



**Report of the
Comptroller and Auditor General of India
on
Revenue Sector
for the year ended 31 March 2017**



Government of Madhya Pradesh
Report No. 1 of the year 2018

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PREFACE

This Report of the Comptroller and Auditor General of India for the year ended 31 March 2017 has been prepared for submission to the Governor of Madhya Pradesh under Article 151 of the Constitution of India.

The Report contains significant findings of audit of Receipts and Expenditure of major Revenue earning departments under Revenue Sector conducted under the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971.

The instances mentioned in this Report are those, which came to notice in the course of test audit during the period 2016-17, as well as those which came to notice in earlier years, but could not be reported in the previous Audit Reports; instances relating to period subsequent to 2016-17 have also been included, wherever necessary.

The total financial implication of this Report is ₹ 4,712.16 crore which constitutes 8.84 *per cent* of tax and non-tax revenue of the State during the year 2016-17. The Government/departments have accepted audit observations involving ₹ 2,506.49 crore, out of which ₹ 3.74 crore was recovered.

The audit has been conducted in conformity with the Auditing Standards issued by the Comptroller and Auditor General of India.

The Report contains the following significant findings:

1. Audit observed wide variations between the budget estimates and actual receipts under various heads of accounts. The Finance Department did not produce any evidence to show that the unduly high budget estimates were prepared after due examination of the views of the concerned administrative departments or after considering the actual trend of receipts.
2. Revenue collecting departments do not have a reliable database of outstanding arrears of revenue or a mechanism to monitor the collection of arrears. Consequently, arrears of ₹ 5,291.62 crore remained uncollected, of which ₹ 1,923.92 crore remained uncollected for more than five years.
3. Revenue collecting departments have failed to address audit observations included in Inspection Reports involving potential revenue of as much as ₹ 21,576.37 crore.
4. Over the past five years, revenue collecting departments failed to produce files/records relating to 8,042 cases to Audit, raising red flags of presumptive corruption and fraud. Audit is unable to vouchsafe the genuineness of these transactions as well.
5. Audit test-checked records of 392 units relating to commercial tax, state excise, taxes on vehicles, land revenue, stamps and registration fees, mining receipts and water tax during 2016-17 and observed underassessment/short levy/loss of revenue amounting to ₹ 6,270.37 crore in 2,73,032 cases. The departments concerned accepted underassessment and other deficiencies of ₹ 3,081.23 crore involved

in 14,974 cases which were pointed out in audit during 2016-17 and recovered ₹ 5.15 crore in 151 cases.

Non-compliance to Public Accounts Committee (PAC)'s directions on earlier Audit Reports

6. State Excise Department failed to comply with PAC's direction (72nd Report, 2015-16) to evolve a system to ensure monitoring of disposal of foreign liquor in cases of expiry, non-renewal and cancellation of licence/label.
7. Commercial Tax Department failed to comply with PAC's directions (65th Report, 2014-15) on establishing an Internal Audit Wing and on initiating measures to ensure non-recurrence of irregularities pointed out in earlier Audit Reports.
8. Mineral Resources Department failed to comply with PAC's directions (27th Report, 2014-15) to fix time limit for recovery of dues and interest thereon.
9. The Registration and Stamps Department failed to comply with PAC's directions (65th Report, 2014-15 and 72nd Report, 2015-16) on the Audit Reports for the period 2004-05 and 2006-07.
10. Revenue Department failed to comply with PAC's directions (387th Report, 2016-17) to issue necessary orders to ensure that *panchayat upkar* (cess) is levied on premium in rural areas.
11. The Transport Department failed to comply with PAC's direction (29th Report, 2014-15) to recover the outstanding tax and penalty within fixed time limit and initiate action against officers who did not take timely action to recover the dues.

State Excise

12. Prescription of lower norms for production of alcohol from millet and sorghum, no norms for production of alcohol from rice, barley and maize, lower efficiency norms for production of alcohol from molasses and no norms for production of beer from grains deprived the Government of minimum excise duty of ₹ 1,192.12 crore.
13. The policy of Government to only allow distillers from the State to participate in tender process for supply of country liquor, without analysing the realistic cost of production of country liquor has resulted in lesser competition, cartel formation and undue benefit of ₹ 653.08 crore to distillers.
14. Unwarranted change in excise policy for supply for country liquor created liability of ₹ 48.21 crore on Government in 2016-17.
15. Fixation of asymmetric transport fees by Government for transportation of Extra neutral alcohol/ Rectified spirit between bottling units located within distillery premises and bottling units outside distillery premises resulted in undue advantage to a section of manufactures and loss of excise duty of ₹ 100.84 crore during 2012-17.

16. The Excise Department incurred expenditure of ₹ 2.16 crore on monitoring and consulting team for computerisation of the Department which was more than the cost for software development of ₹ 2.05 crore. Despite this, the work is incomplete even after lapse of 10 years.

Commercial Tax

17. Failure of the Assessing authorities (AAs) to examine essential records like audited accounts, details of material purchased, tax deducted at source (TDS) certificates, etc., led to understatement of turnover by ₹ 872.97 crore in 125 cases which resulted in short levy of value added tax (VAT) amounting to ₹ 226.13 crore including penalty.
18. Failure of AAs of main contractors, when allowing deductions to the main contractor, to cross-verify from the AAs of the sub-contractors, whether sub-contractors had paid tax on these deductions, resulted in non-inclusion of contract receipts of ₹ 171.82 crore in the taxable turnover of the sub-contractors/ main contractors, and short levy of tax of ₹ 20.60 crore including penalty.

Mining Receipts

19. Madhya Pradesh State Mining Corporation Limited (MPSMCL) did not credit royalty of ₹ 136.69 crore to the Government as the lease agreement of the MPSMCL with the Government of Madhya Pradesh (GoMP) did not stipulate deposit of entire amount of royalty received by MPSMCL from the contractor.
20. The Mineral Resources Department did not prescribe a mechanism to monitor compliance of conditions laid down by State Environment Impact Assessment Authority (SEIAA).
21. The Department did not prescribe the amount of contribution to be paid to the District Mineral Foundation in respect of minor minerals. As a result, no funds were available for welfare of mining affected areas / persons.
22. The Department did not recover royalty/dead rent/contract money of ₹ 67.03 crore from 276 lessees and 24 contractors.

Water Tax

23. Water Resources Department did not recover the outstanding water tax of ₹ 1,627.54 crore from industries, domestic water supply entities and cultivators. The Executive Engineer, Water Resources Division, Anuppur did not make concrete efforts to recover outstanding water tax of ₹ 771.06 crore even after the Hon'ble Supreme Court dismissed (March 2009) a petition filed against GoMP in this regard.

OVERVIEW

OVERVIEW

This Report contains a Performance Audit on “Levy and collection of Excise Duty” and three Audits on “Sand mining and environmental consequences”, “Assessment of taxes on works contract and builders under MPVAT Act” and “Assessment and collection of Water Tax” and 22 paragraphs relating to taxes on sales, trade etc., taxes on vehicles, stamps and registration fees, mining receipts and land revenue. The total financial implication of the Report is ₹ 4,712.16 crore which constitutes 8.84 *per cent* of tax and non-tax revenue of the State during the year 2016-17. The Government/departments have accepted audit observations involving ₹ 2,506.49 crore out of which ₹ 3.74 crore was recovered. Some of the major findings are summarised below:

1 General

The total receipts of the State Government amounted to ₹ 1,23,306.79 crore for 2016-17 against ₹ 1,05,510.60 crore for 2015-16. The State’s own revenue was ₹ 53,280.16 crore (43.21 *per cent* of total receipts); the share of receipts from Government of India was ₹ 70,026.63 crore (56.79 *per cent* of total receipts). The State’s share in central taxes has increased from 32 *per cent* to 42 *per cent* following the recommendations of the 14th Finance Commission.

(Paragraph 1.2.1)

Audit observed wide variations between the budget estimates and actual receipts under various heads of accounts. The Finance Department did not provide any evidence to show that the unduly high budget estimates were prepared after due examination of the views of the concerned administrative departments or after considering the actual trend of receipts.

(Paragraph 1.2.3)

Arrears of revenue as on 31 March 2017 on taxes on sales, trade, etc., state excise, stamps and registration fees, mining receipts, and taxes and duties on electricity amounted to ₹ 5,291.62 crore of which ₹ 1,923.92 crore was outstanding for more than five years.

There was no mechanism to monitor the progress of collection of arrears or to assess reasons for accumulation of arrears. The departments do not have a database of outstanding arrears. Figures of outstanding arrears are compiled each year, at the instance of Audit, from the data furnished by field units. Outstanding arrears as on 31 March 2016 were revised by the Commercial Tax and Registration and Stamps departments, which indicates deficiencies in maintenance of records of arrears of revenue.

Audit recommends that the departments should create a database of outstanding arrears and introduce a mechanism to monitor the progress of collection of arrears. The departments may fix yearly targets for recovery of arrears of revenue for each Assessing Authority.

(Paragraph 1.3)

Analysis of inspection reports disclosed that 23,415 paragraphs involving potential revenue of as much as ₹ 21,576.37 crore relating to 5,198 IRs were outstanding at the end of June 2017.

Audit recommends that the Government should introduce a mechanism to ensure that departmental officers respond to IRs promptly, take corrective action and work closely with Audit to bring about early settlement of IRs.

(Paragraph 1.5)

Though six Departmental Audit Committee (DAC) meetings were scheduled during the year 2016-17, only five DAC meetings could be conducted as representatives of the Transport Department did not come duly prepared. Total 1,074 paragraphs of 251 IRs relating to Commercial Tax, Mineral Resources, State Excise and Land Revenue departments were discussed and 313 paragraphs of 24 IRs were settled. Reasons for non-settlement of the remaining paragraphs were non-production of relevant documents and pendency of recovery.

(Paragraph 1.5.1)

Revenue collecting departments failed to produce files/records relating to 8,042 cases to Audit during the period 2012-17, raising red flags of presumptive corruption and fraud. Audit is unable to vouchsafe the genuineness of these transactions as well.

(Paragraph 1.5.2)

Audit test-checked records of 392 units relating to Commercial tax, State excise, Taxes on vehicles, Land revenue, Stamps and Registration fees, Mining receipts and Water tax during 2016-17 and observed underassessment/short levy/loss of revenue amounting to ₹ 6,270.37 crore in 2,73,032 cases. The departments concerned accepted underassessment and other deficiencies of ₹ 3,081.23 crore involved in 14,974 cases which were pointed out in audit during 2016-17 and recovered ₹ 5.15 crore in 151 cases.

(Paragraph 1.7)

2 State Excise

Performance Audit on “**Levy and collection of Excise Duty**” revealed the following:

- The Excise Department failed to prescribe suitable, or any, norms for production of alcohol from grains by taking into consideration starch content in grains, fermentation efficiency and distillation efficiency in accordance with technology employed by distillers which deprived the Government of minimum revenue of ₹ 1,086.65 crore as excise duty.

Audit recommends that the Department may consider prescribing norms for production of alcohol from grains by taking into consideration starch content in grains and fermentation and distillation technology employed by distillers.

(Paragraph 2.5.8.1 and 2.5.8.2)

- The Department failed to revise fermentation efficiency and distillation efficiency of the new technologies employed by distillers for production of alcohol from molasses deprived the Government of minimum excise duty of ₹ 82.54 crore.

Audit recommends that the Department may revise production norms in tune with the improved technology employed by distillers for production of alcohol from molasses.

(Paragraph 2.5.8.3)

- The Department failed to prescribe norms of production of beer which deprived the State Government of minimum excise duty of ₹ 22.93 crore.

Audit recommends that the Department may consider prescribing norms for production of beer from grains by taking into consideration starch content in grains and fermentation technology employed by brewers.

(Paragraph 2.5.8.4)

- Failure to prescribe retail sale price of bhang resulted in minimum revenue loss of ₹ 1.99 crore.

Audit recommends that the Department may consider prescribing the retail sale rate of bhang to be levied on licensees who have not deposited the advance licence fee.

(Paragraph 2.5.9)

- The policy of Government to only allow distillers of the State to participate in tender process for supply of country liquor without analysing the realistic cost of production of country liquor has resulted in lesser competition, cartel formation and undue benefit of ₹ 653.08 crore to distillers.

Audit recommends that the Department should ensure that there is no cartelisation in the bidding for country liquor licences and also ensure that the State Government is not at financial disadvantage when compared to neighbouring states when levying excise duty on country liquor.

(Paragraph 2.5.10.1)

- Unwarranted change in excise policy for supply of country liquor created liability of ₹ 48.21 crore on Government in 2016-17.

(Paragraph 2.5.10.2)

- Fixation of asymmetric transport fees by Government for transportation of Extra Neutral Alcohol/ Rectified Spirit in distillery premises in comparison to outside distillery premises, resulted in undue advantage to a section of manufacturers and loss of excise duty of ₹ 100.84 crore during 2012-17.

Audit recommends that the Department may consider levying equitable transport fees from all the production units for transport of Extra neutral alcohol/ Rectified spirit.

(Paragraph 2.5.11)

- Despite Public Accounts Committee (PAC) direction (72nd Report, 2015-16), the Government failed to evolve a system to ensure monitoring of disposal of foreign liquor in cases of expiry,

non-renewal and cancellation of licence/label. Audit observed that the DEO, Dhar failed to take necessary action for disposal of Foreign Liquor involving duty of ₹ 3.03 crore in two cases of non-renewal of licence/label even after a lapse of 14 to 23 months.

Audit recommends that the Department should, in compliance of 72nd Report of Public Accounts Committee evolve system to ensure monitoring of disposal of foreign liquor in cases of expiry, non-renewal and cancellation of license/label.

(Paragraph 2.5.12)

- The Department failed to impose penalty of ₹ 462.77 crore on twelve defaulting manufacturing units who submitted excise verification certificates with delays ranging between 1 and 401 days.

Audit recommends that the Department may consider amending rules for imposition of penalty and provide for graduated and compulsory penalty.

(Paragraph 2.5.13.1)

- The officers-in-charge of seven manufacturing units allowed transport/export of Indian made foreign liquor (IMFL)/extra neutral alcohol (ENA) involving excise duty of ₹ 52.72 crore in one test-checked month against bank guarantee of ₹ 2.05 crore.

(Paragraph 2.5.14)

- The Department incurred expenditure of ₹ 2.16 crore on monitoring and consulting team for computerisation of the Department, which was more than the cost for software development of ₹ 2.05 crore. Despite this, the work is incomplete even after lapse of 10 years.

(Paragraph 2.5.15)

3 Commercial Tax

Audit on "Assessment of taxes on works contracts and builders under MPVAT Act" revealed the following:

- Assessing Authorities (AAs) failed to cross check returns of works contractors with the related records and royalty payments on the sand and *gitti* consumed by them which led to incorrect determination of volume of notified goods transferred in execution of works contract. This resulted in short levy of tax of ₹ 45.51 crore including penalty.

(Paragraph 3.6.9)

- AAs did not examine essential records like audited accounts, details of materials purchased, tax deducted at source (TDS) certificates, etc., available with the Department leading to understatement of turnover by ₹ 872.97 crore in 125 cases and resulting in short levy of tax amounting to ₹ 58.04 crore and penalty of ₹ 168.09 crore.

Audit recommends that the Department should introduce mechanisms to ensure that AAs verify at the time of assessment all records relating to the value of goods transferred in execution of works contracts.

(Paragraph 3.6.10)

- Failure of AAs of main contractors, when allowing deductions to the main contractor, to cross-verify from the AAs of the sub-contractors, whether sub-contractors had paid tax on these deductions, resulted in non-inclusion of contract receipts of ₹ 171.82 crore in the taxable turnover of the sub-contractors/ main contractors, and short levy of tax of ₹ 20.60 crore including penalty.

Audit recommends that the Department may evolve a mechanism whereby, deductions may be allowed to the main contractors only on receipt of evidence that the sub-contractors had actually remitted the tax on whose turnover the main contractors claimed the deductions.

(Paragraph 3.6.11)

- Audit analysis of records relating to all circles revealed that there was no evidence that 646 works contractors who had opted for composition facility for contract amount of ₹ 4,535.40 crore during the year 2013-14 to 2015-16, had actually paid the composition of tax amounting to ₹ 163.29 crore.

