Under the *Adhiniyam*, 1994 and notifications issued thereunder, new industrial units of eligible categories holding eligibility certificates are exempted from payment of tax on the sale of goods manufactured by them.

A dealer of Indore was granted (July 1999) incorrect exemption of tax of Rs.1.80 crore on sale of film on the basis of eligibility certificate issued in favour of another dealer.

The case was reported to the CCT and the Government (March 2001); their reply has not been received (July 2003).

2.8 Incorrect determination/concealment of turnover

As per provisions of the *Adhiniyam*, 1994 and Rules and notifications issued thereunder, the packing materials shall be deemed to have been sold or purchased along with the goods and tax shall be leviable as on the sale or purchase of the goods themselves. Further every dealer is liable to pay tax and to maintain correct accounts of his sales.

At Regional Offices Bhopal and Indore in the case of two dealers (assessed in April 1999 and March 2000 for the period 1995-96 and 1996-97) it was revealed (August 2000 and January 2001) that the assessing officers granted deduction of Rs.7.68 crore of tax paid-sale of packing materials sold alongwith goods. This resulted in non-levy of tax of Rs.75.92 lakh.

On this being pointed out in audit the assessing officers stated that cost of bags was charged separately and deduction of tax-paid packing materials was allowed correctly. The reply is not tenable as packing material i.e. bags were sold alongwith goods and was also taxable at the same rate as applicable to goods. This had also been upheld by Hon'ble Supreme Court of India⁴.

(ii) Test check of records of two Circle Offices at Indore revealed (September and October 2001) that while assessing two dealers for the year 1996-97 to 1998-99 between December 1999 and March 2000, the assessing authority did not levy tax on sales turnover of Rs.1.95 crore treating the sale of PVC pipes as tax free though it was taxable. This resulted in non-levy of tax of Rs.17.81 lakh.

On this being pointed out (September/October 2001) the assessing officer stated that sale of agricultural pipes was tax free in view of decision of BOR⁵. The reply is not tenable as PVC pipes were not exempted under the Act.

⁴ *M/s Premier Breweries Vs. State of Kerala (1999) 32 VKN 317*

⁵ *M/s Jaya Plastic (1998) TLD 31*

The cases were reported to the CCT and the Government (between December 2000 and January 2002); their reply has not been received (July 2003).

2.9 Application of incorrect rate of tax

As per MPGST Act 1958, and *Adhiniyam* 1994, the rates of Tax on different commodities, have been specified.

Test-check of records of 12 Regional offices⁶ and 6 Circle offices⁷ revealed (between August 1999 & September 2001) that in the case of dealers assessed (between September 1996 & March 2001) for the period from April 1993 to March 1998, tax was levied either at incorrect rates or not levied at all treating the goods as tax free, which resulted in under assessment of tax of Rs.1.76 crore.

A few illustrative cases are given below-

(i) At Regional Office, Bhopal in two cases of a dealer assessed in September 1996 and March 2001 for the period 1993-94 & 1997-98, sale of mined rock phosphate valued at Rs.12.22 crore was treated as fertilizer instead of mineral ore and tax was levied at incorrect rate or not levied at all. This resulted in short/non-levy of tax of Rs.1.25 crore.

(ii) At Regional Office, Indore and Bhopal in three cases of two dealers assessed in February 1999 and February 2001 for the period 1995-96, 1997-98 and 1998-99, sale of lift and fax machines valued at Rs.2.93 crore was assessed to tax at the rate of 6 per cent instead of 10 per cent. This resulted in short levy of tax of Rs.12.60 lakh.

(iii) At Regional Office, Bhopal in the case of a dealer assessed in March 2001 for the period 1997-98 transformer components valued at Rs.3.35 crore were sold, on which tax was levied at the rate of 8 per cent instead of 10 per cent. This resulted in short levy of tax of Rs.7.26 lakh.

The matter was reported to the CCT and the Government (between August 1998 and February 2002), their reply has not been received (July 2003).

2.10 Non-levy/short-levy of entry tax

Under the Provision of *Pravesh Kar Adhiniyam*, 1976, and notifications issued thereunder, entry tax is leviable on goods entering in to a local area for sale, consumption or for use as raw material, as incidental goods, as packing material or in execution of works contract at the rates mentioned in the Schedule.

Test-check (between April 1998 and October 2001) of 10 Regional Offices⁸ and 3 Circle Offices⁹ revealed that in 16 cases of 13 dealers assessed/re-assessed (between July 1996 and March 2001) for the period April 1993 to March 1999, entry tax was

⁶ Regional Office: Bhopal (5), Chhindwara, Dewas and Indore (5)

⁷ Circle Office: Bhopal (2), Chhindwara, Gwalior and Indore (2)

⁸ Regional Office- Bhopal (3), Chhindwara, Dewas, Indore (3), Ratlam and Ujjain

⁹ Circle Office- Bhopal (2) and Indore

not levied on entry of goods valued at Rs.41.15 crore. This resulted in short-levy/non-levy of entry tax of Rs.40.40 lakh.

On this being pointed out (June 2001) assessing officer raised (November 2001) the demand for Rs.10.53 lakh in one case, replies in other cases have not been received.

The cases were reported to the CCT and the Government (between July 1998 and February 2002); their reply has not been received (July 2003).

2.11 Non-recovery of Commercial Tax from Units closed before stipulated period

Industrial units availing exemption from payment of tax under Exemption Scheme 1994 shall keep such units in operation during the period of exemption and for a further period of 5 years from the date of expiry of the exemption failing which the eligibility certificate is liable for cancellation with consequent recovery of the amount of exemption availed by the Unit.

An industrial unit of Indore holding eligibility certificate for the period from 26 March 1996 to 25 March 2005 under 1994 Exemption Scheme was exempted (December 1999) from payment of Commercial Tax for Rs.13.78 lakh for the period 1996-97. After closer of the unit, dealer was assessed (March 2001) for the year 1997-98 for tax of Rs.95.90 lakh but no action for recovery of Rs.13.78 lakh exempted for the year 1996-97 was initiated.

On this being pointed out (October 2001) the assessing officer stated that action was required to be taken by Circle Officer. Reply is not tenable as the assessing officer was required to take action to safeguard the Government revenue when facts came to his notice.

The matter was reported to the CCT and the Government (January 2002); their reply has not been received (July 2003).

2.12 Erroneous grant of set off

Under the *Adhiniyam*, 1994 and Rules made thereunder, when a registered dealer purchases tax paid raw material and subsequently consumes or uses the same in manufacture of other goods for sale, he shall be entitled to set off at the rate equal to difference between the tax at full rate and the tax at the concessional rate of 4 per cent.

Test-check (August 2001) at Regional Office, Bhopal in the cases of 3 dealers assessed between April 2000 to February 2001 for the period of 1996-97 to 1997-98 revealed that raw materials valued at Rs.1.72 crore were purchased and used in manufacture of other goods on which set off of Rs.6.05 lakh was allowed by applying rate of tax at the rate of 10 and 6 per cent instead of 6 and 4 per cent.

The matter was reported to the CCT and the Government (between January and April 2002); their reply has not been received (July 2003).

2.13 Incorrect exemption from Central Sales Tax

Under CST Act, 1956, a sale or purchase of goods shall be deemed to take place in the course of the export of the goods out of the territory of India only if the sale or purchase either occasions such export or is effected by a transfer of documents of title to the goods after the goods have crossed the Customs Frontiers of India.

Test-check (June 2001 and August 2001) at Regional Office, Bhopal and Circle Office, Indore in the case of two dealers assessed in November 1999 and November 2000 for the period 1996-97 and 1997-98 revealed that in one case exemption on export sale of finished (glazed) leather valued at Rs.56 lakh was allowed treating it as raw skin and in another case exemption on sale of timber valued at Rs.19.34 lakh was allowed treating the sale as one during movement of goods from one State to another by transfer of documents of title though the goods were transferred as wooden boxes (packing material). Exemption in both cases was not admissible because the goods had undergone manufacturing process during their movement. This resulted in non-levy of tax amounting to Rs.8.10 lakh.

On this being pointed out the assessing authorities replied that (i) raw skin and glazed skin are same thing in view of the decision of Hon'ble Supreme Court of India¹⁰ (ii) and subsequent sale was made during movement of goods and no manufacturing process was done. The reply is not acceptable in view of the decision of Honourable Supreme Court of India¹¹ that dressed skin is obtained after processing of raw skin and is different from raw skin. In other case, the manufacturing account of the dealer revealed that the timber was utilised for manufacturing boxes.

The cases were reported to the CCT and the Government (between September 2001 and December 2001); their reply has not been received (July 2003).

¹⁰ *M/s Bharat Chemical Corporation 1989 STC 198*

¹¹ *M/s K.A.K Anwar & Co. V/s State of Tamil Nadu(1998) 108 STC-258*

Chapter 3 : State Excise

3.1 Results of audit

Test-check of records of State Excise conducted during 2001-2002, revealed non-assessment, under-assessment, losses of revenue and non levy of penalties amounting to Rs.67.07 crore in 2856 cases, which can broadly be categorised as under:

(Rupees in crore)

S. No.		Number of cases	Amount
(i)	Non-levy of penalty for breach of conditions of licence	156	15.44
(ii)	Loss in foreign liquor trade in Madhya Pradesh	376	13.57
(iii)	Accumulation of arrears of licence fees/ auction money	566	13.11
(iv)	Non-levy/recovery of duty on excess wastage	450	3.27
(v)	Loss of revenue due to low yield	152	2.87
(vi)	Others	1156	18.81
	Total	2856	67.07

During the year 2001-2002, the Department accepted under-assessment of tax of Rs.41.86 crore involved in 1719 cases.

A few illustrative cases involving Rs.6.77 crore, highlighting important observations are discussed in the following paragraphs:

3.2 Working of Medicinal and Toilet Preparations (Excise Duties) Act, 1955

Test-check (August 2001 to January 2002) records of 2 out of three bonded and 52 out of 62 non-bonded manufactories covering the period from April 1996 to December 2001 revealed as under:-

3.2.1 Loss of excise duty due to inadmissible wastage/less production

According to the Medicinal and Toilet Preparations (Excise Duties) Act, 1955 (M&TP Act) and Rules made thereunder, wastage of narcotic drugs, narcotics and alcohol in manufacture of medicines outside bond is not allowed.

(a) Inadmissible wastages

Test-check of records of Assistant Commissioner Excise (ACE), Indore revealed (August 2001) that 13 non bonded manufactories had shown wastage of 183.96 quintals of *bhang* irregularly during April 1996 to July 2001, in manufacture of 'Madhur Munnaka' which was capable of producing 5.47 lakh packets involving excise duty of Rs.11.20 lakh.