(Paragraph 3.6.14.2)

- Absence of any mechanism for cross verification of records with other departments for determining the taxable turnover of builders resulted in suppression of taxable turnover of ₹ 15.41 crore and consequent short levy of tax ₹ 3.08 crore including penalty.

Audit recommends that the Department should formalise a mechanism in VATIS whereby AAs mandatorily cross-verify details relating to their assesses with related databases and records in other Government departments and local bodies.

(Paragraph 3.6.18)

- AAs failed to treat builders as work contractors even though the builders had entered into an agreement with prospective purchasers by taking advances. This resulted in short levy of tax and penalty of ₹ 34.77 crore for the works contract.

Audit recommends that the Department may devise appropriate procedures to ensure that builders entering into composite contracts involving both works contract and transfer of immovable property are treated as works contractors for purposes of assessment of tax.

(Paragraph 3.6.19)

Audit observations of Compliance Audit

The Commercial Tax Department has failed to comply with the orders (December 2015) of the PAC to establish an Internal Audit Wing and on initiating measures to ensure non-recurrence of irregularities pointed out by Audit in earlier Reports.

(Paragraph 3.3)

The AAs under-determined the taxable turnover by ₹ 48.95 crore against the turnover recorded in the audited books of accounts, sale list and other relevant records of the dealers. As a result, tax of ₹ 9.57 crore including interest of ₹ 18.13 lakh and penalty of ₹ 5.41 crore could not be levied.

Audit recommends that the Department should incorporate necessary modules in Value Added Tax Information System (VATIS) and initiate other measures to ensure that the system of assessment is strengthened.

(Paragraph 3.7)

The AAs allowed input tax rebate (ITR) of ₹ 120.97 crore against the admissible ITR of ₹ 117.06 crore resulting in short realisation of ₹ 9.41 crore including penalty of ₹ 5.50 crore in 92 assessment cases. The Department had established ITR cell in 2013 for electronic verification of ITR but the departmental data was not taken into cognizance by the AAs for verifying ITR claims.

Audit recommends that the Department may consider strengthening of ITR verification mechanism so that purchase details are verified with audited accounts, properly authenticated/substantiated by documents and cross-verified with corresponding selling dealers.

(Paragraph 3.8)

The AAs applied incorrect rates of tax which resulted in short levy of tax amounting to ₹ 3.98 crore including penalty of ₹ 2.44 crore. The Department had not adopted Harmonised System of Nomenclature Code for correct commodity description due to which the AAs did not classify commodities correctly and applied inappropriate rates of tax.

Audit recommends that the Department should adopt the Harmonised System of Nomenclature Code expeditiously, and also implement the recommendations/ directions of the Public Accounts Committee to initiate measures that will ensure non-recurrence of such irregularities in future.

(Paragraph 3.10)

4 Mining Receipts

Audit on “Sand mining and environmental consequences” revealed the following:

- District Collectors of Balaghat and Ujjain fixed the reserve price on dead rent instead of the estimated quantity of sand in 31 sand mines resulting in short realisation of royalty of ₹ 3.37 crore.

(Paragraph 4.5.8.2)

- Failure of District Mining Officers to maintain the register of income from trade quarries resulted in short recovery of contract money of ₹ 1.38 crore, and short realisation of interest ₹ 2.35 crore from 48 contractors in nine districts.

(Paragraph 4.5.9.1)

- Madhya Pradesh State Mining Corporation Limited (MPSMCL) did not credit royalty of ₹ 136.69 crore to the Government as the lease

agreement of the MPSMCL with the GoMP did not stipulate deposit of entire amount of royalty received by MPSMCL from the contractor.

Audit recommends that the Department should revise agreements with MPSMCL so that the royalty on contracted quantity or actually consumed and dispatched quantity of sand, whichever is more, is collected from MPSMCL, so that Government may not incur loss of revenue.

(Paragraph 4.5.9.3)

- The Department could not prescribe the amount of contribution to be paid to the District Mineral Foundation (DMF) in respect of minor minerals in the State. As a result no funds were available for welfare of mining affected areas / persons.

(Paragraph 4.5.10.1)

- The Department did not prescribe mechanism to monitor compliance of conditions laid down by State Environment Impact Assessment Authority (SEIAA).

Audit recommends that the Department may evolve mechanism to monitor compliance with the conditions laid down by SEIAA for environment clearances for sand mining. For this purpose, the Department may prescribe periodic returns to closely monitor the issues related to environment clearances.

(Paragraph 4.5.10.2)

- Adequate check posts were not established to prevent illegal transportation of sand.

Audit recommends that the Department establish sufficient number of check posts in every district to prevent illegal mining and transportation.

(Paragraph 4.5.10.4)

Audit observations of Compliance Audit

In 18 District Mining Offices (DMOs), royalty of ₹ 62.50 crore was not /short realised from 58 lessees and 11 contractors. The main defaulters were the 22 lessees of major minerals who did not pay/short paid royalty of ₹ 60.50 crore and two contractors of temporary lease permits who did not deposit advance royalty of ₹ one crore.

(Paragraph 4.6)

Four hundred fifty one mining lessees had paid ₹ 7.87 crore of rural infrastructure and road development tax against the payable amount of ₹ 24.79 crore. Further, penalty was not imposed for non-payment of rural infrastructure and road development tax. As a result, tax of ₹ 16.92 crore and penalty of ₹ 50.76 crore was not recovered.

(Paragraph 4.7)

Failure of District Collectors and 11 DMOs to monitor deposit of NMET royalty resulted in short realisation of ₹ 8.11 crore from 20 licensees and nil payment of royalty of ₹ 8.12 crore from 42 licensees.

(Paragraph 4.8)

The PAC had directed (27th Report, 2014-15) the Department to fix time limit for recovery of interest on belated payments. However, the Department failed to evolve a mechanism to ensure recovery of interest on belated payments. DMOs did not recover interest of ₹ 13.91 crore on belated payments of dead rent/royalty from 153 lessees.

(Paragraphs 4.4 and 4.9)

5 Water Tax

Audit on “**Assessment and collection of Water Tax**” revealed the following:

- The Executive Engineer, Water Resources Department (WRD), Anuppur did not raise bills for the water tax recoverable from a company for the period October 2014 to March 2017. As a result, minimum water tax amounting to ₹ 17.13 crore was not recovered.

(Paragraph 5.2.10)

- Executive Engineer, Hiran Division, Jabalpur did not take action for imposition and recovery of penal water tax of ₹ 1.30 crore from the company which had failed to commence industrial production within the specified period of 48 months.

(Paragraph 5.2.11)

- Executive Engineers of 18 selected Divisions had failed to recover the outstanding water tax amounting to ₹ 1,489.67 crore from industries, domestic water supply entities and cultivators. The Executive Engineer Water Resources Division, Anuppur did not make concrete efforts to recover outstanding water tax of ₹ 771.06 crore even after dismissal of the petition of the company by Hon’ble Supreme Court in March 2009.

The Department may consider putting in place a dedicated recovery machinery focusing on recover of outstanding water tax. The Department may also immediately review all cases of such outstanding recoveries, and where it is of the view that any of such amounts are beyond recovery, approach the Finance Department to consider write off.

(Paragraph 5.2.12)

- Three Divisions had provided water to four local bodies without any agreement and an amount of ₹ 11.55 crore was pending for recovery from these local bodies. Further, in 18 Divisions, an amount of ₹ 107.89 crore was recoverable from the cultivators who had drawn water without any agreement.

(Paragraph 5.2.13)

6 Stamps and Registration Fees

District Registrars (DRs) failed to finalise 172 cases involving revenue amounting to ₹ 4.90 crore referred to them by 24 Sub Registrars (SRs) for determination of market value of properties, though the stipulated period of three months for disposal of referred cases had lapsed.

Audit recommends that the Department should ensure compliance of its orders to DRs to dispose, within three months, all cases referred by SRs

regarding determination of correct market value and duty leviable thereon.

(Paragraph 6.6)

The PAC had directed (72nd Report, 2015-16 on the Audit Report for the year 2006-07) the Department of Registration and Stamps to take action against the officers responsible for misclassification of instruments and application of incorrect rates of stamps duty. Despite this, the Department failed to evolve an effective mechanism to check persistence of such irregularities.

Audit noticed that the SRs did not determine correct market value of the properties or applied incorrect rates of stamp duty due to misclassification of instruments resulting in short levy of Stamp duty and Registration fees of ₹ 3.92 crore in 226 instruments.

(Paragraphs 6.7 and 6.8)

7 Land Revenue

The premium of ₹ 2.24 crore in three cases and ground rent of ₹ 2.61 crore in 108 cases was not recovered upto May 2018. Further, interest of ₹ 42.20 lakh and penalty of ₹ 26.06 lakh on unpaid ground rent was also not imposed. This resulted in short realisation of revenue of ₹ 5.53 crore.

(Paragraph 7.6)

In four cases value of *nazul* land was not assessed as per market value guidelines issued by the district Collectors which resulted in undervaluation of diversion rent and premium of ₹ 1.77 crore. Further, there was underassessment of diversion rent and premium amounting to ₹ 72.15 lakh in 86 other cases due to undervaluation of market rate of private land. This resulted in short realisation of revenue amounting to ₹ 2.49 crore to the Government.

(Paragraph 7.7)

In 311 cases relating to diversion of land situated in *gram panchayat* areas, the Collectorates and *Tahsil* offices did not levy and demand *panchayat upkar* on premium and in 42 cases *upkar* was not levied on diversion rent as well as premium thus depriving the Government of revenue amounting to ₹ 96.59 lakh. The Government accepted in 2015 and 2016 that *upkar* was to be levied in rural areas and the PAC also recommended the Government to issue orders for levy of *upkar* on premium in rural areas but no order has since been issued in this regard.

(Paragraph 7.8)

8 Taxes on Vehicles

The PAC had directed (29th Report, 2014-15) the Transport Department to recover the outstanding tax and penalty within fixed time limit and initiate action against officers who did not take time action to recover the dues. Despite this, the Department failed to evolve an effective mechanism to ensure that Vehicle Taxes are collected fully and defaulters are not allowed to escape the payment of tax and penalty.

Vehicles tax was not paid or short paid by the vehicle owners for 5,559 vehicles for the period between October 2010 and March 2016. The transport

authorities did not issue demand notices for the outstanding amount and did not take action to seize and detain motor vehicles for non-payment of tax. As a result, tax of ₹ 20.28 crore and penalty of ₹ 11.65 crore on the unpaid amount of tax was not realised.

Audit recommends that the Department may evolve a mechanism to ensure that Vehicle Taxes are collected fully and defaulters are not allowed to escape the payment of tax and penalty.

(Paragraph 8.6)

Vehicle tax was incorrectly levied on 1,532 private service vehicles at the rate applicable to Educational Institution Buses resulting in short realisation of revenue of ₹ 10.53 crore.

(Paragraph 8.7)

CHAPTER – 1

GENERAL

CHAPTER 1 GENERAL

1.1 Introduction

This Chapter presents the overview of the trend of receipts raised by the Government of Madhya Pradesh, arrears of revenue, pendency of refund cases and response of the Government/ departments towards audit.

1.2 Trend of revenue receipts

1.2.1 The tax and non-tax revenue raised by the Government of Madhya Pradesh, the State's share of net proceeds of divisible Union taxes and duties assigned to the State and Grants-in-aid received from the Government of India for the period 2012-17 are shown in **Table 1.1**.

Table 1.1
Trend of revenue receipts

(₹ in crore)

Sl. No.	Particulars	2012-13	2013-14	2014-15	2015-16	2016-17
1	2	3	4	5	6	7
1.	Revenues raised by the State Government					
	• Tax revenue	30,581.70	33,552.16	36,567.31	40,213.66	44,193.65
	• Non-tax revenue	7,000.22	7,704.99	10,375.23	8,568.79	9,086.51
	Total	37,581.92	41,257.15	46,942.54	48,782.45	53,280.16
2.	Receipts from the Government of India					
	• Share of net proceeds of divisible Union taxes and duties	20,805.16	22,715.27	24,106.80	38,397.84	46,064.10 ¹
	• Grants-in-aid	12,040.20	11,776.82	17,591.44	18,330.31	23,962.53
	Total	32,845.36	34,492.09	41,698.24	56,728.15	70,026.63
3.	Total revenue receipts of the State Government (1 and 2)	70,427.28	75,749.24	88,640.78	1,05,510.60	1,23,306.79
4.	Percentage of 1 to 3	53	54	53	46	43

(Source: Finance Accounts of the Government of Madhya Pradesh)

The State's share of central taxes increased by 10 per cent (from 32 to 42 per cent) from 2015-16 onwards following the recommendations of the 14th Finance Commission.

The increase (₹ 17,796 crore; 17 per cent) in revenue receipts during 2016-17 were mainly due to net proceeds assigned to the State by GoI (20 per cent), more collection of taxes on sales, trade etc. (14 per cent), taxes on goods and passengers (23 per cent) partly counterbalanced by less receipt under State

¹ For details, please see Statement No.14-“Detailed accounts of revenue and capital receipts by minor heads” in the Finance Accounts of the Government of Madhya Pradesh for the year 2016-17. Figures under the head “Share of net proceeds assigned to States” under Major heads “0020-Corporation Tax, 0021-Taxes on Income other than Corporation Tax, 0032-Taxes on wealth, 0037-Customs, 0038-Union Excise duties, 0044-Service Tax and 0045-Other taxes and duties on commodities and services” booked in the Finance Accounts under A-Tax revenue have been excluded from the revenue raised by the State and included in the State's share of divisible Union taxes in this statement.

excise (five per cent), forestry and wildlife (eight per cent) and miscellaneous general services (87 per cent).