On this being pointed out, ACE, Indore stated (August 2001) that matter would be referred to higher authorities to make provisions for wastage in manufacture of medicines outside bond as available to bonded manufactories. The reply is not tenable since in the absence of the provision, the wastage was liable to be disallowed and excise duty charged accordingly.

(b) Less production of Medicines

Test-check of records of District Excise Officer (DEO), Dewas revealed (October 2000 and January 2002) that one non bonded manufactory used 2239.86 litres of pure alcohol during August 1999 to December 2001 and produced only 167.44 lakh as against 191.44 lakh 'KOTANOV' injection of 1 ml containing 11.7 per cent v/v of absolute alcohol. This resulted in less production of 24 lakh injections involving excise duty of Rs.39.36 lakh.

3.2.2 Short levy of excise duty

M&TP Act and Rules framed thereunder provide for levy of excise duty at the rate of Rs.20 per litre on pure alcohol used in the preparation of allopathic and homeopathic medicines containing alcohol and capable of being consumed as ordinary alcoholic beverages.

Test-check of records of ACE Indore and DEO Raisen revealed (between November 2000 and December 2001) that 3 non-bonded manufactories¹ had obtained 53367 litres of pure alcohol content of rectified spirit for manufacturing allopathic and homeopathic medicines capable of being consumed as ordinary alcoholic beverages and paid excise duty of Rs.4.62 lakh against Rs.10.67 lakh leviable resulting in short-levy of excise duty of Rs.6.05 lakh as detailed below.

(Rupees in lakh)

S. No.	Name of Unit	Year	Alcohol consumed in litres	Amount payable	Amount paid	Balance payable
(1)	ACE Indore (M&TP)	1999-2000	26604.50	5.32	2.80	2.52
(2)	DEO Raisen	1999-2001	26762.75	5.35	1.82	3.53
	Total		53367.25	10.67	4.62	6.05

The matter was reported to the Excise Commissioner (EC) and the Government (May 2002); their reply has not been received (July 2003).

¹

- (1) Promad Laboratories, Indore,
- (2) Lupin Limited, Mandideep, Raisen and
- (3) New Life Laboratories Limited, Mandideep, Raisen

3.3 Loss due to inaction by the Department

Madhya Pradesh Excise Act, 1915 provides that the licencing authority may cancel or suspend the licence and take the grant², under management or resell the shops in case the licensee fails to pay any fee due or breaches the conditions of licence. The loss caused due to such cancellation or suspension shall be recovered from the ex-licensee as excise revenue. The successful bidder is required to deposit 12.5 per cent of the tender amount before grant of licence. Thereafter he will have to deposit the auction amount in 52 equal instalments.

Test-check of records of ACE Jabalpur revealed (February 2002) that three country and one foreign liquor shops were auctioned to three licensees for Rs.3.05 crore on 4 May 2001 on the basis of tender received for the period from 5 May 2001 to 31 March 2002. The bidders were allotted (May 2001) three country and one foreign liquor shops on advance deposit of Rs.27.52 lakh instead of Rs.38.16 lakh resulting in short-receipt of deposit by Rs.10.64 lakh. Grant of licence itself was thus not correct in the first instance. Further the licensees did not deposit any instalment and continued to run the shops up to 25 May 2001. After cancellation of licences on 26 May 2001, one shop was not settled upto October 2001 and other three shops remained idle upto November 2001. Thereafter, the shops were run departmentally from November/December 2001, earning revenue of Rs.16.72 lakh. The department neither forfeited the advance deposit of the licensees nor raised a demand of Rs.2.88 crore against the defaulting licensees.

The matter was reported to the EC and the Government (May 2002); their reply has not been received (July 2003).

3.4 Loss of revenue due to incorrect reduction of auction amount

The Madhya Pradesh Excise Act, 1915 and Rules made thereunder provide for disposal of retail sale licences of country/foreign liquor shops for a financial year by auction/tender with all formalities to be completed up to 31 March every year so that the shops could be handed over to new licensees from 1 April of following year.

Test-check of records of ACE, Gwalior revealed that auction of one group consisting of 13 country and 12 foreign liquor shops for the period from 19 April 2000 to 31 March 2001 was held on 18 April 2001 for an amount of Rs.11.50 crore against a reserve price of Rs.17.41 crore. A margin of 10 days from the date of auction for handing over shops was kept in auction notice. The shops were handed over to the licensee on 22 April 2001 and proportionate deduction of Rs.66 lakh for 21 days was allowed which resulted in loss of revenue of Rs.66 lakh.

On this being pointed out, the ACE stated (June 2001) that bid amount being for 365 days was reduced proportionately for 344 days from 22 April 2000 to 31 March 2001. Reply is not tenable as the action of the Department was not in consonance with auction notice.

The matter was reported to the EC and the Government (between September and December 2001); their reply has not been received (July 2003).

² Grant-shops/shop auctioned by the department

3.5 Non-fixation of norms for yield of beer/alcohol from the bases

The relevant rules do not lay down any norms for yield of beer and, in the case of alcohol yield from bases other than molasses. However, Technical Excise Manual³ provides that 36 gallons of wort is obtainable from 84 pounds of malt or from 56 pounds of sugar. A wastage of 5 per cent is permissible in the manufacture of beer. Further each quintal of rice should yield 56.06 proof litres of alcohol.

(a) Short production of beer

Test-check of records of 2 Breweries⁴ revealed (October and December 2001) that 33,296 quintal of malt and 7,317 quintal of sugar, used during September 2000 to November 2001, yielded 163.35 lakh bulk litres beer as against expected yield of 180.83 lakh bulk litres. Thus, there was short yield of 17.48 lakh bulk litres (26.9 lakh bottles) of beer with resultant loss of revenue of Rs.1.67 crore on account of excise duty.

On this being pointed out in audit the ACE, Bhopal and Indore stated (October and December 2001) that norms for yield of beer had not been prescribed. The reply is not correct in view of the provisions of Technical Excise Manual.

The matter was reported to the EC and the Government (between February and April 2002); their reply has not been received (July 2003).

(b) Short-production of alcohol

Test-check of records of Gwalior Distillery, revealed (June 2001) that 7.49 lakh proof litres of alcohol were produced from 14,130 quintals of rice as against expected yield of 7.92 lakh proof litres resulting in shortfall of 0.43 lakh proof litres involving potential loss of excise duty of Rs.10.32 lakh at the rate of Rs.24 per proof litre.

EC had stated (June 1997) that action to frame rules regarding yield from the bases other than molasses was being taken but such rules are yet to be framed.

The matter was reported to the EC and the Government (September and December 2001); their reply has not been received (July 2003).

3.6 Non-maintenance of minimum stock of spirit at distillery

The rules require licensees to maintain prescribed minimum stock of spirit at the distillery. The EC may impose a penalty not exceeding Rs.5 per proof litre on the quantity found short of the minimum prescribed stock.

Test-check of records of 2 distilleries⁵ in Khargone District revealed (August 2001) that though the prescribed minimum stock of spirit was not maintained on a number of occasions between March 2000 and June 2001, penalty of Rs.50.70 lakh on 10.14 lakh proof litres spirit found short of minimum prescribed stock was not levied.

³ Technical Excise Manual is used as a reference book by the Department

⁴ (1) M/s Lila Sons Breweries Bhopal

(2) M/s M.P. Beer Indore

⁵ M/s Associated Alcohol and Breweries Barwah
M/s Agrawal Breweries Barwah

On this being pointed out DEO (distilleries) stated (August 2001) that notices were issued from time to time and the cases had been sent to EC for imposing penalty, no action had been taken by the EC so far. (September 2002).

The matter was reported to the EC and the Government (between December 2001 and April 2002); their reply has not been received (July 2003).

3.7 Non-recovery of expenditure incurred on State Government establishment

As per Rule, if the expenditure incurred on the State Government establishment at a distillery exceeds 5 per cent of the revenue earned on the issues of spirit therefrom, by export fee or any other levy, the amount, in excess of the aforesaid 5 per cent, shall be realised from the distiller.

Test-check revealed (August 2001) that the expenditure on Government establishment of 2 distilleries was Rs.15.27 lakh and the revenue earned by Government was Rs.49.07 lakh during the period 1999-2001. Thus expenditure of Rs.12.82 lakh was incurred in excess of 5 per cent of Rs.49.07 lakh, which was not recovered.

On this being pointed out in audit the DEO, Khargone stated (August 2001) that expenditure incurred on establishment was less than five per cent of the revenue earned. The reply is not supported by facts.

The matter was reported to the EC and the Government (April 2002); their reply has not been received (July 2003).

3.8 Re-auction of poppy straw groups/Bhang shops

Government notification (March 1999 and 2000) lays down that, if the licensee/bidder does not stand on his bid or fails to follow the licence conditions, the licence is liable to be cancelled and the loss caused due to re-auction recovered from him as arrears of land revenue, besides the earnest money being forfeited.

Test-check of records of 3 DEOs⁶ revealed (between February 2000 and April 2001) that 4 groups of poppy straw of Morena and Shivpuri districts and 7 shops of Bhang of Mandsaur district were auctioned to four licensees for Rs.42.33 lakh for the years 1999-2000 and 2000-2001. One licensee of poppy straw of Morena district did not stand his bid and other two licensees failed to deposit full monthly instalments from 1 August 1999 and 1 licensee from July 2000, Their licences were cancelled and the groups and shops were re-auctioned between November 1999 and March 2001 for Rs.7.03 lakh resulting in loss of revenue of Rs.10.26 lakh which was recoverable from the defaulting licensees. No steps for recovery were taken by the department.

The matter was reported to the EC and the Government (May 2000 and April 2002); their reply has not been received (July 2003).

⁶ Mandsaur, Morena and Shivpuri

3.9 Non-levy/recovery of penalty

According to the conditions of licences in Form No.FL-2 and FL-3, a licensee is required to lift a minimum quota of spirit and malt fixed for a year. For any short fall in lifting the minimum quota, penalty shall be imposed and recovered by the Collector, rate of penalty for short lifting of spirit being Rs.65 per proof litre and for malt Rs.3.50 per bulk litre.

Test-check of records of ACE, Indore revealed (January 2002) that 21 licensees of FL-2 and 30 licensees of FL-3 had lifted short 8826.18 proof litres of spirit and 62912 bulk litres of malt during 2000-2001 but no penalty was imposed resulting non-recovery of penalty of Rs.7.94 lakh.

The matter was reported to the EC and the Government (March and April 2002); their reply has not been received (July 2003).

3.10 Inadmissible wastage of spirit

The rules allow wastage between 0.1 and 0.2 per cent on account of leakage or evaporation of spirit transported from one distillery/warehouse to another distillery/warehouse in the State or exported in tankers. Rules do not allow any wastage due to breakage of filled bottles in transit from one warehouse to another. In case of wastages beyond permissible limit/inadmissible under rules the licensee is liable to pay penalty/duty.

Test-check of records of DEOs, Indore and Khargone revealed (August and December 2001) that 19.40 lakh proof litres of rectified spirit were exported/transported by 2 distilleries⁷ on 81 permits during February 2000 to November 2001 and 12232 proof litres were shown as excess wastage beyond permissible limit of 3642.43 proof litres on which leviable penalty worked out to Rs.3.67 lakh. Further, 19.30 lakh proof litres of country spirit was transported by 5 warehouses⁸ to another warehouse in bottles on 870 permits, during August 2000 to November 2001 and 16919 proof litres was shown as wastage which was inadmissible on which leviable duty worked out to Rs.4.06 lakh. Thus total amount of penalty/duty leviable worked out to Rs.7.73 lakh.

The matter was reported to the EC and the Government (between November 2001 and April 2002); their reply has not been received (July 2003).

⁷ Associated alcohols and Breweries Barwah, Khargone and Som Distilleries, Raisen

⁸ Barwani, Datia, Dhar, Tikamgarh and Ujjain

Chapter 4 : Taxes on vehicles

4.1 Results of audit

Test-check of records relating to taxes on vehicles during the year 2001-2002 revealed non-assessment/under-assessment of tax and loss of revenue amounting to Rs.6.40 crore in 2851 cases which can broadly be categorised as under:

(Rupees in crore)

S. No.		Number of cases	Amount
(i)	Non/short-levy of vehicle tax, penalty, composition fee on Public Service Vehicles	645	2.86
(ii)	Non/short-levy of vehicle tax and penalty on goods vehicles	451	1.07
(iii)	Others	1755	2.47
	Total	2851	6.40

The Department accepted under-assessment/losses etc., in 949 cases involving Rs.2.98 crore, which were pointed out in audit during 2001-2002.

A few illustrative cases involving Rs.10.09 crore¹ are given in the following paragraphs:

4.2 Working of Transport check posts

With a view to check and prevent leakage of tax, fee and penalty leviable under *Madhya Pradesh Motoryan Karadhan Adhiniyam, 1991*, effective from January 1992² on vehicles entering or passing through the State, the State Government had established 36 check posts at various entry points on inter-state routes connecting Madhya Pradesh with its neighbouring States.

The Transport Inspectors/sub-Inspectors posted at check posts have been empowered under Motor Vehicles Act, 1988 enacted by (Act 1988) Parliament to compound offences committed by the vehicle owners while their vehicles passed through these

¹ This includes the cases of 9 units test-checked during 2001-2002 but inspection reports were issued after 31 March 2002, as such audit results of these units are not included in result of Audit of 2001-2002.

² Before January 1992 the tax was being levied under *Madhya Pradesh. Motor Vehicles (Taxation) Act 1947* and the *Madhya Pradesh Motor Vehicles (Taxation of goods) Act, 1962*

check posts. The rates of composition fee for different type of offences have been prescribed by the State Government.

4.2.1 Performance of transport check posts

(i) The overall position of offences detected and revenue collected at 36 check posts between the years 1996-97 and 2000-2001 was as under:

Year	Offences detected		Revenue realised		Total revenue realised by the Department ³ (Rs. in crore)/ Percentage of overall revenue of the Department
	Number	Increase (+)/ decrease (-) over previous year (Percent)	Rupees in Crore	Increase (+)/ decrease (-) over previous year (Percent)	
1996-97	120103		19.99		
1997-98	99029	(-) 17.6	19.04	(-) 4.7	<u>298.89</u> 6.4
1998-99	80603	(-) 18.6	18.42	(-) 3.3	<u>306.89</u> 6.0
1999-2000	84526	(+) 4.8	20.04	(+) 8.8	<u>321.62</u> 6.2
2000-2001	131044	(+) 55.0	27.60	(+) 37.7	<u>357.57</u> 7.7

There was continuous short-fall in the number of offences detected between the years 1996-97 and 1998-1999 and steep rise in 2000-2001. The revenue collection also decreased during the years 1997-98 and 1998-99 compared to the preceding year.

(ii) An analysis of offences detected and revenue realised at 12 check posts (test-checked) during the period 1996-97 to 2000-2001 revealed as under:

³ Revenue realised by the check posts which remained in Madhya Pradesh after seperation

Category-wise offences detected	No. of Offences				
	Percentage of total offences				
	1996-97	1997-98	1998-99	1999-2000	2000-2001
(a) Over loading	<u>33428</u> 33.9	<u>14408</u> 16.8	<u>4162</u> 6.2	<u>2302</u> 3.3	<u>4642</u> 4.1
(b) Without permit	<u>7071</u> 7.2	<u>7399</u> 8.6	<u>8609</u> 12.7	<u>9435</u> 13.4	<u>2033</u> 1.8
(c) Without fitness certificate	<u>10448</u> 10.6	<u>11896</u> 13.8	<u>14860</u> 22.0	<u>17373</u> 24.7	<u>25057</u> 22.2
(d) Without insurance	<u>5301</u> 5.4	<u>5765</u> 6.7	<u>7677</u> 11.3	<u>9374</u> 13.3	<u>15580</u> 13.8
(e) Without driving licence	<u>8542</u> 8.7	<u>8932</u> 10.4	<u>8819</u> 13.0	<u>9292</u> 13.3	<u>17039</u> 15.1
(f) Others ⁴	<u>33766</u> 34.2	<u>37460</u> 43.6	<u>23500</u> 34.7	<u>22427</u> 31.9	<u>48647</u> 43.0
Total	98556	85860	67627	70203	112998
Revenue realised (Rs. in Crore)	16.63	15.90	15.23	16.76	23.33

It would be seen that revenue realised on these check posts was 82 to 85 per cent of total revenue realised at 36 check posts.

4.2.2 Short-levy/non-realisation of composition fees

Prior to 24 May 2000 compounding fees for the offence of overloading was 20 paise per kilogram for excess load upto one metric tonne and 40 paise per kilogram for more than one metric tonne subject to a maximum of Rs.2000. From 24 May 2000, the rates were revised to 50 paise per kilogram for excess load in addition to minimum fine of Rs.2000. Test-check of records revealed short-levy of composition fee as under:

(i) Composition fees of Rs.500 to 1000 per case was charged during the period 1996-97 to 2000-2001. Since actual weight of overloading was not known for want of facility for weighment, short-levy of composition fees in 36795 cases compounded at 11 check posts⁵ during 1 April 1996 to 23 March 2000 could not be ascertained in audit. Further, during the period 24 May 2000 to 31 March 2001, revenue of Rs.1.04 crore was realised on 13400 vehicles, against minimum fine of Rs.2.68 crore resulting in revenue of Rs. 1.64 crore being short realised.

⁴ Includes offences relating to (i) Closure of search light, (ii) Absence of second driver, (iii) Way bills without weight etc.

⁵ Balsamund, Hanumana, Khawasa, Multai, Nayagaon, Phooph, Pitol, Shahpurphata, Sohagi, Soyat and Sikandara

(ii) In addition to above in respect of 1652 vehicles fine was realised between 24 May 2000 and March 2001 at pre-revised rates resulting in short levy of Rs.11.40 lakhs.

4.2.3 Lack of Internal Control

(i) Manpower planning

(a) Deployment of staff

Relative deployment of staff at 11 check posts during 1999-2000 was as under:

Name of check post	Sanctioned strength	Actual Strength	No. of vehicles checked No. of vehicles challaned	Average No. of vehicles checked per employee Average No. of vehicles challaned per employee	Revenue realised Average revenue realised per employee (Rs. in lakh)	Average Revenue earned per vehicle challaned (Rupees)
1.	2.	3.	4.	5.	6.	7.
1. Balsamund	15	40	$\frac{361400}{23663}$	$\frac{9035}{592}$	$\frac{492.69}{12.31}$	2082 ✓
2. Shahpur-phata	14	11	$\frac{33937}{2177}$	$\frac{3085}{198}$	$\frac{54.73}{4.97}$	2514 ✓
3. Sohagi	14	12	$\frac{32163}{4408}$	$\frac{2680}{367}$	$\frac{96.75}{8.06}$	2195 ✓
4. Hanumana	14	09	$\frac{23971}{2553}$	$\frac{2663}{284}$	$\frac{63.75}{7.08}$	2497 ✓
5. Sikandara	11	14	$\frac{21423}{3024}$	$\frac{1530}{216}$	$\frac{62.99}{4.50}$	2083 ✓
6. Soyat	10	08	$\frac{8654}{917}$	$\frac{1082}{115}$	$\frac{68.99}{8.62}$	7523 ✓
7. Morena	14	14	$\frac{50028}{4641}$	$\frac{3573}{332}$	$\frac{120.85}{8.63}$	2604 ✓
8. Khawasa	14	23	$\frac{46666}{5243}$	$\frac{2029}{228}$	$\frac{125.47}{5.46}$	2393 ✓
9. Pitol	13	11	$\frac{18577}{2254}$	$\frac{1689}{205}$	$\frac{178.90}{16.26}$	7937 ✓
10. Nayagaon	14	37	$\frac{139689}{15521}$	$\frac{3775}{419}$	$\frac{314.54}{8.50}$	2026 ✓
11. Phooph	12	06	$\frac{18285}{1388}$	$\frac{3047}{231}$	$\frac{51.19}{8.53}$	3688 ✓

The average number of vehicles checked per employee was highest at 9035 in Balsamund and lowest at 1082 in Soyat, while that of vehicles challaned per employee was highest at 592 in Balsamund and lowest at 115 in Soyat.

The average revenue realised per employee and per vehicle challaned ranged between Rs.4.50 lakh (Sikandara) and Rs.16.26 lakh (Pitol) and Rs.2026 (Nayagaon) and Rs.7937 (Pitol) respectively. Thus, there was wide variation in the performance per employee at the transport check posts. In the absence of any parameter, adequacy of

performance of employees with reference to revenue collection could not be ascertained.

(ii) Non installation of weigh bridges

Importance of installation of a weigh bridge at each check post to ensure conformity of laden and unladen weight of a vehicle to the permissible limit under the Act and Rules was emphasised in para 4.2.6(c) of the Report of the Comptroller and Auditor General of India for the year ended 31 March 1995 (Revenue Receipts). However, the Department had not installed any weigh bridge since then. As of March 2001, out of 36 check posts⁶ weigh bridges at 3 check posts installed prior to March 1995 were not working and five weigh bridges, purchased in 1994 for installation were not installed (March 2002). In the absence of weigh bridges actual load of vehicles was not ascertainable.