1.2.2 Details of the tax revenue raised during the period 2012-13 to 2016-17 are given in Table 1.2.

Table 1.2
Details of tax revenue

(₹ in crore)

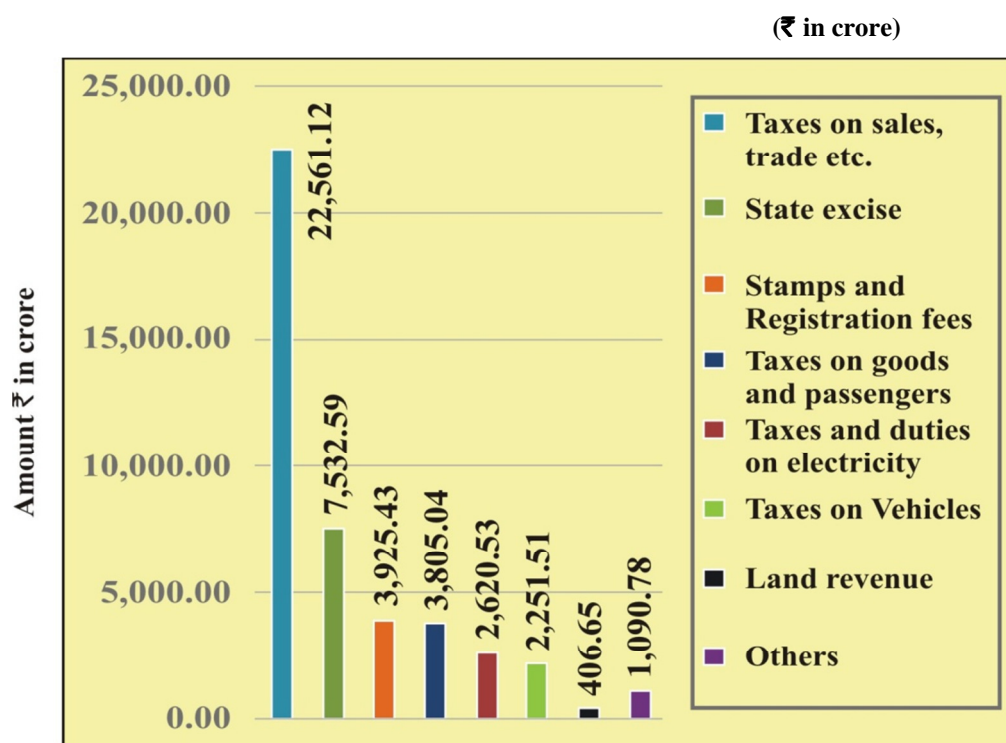
Sl. No.	Head of revenue	2012-13	2013-14	2014-15	2015-16	2016-17	Percentage of increase (+)/ decrease (-) in actual of 2016-17 in comparison to	
		<u>BE</u> Actual	<u>BE</u> Actual	<u>BE</u> Actual	<u>BE</u> Actual	<u>BE</u> Actual	BE of 2016-17	Actual of 2015-16
1.	Taxes on sales, trade etc.	<u>14,000.00</u> 14,856.30	<u>16,500.00</u> 16,649.85	<u>19,500.00</u> 18,135.96	<u>21,300.00</u> 19,806.15	<u>22,000.00</u> 22,561.12	(+) 2.55	(+) 13.91
2.	State excise	<u>4,800.00</u> 5,078.06	<u>5,750.00</u> 5,907.39	<u>6,730.00</u> 6,695.54	<u>7,800.00</u> 7,922.84	<u>9,000.00</u> 7,532.59	(-) 16.30	(-) 4.93
3.	Stamps and Registration fees	<u>3,200.00</u> 3,944.24	<u>4,000.00</u> 3,400.00	<u>4,000.00</u> 3,892.77	<u>4,700.00</u> 3,867.69	<u>4,500.00</u> 3,925.43	(-) 12.77	(+) 1.49
4.	Taxes on goods and passengers	<u>2,150.00</u> 2,395.03	<u>2,640.00</u> 2,578.74	<u>2,900.00</u> 2,686.39	<u>3,200.00</u> 3,084.76	<u>4,200.00</u> 3,805.04	(-) 9.40	(+) 23.35
5.	Taxes and duties on electricity	<u>1,370.00</u> 1,477.71	<u>1,600.00</u> 1,972.20	<u>2,050.00</u> 2,010.20	<u>2,200.00</u> 2,257.83	<u>2,500.00</u> 2,620.53	(+) 4.82	(+) 16.06
6.	Taxes on vehicles	<u>1,400.00</u> 1,531.25	<u>1,650.00</u> 1,598.93	<u>2,000.00</u> 1,823.84	<u>2,300.00</u> 1,933.57	<u>2,500.00</u> 2,251.51	(-) 9.94	(+) 16.44
7.	Land revenue	<u>550.00</u> 443.59	<u>572.00</u> 366.23	<u>700.10</u> 243.10	<u>500.00</u> 276.86	<u>500.00</u> 406.65	(-) 18.67	(+) 46.88
8.	Others ²	<u>842.00</u> 855.52	<u>670.00</u> 1,078.82	<u>1,109.50</u> 1,079.51	<u>1,447.68</u> 1,063.96	<u>1,300.00</u> 1090.78	(-) 16.09	(+) 2.52
Total		<u>28,312.00</u> 30,581.70	<u>33,382.00</u> 33,552.16	<u>38,989.60</u> 36,567.31	<u>43,447.68</u> 40,213.66	<u>46,500.00</u> 44,193.65		

(Source: Finance Accounts and Budget Estimates of Government of Madhya Pradesh)

² Others includes actual receipts during 2016-17 under the following Revenue Heads: Hotel receipts (₹ 2.15 crore), Taxes on income and expenditure (₹ 327.42 crore), Taxes on immovable property (₹ 583.52 crore) and Other taxes and duties on commodities and services (₹ 177.82 crore).

Breakup of tax revenue is given in **Chart 1.1**:

Chart 1.1
Tax revenue during 2016-17 (₹ 44,193.65 crore)



1.2.3 Details of the non-tax revenue raised during the period 2012-17 are indicated in **Table 1.3**.

Table 1.3
Details of non-tax revenue

(₹ in crore)

Sl. No.	Head of revenue	2012-13	2013-14	2014-15	2015-16	2016-17	Percentage of increase (+)/ decrease (-) in actual of 2016-17 in comparison to	
		BE Actual	BE Actual	BE Actual	BE Actual	BE Actual	BE of 2016-17	Actual of 2015-16
1.	Non-ferrous mining and metallurgical industries	<u>2,300.00</u> 2,443.39	<u>2,220.00</u> 2,306.17	<u>2,500.00</u> 2,813.66	<u>3,200.00</u> 3,059.64	<u>3,450.00</u> 3,168.28	(-) 8.17	(+) 3.55
2.	Education, sports, art and culture	<u>2,567.31</u> 1,682.49	<u>2,469.61</u> 2,008.49	<u>157.73</u> 3,276.10	<u>3,192.18</u> 1,292.41	<u>4,143.72</u> 1,824.03	(-) 55.98	(+) 41.13
3.	Forestry and wild life	<u>969.04</u> 910.38	<u>1,100.00</u> 1,036.80	<u>1,250.23</u> 968.77	<u>1,250.31</u> 1,001.71	<u>1,250.00</u> 917.98	(-) 26.56	(-) 8.36
4.	Interest receipts	<u>202.00</u> 301.47	<u>204.15</u> 317.85	<u>1,133.60</u> 1,260.65	<u>383.37</u> 429.47	<u>273.16</u> 581.67	(+) 112.95	(+) 35.44
5.	Power	<u>495.68</u> 370.69	<u>524.85</u> 378.66	<u>584.12</u> 381.23	<u>662.14</u> 190.09	<u>374.49</u> 357.87	(-) 4.44	(+) 88.26
6.	Minor irrigation	<u>204.11</u> 379.62	<u>233.53</u> 219.37	<u>281.54</u> 299.77	<u>314.25</u> 326.74	<u>379.94</u> 336.24	(-) 11.50	(+) 2.91

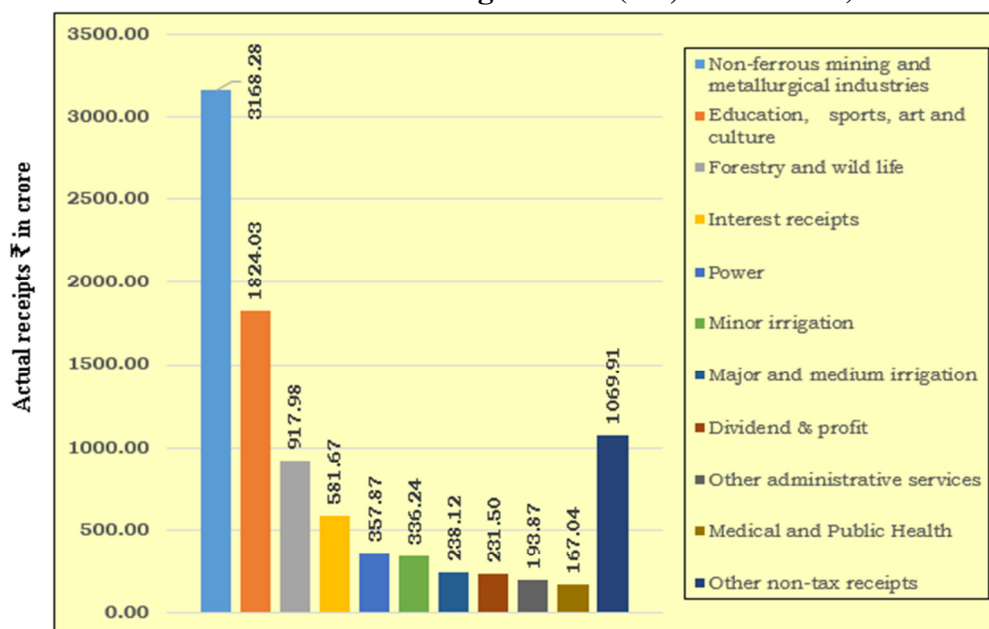
7.	Major and medium irrigation	<u>96.18</u> 137.74	<u>116.86</u> 138.48	<u>120.09</u> 137.55	<u>186.08</u> 156.16	<u>120.56</u> 238.12	(+) 97.51	(+) 52.48
8.	Dividend & profit	<u>33.82</u> 18.38	<u>41.28</u> 378.72	<u>42.26</u> 80.35	<u>32.57</u> 129.64	<u>108.83</u> 231.50	(+) 112.72	(+) 78.57
9.	Other administrative services	<u>93.49</u> 239.15	<u>184.40</u> 380.22	<u>165.50</u> 140.21	<u>182.14</u> 147.01	<u>240.59</u> 193.87	(-) 19.42	(+) 31.88
10.	Medical and Public Health	<u>21.00</u> 44.83	<u>46.65</u> 57.76	<u>56.25</u> 120.16	<u>101.56</u> 121.04	<u>130.82</u> 167.04	(+) 27.69	(+) 38.00
11.	Other non-tax receipts ³	<u>344.37</u> 472.08	<u>441.67</u> 482.47	<u>467.57</u> 896.78	<u>619.38</u> 1,714.88	<u>1,008.36</u> 1,069.91	(+) 6.10	(-) 37.61
Total		<u>7,327.00</u> 7,000.22	<u>7,583.00</u> 7,704.99	<u>6,758.89</u> 10,375.23	<u>10,123.98</u> 8,568.79	<u>11,480.47</u> 9,086.51		

(Source: Finance Accounts and Budget Estimates of Government of Madhya Pradesh)

Breakup of non-tax revenue is given in **Chart 1.2**:

Chart 1.2

Non-tax Revenue during 2016-17 (₹ 9,086.51 crore)



Audit noted the continually wide variations between budget estimates prepared by the Finance Department and actual revenue (refer **Tables 1.2** and

³ Other non-tax receipts includes actual receipts (₹ in crore) during 2016-17 under the following heads: Other fiscal services (0.01), Public service commission (22.78), Jail (6.19), Stationary and printing (13.30), Contributions and recoveries towards pension and other retirement benefits (46.53), Family welfare (0.09), Water supply and sanitation (31.15), Housing (27.63), Urban development (35.05), Information and publicity (0.24), Labour and employment (26.18), Social security and welfare (88.78), Other social services (138.43), Crop husbandry (48.38), Animal husbandry (3.69), Dairy development (0.02), Fisheries (6.70), Food storage and warehousing (0.14), Other agriculture program (1.91), Other rural development program (19.54), Petroleum (0.01), New and renewable energy (12.82), Village and small industries (3.58), Industries (23.12), Other industries (0.01), Road and bridges (2.70), Tourism (89.18), Other general economic services (27.93), Public works (115.93), Police (149.89), Cooperation (12.89), Miscellaneous general services (115.09).

1.3). As per Madhya Pradesh Financial Code, Volume-I, the Finance Department is required to prepare the budget estimates on the basis of details obtained from the Administrative Department, which is responsible for the correctness of the material.

The Finance Department intimated (April 2018) that after scrutiny and compilation of details submitted by the Administrative departments, discussions were held by the Finance Department with Head of departments for finalisation of these estimates. However, the Finance Department did not produce minutes of such discussions and budget files to audit despite repeated requests (April 2018). Non-production of records is a clear red flag to Audit and leads to the conclusion that no such consultation took place and the Finance Department framed the budget estimates arbitrarily.

The Finance Department further intimated (April 2018) that the budget estimates were increased to realise the potential of the Administrative Department to earn more revenue. Audit observes that if this is the ground to justify the unduly high budget estimates, the efforts failed since, thereafter, the Finance Department was forced to revise the estimates downward to more realistic levels at the revised estimates stage.

From the above, it is evident that the Finance Department did not prepare the budget estimates on any rational basis.

1.3 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2017 in respect of some principal heads of revenue amounted to ₹ 5,291.62 crore of which ₹ 1,923.92 crore was outstanding for more than five years as detailed in **Table 1.4**.

Table 1.4
Arrears of revenue

(₹ in crore)

Sl. No.	Head of revenue	Total amount outstanding as on 31 March 2016	Total amount outstanding as on 31 March 2017	Amount outstanding for more than five years as on 31 March 2017	Replies of Department
1.	Taxes on sales, trade etc.	4,298.05 ⁴	4,650.58	1,764.32	Revenue Recovery Certificates (RRCs) were issued for the whole amount of ₹ 4,650.58. Out of this, ₹ 1,976.05 crore was pending in various Courts and ₹ 134.92 crore was pending with appellate authorities.
2.	State excise	158.27	182.19	73.08	RRCs were issued for ₹ 67.00 crore, ₹ 16.06 crore was pending in Courts, proposal for writing off an irrecoverable amount of ₹45.24 crore from accounts

⁴ The Commercial Tax Department has reviewed the pending cases and revised the closing balance of 2015-16 from ₹ 936.91 crore to ₹ 4,298.05 crore.

					was submitted to the Government, ₹ 95 lakh was recovered during 2017-18, and an amount of ₹ 52.94 crore was pending at other stages.
3.	Stamps and Registration fees	163.39 ⁵	243.34	57.34	Database of arrears had not been maintained at the department level.
4.	Non-ferrous mining and metallurgical industries	13.33	24.52	This data is not maintained by the Department	RRCs were issued for the whole amount.
5.	Taxes and duties on electricity	157.95	209.55	29.18	RRCs were issued for ₹ 126.05 crore, recovery of ₹ 11.34 crore was pending in Courts, ₹ 64.08 crore was under consideration of the Government for remission of interest on belated payments of electricity duty/cess, ₹ 3.67 crore was pending against sick textile mills and ₹ 4.41 crore was pending at other stages.
Total		4,790.98	5,291.62	1,923.92	

Audit examined (April 2018) the files and records of four departments⁶ to ascertain the reasons for pendency in collection of arrears and test checked 4,558 cases involving recovery of ₹ 249.03 crore and found that though RRCs were issued in all the cases, recovery was pending due to pendency in Courts or appellate authorities, non-initiation of action to recover the amount by selling movable/immovable properties of the defaulters, non-traceability of the individual defaulters, non-writing off arrears which were not recoverable, etc.

It was further observed that there was no mechanism to monitor the progress of collection of arrears or to assess reasons for accumulation of arrears. The departments do not have a database of outstanding arrears. Figures of outstanding arrears are compiled each year, at the instance of Audit, from the data furnished by field units. The Commercial Tax Department revised the figures of pending recovery amount as on 31 March 2016 from ₹ 936.91 crore to ₹ 4,298.05 crore. Also, the Registration and Stamps Department conducted physical verification of cases and revised the amount of arrears as on 31 March 2016 from ₹ 190.60 crore to ₹ 163.39 crore. Thus, figures of outstanding arrears on a particular date were revised by the departments, which indicates deficiencies in maintenance of records of arrears of revenue. Further, the departments do not set yearly target of recovery of arrears for the

⁵ The Stamps and Registration Department has revised the closing balance of 2015-16 from ₹ 190.60 crore to ₹ 163.39 crore and intimated clearance of cases during physical verification resulting in decrease of cases.

⁶ State Excise Department (AEC Gwalior, DEO Morena), Mining Department (DMOs Bhopal, Hoshangabad and Raisen), Stamps and Registration Department (DRs Bhopal, Hoshangabad and Raisen) and Commercial Tax Department (Circle 1 to 6, Bhopal).

Assessing Authorities which resulted in pendency of old cases.

Recommendation:

The departments should create a database of outstanding arrears and introduce a mechanism to monitor the progress of collection of arrears. The departments may fix yearly targets for recovery of arrears of revenue for each Assessing Authority.

1.4 Pendency of refund cases

Details of refund cases pending at the close of the year 2016-17 as reported by the departments are given in **Table 1.5**.

Table 1.5
Details of pendency of refund cases

(₹ in crore)

Sl. No.	Particulars	Taxes on sales, trade, etc.		Stamps and Registration fees		State excise		Taxes and duties on electricity	
		No. of cases	Amount	No. of cases	Amount	No. of cases	Amount	No. of cases	Amount
1.	Claims outstanding at the beginning of the year	1,065	145.04	1,341	17.25	5	0.06	175	7.40
2.	Claims received during the year	6,640	1,574.92	6,424	1.97	14	1.35	04	0.29
3.	Refunds made during the year	6,518	1,465.03	5,881	15.30	15	1.33	04	0.29
4.	Balance outstanding at the end of year	1,187	254.93	1,884	3.92	4	0.08	175	7.40
5.	Percentage of refund (3 to 1+2)	84.59	85.18	75.74	79.60	78.95	94.33	2.23	3.77

Audit examined (April 2018) records of Commercial Tax Department (CTD) and Energy Department and found as under:

- Audit scrutinised (April 2018) 319 refund cases involving ₹ 1.92 crore out of 2,397 refund cases involving ₹ 42.42 crore in three circle offices (Circle-1, Circle-5, Circle-6 of Bhopal) of the Commercial Tax Department for the period April 2016 to September 2017 and found that refund of ₹ 1.72 crore was made with delays of 40 to 2,740 days beyond the stipulated period of 60 days in 58 cases. Reasons for delay were not recorded by the AAs. The Department intimated (March 2018) that neither any dealer requested for interest on delay of refund nor did the Department make any payment of interest for the same. However, as per MPVAT Act, interest at the rate of one *per cent* per month on the amount of refund is payable, if claimed by the dealer, from the date of refund order.

- Audit observed (April 2018) that refund of ₹ 7.40 crore in respect of taxes and duties on electricity pertaining to the years 1989-90 to 2016-17 was pending in three circles (Indore, Jabalpur and Ujjain) for want of details such as names of the consumers to whom refund was to be made, the amount of refund, period of refund, etc., were not provided by the electricity transmission companies to the Energy Department. The Department failed to get the information from transmission companies.

Recommendation:

The departments should evolve a mechanism to ensure early disposal of refund cases.

1.5 Response of the departments/ Government to audit

On completion of audit of Government departments and offices, Audit issues Inspection Reports (IRs) to the concerned heads of offices with copies to their superior officers for corrective action and their monitoring. Serious financial irregularities are reported to the heads of the departments and the Government.

Analysis of inspection reports disclosed that 23,415 paragraphs involving potential revenue of as much as ₹ 21,576.37 crore relating to 5,198 IRs were outstanding at the end of June 2017. Department-wise details of the IRs and audit observations are given in **Table 1.6**.

Table 1.6
Department-wise details of IRs

(₹ in crore)					
Sl. No	Name of the Department	Nature of receipts	Numbers of outstanding IRs	Numbers of outstanding audit observations	Money value
1.	Commercial tax	Taxes on sales, trade etc.	1,659	8,998	3,968.95
2.	Energy	Taxes and duties on electricity	99	313	873.97
3.	Excise	State excise	384	1,554	7,600.33
4.	Revenue	Land revenue	1,454	4,788	5,189.51
5.	Transport	Taxes on vehicles	552	3,543	566.63
6.	Registration and Stamps	Stamp duty and Registration fees	707	2,429	739.90
7.	Mineral resources	Non-ferrous mining and metallurgical industries	343	1,790	2,637.08
Total			5,198	23,415	21,576.37

Audit did not receive even the first reply from the heads of offices within four weeks from the date of issue of the IRs, for 396 IRs issued during 2016-17.

Recommendation:

The Government should introduce a mechanism to ensure that departmental officers respond to IRs promptly, take corrective action and work closely with Audit to bring about early settlement of IRs.

1.5.1 Departmental Audit Committee (DAC) meetings

The Government sets up audit committees to monitor and expedite progress of the settlement of the IRs and paragraphs in the IRs. The details of the audit committee meetings held during the year 2016-17 and the paragraphs settled are mentioned in **Table 1.7**.

Table 1.7
Details of paragraphs settled during DAC meetings

(₹ in crore)

Head of revenue	Number of meetings held and date of such meeting (in brackets)	Number of IRs/ paragraphs discussed	Number of paragraphs settled	Percentage of paragraphs settled	Amount
Commercial tax	1 (28.08.2016 & 29.08.2016)	63/274	3/66	24	0.11
Non-ferrous mining and metallurgical industries	1 (22.08.2016 to 24.08.2016)	40/219	6/102	47	70.69
State excise	1 (03.10.2016 to 05.10.2016)	52/214	10/113	53	123.62
Land revenue	2 (05.09.2016 to 09.09.2016 & 15.11.2016 to 24.11.2016)	96/367	5/32	9.7	1.91
Total	5	251/1074	24/313		196.33

During 2016-17, six DAC meetings were scheduled but only five could be conducted. The Transport Commissioner was intimated (January 2017) the schedule of DAC (6 February 2017 to 8 February 2017) in respect of six Regional Transport Officers (RTOs) but two RTOs did not send the representatives for the meeting and the records presented by the remaining four RTOs were either incomplete or not duly countersigned by competent authorities. In cases of Land revenue also, the reason for non-settlement was non-production of relevant documents and recovery being under progress. In case of Commercial tax, State excise and Mining departments, the paras in which demand notices were issued could not be settled because of pending recovery.

It is evident that despite getting prior intimation of DACs, the departments/Government could not ensure the settlement of old paras by production of relevant documents to audit. The non-satisfactory response of the departments on DACs resulted in non-settlement of old outstanding paras of IRs.

The position of settlement was intimated to the Department/Government (between January 2017 and May 2017). No subsequent replies of the Department/Government or evidences in support of recovery were received by audit in case of non-settled paras.

Recommendation:

The Government should direct all departments to settle pending audit observations through periodic DAC meetings, and ensure that the departmental participation in such meetings is closely monitored.

1.5.2 Records not produced to Audit for scrutiny

The programme of local audit of Tax Revenue/Non-tax Revenue offices is drawn up sufficiently in advance and intimations are issued, usually one month before the commencement of audit, to the departments to enable them to keep the relevant records ready for audit scrutiny.

During the period 2012-17, 8,042 assessment files, returns, refunds, registers and other relevant records⁷ were not made available to audit. The above fact was included in the Inspection Reports and the same were sent to the Secretaries of the departments. However, it was again brought to the notice (March 2018) of the Secretaries and Administrative heads of all the departments. The tax effect could not be computed in all such cases. Non-furnishing of records to Audit raises red flags of presumptive corruption and fraud. Audit is unable to vouchsafe the genuineness of these transactions as well.

Recommendations:

The Government should introduce measures to ensure that departmental officers invariably produce records to Audit especially after sufficient notice is given, and initiate disciplinary action against officers who fail to produce records to Audit, including the records mentioned above.

1.5.3 Follow up on the Audit Reports-summarised position

As per the recommendations of the High Powered Committee⁸, *suo motu* explanatory notes on corrective/remedial measures taken on all paragraphs included in Audit Reports are required to be submitted by the departments, duly vetted by the Accountant General, to the Public Accounts Committee (PAC) within three months⁹ from the date of placing of Audit Reports in the Legislature.

Explanatory Notes in respect of 61 paragraphs¹⁰ of the Audit Reports for the period from 2012-13 to 2015-16 had not been received (March 2018) from State Revenue departments (Commercial Tax, State Excise, Transport, Land Revenue, Registration and Stamps and Mineral Resources).

As per the instructions issued (November 1994) by the State Legislative Affairs Department, Action Taken Reports (ATRs) on the recommendations of the PAC should be submitted within six months from the date of recommendations by the PAC. In spite of these provisions, the ATRs on audit

⁷ Land Revenue (394), Commercial tax (7,151), State Excise (49), Transport (30), Registration and Stamps (47) and Mineral Resources (37), and others (334).

⁸ High Powered Committee appointed to review the response of the State Governments to the Audit Reports of the Comptroller and Auditor General of India (Shakdher Committee Report).

⁹ *Suo motu* replies to be furnished within three months; in case Audit paragraphs are not selected by the PAC/COPU during this period.

¹⁰ 2012-13 (03), 2013-14 (07), 2014-15 (03) and 2015-16 (48).

paragraphs of the Reports were being delayed inordinately.

After issue of Recommendation Reports ¹¹ by the PAC, ATRs in respect of 135 paragraphs of the Audit Reports for the period from 1991-92 to 2010-11 were not been received upto March 2017 from State Revenue departments (Commercial Tax, State Excise, Transport, Land Revenue, Registration and Stamps and Mineral Resources).

Recommendation:

The Government may initiate action to address the shortcomings and system defects pointed out by Audit, to plug the leakage of revenue. The Government may also ensure that all departments promptly prepare ATRs on PAC recommendations.

1.5.4 Compliance to earlier Audit Reports

During the period from 2011-12 to 2015-16, the departments/Government accepted audit observations involving ₹ 689.09 crore of which only ₹ 94.08 crore was recovered till March 2017 as mentioned below:

Table 1.8
Compliance to earlier Audit Reports

(₹ in crore)

Year of the AR	Total money value of the Report	Accepted money value	Amount recovered	Percentage of recovery to amount accepted
2011-12	247.82	115.54	51.80	44.83
2012-13	343.19	181.88	14.45	07.94
2013-14	368.07	54.64	13.49	24.69
2014-15	614.76	153.15	07.79	05.09
2015-16	970.62	183.88	06.55	03.56
Total	2,544.46	689.09	94.08	13.65

The Department-wise details of recovery in respect of last five years Audit Reports is shown separately in subsequent chapters.

1.6 Analysis of the mechanism for dealing with the issues raised by Audit

To analyse the system of addressing the issues highlighted in the Inspection Reports /Audit Reports by the Department/Government, the action taken on the Draft Paragraphs and PAs included in the Audit Reports of the last 10 years for **Department of Registration and Stamps** was evaluated and included in this Audit Report.

The succeeding paragraphs 1.6.1 to 1.6.3 discuss the performance of the **Department of Registration and Stamps** under revenue Major Head 0030 and cases detected in the course of local audit during the last 10 years and also the cases included in the Audit Reports for the years 2006-07 to 2015-16.

1.6.1 Position of Inspection Reports

The summarised position of the Inspection Reports issued during the last 10 years, paragraphs included in these reports and their status as on 31 March 2017 are tabulated in **Table 1.9**.

¹¹ Received from December 2004 to December 2016 in this office.

Table 1.9
Position of Inspection Reports

(₹ in crore)

Year	Opening Balance			Addition during the year			Clearance during the quarter			Closing balance at the end of 31 March 2017		
	IRs	Paras	Money value	IRs	Paras	Money value	IRs	Paras	Money value	IRs	Paras	Money value
2007-08	860	1,893	84.86	57	210	16.03	148	239	15.26	769	1,864	85.63
2008-09	769	1,864	85.63	80	315	26.03	133	397	15.95	716	1,782	95.72
2009-10	716	1,782	95.72	88	290	33.76	223	643	27.83	581	1,429	101.65
2010-11	581	1,429	101.65	65	264	62.16	237	477	20.41	409	1,216	143.39
2011-12	409	1,216	143.39	53	203	60.13	53	232	28.78	409	1,187	174.73
2012-13	409	1,187	174.73	98	344	49.01	69	169	10.88	438	1,362	212.86
2013-14	438	1,362	212.86	74	290	97.73	44	182	18.64	468	1,470	291.95
2014-15	468	1,470	291.95	103	455	318.99	22	81	5.97	549	1,844	604.97
2015-16	549	1,844	604.97	73	317	99.36	0	16	0.50	622	2,145	703.83
2016-17	622	2,145	703.83	78	294	26.16	2	19	0.07	698	2,420	729.92

The increase in the number of outstanding paragraphs is indicative of the fact that adequate steps were not taken by the Department to settle the number of outstanding IRs and paragraphs.

1.6.2 Recovery of accepted cases

The position of paragraphs included in the Audit Reports of the last 10 years, those accepted by the Department and the amount recovered upto March 2017 are mentioned in **Table 1.10**.

Table 1.10
Recovery of accepted cases

(₹ in crore)

Year of Audit Report	Number of paragraphs included	Money value of the paragraphs	Number of paragraphs accepted including money value	Money value of accepted paragraphs	Amount recovered during the year (2016-17)	Cumulative position of recovery of accepted cases as of 31 March 2017
2006-07	6	2.45	4	0.55	0	0.51
2007-08	1 Review	91.57	1	45.76	0	8.58
2008-09	11	16.81	8	16.35	0	2.15
2009-10	9	14.72	7	14.11	0	2.06
2010-11	13	34.22	7	11.21	3.85	3.99
2011-12	10	32.71	10	28.11	0.24	0.32
2012-13	4+1 PA	173.05	3	139.22	0.37	0.41
2013-14	1 PA	85.46	1	15.24	0	0.03
2014-15	6	7.99	2	6.46	2.79	2.79
2015-16	12 + 1 PA	85.11	2	44.50	0	0

It is evident that the Department's efforts for recovery of accepted outstanding amount in respect of old paragraphs, prior to 2010-11, was unsatisfactory. The

recovery of accepted cases was to be pursued as arrears recoverable from the concerned parties. No mechanism for pursuance of the accepted cases had been put in place by the Department/Government.

The Government has not made specific provisions in the Act or issued instructions to the Department to fix a timeline for effecting recovery in such cases and to ensure that such irregularities do not occur in future. Therefore, non-response of the Department to audit report paras not only resulted in non-recovery of deficient amount of Stamp duty and Registration fee but also persistence of similar natured irregularities in all the subsequent audit reports. Some of them, noticed by audit during 2016-17, have been incorporated in Chapter-6 of this report.

Recommendation:

The Government may take special efforts to ensure recovery at least in accepted cases.

1.6.3 Action taken on the recommendations accepted by the Department/Government

The draft PA reports of the AG are forwarded to the concerned Department/Government for their information and replies. These PAs are also discussed in exit conferences and the Department's/Government's views are included while finalising the PAs for the Audit Reports.

PAs relating to Registration and Stamps Department featured during the last five years in the Audit Reports, total number of recommendations, details of the recommendations accepted by the Department/Government and up to date status of accepted recommendations are given in **Table 1.11**.

Table 1.11
Action taken on the accepted recommendations

Year of Report	Name of the PA	Total No. of re-commenda-tions	Details of the accepted Recommendations
2012-13	"Levy of Stamp duty on development agreements and mortgage deeds of developing land"	3	<ul style="list-style-type: none"> • The Government may consider prescribing a periodic return by the public offices to the District Registrars (DRs) containing details of documents presented before them to safeguard the leakage of leviable stamp duty. • The Government may consider prescribing a periodic return on the number of documents presented and found not duly stamped by the public offices for submission to the DRs. Norms for regular inspection of public offices by the DRs may be laid down.

			<ul style="list-style-type: none"> The Government may consider prescribing rates of development of land in the Market value guidelines for determining estimated development expenditure and a mechanism to ensure that the development expenditure is correctly assessed in mortgage deed, to avoid the leakage of Government revenue. It may also consider ensuring that mortgage deeds are registered and duly stamped before issuing permission for development.
2013-14	“Assessment and levy of Stamp duty and Registration fees”	6	<ul style="list-style-type: none"> The Department may ensure necessary co-ordination for timely exchange of information from other bodies/departments to safeguard against leakage of revenue.
2015-16	Information Technology Audit on “e-Registration (SAMPADA)”	5	<ul style="list-style-type: none"> The Department may utilise the services of State based research institutes like MANIT Bhopal, IIT Indore, etc. to impart training to its officials and form a dedicated IT support team of its own. Department may consider doing away with the services of outsourced persons in the work related to e-Registration on the SAMPADA platform considering the sensitive nature of data related to registration of documents. Action for delay in implementation of project as well as supply of hardware may be taken against those responsible. Legacy data may be digitised and migrated in the system on priority to safeguard citizens from threat of multiple registry of a property. Rules may be mapped in the SAMPADA software, as and when the Government notifies changes in the Act/Rules. The provisions of the Act may be suitably mapped in the application to prevent revenue leakages. Second level authorisation of data and documents may be implemented on priority to ensure proper recovery of revenue. The registered documents should be delivered to parties within the time defined in the objectives of SAMPADA. Complaint redressal mechanism may be made robust so that the core objectives of SAMPADA for ensuring transparency and empowering the users can be achieved. The Government may fully operationalise all the modules of the SAMPADA in order to eliminate manual intervention.

All the above recommendations of the PAs were accepted by the Department during exit conferences. However, the Department has taken no action to address the shortcomings accepted by them.

Recommendation:

The Government may issue instructions to the Registration and Stamps Department to take appropriate action on the accepted audit

recommendations of previous Audit reports.