(iii) Delay in establishment of check posts

New check posts were required to be established at inter-state borders of Madhya Pradesh and Chhattisgarh immediately after creation of Chhattisgarh State with effect from 1 November 2000.

It was, however, seen that 5 check posts at inter-state borders were established with effect from 1 February 2001. The delay in establishment resulted in loss of revenue of Rs.18.28 lakh⁷ during the period November 2000 to January 2001. Reasons for delay in establishing check posts were not analysed and intimated by the Department (July 2003).

4.3 Non/short-levy of vehicle tax and penalties

As per provisions of Madhya Pradesh *Motoryan Karadhan Adhiniyam*, 1991 (*Adhiniyam*, 1991) and the Madhya Pradesh *Karadhan Niyam*, 1991 (*Niyam* 1991) made thereunder, a tax is leviable on every vehicle used or kept for use in the State. If the tax due on a motor vehicle has not been paid, the owner shall, in addition to the payment of tax due, be liable to pay a penalty at the rate of one third of the unpaid amount of tax but not exceeding twice the unpaid amount of tax for the default of each month or a part thereof. In case the owner fails to pay the tax or penalty or both taxation authority is required to issue a demand notice and recover the dues as arrears of land revenue.

(a) Test-check (between November 2000 and March 2002) of records of 23 Transport Offices revealed that vehicle tax was neither paid by 1493 vehicles nor

⁶ The weighing machine for check post at Sikandara, Sohagi, Hanumana, Phooph and Pitol were purchased in 1994, but were not installed by the Supplier as of March 2002. The weighing machine at Sendhwa check post was not shifted to the new site of Balasamund between September 1996 and March 2001. The weighing machine at Khawasa (prior to the year 1996), Nayagaon (since the year 1990) and Morena check posts were out of order. Action for installation of weighing machine at 27 check posts, including those established in February 2001 was not initiated.

⁷ Calculated as per monthly average of revenue collected during February 2001 and March 2001 at the newly created check posts

was it demanded by the department resulting in non-realisation of Government revenue of Rs.7.87 crore including penalties of Rs.5.25 crore as detailed below:

(Rupees in crore)

Sr. No.	No. of offices	Number/Category of vehicle	Period	Tax	Penalty	Total
1.	5-Regional Transport Officers ⁸ (RTOs) 7- Additional Regional Transport Officers ⁹ (ARTOs) 10-District Transport Officers ¹⁰ (DTOs)	308 Reserve Stage Carriages	April 1999-March 2002	1.01	2.02	3.03
2.	5-RTOs ⁸ 7-ARTOs ⁹ 10-DTOs ¹⁰	733 Goods Carriages	April 1998-March 2001	0.64	1.28	1.92
3.	1-RTO (Rewa) 1-ARTO (Chhatarpur)	80 goods carriages covered by permits granted by Transport Authorities	April 1999-March 2002	0.15	0.29	0.44
4.	4-RTOs ¹¹ 6-ARTOs ¹² 9-DTOs ¹³	122 Public Service Vehicle	April 1998-March 2001	0.56	1.13	1.69
5.	2-RTOs (Indore & Jabalpur) 1-DTO (Bhind)	11 All India Tourist Permit	July 1999-March 2001	0.09	0.19	0.28
6.	3-RTOs ¹⁴ 7-ARTOs ¹⁵ 1-DTOs (Bhind)	219 Omnibuses	April 1998-March 2001	0.11	0.22	0.33
7.	3-RTOs ¹⁶ 1-ARTO (Katni)	20 Private Service Vehicles	April 1997-March 2001	0.06	0.12	0.18
			Total	2.62	5.25	7.87

⁸ Bhopal, Hoshangabad, Indore, Jabalpur and Sagar

⁹ Chhatarpur, Dhar, Katni, Khandwa, Khargone, Mandsaur and Seoni

¹⁰ Betul, Bhind, Datia, Dewas, Jhabua, Narsinghpur, Sehore, Shajapur, Shivpuri and Vidisha

¹¹ Bhopal, Hoshangabad, Indore, and Sagar

¹² Chhatarpur, Dhar, Katni, Khandwa, Mandsaur and Seoni

¹³ Betul, Bhind, Datia, Dewas, Jhabua, Sehore, Shajapur, Shivpuri and Vidisha

¹⁴ Bhopal, Indore and Jabalpur

¹⁵ Chhatarpur, Dhar, Katni, Khandwa, Khargone, Mandsaur and Seoni

¹⁶ Bhopal, Indore and Jabalpur

The Matter was reported to the TC and the Government (between May 2001 and 2002); their reply is awaited (July 2003).

(b) Non-levy of penalty for belated payment of vehicle tax

If tax due on motor vehicle under *Adhiniyam*, 1991 is not paid within stipulated time the owner shall in addition to the payment of tax due, be liable to pay a penalty at the rate of one third of the unpaid amount of tax for the default of each month or part thereof but not exceeding twice the unpaid amount of tax.

Test-check of records of 4 RTOs¹⁷, 2 ARTOs¹⁸ and DTO Sehore revealed (between June 2001 and February 2002) that though tax on 6 goods vehicles and 34 public service vehicles due between December 1997 and March 2001 was paid late by 01 to 32 months, the taxation authorities failed to raise demands for penalty on belated payments resulting in loss of revenue of Rs.9.75 lakh.

The matter was reported to the TC and the Government (between July 2001 and March 2002); their reply is awaited (July 2003).

4.4 Short-realisation of revenue due to non-application of revised rates/incorrect calculation.

Vehicle Tax is payable in accordance with rates prescribed by the Government from time to time. The tax payable is also related to the distance covered by the vehicle.

Test-check of records of ARTO Khandwa and 4 DTOs¹⁹ revealed (August 2001, February and March 2002) that vehicle tax in respect of 95 vehicles was incorrectly levied either due to application of incorrect rate of tax or application of incorrect distance covered by the vehicles resulting in short realisation of revenue of Rs.18.72 lakh.

The matter was reported to the TC and the Government (November 2001, February and April 2002); their reply has not been received (July 2003).

¹⁷ Bhopal, Hoshangabad, Jabalpur and Sagar

¹⁸ Chhatarpur and Khandwa

¹⁹ Bhind, Jhabua, Sehore and Shajapur

Chapter 5 : Land Revenue

5.1 Results of audit

Test-check of records relating to assessment and collection of land revenue during 2001-2002 revealed non-assessment/under-assessment etc. of revenue, non-raising of demand amounting to Rs.88.66 crore in 1,14,609 cases which can broadly be categorised as under:

(Rupees in crore)

S. No.		Number of cases	Amount
(i)	Delay in collection of revenue against Revenue Recovery Certificate	24349	41.66
(ii)	Non-levy of <i>Panchayat</i> cess, non-revision of land revenue, non-realisation of fines and penalties.	71820	18.91
(iii)	Non/under-assessment of <i>Nazul</i> rent, premium and ground rent	9612	16.91
(iv)	Non-assessment, delay in assessment of diversion rent and premium	793	2.12
(v)	Others	8035	9.06
	Total	114609	88.66

During the year 2001-2002 the Department accepted under-assessment etc. of Rs.84.75 crore involved in 111346 cases.

A few illustrative cases involving Rs.1.86 crore are discussed in the following paragraphs:

5.2 Short/non-assessment of premium and ground rent on *Nazul* land allotted for commercial purposes/non-initiating of penal action

As per Revenue Book Circular (RBC) *nazul* land can be given on lease without auction on payment of premium worked out on the basis of minimum rates prescribed in RBC or on the basis of rates of property shown in guidelines¹ which ever is higher. In addition, ground rent is recoverable on such land annually, at the prescribed rate.

¹ Guidelines used for determination of value of the properties in registering offices

During test-check of records of *Nazul* Office Badwani it was noticed (February 2001 and November 2001) that *Nazul* land measuring 174240 sq. ft. was given on lease in December 1997 to a local body on premium of Rs.2.69 lakh on the basis of rate given in RBC, while the rate as per guidelines of Badwani premium payable amounted to Rs.87.12 lakh. Besides ground rent was assessed at Rs.0.20 lakh instead of Rs.6.53 lakh per year. This resulted in short-assessment/levy of premium amounting to Rs.84.43 lakh and of ground rent of Rs.25.32 for the period of 1997-98 to 2000-2001.

On this being pointed out in audit (between February 2001 and November 2001) the department stated that the cases would be examined and action taken to recover the amount. No further reply has been received (July 2003).

5.3 Non-inclusion of Process expenses

Madhya Pradesh Land Revenue Code, 1959 (Code 1959) and Madhya Pradesh *Lokdhan (Shodhya Rashiyon Ki Vasuli) Adhinyam and Rules made thereunder* provide that the Recovery Officer shall register a case within fifteen days of receipt of the Revenue Recovery Certificate in Revenue Case Register and issue a demand notice within that period. It is further provided in the *Adhinyam* that process expenses at 3 per cent of the Principal amount of revenue due from defaulters is to be included in the demand to be raised through Revenue Recovery Certificate.

Test-check of records of two tahsils² revealed (between July and September 2001) that process expenses of Rs.14.70 lakh on principal amount of Rs.4.91 crore for the period from 1996-97 to 2000-2001 were not included in the Revenue Recovery Certificates issued to the defaulters. This resulted in short realisation of Rs.14.70 lakh.

The matter was reported to the Commissioner, Settlement and Land Record and the Government (between January and February 2002); their reply has not been received (July 2003).

5.4 Non-raising of demand

The Revenue Book Circular and the Madhya Pradesh Land Revenue Code of 1959, provide that a record in respect of fine imposed by the Revenue Officers shall be maintained by them in prescribed forms. A statement of the amount to be recovered shall also be sent to the Tahsildar of the tahsil, where the defaulter resides, for entry in the Demand and Collection Register. The statement should be returned by Tahsildar to Revenue Officer with a certificate confirming the entry. Where the defaulter resides in the same tahsil, the case shall be sent to *Wasil Baki Nawis* for noting in the Demand and Collection Register and for raising the demand and watching the recovery thereof.

(a) Test-check of records of three tahsils³ revealed (August and October 2001) that 6,108 cases of fines and penalties amounting to Rs.11.92 lakh imposed during October 1998 to September 2001 had not been noted in the Demand and Collection Register of the tahsils resulting in demand of Rs.11.92 lakh not being raised.

² Tahsil Guna and Patan (Jabalpur)

³ Baldeogarh (Tikamgarh), Lahar (Bhind) and Sirmour (Rewa)

(b) The RBC provides that the Revenue Authority shall intimate the Tahsildar concerned the demand of re-assessed rent on land to incorporate in tahsil records.