1.7 Results of audit

Position of local audit conducted during the year

Audit test-checked records of 392 units relating to Commercial tax, State excise, Taxes on vehicles, Land revenue, Stamps and Registration fees, Mining receipts and Water tax during 2016-17 and observed underassessment/short levy/loss of revenue amounting to ₹ 6,270.37 crore in 2,73,032 cases. The departments concerned accepted underassessment and other deficiencies of ₹ 3,081.23 crore involved in 14,974 cases which were pointed out in audit during 2016-17 and recovered ₹ 5.15 crore in 151 cases.

1.8 Coverage of this Report

This Report contains 22 paragraphs (selected from the audit detections made during the local audit referred to above and during earlier years, which could not be included in earlier reports) and one PA on **“Levy and collection of Excise Duty”** and three Audits on **“Sand mining and environmental consequences”**, **“Assessment of taxes on works contracts and builders under MPVAT Act”** and **“Assessment and collection of Water Tax”** with effect of ₹ 4,712.16 crore.

Most of the audit observations are of a nature that may reflect similar errors/omissions in other units of the State Government departments, but not covered in the test check.

The departments/Government may therefore like to internally examine all the other units with a view to ensuring that they are functioning as per requirement and rules.

The Government/ departments have accepted audit observations involving ₹ 2,506.49 crore out of which ₹ 3.74 crore was recovered. The replies in the remaining cases along with documents in support of action intimated by the Department have not been received. These are discussed in succeeding Chapters 2 to 8.

CHAPTER – 2
STATE EXCISE

CHAPTER 2

STATE EXCISE

2.1 Introduction

State Excise revenue comprises receipts from manufacture, possession and issue of liquor for sale, *bhang* and poppy straw under the provisions of the Madhya Pradesh Excise Act, 1915 (MP Excise Act) and Rules made thereunder. Under the MP Excise Act, "liquor" means intoxicating liquor including spirits, wine, *tari*¹, beer, all liquids consisting of or containing alcohol and any substance, which the State Government may by notification, declare to be liquor.

2.2 Tax administration

The Principal Secretary, Commercial Tax Department is the administrative head of the State Excise Department at the Government level. The Excise Commissioner (EC) is the Head of the Department and is assisted by one Additional EC (Addl. EC), three Deputy Excise Commissioners (DEC) at the headquarters at Gwalior, seven DEC divisional flying squad in divisions, 15 Assistant Excise Commissioners (AEC) and 54 District Excise Officers (DEO) in districts. The District Collector heads the Excise Administration in the district and is empowered to settle shops for retail vending of liquor and other intoxicants and is also responsible for realisation of excise revenue.

2.3 Results of audit

During the year 2016-17, 41 audit units² out of 61 audit units of State Excise Department were covered for audit. Revenue generated by the Department during the year 2016-17 aggregated to ₹ 7,532.59 crore of which, the audited units collected ₹ 6,058.33 crore. A Performance Audit on "Levy and collection of Excise Duty" covering the period 2012-13 to 2016-17 was also conducted between November 2016 and July 2017. Audit noticed loss of excise duty and other observations amounting to ₹ 2,139.75 crore in 8,982 cases, as mentioned in **Table 2.1**.

Table 2.1 - Results of Audit

Sl. No.	Categories	(₹ in crore)	
		No. of cases	Amount
1.	Performance Audit on "Levy and collection of Excise Duty"	1	2,004.93
2.	Execution of contracts against rules	22	60.54
3.	Penalty not imposed for violation of licence agreement	381	27.44
4.	Penalty not imposed on failure to maintain minimum stock of country liquor/rectified spirit at warehouses and bottling units	2,187	15.87
5.	Licence fees not levied on liquor shop	31	3.83
6.	Penalty not imposed for not maintaining minimum stock in glass bottles	148	2.15
7.	Irregular supply of country/foreign liquor	84	1.65
8.	Penalty not levied on excess wastage of spirit/liquor	1,260	0.27
9.	Penalty not imposed on licensees who did not send EVCs	8	0.15
10.	Other observations (short levy of bottling fees, short/non-submission of bank guarantee, non-recovery of outstanding excise revenue, etc.)	4,860	22.92
Total		8,982	2,139.75

¹ *Tari* means fermented or unfermented juice drawn from any kind of palm tree.

² Offices of one Excise Commissioner, four DEC, 10 AECs and 26 DEOs.

These observations were communicated to the Government and the Department. Out of these, the Department accepted 3,581 cases involving ₹ 108.60 crore. The Department recovered ₹ 16,500 in one case of AEC, Indore while in other cases final action is awaited. During 2016-17, the Department also effected recovery of ₹ 35 lakh in 304 cases in respect of audit objections pertaining to previous Audit Reports and Inspection Reports.

2.4 Follow up of previous Audit Reports

In the Audit Reports for the period from 2011-12 to 2015-16, Audit had pointed out various observations amounting to ₹ 189.69 crore in 67 paragraphs against which recovery of ₹ 7.66 crore only was effected by the Department. Out of these 67 paragraphs, 25 paragraphs were selected by the Public Accounts Committee (PAC) for discussion. These paras are yet to be discussed (May 2018) by the PAC.

Audit noticed that Department did not comply with earlier recommendations of PAC. In its 72nd Report, 2015-16 on the Audit Report 2006-07, the PAC directed the Department to issue necessary instructions to ensure monitoring of disposal of foreign liquor in cases of expiry, non-renewal and cancellation of licence/label. However, irregularities of similar nature were observed during the present Performance Audit.

Recommendation:

The Department should ensure compliance to the recommendations of the PAC and issue necessary instructions/take adequate action to ensure that similar irregularities do not persist.

2.5 Performance Audit on “Levy and collection of Excise Duty”

2.5.1 Introduction

The MP Excise Act defines “Excise Revenue as revenue derived or derivable from any duty, fee, tax, penalty, payment (other than a fine imposed by Court of Law) or confiscation imposed or ordered or agreed to under the provisions of this Act, or of any other law for the time being in force relating to liquor or intoxicating drugs.” State excise includes levy and collection of various kinds of duties and fees on production, possession, sale, export, import and transport of liquor, *bhang* and poppy straw in the State.

The organisational setup of the State Excise Department has been detailed in Para 2.2. The manufacture, distribution and sale of liquor is controlled by the Excise Commissioner (EC) under the provisions of the Madhya Pradesh Excise Act, 1915. Licences for distilleries, Indian made foreign liquor (IMFL) bottling units, country liquor bottling units, breweries, etc., are granted/renewed every year, on payment of prescribed fees, by EC with the approval of the State Government. Licences for retail sale of country and foreign liquor³ and *bhang* are granted through a process of renewal/ tendering by EC with prior approval of the State Government.

³ There are two types of foreign liquor: Indian Made Foreign Liquor and liquor imported from other countries (Bottled in Origin).

Alcohol is produced in distilleries mainly from grains and molasses through fermentation and distillation. Country and IMFL are manufactured from rectified spirit⁴ (RS) and extra neutral alcohol⁵ (ENA) respectively through process of blending/ reduction, compounding and flavoring or colouring or both. In Madhya Pradesh, only distillers of RS can manufacture and bottle country liquor. Beer is manufactured from malt, grain, sugar, hops etc., by breweries. *Bhang* is produced from leaves of wildy grown cannabis which is not found in Madhya Pradesh.

2.5.2 Trend of revenue receipts

State Excise is one of the important sources of tax receipts and constitutes 17.04 *per cent* of the total tax receipts of Madhya Pradesh. The trend of receipts from State Excise for the last five years is exhibited in **Table 2.2**.

Table 2.2
Trend of receipts

(₹ in crore)

Year	Budget Estimates	Actual Receipts	Variation of Actual Receipts from Budget estimates (in per cent)
2012-13	4,800.00	5,078.06	(+) 5.79
2013-14	5,750.00	5,907.39	(+) 2.74
2014-15	6,730.00	6,695.54	(-) 0.51
2015-16	7,800.00	7,922.84	(+) 1.57
2016-17	7,700.00	7,532.59	(-) 2.17
Total	32,780.00	33,136.42	

(Source: Finance Accounts of the Government of Madhya Pradesh for the year 2016-17)

The revenue receipts in respect of March 2015 were deposited into Government Account in April 2015 due to which there was a shortfall in achieving the revenue target in the year 2014-15. During 2015-16, the licences were given to retailers only through tender process for the first time and excessively high rates were obtained which proved to be unsustainable at later stage. During 2016-17 lower rates were quoted by licencees as compared to the previous year and as such revenue target fixed for 2016-17 was revised from initial budget estimate of ₹ 9,000 crore by the Government. Further, during 2016-17 no licences were given to retailers of poppy straw, resulting in decrease in revenue receipts in 2016-17 over the previous year.

2.5.3 Audit Objectives

The Performance Audit was conducted to assess whether:

- The system of assessment and collection of State Excise was efficient and effective; and
- The provisions of Acts and Rules have been complied with and duty/ fee/ penalty levied/ imposed and collected.

⁴ Rectified Spirit means plain un-denatured spirit of strength of 66 degrees or more over proof and includes Extra Neutral Alcohol and Absolute Alcohol.

⁵ Extra Neutral Alcohol means silent spirit of an optimum quality which complies with the standard for neutral spirit prescribed by the Bureau of Indian Standards for the purpose.

2.5.4 Audit criteria

The audit criteria was derived from the following:

- Madhya Pradesh Excise Act, 1915 (Act);
- Madhya Pradesh Distillery Rules, 1995 (MP Distillery Rules);
- Madhya Pradesh Foreign Liquor Rules, 1996 (MPFL Rules);
- Madhya Pradesh Country Spirit Rules, 1995 (MPCS Rules);
- Madhya Pradesh Breweries and Wine Rules, 1970, (MPB&W Rules);
- Madhya Pradesh Alcohol Yield Rules, 1991; and
- Orders, circulars and notifications issued by Excise Commissioner/ Government.

2.5.5 Audit Scope and methodology

In Madhya Pradesh, there are 49 production units (eight distilleries, 20 IMFL bottling units, 12 country liquor bottling units, eight breweries and one winery) working in 20 districts⁶. The Performance Audit was conducted between November 2016 and July 2017, covering all 49 production units and District Excise Offices having production units along with scrutiny of records of office of Excise Commissioner (EC) for the period 2012–13 to 2016–17.

The Department may like to internally examine records of warehouses in remaining districts with a view to check whether irregularities pointed out in this Performance Audit are prevailing there also and to take remedial actions.

The scope and methodology of the Performance Audit was discussed with the Principal Secretary of the Department in an entry conference held on 10 March 2017 and the audit findings were discussed with the Principal Secretary of the Department in an exit conference held on 29 November 2017. Replies of the Government/Department received in the exit conference and on subsequent dates have been incorporated in the relevant paragraphs.

Audit also collected information regarding starch content in various types of grains used by distillers for production of alcohol from Central Institute of Agricultural Engineering (CIAE), Bhopal and fermentation efficiency and distillation efficiency for the technologies used by distillers of State from National Sugar Institute, Kanpur.

2.5.6 Acknowledgement

The cooperation of State Excise Department, National Sugar Institute, Kanpur and Central Institute of Agricultural Engineering, Bhopal for providing necessary information and records to Audit is acknowledged.

Audit Findings

System deficiencies in assessment and collection of State Excise

The collection of State Excise from distilleries, bottling plants and breweries is monitored by the officers-in-charge (District Excise Officer/Assistant District Excise Officer) posted in the respective distilleries, breweries and bottling

⁶ Balaghat, Bhind, Bhopal, Chhatarpur, Chhindwara, Dhar, Gwalior, Indore, Jabalpur, Khargone, Morena, Raisen, Rajgarh, Ratlam, Rewa, Sagar, Satna, Shajapur, Shivpuri and Ujjain.

plants. These officers are responsible for monitoring the records of production, bottling, despatch, etc., maintained by licensee and assess various fees like bottling fees, transport fees, export fees, import fees, etc. Excise duty is assessed at the time of issue of liquor, *bhang* and poppy straw for sale from the warehouses.

The Performance Audit revealed various system deficiencies in assessment and collection of State Excise, such as, non-prescribing of norms of production of alcohol from grains (barley, rice and maize), prescription of lower norms for two grains (millet and sorghum), lack of norms for production of beer, lower efficiency norms for production of alcohol from molasses, creation of unwarranted liability on Government due to change in condition of the agreement for supply of country liquor, absence of mechanism to identify and dispose stock of liquor for non-renewed licensees etc., which are discussed below:

2.5.7 Internal Audit

An Internal Audit Cell (IAC) headed by a Joint Director (Finance) assisted by six Assistant Internal Audit Officers (AIAO) conduct the internal audit of the Department. The posts of AIAO are filled in by deputation of officers from the MP Treasuries and Accounts Department. Though two posts of AIAO are vacant since December 2013, the Department did not take any action to fill up these vacancies.

The IAC prepares roster for audit of subordinate offices every year, the details of unit planned, audited and number of observations raised, settled and outstanding for the period between 2012-13 and 2016-17 are given in **Table 2.3.**

Table 2.3
Units planned and audited by IAC

Year	No. of units as per roster	No. of units audited	Shortfall with reference to roster	Percentage of shortfall	No of paras included	No of paras settled	Outstanding paras at the end of year
2012-13	50	06	44	88.00	111	10	270
2013-14	35	05	30	85.71	41	0	311
2014-15	25	14	11	44.00	96	0	407
2015-16	37	15	22	59.46	93	0	500
2016-17	24	11	13	54.17	114	0	614

Audit observed that in 17 districts⁷ no internal audit had been conducted for more than five years and for two to three years in 12 districts⁸. It was further noticed in this Performance Audit that IAC failed to address various issues like non-installation of VSAT units, non-maintenance of minimum glass stock of 25 per cent of country liquor at warehouses, export/ transport of liquor in excess of bank guarantee/ bond, non-disposal of liquor stock lying idle due to non-renewal of licence/ labels etc.

⁷ Agar, Betul, Bhopal, Burahanpur, Chhindwara, Dindori, Harda, Indore, Khandwa, Mandla, Narsinghpur, Neemuch, Satna, Singrauli, Shahdol, Sheopur and Umaria.

⁸ Anuppur, Balaghat, Chhatarpur, Damoh, Dewas, Jhabua, Katni, Panna, Raisen, Ratlam, Sagar and Sidhi.

Recommendation:

The Department should ensure that all posts in the Internal Audit Cell are filled up, and that the cell functions to its full capacity.

2.5.8 Norms for production of alcohol and beer from grains and molasses

The Audit Report for the year ending 31 March 2004, had recommended that the Department may prescribe norms for production of alcohol from all the grains. However, the Government has prescribed (2006) norms for production of alcohol from only two grains i.e., millets and sorghum, and no norms were prescribed for production of alcohol from the remaining three grains i.e., rice, maize and barley, and for production of beer from grains.

The process of production of alcohol from grains involves conversion of starch present in grains into glucose (one gram of starch produces 1.11 gram of glucose) and glucose into ethanol. One molecule of glucose produces two molecules of ethanol and two molecules of carbon-di-oxide. This chemical reaction is known as the Gay-Lussac equation.

According to the Gay-Lussac equation, yield of alcohol is derived on the basis of molar mass of glucose, and 100 kg of glucose produces 51.14 kg of alcohol and 48.86 kg of carbon-di-oxide. Further, yield of alcohol depends on fermentation efficiency (FE) and distillation efficiency (DE) of the technology used in distilleries.

2.5.8.1 Lower norms of production of alcohol from millet and sorghum

Lower norms for production of alcohol from millet and sorghum has deprived the Government of minimum excise duty of ₹ 805.76 crore.

Millets and Sorghum constitute 35.58 *per cent* of the total grains used by distillers in the State. According to norms prescribed by the Government, minimum yield of alcohol should be 283 BL⁹ per metric ton (MT), but this norm was prescribed without any reference to starch content, fermentation efficiency (FE) and distillation efficiency (DE). On calculation on the basis of FE (84 *per cent*) and DE (97 *per cent*) prescribed by Department, it was found that starch content was taken as 48.45 *per cent* while prescribing the aforesaid norm.