Test-check of records of five tahsils⁴ revealed (between November 2000 and August 2001) that the demand of diversion-rent and premium of Rs.49.78 lakh for the period 1998-99 to 1999-2000 was not raised in 181 cases.

The matter was reported to the Commissioner, Settlement and Land Record and the Government (between January 2001 and December 2001); but their reply has not been received (July 2003).

⁴ *Badwaha (Khargone), Huzoor Bhopal, Maheshwar (Khargone), Sirmour (Rewa) and Kasrawad (Khargone)*

Chapter 6 : Other Tax Receipts

Stamp duty and registration fee

6.1 Results of audit

Test-check of records relating to Stamp duty and registration fee during the year 2001-2002 revealed non-assessment and under-assessment of stamp duty and registration fee and other losses of revenue amounting to Rs.19.65 crore in 7423 cases which can broadly be categorised as under:

(Rupees in crore)

S. No.		Number of cases	Amount
(i)	Inordinate delay in finalisation of the cases	5159	12.39
(ii)	Short-realisation of stamp duty and registration fee due to under-valuation of properties	631	1.74
(iii)	Incorrect exemption from payment of stamp duty and registration fee	1247	0.79
(iv)	Loss due to misclassification of documents	229	0.58
(v)	Others	157	4.15
	Total	7423	19.65

During 2001-2002, Department accepted under-assessment of Stamp duty and registration fee of Rs.13.59 crore involved in 6135 cases.

A few illustrative cases arising out of review on "Misclassification of Instruments" and other important observations involving Rs.5.13 crore are discussed in the following paragraphs:

6.2 Misclassification of Instruments

6.2.1 Introduction

The receipts from stamp duty and registration fee in Madhya Pradesh are regulated under the Indian Stamp Act, 1899, the Registration Act, 1908 and the Rules made thereunder, and the notifications/orders issued from time to time by the State Government.

These Acts, provide that stamp duty and registration fee shall be charged on instruments at prescribed rates based on their nature and value. The instrument not duly stamped, are required to be impounded and sent in original to the Collector of stamps (Collector) for levy of proper duty thereon, or registration/authentication on appropriate payment of duty or in case of its being insufficiently stamped, on payment of the amount required to make up such duty.

6.2.2 Organisational set up

The Inspector General of Registration and Superintendent of Stamps (IGR) is the head of the Registration Department and exercise overall supervision and control over the working of the Department. He is assisted in discharge of his functions by a District Registrar-cum-Collector of Stamps (Collector) in each district who is responsible for check and supervision of Sub-Registrar's offices. Instruments are registered at Sub-Registrar's offices, headed by Sub-Registrar in the tahsil. After formation of separate Chhattisgarh State, 39 District Registrars and 226 Sub-Registrars are functioning in the state.

6.2.3 Scope of Audit

With a view to verify the correctness of classification of instruments registered and to check whether they are appropriately stamped, test check of records of 22 Sub-Registrar's offices¹ for the period 1997-98 to 2000-2001 was conducted between April 2001 and March 2002.

6.2.4 High lights

- 503 Instruments involving revenue of Rs.2.40 crore impounded and referred to Collector were not finalised as on 31 March 2001, of these, 54 cases were more than 10 years old.

(Paragraph 6.2.6)

- 20 instruments comprising distinct matters were incorrectly treated as one matter in each instrument resulting in short realisation of stamp duty and registration fee of Rs.50.04 lakh.

(Paragraph 6.2.7)

- In 83 documents of Power of attorney, executed for transfer of property, stamp duty and registration fee of Rs.32.51 lakh was short-levied.

(Paragraph 6.2.8)

¹ Ashok Nagar (Guna), Bhopal, Chhindwara, Datia, Dhar, Ganj Basoda (Vidisha), Gohad (Bhind), Guna, Gwalior, Indore, Jabalpur, Katangi (Balaghat), Katni, Mandsaur, Morena, Narsinghgarh (Rajgarh), Ratlam, Raisen, Rewa, Sehore, Shajapur and, Susner (Shajapur)

6.2.5. Trend of revenue realisation

Revenue in Registration Department accrues mainly in the form of stamp duty, registration fees and penalty. Budget estimates and actual revenue realised during 5 years ended 31 March 2001 were as under:

Year	Budget estimates (Rupees in Crore)	Actual receipts (Rupees in Crore)	Percentage of variation
1996-97	316.68	318.89	(+) 0.70 ✓
1997-98	357.00	361.17	(+) 1.17 ✓
1998-99	417.00	400.21	(-) 4.03 ✓
1999-2000	1980.00	1939.83	(-) 2.00 ✓
2000-2001	530.00	477.08	(-) 9.98 ✓

It would be seen that revenue was less realised by 2 to 10 per cent as compared to budget estimates during last three years (1998-2001)

6.2.6 Instruments not duly stamped

Any instrument chargeable with duty produced before Sub-Registrar in the performance of his functions shall be impounded, if it appears to him that such instrument is not duly stamped. Such instruments are to be referred to the Collector for levy of duty and penalty; register in Form-18 is to be maintained by the Sub-Registrar to keep watch on disposal of such cases. No time limit has been prescribed for disposal of such cases referred to the Collector. It is, however, prescribed in the manual that Sub-Registrar should send periodical reminders to Collector for early disposal of the cases.

Test-check of records of 11 Sub-Registrar's offices² revealed that 503 instruments impounded and referred to the Collector between January 1965 and March 2001 were not finalised, of which 54 cases were more than 10 years, 83 cases were more than 5 years and 266 cases were more than one year old. As per records of the Sub-Registrar's offices, duty of Rs.2.40 crore was leviable on these instruments. Non-finalisation of the cases resulted in non-realisation of duty to that extent. Periodical reminders were also not issued by the Sub-Registrars to the Collectors.

On being pointed out in audit all the Sub-Registrars stated (between July 2001 and March 2002) that the Collectors would be requested for early disposal of the cases. Further report in the matter has not been received (May 2002).

The above matters were reported to the IGR and the Government (May 2002); their reply has not been received (July 2003).

6.2.7 Instruments relating to several distinct matters

According to section 5 of Indian Stamp Act, 1899, any instrument comprising or relating to several distinct matters shall be chargeable with the aggregate amount of

² Datia, Dhar, Ganj Basoda (Vidisha), Indore, Jabalpur, Katni, Mandsaur, Ratlam, Raisen, Rewa and Sehore

stamp duties with which separate instrument each comprising or relating to one of such matters would be chargeable under the Act.

(A) Test-check of the records of 6 Sub-Registrar's offices³ revealed that 10 documents registered between July 1997 and October 2000, comprising or relating to several distinct matters were treated as comprising/relating to one of them. This resulted in short-levy/short-recovery of stamp duty (Rs.22.97 lakh) and registration fee (Rs.2.00 lakh), as detailed below-

(i) Land of District Congress Committee Chhindwara was gifted to a Trust through a declaration of Trust Deed (June 1999) Stamp duty (Rs.1.67 lakh) and registration fee (Rs.0.14 lakh) payable on gift was not levied.

(ii) In a partnership deed registered by Sub-Registrar, Indore in October 2000, property valued at Rs.2.02 crore was gifted to partnership firm. Stamp duty of Rs.19.17 lakh and registration fee of Rs.1.62 lakh was not levied.

(iii) In 8 partition deeds registered between May 1999 to June 2000 by Sub-Registrar, Jabalpur, Bhopal and Morena, one co-owner relinquished his claim in favour of other co-owners. Stamp duty of Rs.2.13 lakh and registration fees of Rs.0.24 lakh on release was not levied.

Final reply was awaited in all cases (July 2003)

(B) Non-valuation of land sold

Test-check of records of Sub-Registrar Indore (March 2001) revealed that in 10 sale deeds market value of land forming part of property sold was not considered for levy of stamp duty and registration fee as under:

(i) In 4 sale deeds of flats (May to December 2000) it was noticed that the land for construction of flats was acquired by the seller of flats in exchange for development of land and construction on land. Stamp duty of Rs.15.29 lakh and registration fee of Rs.1.24 lakh on market value of Rs.1.55 crore of land so transferred, could not be recovered. Thus Government was deprived of revenue of Rs.16.53 lakh.

(ii) In 6 sale deeds (July 2000 to March 2001) of factory/property situated on lease hold land, value of land Rs.87.67 lakh was not included in valuation of properties. Thus Government was deprived of Stamp duty of Rs.7.77 lakh and registration fee of Rs.0.77 lakh leviable on sale of land.

On this being pointed out, Sub-Registrar stated that copies of deed would be sent to Collector for necessary recovery.

6.2.8 Power of attorney authorising the attorney to sell or transfer any immovable property

As per Article 48 (f-1) duty as for a conveyance was chargeable on power of attorney when given without consideration in favour of persons other than spouse/children/mother/father/brother/ sister authorising the attorney to sell or transfer any immovable property. The execution/registration of document is also part and parcel of sale and is chargeable with duty for sale.

³ Bhopal, Chhindwara, Indore, Jabalpur, Morena and Ratlam

Test-check of records of 7 Sub-Registrar's offices⁴ revealed that 83 documents of 'Power of attorney' (registered between May 1997 and March 2001) without consideration in favour of person other than spouse/father/mother/children/brother/sister authorising the attorney to sell or transfer immovable property were treated as ordinary power of attorney and charged at lower rate of duty. This resulted in short-levy/short-recovery of Rs.32.51 lakh (stamp duty Rs.29.27 lakh and registration fee Rs.3.24 lakh).

On this being pointed out in audit the Sub-Registrars concerned accepted the objection in 59 cases, in respect of remaining cases, final reply is awaited.

6.2.9 Incorrect treatment of gift deed as settlement deed

Settlement is non-testamentary disposition in writing of immovable or movable property in consideration of marriage or for the purpose of distributing property of the settler among his family or for those whom he desires to provide for or for the purpose of providing for some person dependent on him or for any religious or charitable purpose. Settlement is revocable instrument but gift is irrevocable.

Test-check (July 2001 and February 2002) of records of 10 Sub-Registrar's offices⁵ revealed that 62 irrevocable documents registered between June 1997 and March 2001 wherein immovable property alongwith all rights and title was transferred, were treated as settlement instead of gift. This resulted in short-levy of stamp duty of Rs.9.03 lakh and registration fee of Rs.0.02 lakh.

On this being pointed out in audit Sub-Registrar, Gohad (Bhind) and Morena stated (June and July 2001) that copy of documents would be referred to the Collector for proper levy of duty. Sub-Registrar, Bhopal and Raisen stated (July and August 2001) that guidance of higher departmental authorities would be obtained. Final reply in other cases is awaited.