Audit collected information regarding fermentation and distillation technologies used by the distillers from the officers-in-charge of the distilleries and found that all the distillers are using batch fermentation/feed batch fermentation process and atmospheric distillation/ multi pressure distillation technology. Audit collected information from the Central Institute of Agricultural Engineering (CIAE), Bhopal on percentage of starch content in various types of grains and from the National Sugar Institute (NSI), Kanpur on FE and DE of different technologies used for fermentation and distillation, FE and DE for various technologies are shown in **Table 2.4**.

⁹ Bulk Litre (a litre with reference to the bulk or quantity of the contents equivalent to 0.219 gallons).

Table 2.4
Efficiency range for fermentation and distillation technology employed by distillers

(Figures in per cent)

Particular	Fermentation Efficiency		Distillation Efficiency	
	Batch fermentation	Feed batch fermentation	Atmospheric distillation	Multi pressure distillation
Molasses	88 – 90	90 – 92	97 – 98	98.5 – 99
Grain	90 – 92	90 – 95	97 – 98	98.5 – 99

(Source: Provided by National Sugar Institute, Kanpur)

On this basis, Audit calculated the minimum yield of alcohol per MT of grains used by six distillers and the results are shown in **Table 2.5**.

Table 2.5
Expected yield of Alcohol

Grain	Yield as per Government norms (BL/MT)	Starch content (per cent)	Yield of alcohol per MT/(in BL)* as calculated by Audit
Millet	283	64 to 79	407 ¹⁰ to 502
Sorghum	283	70 to 75	445 to 477

(* Source: Starch content provided by Central Institute of Agricultural Engineering, Bhopal)

Audit test checked records of six distilleries and noticed that these distilleries reported production of 22.61 crore proof litre¹¹ (PL) between 2012-13 and 2016-17, as against the expected yield of minimum 31.26 crore PL worked out on the basis of data in Table 2.5. The expected yield calculated by Audit is also corroborated by norms prescribed by Government of Rajasthan¹². Thus, distillers under reported production of total 8.64 crore PL of ENA/ RS. As cost sheet and audited accounts were not available to figure out quantity of IMFL and country liquor manufactured, therefore, excise duty has been calculated for country liquor on which duty is lowest. The under reported production of total 8.64 crore PL of ENA/ RS involves excise duty of ₹ 805.76 crore considering minimum duty¹³ applicable for country liquor for the respective years.

The understatement of yield of alcohol by distillers in the State was further confirmed by the fact that 53.54 lakh litre¹⁴ of liquor were seized between January 2014 and December 2016 in Madhya Pradesh as per Annual Reports titled “Crime in India” of National Crime Records Bureau. This also indicates

¹⁰ 1,000 kg x 64 per cent = 640 kg of starch, glucose yield = 640 kg x 1.11 = 710.40 kg ethanol yield as per Gay-Lussac equation from glucose = 710.40 kg x 0.51 = 362.30 kg, alcohol produced after fermentation = 362.30 x 90 per cent = 326.07 kg, alcohol produced after distillation = 326.07 x 98.5 per cent = 321.18 kg, quantity of alcohol (in BL) = 321.18/0.789 = 407 BL.

¹¹ Strength of alcohol is measured in terms of ‘Degree Proof’ Strength of such alcohol 13 parts of which weigh exactly equal to 12 parts of water at 51 Degree F is assigned 100 degree proof. Volume of given sample of alcohol when converted into volume of alcohol having strength 100 degree is called Proof Litre.

¹² Minimum production of 400 BL/MT of alcohol from all grains, considering starch content in grains in range of 62 per cent to 64 per cent.

¹³ For the year 2012-13 @ ₹ 85 per PL, for the years 2013-14 and 2014-15 @ ₹ 92 per PL, and for the years 2015-16 and 2016-17 @ ₹ 100 per PL.

¹⁴ 24.39 lakh litre of Country Liquor, 9.18 lakh litre of factory made illegal liquor and 19.97 lakh litre of other liquor.

leakage of State Government's revenue despite the present system of posting Excise Department officers at the production unit/warehouse of distilleries.

During the exit conference (November 2017), the Excise Department stated that since it does not procure liquor, the norms of production were irrelevant for it. In detailed reply (January 2018), the Department further stated that production declared by distillers is in accordance with the norms prescribed by it.

The reply of the Department is not acceptable, as the collection of excise duty should depend on the quantity of alcohol produced and sold. Also, the argument that the Department does not prescribe norms for production of alcohol since it does not procure liquor is not tenable, as the Department has prescribed norms for production of alcohol from millet and sorghum. Further, even though the production declared by distillers was in accordance with the Government prescribed norms, the fact remains that these production norms were very low in view of data made available by CIAE, Bhopal and NSI, Kanpur.

Recommendation:

The Department may consider revising the norms of production of alcohol from millet and sorghum by taking into consideration starch content in these grains and technology employed by distillers for fermentation and distillation.

2.5.8.2 No norms for production of alcohol from rice, barley and maize

The Government has not prescribed norms for production of alcohol from rice, barley and maize. As a result, the Government was deprived of minimum excise duty of ₹ 280.89 crore.

The Government has not prescribed norms regarding production of alcohol from three grains i.e., maize, rice and barley till date. Out of eight distillers in the State, seven distillers are using these grains in addition to the grains for which standards have been laid down for production of alcohol. These grains constitute 64.42 per cent of the total grains used by distillers in the State.

Audit calculated the minimum yield of alcohol from the quantity of grains used by seven distillers considering the minimum content of starch prescribed by CIAE, Bhopal and fermentation efficiency (batch fermentation/ feed batch fermentation) and distillation efficiency (atmospheric distillation/ multi pressure distillation) as prescribed by NSI, Kanpur, which are detailed in **Table 2.6.**

Table 2.6
Expected yield of Alcohol

Sl. No.	Grain	Yield as per Government norms (BL/MT)	Starch content (per cent)	Yield of Alcohol per MT (in BL)* as per audit calculation
1.	Barley	No norms	65 to 70	413 to 445
2.	Maize	No norms	65 to 75	413 to 477
3.	Rice	No norms	65 to 70	413 to 445

(*Source: Starch content provided by Central Institute of Agricultural Engineering, Bhopal, FE (minimum 90 per cent for batch fermentation and feed batch fermentation) and DE (minimum 97 per cent for Atmospheric Distillation and 98.5 per cent for Multi Pressure Distillation) provided by National Sugar Institute, Kanpur (NSI).)

Audit noticed that these seven distilleries were showing yields in the range of 293 BL and 496 BL of alcohol per MT from these grains. However, in the absence of any production norms for alcohol from these three grains, no penal provisions were imposed on distillers who were showing lesser yield. This adversely affected the revenue potential of the State either in the form of duty or penalty.

Audit test checked records of seven distilleries and noticed in five distilleries that during 2012-13 to 2016-17 these distilleries reported production of 11.83 crore PL, compared to the minimum production of 14.87 crore PL worked out on the basis of expected yield of alcohol detailed in **Table 2.6**. Thus, total 3.04 crore PL of ENA/ RS were under reported by distillers from these three grains. As cost sheet and audited accounts were not available to figure out quantity of IMFL and country liquor manufactured, excise duty has been calculated for country liquor on which duty is lowest. The under reported production of 3.04 crore PL of ENA/ RS involves excise duty of ₹ 280.89 crore considering minimum duty applicable for country liquor for the respective years. This further indicates that the present system of posting excise department officers at the production unit/warehouse of distilleries could not prevent evasion of excise duty.

During the exit conference (November 2017), the Excise Department stated that since it does not procure liquor hence the norms of production were irrelevant for it. However, in the detailed reply (January 2018) the Department stated that it has prescribed norms for grains.

The reply of the Department is not acceptable; the argument that the Department does not prescribe norms for production of alcohol since it does not procure liquor is not tenable, as the Department has prescribed norms for production of alcohol from millet and sorghum. The amount of excise duty depends on the quantity of alcohol produced and sold. However, the Department has not prescribed norms for all the grains.

Recommendation:

The Department may consider prescribing norms of production of alcohol from barley, maize and rice by taking into consideration starch content in these grains and technology employed by distillers for fermentation and distillation.

2.5.8.3 Lower efficiency norms for production of alcohol from molasses

Failure of the Department to revise fermentation efficiency and distillation efficiency in terms of the new technologies employed by distillers for production of alcohol from molasses deprived the Government of minimum excise duty of ₹ 82.54 crore.

The MP Distillery Rules 1995 prescribe minimum fermentation efficiency and distillation efficiency as 84 *per cent* and 97 *per cent* respectively for production of alcohol from molasses or any other bases. However, the Rules do not account for the newer and improved technologies using batch fermentation/ feed batch fermentation process and atmospheric distillation /multi pressure distillation technology now used by distillers in the State. NSI, Kanpur informed Audit that FE of minimum 88 *per cent* for batch fermentation and 90 *per cent* for feed batch fermentation and DE

of 97 per cent for atmospheric distillation and 98.5 per cent for multi pressure distillation is achieved by using the newer technologies for production of alcohol from molasses.

Audit test checked records of four distilleries who were using molasses for production of alcohol and noticed that during 2012-13 to 2016-17 these distilleries reported production of 15.29 crore PL, compared to the minimum production of 16.17 crore PL worked out on the basis of expected yield of alcohol. Thus, total 0.88 crore PL of ENA/ RS were under reported by distillers. As cost sheet and audited accounts were not available to figure out the quantity of IMFL and country liquor manufactured, excise duty has been calculated for country liquor on which duty is lowest. The under reported production of 0.88 crore PL of ENA/ RS involves excise duty of ₹ 82.54 crore considering minimum duty applicable for country liquor for the respective years as shown in **Table 2.7**.

Table 2.7
Expected yield of alcohol with newer technology

(₹ in crore)

Distiller	Molasses used (in quintals)	Production		Alcohol yield as per FE and DE provided by NSI (crore PL)	Difference (crore PL) (5)-(4)	Loss of duty
		As per norms of the State (crore PL)	Reported by distillers (crore PL)			
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Som Distillery	31,43,030.00	12.36	12.69	13.44	0.75	70.36
Agarwal Breweries	5,35,640.00	2.13	2.13	2.23	0.10	9.70
Jagpin Breweries	43,580.00	0.16	0.16	0.17	0.01	0.65
Gwalior Distilleries	72,178.45	0.30	0.30	0.32	0.02	1.83
Total	37,94,428.45	14.96	15.29	16.17	0.88	82.54

During the exit conference (November 2017), the Excise Department agreed to accept the recommendation and revise the norms. However, in detailed reply (January 2018) Department stated that as distilleries in the State are owned by private parties, revenue of Government is not affected by the yield of alcohol from molasses.

The reply is not acceptable as failure of the Department to update its norms in tune with the improved production technologies adopted by distillers has encouraged under reporting of production resulting in loss of ₹ 82.54 crore of revenue.

Recommendation:

The Department may revise production norms in tune with the improved technology employed by distillers for production of alcohol from molasses.

2.5.8.4 Lack of norms for production of beer from grains

Failure of Department to prescribe norms of production of beer has deprived the State Government of minimum excise duty of ₹ 22.93 crore.

The Department has prescribed four types of beers for manufacturing in Madhya Pradesh and trade in India i.e., Light (having alcohol content between 0.5 and 4 *per cent*), Standard (having alcohol content between 4 and 5 *per cent*), Extra Strong (having alcohol content between 5 and 6 *per cent*) and Super Strong (having alcohol content between 6 and 8 *per cent*).

The process of preparation of beer is similar to that of alcohol. Alcohol production requires fermentation and distillation while production of beer requires only fermentation. Estimates of starch content provided by CIAE, Bhopal and fermentation efficiency of minimum 90 *per cent* provided by NSI, Kanpur for the batch fermentation technology used by brewers, revealed that for preparation of one hecto litre (100 litres) of light beer having strength of 4 *per cent*, 7.86 kg of pure starch is required. On this basis, raw materials required for preparation of one hecto litre of each type of beer is shown in **Table 2.8**.

Table 2.8
Starch required for production of one hecto litre of beer

Name	Strength (<i>per cent</i>)	Starch required (Kg)
Light	0.5 to 4	0.98 to 7.86
Standard	4 to 5	7.86 to 9.83
Extra Strong	5 to 6	9.83 to 11.8
Super Strong	6 to 8	11.8 to 15.73

Audit test checked records of eight breweries and comparison of above data with actual production by the these breweries between 2012-13 and 2016-17, suggested that against production capacity of 18.80 crore BL of beer, including manufacturing loss of 5 *per cent* as provided in MP Breweries & Wine Rules, 17.37 crore BL of beer was reported as produced resulting in under reporting of 1.43 crore BL of beer involving excise duty ₹ 22.93 crore at minimum excise duty of ₹ 16.03 per BL¹⁵.

In reply (January 2018) the Department stated that no norms for production of beer have been prescribed. Further, as breweries are owned by private parties, Government revenue is not directly related to beer produced by these breweries.

The reply is not acceptable as non-levy of excise duty on quantity of excess beer and non-prescription of norms will adversely affect the revenue potential of the State.

Recommendation:

The Department may consider prescribing norms for production of beer from grains by taking into consideration starch content in grains and fermentation technology employed by brewers.

2.5.9 Retail sale price of hemp (*bhang*) not prescribed

Failure of the Department to prescribe retail sale price of *bhang* resulted in minimum revenue loss of ₹ 1.99 crore.

The Government of Madhya Pradesh invites tenders from the authorised licensees of other State Governments who collect *bhang* from the wildly grown

¹⁵ Minimum duty prescribed for beer per box is ₹ 125 and in one box 7.80 BL beer is packed. Hence, rate of duty for beer is ₹ 16.03 per BL.

cannabis and supply to other States also. The *bhang* so procured is stored in Central Warehouse, Khandwa from where *bhang* is issued on the request of officer-in-charge of country liquor warehouses of various districts for issue to licensees of *bhang* shops. According to tender documents, *bhang* produced in the same calendar year would be supplied by the tenderer during the financial year.

Gazette notifications regarding depositing of annual licence fees for the period 2012-13 and 2016-17 prescribed that licence fees shall be divided in 12 equal instalments and the licensee shall deposit monthly licence fees of that month on the first working day or earlier in advance. Further, if the licence fees are not paid within the first seven working days of the month, the District Collector would either supply *bhang* at retail sale rate or stop its supply and if the due licence fees is not deposited before the end of month, the District Collector can revoke the licence. *Bhang* is issued to retail licensees on payment of duty¹⁶ prescribed for *bhang* along with due licence fee for the month. However, retail sale rate of *bhang* to retail customers in form of minimum sale price and maximum sale price has not been prescribed by the Department.

Further, the Government prescribes duty of *Bhang* for use in medicinal preparations¹⁷ through the same Gazette notifications, every year.

Audit test check (between October 2016 and July 2017) of Demand and Collection Register and *Bhang* issue register in five districts (three AEC offices¹⁸ and two DEO Offices¹⁹) revealed that despite the monthly license fees being submitted after 4 to 50 days from the due date by all the licensees in various months, the issue/supply of 1.04 lakh kg *bhang* was made on normal duty rate. However, in the absence of retail sale rates in the notification, Audit has calculated short realisation of minimum excise duty of ₹ 1.99 crore by considering that the rate of end use as intoxicant should be higher than the only rate prescribed for intermediaries for medicinal purposes.

The Department admitted (December 2017) that retail rates of *bhang* are not prescribed, However, in detailed reply (January 2018), the Department stated that in cases where licence fees was deposited late, penalty amount of ₹ 2.36 lakh in three districts has been recovered from the licensee.

The reply of Department is not acceptable as there is no provision of levy penalty in cases of delayed submission of licence fees and only a nominal penalty or no penalty was imposed. Further, the Government should notify the retail sale rate of *bhang* which may be levied in such cases of default.

Recommendation:

The Department may consider prescribing the retail sale rate of *Bhang* to be levied on licensees who have not deposited the advance licence fee.

¹⁶ ₹ 90/kg for 2012-13 and ₹ 100 for 2013-14 to 2016-17.

¹⁷ ₹ 250/kg for 2012-13 and ₹ 300 for 2013-14 to 2016-17.

¹⁸ Khargone, Bhopal and Ujjain.

¹⁹ Morena and Shajapur.