6.2.10 Agreement to sale with possession was treated as agreement to sale without possession

(i) An agreement is a proposal accepted by a person, to whom it is made. In cases of agreement to sell of immovable property, if the possession is transferred to the purchaser, such documents shall be deemed to be a conveyance and stamp duty thereon shall be leviable accordingly.

Test-check (July 2001 and March 2002) of records of Sub-Registrar Bhopal, Indore, Mandsaur and Sehore revealed that in 47 documents of agreement to sell, registered between April 1997 and March 2001, wherein the possession of immovable property was transferred to the purchaser, were treated as agreement to sell without possession and charged for duty accordingly. This resulted in short-levy of stamp duty of Rs.7.35 lakh.

⁴ Bhopal, Chhindwara, Ganj Basoda (Vidisha), Gohad (Bhind), Indore, Ratlam, Susner (Shajapur)

⁵ Bhopal, Ganj basoda (Vidisha), Gohad (Bhind), Gwalior, Jabalpur, Mandsaur, Morena, Ratlam, Rewa and Sehore

On this being pointed out the Sub-Registrars concerned accepted the audit observations involving stamp duty of Rs.7.03 lakh, and in respect of one case of Sub-Registrar, Bhopal final reply is awaited.

(ii) As per provisions of Schedule 1-A to the Act, 1899, gift, sale, agreement to sale, conveyance, release and settlement attract higher rate of duty than partition, agreement, power of attorney, surrender, cancellation of agreement and trust respectively.

Test-check of records of Sub-Registrar Ganjbasoda (Vidisha), Guna, Indore, Jabalpur and Rewa revealed (between October 2001 and February 2002) that 15 documents registered between July 1997 and January 2002 were misclassified⁶. This resulted in short-levy and recovery of stamp duty and registration fee of Rs.5.44 lakh.

In respect of seven cases Sub-Registrar Ganjbasoda (Vidisha), Indore, Rewa and Jabalpur stated that necessary action in the matter would be taken. In remaining cases final reply is awaited.

6.3 Loss of revenue due to under valuation of Property

The Indian Stamp Act 1899 as applicable to Madhya Pradesh requires the market value of the property to be specified in any deed for its conveyance, for determining the stamp duty and registration fee leviable. Sub-Registrar would refer the documents to the Collector for determination of market value of property, if there are reasons to believe that it was not truly set forth in the documents.

(a) Test-check (between August 2001 and February 2002) of records of 8 Sub-Registrar's offices⁷ revealed that in 51 instruments registered (between April 1999 and March 2001) the unit value of properties mentioned was lower than the market value of similar properties in the same patwari *Halka/Ward*. The Sub-Registrars did not refer the cases to the Collector for determination of market value of the properties and duty leviable thereon. This resulted in short-realisation of stamp duty and registration fee of Rs.18.22 lakh.

(b) In seven other instruments executed and registered between May 1999 to October 2000 in favour of sub-purchaser market value of the property was not assessed with reference to date of execution of sale deed but assessed at lesser rates than the rates of purchase during that period. This resulted in loss of revenue of Rs.6.87 lakh.

The matter was reported to the IGR and the Government (between August 2000 and April 2002); their reply has not been received (July 2003).

⁶ Gift as partition (3), sale and agreement to sale as agreement (2), conveyance as power of attorney(1), purchase as surrender of plot(1), release as cancellation of agreement to sale (5) and settlement as trust(3)

⁷ Datia, Dhar, Jabalpur, Mandsaur, Raisen, Ratlam, Sehore and Singrauli (Sidhi)

6.4 Incorrect remission of stamp duty/Non-recovery of stamp duty and registration fee

(a) Government notifications (September 1978 and March 1982) exempted mortgage/hypothecation deeds for securing loans for agricultural purposes executed by (i) *bhoomiswami*/lease holders belonging to Scheduled Castes/Scheduled Tribes and (ii) other *bhoomiswami*/lease holders holding land not exceeding ten hectares from payment of stamp duty. Departmental instructions (August 1989) require that the specific agriculture purpose for which the loan has been taken be mentioned in the deeds for seeking exemption.

Test-check (between June 2001 and February 2002) of records in 21 Sub-Registrar's offices⁸ revealed that 449 mortgage deeds executed (April 1998 to February 2001) valued at Rs.5.59 crore, in which specific purpose of loan was either not mentioned or the purpose was not agricultural, or *bhoomiswamis* of other categories were holding land exceeding 10 hectares, were incorrectly exempted from payment of stamp duty. This resulted in loss of revenue of Rs.27.93 lakh.

(b) The Act 1899 and Registration Act, 1908 (Act 1908) provide that no instrument chargeable with duty, shall be admitted in evidence for any purpose by any person, unless such instrument is duly stamped and registered. If during ordinary course of business, such document comes to notice of Sub-Registrar, it should be impounded and sent to Collector for recovery of leviable stamp duty and registration fee.

Test-check of records of Sub-Registrar, Rewa revealed (February 2002) that a power of attorney through which a person was authorised to sell or transfer immovable property valued at Rs.1.26 crore at Rewa was not duly stamped and was executed on stamp paper of Rs.20 before a notary. This was accepted as evidence in support of execution of two agreements executed by the person. The document was not impounded and sent to Collector for recovery of stamp duty and registration fee of Rs.10.42 lakh.

On this being pointed out Sub-Registrar Rewa stated that the matter would be investigated and necessary action be taken as per rules.

The matter was reported to the IGR and the Government (between August 2001 and April 2002); their reply has not been received (July 2003).

6.5 Loss of revenue on documents executed by or on behalf of societies

As per Government's notification of 24 October 1980, documents executed in favour of societies for acquisition of land for housing purposes of its members are exempted from payment of stamp duty.

⁸ Begumganj (Raisen), Bhopal, Burhanpur (Khandwa), Chhindwara, Datia, Dhar, Gadwarwara (Narsinghpur), Ganjbasoda (Vidisha), Gohad (Bhind), Hoshangabad, Jabalpur, Katni, Mandasaur, Narsinghpur, Rewa, Rajpur (Khargone) Raisen, Shajapur, Shujalpur (Shajapur), Sehore and Wara Seoni (Balaghat)

Test-check of records in 6 Sub-Registrar's offices⁹ (between August 1999 and February 2002) revealed that in 57 instruments valued at Rs.4.87 crore mention of housing purpose was not made and in one instrument land was purchased by individuals instead of society. These instruments were exempted from payment of duty treating the purchase of land as for housing purpose. Further scrutiny revealed that in other 6 cases land valued at Rs.75.67 lakh purchased for housing purpose was subsequently disposed off to other societies/individuals and was not utilised for housing purpose of members of the societies. The exemption of Rs.57.69 lakh (Stamp duty: Rs.53.10 lakh and Registration fee: Rs.4.59 lakh) granted therefore, became recoverable. Department had not taken any action in the matter.

The matter was reported to the IGR and the Government (February and April 2002); their reply has not been received (July 2003).

6.6 Under-assessment of stamp duty on instruments of release

Under the Act, 1899 stamp duty is leviable on release instruments at the rate of 4 per cent of the amount of consideration or market value of entire property whichever is higher, in respect of the claim relinquished.

Test-check (between October 2000 and February 2002) of records of 16 Sub-Registrar's offices¹⁰ revealed that in 127 instruments of release, stamp duty was levied on the value of share of executant and not on the market value of the property over which the claim was relinquished. This resulted in loss of stamp duty and registration fee of Rs.15.29 lakh.

The matter was reported to the IGR and the Government (between February 2001 and February 2002); their reply has not been received (July 2003).

6.7 Short-levy of registration fee

According to Act, 1908, registration fee for registration of document of power of attorney, trust and security mortgage, is payable on consideration or market value of properties.

Test-check of records in 5 Sub-Registrar's offices¹¹ revealed (between July 2001 and February 2002) that registration fee on 37 power of attorney deeds, 1 trust deed and 5 security mortgage deeds registered between April 1997 and March 2001 was charged at lesser rates. This resulted in short levy and short-realisation of Rs.11.10 lakh towards registration fee.

On this being pointed out in audit District Registrar Ratlam, stated (November 2002) that in one case of recovery of Rs.5.60 lakh, recovery proceedings had been stayed (June 2002) by Board of Revenue.

⁹ Bhopal, Chhindwara, Hoshangabad, Jabalpur, Raisen and Ratlam

¹⁰ Bhopal, Burhahpur (Khandwa), Dewas, Dhar, Ganjbasoda (Vidisha), Indore, Jabalpur, Karera (Shivpuri), Katni Kolaras (Shivpur), Mandsaur, Ratlam, Raisen, Sendhwa (Khargone), Shivpuri and Ujjain

¹¹ Bhopal, Jabalpur, Mandsaur, Ratlam and Sehore

The matter was reported to the IGR and the Government (February and April 2002); their reply has not been received (July 2003).

6.8 Short-levy of stamp duty and registration fee on lease deeds

According to amendment in Act, 1899 effective from 1 August 2000, where the lease is granted for a term exceeding thirty years but not exceeding hundred years, the stamp duty is chargeable at 7.5 per cent of eight times the average annual market rent plus market value of property leased out. When a lessee undertakes to pay any recurring charge, it shall be deemed to be part of the rent. Further, stamp duty is chargeable at 7.5 per cent of the premium, whatever may be the term of lease.

Test-check of the records of Sub-Registrar Offices Dhar Jabalpur and Rewa revealed (August 2001/February 2002) that in nine lease deeds stamp duty was charged at 4 per cent instead of 7.5 per cent of premium, in eight deeds recurring annual development charge was not treated as part of the rent and in eight lease deeds for 79 years the stamp duty was levied on the premium and rent reserved as set forth in the documents instead of market rent and market value of the properties. This resulted in short-levy/short-recovery of Rs.8.53 lakh towards stamp duty (Rs.5.10 lakh) and registration fee (Rs.3.43 lakh) on these deeds registered between September 1997 and January 2001.

The matter was reported to the IGR and the Government (April 2002); their reply has not been received (July 2003).

6.9 Non-reimbursement of stamp duty and registration fee

According to the Government notifications (September 1989), stamp duty and registration fee leviable on lease/sale deeds executed in favour of persons displaced by Narmada Valley Development Projects (NVDP) in respect of land acquired for them, is to be paid by Narmada Valley Development Authority (NVDA) within one month from the date of registration of documents.

Test-check of records in Sub-Registrar Office, Harda revealed (July 2001) that the stamp duty and registration fee amounting to Rs.6.11 lakh (Stamp duty: Rs.5.57 lakh; registration fee: Rs.0.54 lakh) leviable on 30 documents of sale deed executed in favour of persons displaced by NVDP, registered during March 2000 to March 2001, was not reimbursed by NVDA.