2.5.10 Supply of country liquor

2.5.10.1 Deficient policy for supply of country liquor encouraged/led to cartelisation resulting in undue benefit to distillers

Failure of Department to analyse the cost of country liquor and explore more economical options for supply of country liquor resulted in undue benefit of ₹ 653.08 crore to distillers.

Distilleries produce Rectified Spirit (RS) from which country liquor bottling units manufacture country liquor. Both distilleries and country liquor bottling units are governed under the MP Excise Act. The MP Distillery Rules and the MP Country Liquor Rules framed under the Act, govern distilleries and country liquor bottling units respectively.

The State Government invites tenders every financial year for the supply of country liquor in sealed bottles in all the districts of Madhya Pradesh. Government invites per case/box²⁰ rate for four categories of country liquor i.e., Plain²¹ (glass), Plain (PET), Masala²² (glass) and Masala (PET). The successful tenderer in the district is awarded the right to supply country liquor of the specific category to retail shops licensees in the district during the financial year.

Audit examined tender files pertaining to supply of country liquor in various districts of Madhya Pradesh and production details of all distillers between 2012-13 and 2016-17. The following irregularities were noticed:

Limited competition led to cartel formation

As per Government policy, licences for manufacture and bottling of country liquor are given only to distillers from the State. Bottling units which do not have distilleries in the State are not allowed to participate in the tender process for supply of country liquor. This has resulted in limited competition in the supply of country liquor as there are only eight distillers in the State.

Audit observed that the same distillers retained 37 districts out of 51 districts during the period 2012-13 to 2016-17 for supply of all four categories of country liquor in the concerned districts (**Appendix I**). In other words the same distillers were L1 for all four categories of country liquor in that district.

Audit further observed that when the concerned distillers were successful in securing the bid as L1 in any district, there was a margin of one to three rupees or no difference in any of their L1 bids in the districts where they were successful that year. However, when the same distillers offered bids in any of the districts where they were unsuccessful (L2 etc.), their bids varied from their L1 bids for the same categories by as much as ₹ four and ₹ 27 (except the year 2015-16) as shown in **Table 2.9**.

²⁰ One case/box of plain country liquor and masala country liquor contains 12 bottles of 750 ml or 24 bottles of 375 ml or 50 bottles of 180 ml. Further, one box of plain country liquor box contains 4.50 PL of alcohol; one box of masala country liquor contains 6.75 PL of alcohol.

²¹ 50 degree under proof.

²² 25 degree under proof.

Table 2.9
Comparison of range of rates per box offered by L1 and L2 bidders for
four categories of country liquor in various years

(Amount in ₹)

Year	Plain country liquor				Masala country liquor			
	Glass		PET		Glass		PET	
	L1 bidder	L2 bidder	L1 bidder	L2 bidder	L1 bidder	L2 bidder	L1 bidder	L2 bidder
2012-13	362-364	373-387	322-325	333-347	422-424	432-446	381-383	390-407
2013-14	391-394	405-419	348-351	363-376	456-458	471-482	411-416	426-438
2014-15	424-427	449-465	378-381	403-419	495-497	520-536	446-451	473-489
2015-16	423-424	425	378-379	380	494-495	496	447-448	449
2016-17	444-445	448-450	397-398	401-403	519-520	523-525	470-471	474-477

Thus, it is evident that the eight distillers in the State had formed cartels ensuring that only the identified bidders were successful in the identified districts and that the other bidders in that district offered prices far higher than the L1 bidder. Thus, the policy of Government to allow distillers of the State to participate in the bidding process had only encouraged the cartelisation among distillers.

No rate analysis led to undue benefit to distillers and realisation of less duty in comparison to neighbouring states.

Audit observed that the Uttar Pradesh (UP) Excise Department in the year 2016-17 analysed rates for every category of country liquor by taking various components like cost of liquor, bottling, labelling and capsuling expenses, packaging charges, freight profit etc. However, the Madhya Pradesh Excise Department did not analyse the cost components of these four categories of country liquor nor did it compare the rates of the aforesaid liquor with the rates prevailing in the neighbouring States to ascertain fairness of the rates quoted by distillers.

In the absence of rate analysis the State Government had no basis to estimate whether the L1 rates offered by the distillers and accepted by the Government were justified.

To evaluate the effect of this limited competition, Audit compared²³ rates fixed by Rajasthan Beverages Corporation Limited for Plain country liquor and rates fixed by UP Excise Department for Masala country liquor with the rates quoted by tenderers and accepted by the Government of Madhya Pradesh.

Comparison of rates accepted by the Governments of Rajasthan²⁴ and Madhya Pradesh for supply of Plain country liquor to retailers for period between 2012-13 and 2016-17 revealed that there was difference in rates of two states ranging between ₹ 37.00 and ₹ 110.54 per box resulting in undue benefit of ₹ 429.64 crore to distillers (**Appendix II**). Similarly, comparison of rates accepted by the Governments of UP and Madhya Pradesh for supply of Masala country liquor to retailers for the same period revealed that there was difference in rates of two states ranging between ₹ 32.50 and ₹ 119.49 per box resulting in undue

²³ Only Plain country liquor is traded in Rajasthan whereas only Masala country liquor is traded in Uttar Pradesh.

²⁴ In Rajasthan, one case/box of Plain country liquor contains 48 bottles of 180 ml, while, in MP one box contains 50 bottles of 180 ml. Audit has factored in this difference when comparing the prices for country liquor in both the states.

benefit of ₹ 223.44 crore to the distillers (**Appendix III**). Thus, failure of the Department to assess the cost of country liquor and limited competition among distillers resulted in formation of cartel and undue benefit of ₹ 653.08 crore to these eight distillers.

Audit further compared the rates²⁵ of 180 ml bottle of country liquor for retail customers and duty levied thereon in Madhya Pradesh with neighbouring states Rajasthan and UP and the same is shown in **Table 2.10**.

Table 2.10
Comparison of retail sale rate and duty involved in 180 ml bottle of country liquor with neighbouring states

(Amount in ₹)

Year	Category	Plain {Minimum Sale Price (MSP)}				Masala {Maximum Retail Price (MRP)}			
		MP		Rajasthan		MP		UP	
		MSP	Duty	MSP	Duty	MRP	Duty	MRP	Duty
2012-13	Glass	27.00	7.65	20.85	10.94	57.00	11.50	53.00	34.03
	PET	26.00	7.65	20.85	10.94	55.00	11.50	53.00	34.03
2013-14	Glass	29.00	8.28	20.85	10.94	61.00	12.40	60.00	39.38
	PET	28.00	8.28	20.85	10.94	60.00	12.40	60.00	39.38
2014-15	Glass	30.00	8.28	21.00	10.94	63.00	12.40	64.00	43.66
	PET	29.00	8.28	21.00	10.94	61.00	12.40	64.00	43.66
2015-16	Glass	38.00	9.00	21.00	10.94	63.60	13.50	69.00	48.58
	PET	36.00	9.00	21.00	10.94	61.20	13.50	69.00	48.58
2016-17	Glass	40.00	9.00	24.00	11.91	66.00	13.50	69.00	48.36
	PET	40.00	9.00	24.00	11.91	66.00	13.50	69.00	48.36

It is therefore evident that the amount of duty collected by the Government of Madhya Pradesh is substantially lesser than the duty collected by neighbouring States.

Import of RS from other states

It was observed that seven out of eight distillers imported 27.80 *per cent* of RS used for manufacture of country liquor between the period 2012-13 and 2016-17, and in respect of this quantity, the distillers acted only as bottlers. Thus, Department should have allowed other participants like bottlers who can establish country liquor bottling units in MP to engender more competition in supply of country liquor.

During the exit conference and in their detailed reply (November 2017 and January 2018 respectively), the Department stated that Constitution of India permits the State to formulate its own policy on country liquor and to encourage

²⁵ Rajasthan has prescribed minimum sale price (MSP), while, UP has prescribed maximum retail price (MRP). In MP, both MSP and MRP has been prescribed. Hence, MSP for plain country liquor in MP has been compared with that of Rajasthan, and MRP for masala country liquor in MP has been compared with that of UP.

local industries. From the year 2011-12²⁶, the State Government has allowed the eight distillers in the state to manufacture country liquor and participate in tender process of country liquor. Since retail licensees directly procure country liquor from the distillers, the State Government is not involved in the justification underlying the prices at which the country liquor is supplied to the retailers.

The reply of Government is not acceptable because:

- The objective of Government in this area appears to be limited to bottling of country liquor alone and not in favour of production of RS as distillers-cum-bottlers have imported 27.80 *per cent* of RS from other States. This would be achieved if the State Government insists that only country liquor bottling units (who can procure the RS from within or outside the State) located within the State can be permitted to bid for supply of country liquor in the State.
- While it is true that the price at which country liquor is supplied to retail licensees is not the direct concern of Government, the higher prices charged by distillers in MP in comparison to other States is not resulting in any benefit to the State Government. The neighbouring states Rajasthan and UP collected more excise duty per PL than MP, even while the retail prices permitted to retailers was higher in MP than Rajasthan.
- Formation of cartels is inevitable when there is limited competition. Further, Department did not estimate cost of country liquor to ascertain fairness of the rates quoted by distillers for sale to the consumers of the State.

Recommendations:

- **The Department should ensure that there is no cartelisation in the bidding for supply of country liquor and also ensure that the State Government is not at financial disadvantage when compared to neighbouring States when levying excise duty on country liquor.**
- **The Department may consider allowing bottlers having bottling units in the State or who can establish country liquor bottling units in the State to supply country liquor and thereby ensure more competitive rates.**
- **The Department should analyse the cost component of various categories of country liquor.**

2.5.10.2 Unwarranted change in policy

Unwarranted change in excise policy for supply of country liquor created liability of ₹ 48.21 crore on Government in 2016-17.

The Government totally relied upon distillers for rates of four categories of country liquors and accepted the lowest rates (L1) offered by the distiller in a

²⁶ Prior to the year 2011-12, distillers manufactured country liquor in every district. From 2011-12 onwards, distillers manufactured country liquor in their bottling units located in 10 districts.

particular district between the period 2012-13 and 2014-15. However, in the financial year 2015-16 and 2016-17, the Government prescribed 'base rates'²⁷ for country liquor.

Audit examination of the Excise Policy for the year 2015-16 revealed that the difference between base rates and L1 rates for the year 2015-16 was to be credited to the revenue Major Head 0039–State Excise. Since the Government directions declared all offers above base rate as invalid, all distillers had offered less rates than the base rate in all the districts for the year 2015-16. As a result, only ₹ 2.56 crore was credited into excise revenue head, as the difference between base rate and L1.

For the Excise Policy for the year 2016-17, the Government decided (February 2016) that if the tenderers quote rates lower than base rate, the difference between the rates offered and bases rate would be credited into revenue account; however if the tenderers quoted rates more than the base rate, then the Government would pay the distillers difference between rates offered and base rate. The rationale for this change in Policy is not available on record.

Audit observed that since the policy was amended in favour of the distillers by the Department, distillers quoted much higher rates uniformly across the State in the year 2016-17 as shown in **Table 2.11**.

Table 2.11
Difference between rates offered by distillers and base rate

(Rate per box in ₹)

Item	Masala		Plain	
	Glass	PET	Glass	PET
Rate approved for supply to retailers	519.49	470.82	444.55	397.76
Base rate	496.00	449.00	425.00	380.00
Difference (to be paid by the State Government)	23.49	21.82	19.55	17.76

It was informed by the Department (March 2018) that amount payable to distillers as difference between rates offered by distillers and base rate amounted to ₹ 48.21 crore. Thus, unwarranted change in policy from the previous year has resulted in creation of liability of ₹ 48.21 crore on Government, out of which an amount of ₹ 39.76 crore was paid by the Government to the distillers till 15 March 2018.

On this being pointed out by Audit, it was stated by the Excise Commissioner (April 2018) that payment to distillers has been made according to policy of the Government.

The reply of the Department is not acceptable as the unwarranted change in excise policy has allowed the distillers to quote higher rates and negatively impacted the revenue of the State by way of refund of difference between L1 and base rate. Further, the excise duty collected by GoMP is lesser than the neighbouring states for the same category and quantity of country liquor. It is also pointed out, that for the same category of country liquor the rates approved for sale to retail shops in Rajasthan and UP were less than the base rates (by ₹ 45.99 to ₹ 96 per box) fixed by the GoMP, resulting in consumers in MP paying higher rates than consumers in Rajasthan (**Appendix IV**).

²⁷ Estimated at average of L1 tendered rates of 2014-15 in all the districts of the State.

2.5.11 Loss of excise duty in respect of bottling units establishment within distillery premises

Fixation of asymmetric transport fees by Government for transportation of ENA/ RS in distillery premises in comparison to outside distillery premises, resulted in undue advantage to a section of manufacturers and loss of excise duty of ₹ 100.84 crore during 2012-17.

The Government prescribed (July 2006) transportation fees²⁸ for RS/ ENA in two slabs i.e. ₹ 2.50 per BL outside the distillery premises and ₹ 50 per permit²⁹ within distillery premises.

Audit observed from the permit issue registers for transport of RS/ENA that tankers used for transportation carry on an average 25,000 BL of RS/ENA. Comparison of above mentioned rates of transport fees revealed that manufacturers having bottling units paid only ₹ 50 to Government for this quantity whereas manufacturers having bottling units outside Distillery premises paid ₹ 62,500 for the same quantity to Government.

Audit test checked production records of eight distillers (November 2016 and March 2017) which revealed that 40.36 crore BL of RS and ENA were transferred from distilleries to the respective bottling units during the period 2012-17 within the same premises by paying transport fees of ₹ 8.07 lakh whereas for the same quantity transport fees leviable from manufacturers outside the premises was ₹ 100.92 crore. Thus, Department collected less excise duty of ₹ 100.84 crore from the manufacturers having bottling units within the premises of distilleries as compared to those manufactures having bottling units outside the distillery premises. The fixation of asymmetric transport fees by Government for transportation of ENA/ RS within distillery premises in comparison to outside distillery premises also resulted in undue advantage to a section of manufacturers.

During the exit conference (November 2017), the Government accepted the audit findings and assured to explore the possibility of revising the rates. The Government further revised rates of transport fees to ₹ one per BL³⁰ for transportation of ENA within distillery premises, while the rates in respect of RS remained unchanged.

However, the action of Department was still deficient as transport fee for IMFL manufacturers remained asymmetric even after revision of fees in March 2018 and will result in reduced cost of bottled liquor to manufactures who have established bottling units in distillery premises in comparison to manufactures who have establishments outside the distillery premises.

Further, as manufacturers of country liquor located outside the distillery premises despite paying higher transport fees are providing liquor to retail licensees at the same price as manufacturers located inside distillery premises levying less transport fees has resulted in undue financial benefit of ₹ 10.15 per box for Masala country liquor and ₹ 6.78 per box for Plain country liquor.

²⁸ Fees levied for transfer of RS/ ENA from distillery to bottling units.

²⁹ Permit is an authorisation to transport RS/ENA from distilleries to bottling units.

³⁰ Gazette Notification (Extra Ordinary) no. 209 dated 31 March 2018.

Moreover, as Government is inviting open tenders for wholesale supply of country liquor there is no rationale for charging asymmetric transport fees.

Recommendation:

The Department may consider levying equitable transport fees from all the production units for transport of RS/ ENA.

2.5.12 Absence of mechanism to identify and dispose of liquor stock lying idle due to non-renewal of licences/ labels.

Failure of Department in taking necessary action for disposal of foreign liquor resulted in blockage of duty of ₹ 3.03 crore.

Licences for manufacture of IMFL are renewed every year by the Excise Commissioner. Similarly, labels of various types of foreign liquor bottled in a bottling unit are also renewed every year.

MP Foreign Liquor Rules prescribe that on expiry or cancellation of the licence/ label, the licensee may place the entire stock under the control of the DEO/AEC and the licensee may be permitted to dispose of such balances within 30 days of such expiry or cancellation to any other licensee to whom it can be sold. If he is unable to dispose of such balances within the prescribed time, the EC may give any other direction about its disposal including destruction thereof.