On this being pointed out Sub-Registrar, Harda stated (July 2001) that the demand notices were sent to the Land Acquisition Authorities. Further report in the matter has not been received (November 2002).

The matter was reported to the IGR and the Government (October 2001 and January 2002); their reply has not been received (July 2003).

6.10 Non-levy of Penalty

The Act, 1899 requires that facts affecting the chargeability of duty on any instrument such as consideration, if any, market value of the property and all other facts and circumstances shall be fully and truly set forth therein. The Act also provides for prosecution of the executant and penalty not exceeding Rs.5000 in each case if he discloses lesser value of the property or provides insufficient details of property.

Test-check of records of 15 Sub-Registrar's offices¹² (between June 2000 and February 2002) revealed that details in respect of agricultural land and building viz. irrigated/non-irrigated, quality of land, number of trees, location of land/plot and conditions and quality of construction of building, capital of firm, amount of premium/rent, possession handed over or not, affecting the chargeability of instrument, were not fully set forth in 142 documents¹³ registered between May 1997 and September 2000. Further, market value was not set forth in documents of power of attorney.

Action to prosecute or impose penalty was not initiated by the Department in any case. The maximum amount of penalty worked out to Rs.7.10 lakh.

The matter was reported to the IGR and the Government (between August 2000 and March 2002); their reply has not been received (July 2003).

¹² Ashoknagar (Guna), Bina (Sagar), Bhopal, Chhindwara, Datia, Ganjbasoda (Vidisha), Gohad (Bhind), Gwalior, Indore, Mandasaur, Mehgaon (Bhind), Ratlam, Rewa, Sehore and Susner (Shajapur)

¹³ Gift/sale/release (7), Power of Attorney (53), Lease (62), Agreement to sell (19) and Partnership deed (1)

Chapter 7 : Forest Receipts

7.1 Results of audit

Test-check of records of forest receipts during 2001-2002 revealed loss of revenue amounting to Rs.152.15 crore in 248 cases which can broadly be categorised as under:
(Rupees in crore)

S. No.		Number of cases	Amount
(i)	Loss due to non-exploitation of bamboo/ timber coupes	35	79.26
(ii)	Loss due to sale below upset price	12	16.11
(iii)	Loss due to deterioration/shortage of forest produce	64	14.31
(iv)	Loss of revenue due to re-measurement of timber	11	5.09
(v)	Loss due to unaccounted of forest produce	26	4.71
(vi)	Loss due to low yield timber/bamboos against estimated yield	22	3.91
(vii)	Others	78	28.76
	Total	248	152.15

The Department accepted losses etc. of Rs.8.94 crore involved in 55 cases pertaining to 2001-2002.

A few illustrative cases involving Rs.8.46 crore are discussed in the following paragraphs:

7.2 Loss due to delay in disposal of Forest Produce

Madhya Pradesh Forest Manual provides that useful life of timber is five years. Chief Conservator of Forests (Production) Madhya Pradesh, Bhopal issued instructions (June 1984) that forest produce should be transported to depots immediately to avoid its further deterioration and the material put to auction to avoid loss to Government. Government of India and Government of Madhya Pradesh, Forest Department, issued (February 1998) instructions to transport *sal* borer affected cut trees to the nearest sale depot before onset of rainy season to avoid further deterioration.

Test-check of records (January 2000) of Divisional Forest Officer (Production) (DFO (P) East Mandla, revealed that 41708 cmt timber, 6424 poles and 14,732 fuel stacks (affected by *sal* borer) pertaining to year 1997-98 and 1998-99 with upset price of Rs.19.95 crore were sold in auction for Rs.12.73 crore during the period between January 1999 and November 1999 resulting in loss of Rs.7.22 crore. This loss was due to delay in transportation of *sal* borer affected timber and fuel stacks from coupes to depots and their auction at depots.

The matter was reported to the PCCF¹ and the Government (between February and April 2002); but no reply has been received (July 2003).

7.3 Low yield of timber/bamboo

(a) Low yield of timber

As per Chief Conservator of Forests (Production) instructions (January 1984), variation upto 10 per cent between estimated quantity of timber as assessed by territorial wing and actual yield of timber as per production wing is permissible. In case variation exceeds the above limit, the reasons are required to be investigated and results there of intimated to the Additional Principal Chief Conservator of Forests (Production) (Addl. PCCF [P]).

Test-check of records of DFO (General) Katni (April 2001) and DFO (P) Raisen (December 2001), revealed that the actual production in 10 coupes was 1505.35 cu m timber and 4646 fuel stacks, as against estimated production of 2785.56 cu m timber and 5578 fuel stacks during 1998-99 and 2000-2001. Even after allowing permissible variation of 10 per cent the actual production fell short by 1001.66 cu.m timber and 374 fuel stacks. This resulted in loss of Rs.69.62 lakh. The reasons for shortfall were neither investigated nor reported to the Addl. PCCF (P) as required.

On this being pointed out in Audit (April 2001 and December 2001) the DFO Katni stated (April 2001) that low production was due to deterioration of forest and that the estimation of production was based on old form factor. The DFO Raisen replied (December 2001) that factual position would be intimated after ascertaining the position from territorial division. The reply of DFO Katni is not tenable, as the form factor had been prescribed by the Forest Department, so the short-fall needs to be investigated.

The matter was reported to the PCCF and the Government in February 2002 and in April 2002, and reply is still awaited (July 2003).

(b) Loss due to low yield of bamboo

The Additional PCCF (P) M.P., Bhopal issued instructions (June 1995) that no variation between estimated and actual yield of bamboo is to be allowed.

Test-check of records of DFO (P) South Balaghat, revealed (November 2000) that only 775 NT² of commercial bamboo and 1755 NT industrial bamboo were extracted against estimated yield of 2400 NT and 2820 NT respectively during 1998-99 and

¹ Principal Chief Conservator of Forests

² Notional Tonne (NT) 2400 running meter equal to 1 NT in respect of measurement of bamboo

1999-2000. Even after allowing for 10 per cent variation as in the case of timber, the short-fall ranged between 22 to 63 per cent, resulting in loss of Rs.54.27 lakh.

On this being pointed out in audit DFO stated (November 2000) that low yield was due to random selection of sample plot for survey, extraction of bamboo from silvicultural point of view, delay of 3 months in felling plan due to law and order problem and non-cooperation of transporters due to Naxalite activities.

The reply is not tenable as the selection of sample plot for survey was prescribed by Forest Department and bamboo was required to be exploited as per working plan in addition to cleaning of bamboo clumps from silvicultural point of view. The transportation of bamboo could have been done through departmental trucks if there was non-cooperation of transporters due to *Naxalite* activities.

The matter was reported to the PCCF and the Government in March 2002 and in April 2002; no reply has been received (July 2003).

Chapter 8 : Mining Receipts

8.1 Results of audit

Test-check of records relating to assessment and collection of mining revenue during 2001-2002 revealed non/short-assessment of royalty, dead rent, non-recovery of contract money, royalty, mineral area development cess and non-levy of interest on belated payment of royalty etc., amounting to Rs.82.16 crore in 1234 cases which may broadly be categorised as under:

(Rupees in crore)

S. No.		Number of cases	Amount
(i)	Non/short-realisation of mineral area development cess and revenue against Revenue Recovery Certificate	589	30.77
(ii)	Non-assessment of royalty and dead rent	161	16.29
(iii)	Non-levy of royalty and penalty on minor minerals and non-recovery of contract money, stamp duty and registration fee	93	12.20
(iv)	Non/short-levy of interest on belated payments of royalty	117	2.66
(v)	Others	274	20.24
	Total	1234	82.16

During 2001-2002, the Department accepted under-assessment etc., of Rs.49.80 crore involved in 859 cases.

A few illustrative cases involving Rs.44.96 crore are discussed in the following paragraphs:

8.2 Loss of revenue due to illicit extraction of minerals

Under the Mines and Minerals (Regulation and Development) Act, 1957 (Act of 1957), no person shall undertake any prospecting or mining operations in any area without a prospecting licence or mining lease granted under the Act. Section 247(7) of M.P. Land Revenue Code, 1959 read with rule 53 of M.P. Subsidiary Rules 1996 provides, that any person who extracts or removes minerals from any mine or quarry without lawful authority, shall be liable to pay as penalty an amount not exceeding twice the market value of the minerals so extracted or removed. This amount of

penalty shall not be less than Rs.1000 and could be up to ten times of royalty which ever is more.

(a) In Katni district, two cases of illicit extraction (between December 1999 and March 2001) of 1,42,576 M.T. marble were detected by the Inspection party of the Regional Office Jabalpur. It was, however, noticed that action was not taken to initiate any legal action against the offenders for levy and recovery of penalty of Rs.21.39 crore being 10 times of the royalty of Rs.2.14 crore at the rate of Rs.150 per M.T.

(b) In Jhabua district, in 2 cases of illicit extraction (between 1996-97 and 1999-2000) of major and minor minerals, penalty of Rs.0.08 lakh only was imposed by the Collector in respect of 53 lakh bricks and 2115 M.T. manganese against the leviable penalty of Rs.1.27 crore resulting in a loss of Rs.1.27 crore. In 7 other cases of illicit extraction of minerals, (between 1997-98 and 2000-2001) penalty of Rs.11.89 lakh was imposed during the period of April 2001 to July 2001 by the Collector. Of this, a sum of Rs.0.50 lakh only was recovered leaving a balance of Rs.11.39 lakh.

The matter was reported to the Director, Geology & Mining (DGM) and the Government (April 2002); their reply has not been received (July 2003).

8.3 Loss of revenue due to short-accountal of coal

Act, 1957 provides for payment of royalty at the time of removal of minerals as per rates prescribed in the second schedule.

Test-check of records of Mining Officer, Shahdol revealed (April 2001) that 51.72 lakh tonne coal of a lessee¹ was transferred from 11 collieries during April 1998 to February 2001. The recipient collieries had, however, accounted for only 39.53 lakh tonnes of coal resulting in short-accountal of 12.19 lakh tonnes involving revenue of Rs.8.53 crore assessed at the lowest rate of Rs.70 per M.T.

The matter was reported to the DGM and the Government (June 2001); their reply has not been received (July 2003).

8.4 Short realisation of royalty due to application of incorrect rate

Under the Act, 1957, a lessee holding mining lease, shall pay royalty in respect of any mineral removed or consumed by him from leased area at the specified rates. The rates of royalty were revised with effect from 11 April 1997.

Test-check of records of Mining Office, Shahdol and Chhindwara revealed (April and May 2001) that during April 1998 to December 1998 and February 2000 to November 2000, 2 lessees removed 312435.3 tonnes of coal of grade 'C' (0.91 lakh MT) and Washery grade-II (2.21 lakh MT) on which royalty was payable at the rate of Rs.95 and Rs.135 per MT respectively. The royalty was, however, paid at lower rates resulting in short realisation of royalty amounting to Rs.1.64 crore.

The matter was reported to the DGM and the Government (May and June 2001); their reply has not been received (July 2003)

¹ South Eastern Coal Field Limited

8.5 Non-recovery of arrears of royalty due to non-pursuance of R.R.C.

Under the Act, 1957 Mining Officers were delegated (November 1969) with the powers of Additional Tahsildars to effect recovery of mining dues as arrears of land revenue by issuing Revenue Recovery Certificates (R.R.Cs). Departmental instructions (August 1989) directed that Mining Officer should keep strict watch and initiate speedy and effective action to recover dues of royalty.

(i) Test check of records of 8 Mining Offices² revealed (between March and October 2001) that dues amounting to Rs.10.09 crore including penalty of Rs.7.65 crore were pending for recovery as on 31 March 2001. Mining Officers did not exercise the powers for recovery vested with them resulting in non-realisation of revenue of Rs.10.09 crore.

(ii) Test check of records of the Mining Officer, Shajapur revealed (September 2001) that 39 RRC cases were sent to different Tahsildars for effecting recovery of mining dues amounting to Rs.80.10 lakh instead of initiating action at his own level as revenue recovery officer during 1999-2000 and 2000-2001. This resulted in non-realisation of revenue of Rs.80.10 lakh.

The matter was reported to the DGM and the Government (between May 2001 and February 2002); their reply has not been received (July 2003).

8.6 Short levy of dead rent/royalty

According to the provisions of the Mineral Concession Rules, 1960 and terms of lease deed, a lessee shall be liable to pay royalty or dead rent, whichever is higher, on minerals extracted from the leased area. If a lessee fails to pay the dead rent/royalty due under the terms of agreement, the Government may determine the lease and forfeit whole or a part of the security deposit.

(i) Scrutiny of records of Diamond Officer Panna and four Mining Offices³ revealed that 16 lessees had paid Rs.3.57 crore against payable amount of Rs.4.03 crore as royalty/dead rent on the minerals extracted from the leased area. This resulted in short-realisation of royalty/dead rent of Rs.46.38 lakh.

On this being pointed out 4 Mining Officers stated (August-November 2001) that demand notices have been/would be issued. Diamond Officer Panna stated (September 2001) that position would be intimated after obtaining the position from National Mineral Development Corporation.

(ii) Scrutiny of records of 4 Mining Offices⁴ revealed (between September and October 2001) that 41 quarry leases were sanctioned for the period from October 1993 to July 2009. The lessees, however, did not pay dead rent of Rs.43.09 lakh for the period from November 1993 to March 2001.

The Department, however, had not initiated any action under the terms and conditions of lease agreements against the lessees.

² Balaghat, Chhatarpur, Katni, Khargone, Morena, Satna, Sidhi and Umaria

³ Barwani, Jhabua, Rewa, Satna

⁴ Balaghat, Barwani, Chhatarpur and Dhar

The matter was reported to the DGM and the Government (between May 2001 and February 2002); their reply has not been received (July 2003).

8.7 Non-levy of interest on belated payment of royalty

According to Rule 64-A of Mineral Concession Rules, 1960 if a lessee fails to pay royalty within specified time, he shall be liable to pay simple interest at the rate of 24 per cent per annum from the sixtieth day from scheduled date of payment. ^

Scrutiny of records of Mining Office, Balaghat revealed (March 2001) that a lessee of mining lease delayed the payment of royalty amounting to Rs.8.72 crore, for the period ranging from 1 month to 18 months after the sixtieth day from the expiry of scheduled date of payment during October 1998 to December 2000, but interest of Rs.23 lakh, chargeable on belated payment was neither levied nor recovered (August 2001) l

The matter was reported to the DGM and the Government (April 2001); their reply has not been received so far (July 2003). ^

Chapter 9 : Other Non-Tax Receipts

9-A : Public Works Receipts

9.1 Results of audit

Test-check of records relating to Public Works Receipts and Refunds during the year 2001-2002 revealed under realisation and loss of revenue amounting to Rs.2.27 crore in 737 cases which can broadly be categorised as under:

(Rupees in crore)

S. No.		Number of cases	Amount
(i)	Non/short-recovery of licence fee in respect of Government buildings and quarters	155	0.77
(ii)	Short-recovery of percentage charges on deposits works	001	0.45
(iii)	Non-imposition of penalty for non-employment of technical staff	260	0.12
(iv)	Short-recovery of toll tax	003	0.03
(v)	Others	318	0.90
	Total	737	2.27

A few illustrative cases involving Rs.0.51 crore are discussed in the following paragraphs:

9.2 Non/short-levy of licence fee on Government Buildings let out to private persons/institutions

According to Government clarification (November 1985 and January 1986) read with provisions of Madhya Pradesh Works Department Manual, 1983, licence fee in respect of the Government accommodation let out to private person, company, club, association or local body shall be recovered in accordance with the prescribed rates or at market rate fixed by the Collector, whichever is higher. Collector Gwalior fixed the rate at Rs.1.50 per sq. feet in 1990.

Test-check of records of Division¹ No.-I, Gwalior revealed (November 2001) that 2 Government buildings having plinth area 11330 and 2400 sq. ft. were let out to State Bank of India at Gwalior and rent at the rate of Rs.1178 and Rs.610 per month respectively was being recovered, which was lower than the rate fixed by the Collector. This resulted in short-recovery of rent of Rs.13.54 lakh during the period from April 1995 to March 2001.

On this being pointed out, Executive Engineer, Gwalior stated that rent at the rate of Rs.3600 per month was being recovered from Moti Mahal Branch with effect from April 2001 and effective steps for recovery of balance amount from this branch and market rate from other branch would be taken.

The matter was reported to the Engineer-in-Chief and the Government (between October 1998 and May 2002); their reply has not been received (July 2003).

9.3 Short levy/recovery of licence fee of shops

The Government, vide orders of April 1992 as amplified further during July 1993, decided to regularise allotment of shops in unauthorised possession of lessees, on expiry of lease deed. The leases could either be renewed subject to payment of arrears and payment of lease rent at the rate of Rs.3 per sq. feet etc. or the shops vacated and re-allotted.

Test check of two Public Works Divisions² revealed (August and September 2001) that 98 private shopkeepers were in unauthorised possession of shops even after the expiry of their lease periods. The shops were neither evicted nor was action taken to renew the lease. This resulted in non-recovery of licence fee of Rs.24 lakh for the period from April 1995 to March 2001.

The matter was reported to the Engineer-in-Chief and the Government (between October and December 2001); their reply has not been received (July 2003).

9.4 Non-levy and recovery of licence fee at penal rate

Government servants, who failed to vacate the quarters after expiry of permissible period of 4 months from the date of retirement, transfer etc., are liable to pay licence fee at four times the rate fixed under FR 45-A (iv) or at the prevailing market rate, whichever is higher. In case of unauthorised occupation, besides taking action for eviction, licence fee is recoverable at market rate.

¹ Public Works (Building and Roads) Division

² Maint. Dn.-II Bhopal and Dn.-I Indore

In Public Works Division-I, Indore it was noticed (August 2001) that in one case, a Government servant was in unauthorised occupation of Government quarter without any allotment, and in 34 other cases of transfer (1), retirement (7) and unauthorised occupation (26), the Government quarters were neither vacated after the expiry of permissible period of 4 months nor licence fee levied. This resulted in non-levy and recovery of licence fee aggregating Rs.13.71 lakh during April 1998 and March 2001.

The matter was reported to the Engineer-in-Chief and the Government (December 2001 and January 2002); their reply has not been received (July 2003).

9-B : Food and Civil Supplies Department

9.5 Results of audit

Test-check of records relating to receipts and refunds of Food and Civil Supplies Department during 2001-2002 revealed under-assessment and loss of revenue amounting to Rs.2.11 crore in 565 cases which may be broadly categorised as follows:

(Rupees in crore)

S. No.		Number of cases	Amount
(i)	Non-disposal of confiscated goods	213	1.83
(ii)	Others	352	0.28
	Total	565	2.11

A few illustrative cases involving Rs.1.47 crore are discussed in the following paragraphs:

9.6 Non-disposal of confiscated goods

The Essential Commodities Act, 1955 empowers Collector of a district to seize food grains and essential commodities of licenced dealers in the suspected breach of provisions of the Act. On the offence being established, the seized/confiscated goods are required to be auctioned and sale proceeds thereof credited to Government account.

Test-check of records of 4 Food Offices³ revealed (between August and December 2001) that 205 items of essential commodities (gas cylinder, regulator, kerosene oil, wheat, rice etc.) valued at Rs.1.41 crore were seized between September 1995 and August 1999 and confiscated in favour of the Government between September 1996 and March 2001 under orders of the Court. However, the goods confiscated remained undisposed of for the period ranging from 3 to 59 months (March 2001) resulting in non-realisation of Rs.1.41 crore. Besides, the confiscated goods are likely to have deteriorated resulting in loss to the Government.

The matter was reported to the Director of Food and Civil Supplies and the Government (between October 2001 and May 2002); their reply has not been received (July 2003)

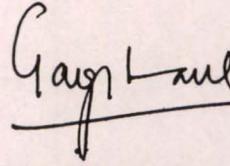
9.7 Short-recovery of licence fee of Godown

According to Government orders (December 1981) read with provisions of Works Manual and orders (June 1979) and clarification issued (August 1982), by Engineer in Chief, PWD the licence fee payable by Central Ware housing Corporation was to be fixed at the rate of Rs.2.55 per sq. mtr., if the plinth area is 75 sq. mtr. or more.

Test-check of records of Food Officer, Balaghat revealed (January 2000) that a godown measuring 1524 sq. mtr. was in occupation of Central Warehousing Corporation from November 1979. It was, however, noticed that licence fee of Rs.1550 per month was levied as against Rs.3886 per month leviable at the rate of Rs.2.55 per sq. mtr. resulting in short-recovery of licence fee of Rs.5.65 lakh for the period from November 1979 to December 1999.

³ Guna, Gwalior, Indore and Shivpuri

The matter was reported to the Director, Food and Civil Supplies and the Government (between April 2000 and January 2002); their reply has not been received (July 2003).

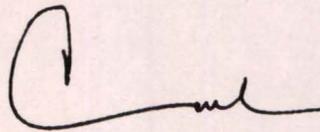


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