Audit test check of records in DEO, Dhar revealed that even after a lapse of 14 to 23 months of expiry of licence of bottling unit and label for IMFL, in two units³¹, stock of 1.40 lakh PL of IMFL and 1.28 lakh PL of ENA involving excise duty of ₹ 3.03 crore³² was not disposed of. Further, Assistant District Excise Officer of the manufacturing units had not brought the matter of disposal of IMFL / ENA to the notice of the EC after expiry of prescribed time limit of 30 days.

It was further observed that despite PAC direction (72nd Report, 2015-16), the Government failed to evolve a system to ensure monitoring of disposal of foreign liquor in cases of expiry, non-renewal and cancellation of licence/label.

In detailed reply (January 2018) Department stated that no such rules exist in the Act. It was further informed by the DEO, Dhar (February 2018) that in compliance of EC orders (March 2017 and May 2017) aforesaid stock 0.96 lakh PL of IMFL was destroyed, 0.62 lakh PL was redistilled and remaining 1.10 lakh PL was reused.

The reply of the Department is not correct as Rule 18 (6) of MP Foreign Liquor Rules clearly prescribes the procedure for such disposal. Although the Department has disposed of the idle stock of liquor after being pointed out by audit, the Department has not prescribed a system for quick disposal of old stock which is therefore, prone to the risk of pilferage and theft.

³¹ FL 9 Licensee Silver Oak Limited (March 2015) and Great Galleon Limited (March 2016).

³² Duty on FL ₹ 125 per PL and on Spirit ₹ 100 per PL.

Recommendation:

The Department should, in compliance of 72nd Report of PAC evolve system to ensure monitoring of disposal of foreign liquor in cases of expiry, non-renewal and cancellation of license/label.

Compliance with provisions of Acts and Rules

The Performance Audit revealed various deficiencies in compliance of MP State Excise Act and Rules thereunder, such as penalty not imposed on excise verification certificates received after stipulated time period, non-installation of VSAT units by distillers at country liquor warehouses, excess transit wastage of IMFL and export/ transport of IMFL; and ENA without furnishing adequate bank guarantee etc., which are discussed below:

2.5.13 Penalty not imposed

The MP Country Spirit Rules and MP Foreign Liquor Rules prescribe that the EC or the Collector may impose a penalty not exceeding ₹ 50,000 (up to 12 January 2014) and ₹ two lakh (from 13 January 2014) for any breach or contravention of any of these rules and may further impose in the case of continued contravention for country liquor, an additional penalty not exceeding ₹ 1,000 for every day during which the breach or contravention is continued.

Despite provisions in the Rules, penalty was not imposed for violation of rules as discussed under:

2.5.13.1 Penalty not imposed on excise verification certificates received after stipulated time period

Twelve manufacturing units submitted excise verification certificates (EVC) with delays ranging between 1 and 401 days. However, the Department did not impose penalty of ₹ 462.77 crore on defaulting manufacturers.

The MP Foreign Liquor Rules and MP Country Spirit Rules prescribe that the exporter/ transporter shall obtain the verification report from the officer-in-charge of the importing unit and submit the same to the officer-in-charge of despatching units within 40 days from the expiry of period³³ of permit.

Audit test check of records in five districts (three AEC offices³⁴ and two DEO offices³⁵) revealed that EVCs were received with delays ranging between 1 and 401 days in respect of 23,272 permits out of total 49,410 permits issued between 2012-13 and 2016-17. In no case officers-in-charge of manufacturing units reported the matter to Excise Commissioner for imposition of penalty. The maximum penalty leviable in these cases worked out to ₹ 462.77 crore as shown in **Table 2.12**.

³³ Transit time taken by transporter for covering a maximum distance of 360 Km in a day at an average speed of 30 Km per hour.

³⁴ Gwalior, Khargone and Bhopal.

³⁵ Dhar and Raisen.

Table 2.12
Penalty leviable on EVC received after 40 days

(₹ in crore)

Name of unit	Type of liquor	Number of manufacturing units	Number of EVCs received after 40 days	Median delay	Maximum Penalty leviable
AEC, Gwalior	IMFL	5	17,611	60	352.22
AEC, Khargone		1	2,180	60	43.60
AEC, Dhar		2	39	48	0.78
AEC, Raisen		1	198	57	3.96
AEC, Bhopal		1	2,560	51	48.53
Total		10	22,588		449.09
AEC, Raisen	Beer	1	671	49	13.42
Total		1	671		13.42
AEC, Raisen	Country Liquor	1	13	50	0.26
Total		1	13		0.26
Grand Total		12	23,272		462.77

During the exit conference (November 2017), the Government replied that though the imposition of penalty was at the discretion of the competent authority, the provision for graduated and compulsory penalty may be added in the Rules and the word “may” be replaced by “shall” to remove the ambiguity in the Rules. However, in their detailed reply (January 2018) the Department stated that EC has discretionary powers for imposition of penalty and taking into consideration short delays in receipt of EVCs, no penalty was imposed.

The reply of Department is not acceptable, as, in no case did the officer-in-charge of unit forward cases for imposition of penalty and thus these cases were not considered by the competent authority to decide whether penalty should be imposed or not. Further, non-imposition of penalty would encourage delay in submission of EVCs. The Government vide notification no. 351 dated 13 July 2017 has increased the time limit for submission of EVC in cases of export outside the State from 40 days to 90 days for north-eastern states and 60 days for other states after the matter was pointed out by Audit.

Recommendation:

The Department may consider amending rules for imposition of penalty and provide for graduated and compulsory penalty.

2.5.13.2 Penalty not imposed for not establishing VSAT connectivity in 105 country liquor warehouses

One hundred five country liquor warehouses did not ensure VSAT³⁶ for connectivity.

³⁶ Very Small Aperture Terminals (VSATs) are used to transmit broadband data for provision of satellite internet access to remote locations, the objective of VSAT unit was to generate permit online to retail licensees who are lifting liquor from warehouses, further receipt of consignment of country liquor from bottling units could be given in real time of its receipt from warehouses.

As per tender notices for supply of country spirit in sealed bottles, the successful tenderer will have to make arrangements for VSAT connectivity in all the country liquor warehouses at their own cost failing which penalty of ₹ two lakh would be levied. Further, in the case of continued contravention, the Excise Commissioner may impose an additional penalty not exceeding ₹ 1,000 for every day during which the breach or contravention is continued.

Audit test checked records of EC and 20 selected districts and observed that V-SAT connectivity was not installed in 105 country liquor warehouses located in 51 districts by eight successful tenderers for the year 2015-16 and 2016-17. The officers-in-charge of these warehouses did not report this matter to higher authorities. The Department neither ensured installation of V-SAT connectivity nor levied penalty up to ₹ 11.87 crore under Rule 12 of the MP Country Spirit Rules.

During the exit conference (November 2017), the Department concurred with the audit observation and stated that on the basis of audit observation, in all the cases penalty would be imposed. The Department further informed (January 2018) that demand notices for the financial year 2015-16 of ₹10.60 lakh was issued and in the cases pertaining to financial year 2016-17 penalty is being imposed.

2.5.13.3 Penalty on excess wastage of IMFL / beer during export/ transport not levied

Penalty of ₹ 1.44 crore was not levied on excess wastage of IMFL / beer during export/ transport.

The MP Foreign Liquor Rules prescribe that the maximum wastages for all export/ transport of bottled IMFL / beer shall be 0.25 *per cent*. Further, for wastage in excess of the prescribed limit, the licensee shall be liable to pay penalty at a rate not exceeding the duty payable on IMFL at that time, as may be imposed by the Excise Commissioner or any officer authorised by him.

The Departmental circular (July 2013) clearly prescribed monthly return to monitor quantity of excess transit wastage of country liquor, IMFL, RS/ ENA and beers during transport/ export. Officer-in-charge of production units had to submit the return to Deputy Commissioner of the Zone and endorse a copy to the Excise Commissioner.

Audit test check of permit register in three IMFL bottling units and three breweries revealed that 60.75 lakh PL of IMFL was transported/ exported (between September 2015 and December 2016) through 1,144 permits on which excess wastage of 52,671.46 PL beyond permissible limit was recorded and 91.66 lakh BL beer was transported/ exported (between December 2015 and March 2017) through 982 permits on which excess wastage of 23,497.14 BL beyond permissible limit was recorded. Officers-in-charge of the manufacturing units had reported these cases to the DC of their Zones. However, penalty of ₹ 1.44 crore for excess wastage was not imposed by DCs.

During the exit conference (November 2017), the Government replied that the penalty was being imposed by DC regularly. Further, in detailed reply (January 2018), Department stated that letters have been issued to DC for status of imposition of penalty.

Reply of the Department is not acceptable as the imposition and recovery of penalty was not done in these cases.

2.5.13.4 Non imposition of penalty for non-maintenance of minimum 25 per cent stock in glass bottles at warehouses

Sixty nine country liquor warehouses did not maintain minimum prescribed stock of country liquor in glass bottles and Department failed to impose penalty of ₹ 5.46 crore on these warehouses.

As per conditions of agreements for supply of country liquor, distillers should maintain stock of 25 per cent of average daily supply of liquor in glass bottles at every warehouse with an objective to sustain supply of country liquor in case of ban on use of PET bottles, failing which a penalty of ₹ two lakh would be levied. Further, in the case of continued contravention, the Excise Commission may impose an additional penalty not exceeding ₹ 1,000 for every day during which the breach or contravention is continued.

Audit test checked of records of EC Office and 69 warehouses in 33 districts³⁷ and observed that in contravention of the aforesaid conditions, minimum stock of 25 per cent of average daily supply of liquor was not maintained in glass bottles at various warehouses for periods ranging from 1 to 366 days (Median -275 days) in a financial year. Audit further observed that the Department had not put in place any monitoring mechanism to ascertain compliance to these conditions. The Department also failed to impose penalty of ₹ 5.46 crore for not complying with the conditions of agreements and its continuous contravention under Rule 12 of MP Country Spirit Rules, 1995.

During the exit conference (November 2017) the Department accepted the audit observation and stated that the process of penalty imposition was in progress. In detailed reply (January 2018), Department reported imposition of penalty of ₹ 1.73 crore.

The action of the Department to start the process of imposing penalty is appreciated. However, unless the Department puts in place a monitoring mechanism for compliance to the conditions of the agreement the objective behind this clause cannot be meet. Further, imposition of penalty for the financial year 2016-17 for ₹ 3.73 crore is still awaited.

2.5.13.5 Minimum stock of country liquor not maintained at warehouses and bottling units

Though licensees of country liquor did not maintain minimum stock of bottled country liquor at country liquor warehouses and bottling units, penalty amounting to ₹ 2.58 crore for breach and continued contravention of rules was not imposed.

Audit test checked records viz., Stock Register, Monthly Register etc., of eight Assistant Excise Commissioner Offices³⁸ and 16 District Excise Officers³⁹ and

³⁷ 20 sampled districts; four AECs (Barwani, Hoshangabad, Jhabua and Sehore) and nine DEOs (Betul, Burhanpur, Damoh, Datia, Guna, Mandsaur, Neemuch, Seoni and Sidhi)

³⁸ Chhatarpur, Gwalior, Hoshangabad, Indore, Jhabua, Khargone, Rewa and Satna.

³⁹ Anuppur, Ashoknagar, Balaghat, Betul, Bhind, Damoh, Dewas, Dhar, Guna, Mandsaur, Neemuch, Seoni, Sheopur, Shivpuri, Sidhi and Vidisha.

observed (between May 2016 and February 2017) that the minimum stock of bottled country liquor was not maintained by licensees at 41 warehouses between April 2014 and December 2016. In 20 such warehouses there was shortage of stock for more than 100 days in a year.

Similar, Audit test check (between May 2016 and July 2017) of records in four Assistant Excise Commissioner Offices⁴⁰ and four District Excise Officers⁴¹ revealed that minimum stock of spirit and bottled liquor at country liquor bottling units that equals average of five days' supply of previous month was not maintained between April 2014 and December 2016 by all the five licensees. Penalty amounting to ₹ 2.58 crore for breach and continued contravention of rules was not imposed on the licensees as per MP Country Spirit Rules.

The Department did not take appropriate timely action by issuing necessary instructions and fixing time limit for referring cases of non-maintenance of country liquor to the EC.

During the exit conference (November 2017), the Department informed that demand notices have since been issued in most of the cases pointed out during 2016-17. However, status regarding recovery has not been provided (May 2018).

2.5.14 Export/ transport of IMFL and ENA without furnishing adequate Bank Guarantee/ Bond.

Transport/ export of IMFL /ENA involving duty of ₹ 52.72 crore was permitted against bank guarantee of ₹ 2.05 crore.

The MP Foreign Liquor Rules and the MP Distillery Rules prescribe that licensee shall deposit, the prescribed duty leviable on the full quantity to be exported/ transported, or furnish a bank guarantee or execute a bond with adequate solvent sureties for the amount. The bank guarantee etc. in respect of individual consignments will be effective till such time the excise duty is paid or the excise verification certificate is received.

The Department prescribed (August 2007) monthly returns to monitor that there is sufficient amount of security deposit against the quantity of exported/ transported liquor/ENA. The officer-in-charge of the production unit is required to submit the return to Deputy Commissioner of the Zone and endorse a copy to the Excise Commissioner.

Audit test check of export/ transport permit registers of sampled manufacturing units in three districts (two AEC offices⁴² and one DEO office⁴³) revealed that neither the officer-in-charge of any of the manufacturing units submitted the prescribed return nor did the Excise Commissioner/Deputy Commissioner monitor/ ask for the return.

Audit worked out the excise duty involved against the total permits issued in a selected month and compared it with the security deposit furnished by the manufacturing units. It was found that officer-in-charge of seven⁴⁴

⁴⁰ Chhatarpur, Gwalior, Khargone and Rewa.

⁴¹ Balaghat, Dhar, Rajgarh and Shivpuri.

⁴² Gwalior and Khargone.

⁴³ Dhar

⁴⁴ FL-9 A (PRIPL, ABD, USL, RKL, Associated and Oasis) and FL-9 GAPL.

manufacturing units allowed transport/export of IMFL/ENA involving excise duty of ₹ 52.72 crore during the selected month against bank guarantee of ₹ 2.05 crore. Excise verification certificates in respect of none of the permits issued during the selected month was received during the selected month. Thus, transport/ export of liquor involving duty of ₹ 50.67 crore was permitted by officer-in-charge of manufacturing units without the backing of required security deposit.

During the exit conference (November 2017), the Government accepted the audit observation and assured the compliance of Rules in future, However, in detailed reply (January 2018) the Department stated that failure to obtain adequate bank guarantee does not have any adverse effect on the revenue of the State.

The reply of the Department is not acceptable. Allowing export/transport of liquor without backing of adequate security deposit in violation of the Rules is a major risk in case of default by the licensee. Further, by this practice, the officers-in-charge permitted licensees to avail of undue financial advantage by not securing the required bank guarantees, etc., against consignment.

2.5.15 Computerisation of Department

The State Government (May 2007) approved the work on integrated computerisation of the State Excise Department for ₹ 14.89 crore. Though hardware procurement and installation was completed in March, 2012, the work of software development was still incomplete rendering the expenditure of ₹ 16.50 crore on hardware infructuous.

M/s CMC Limited was awarded (May 2007) the contract for Consultant cum Software Developer for ₹ 2.05 crore. The work was to be completed within 44 weeks and an amount of ₹ 83.25 lakh was paid up to 19 September 2015.

Further, a monitoring and consulting team was appointed (June 2010) to monitor the work of CMC. The consultancy team was paid ₹ 2.16 crore upto May 2017. Despite incurring more expenditure on the monitoring and consulting team than the cost for software development, the work is still incomplete even after lapse of 10 years.

2.5.15.1 Performance Security/Penalty was not forfeited/ imposed

Despite failure of the contractor to adhere to provisions of the agreement, the Department failed to enforce forfeiture of performance security and imposition of penalty amounting to ₹ 45.47 lakh.

According to the bid document, if any of the stages of work is either not completed or not completed satisfactorily as per the approved time schedule, a penalty at the rate prescribed in the agreement shall be imposed on CMC. The competent authority may terminate the agreement if the consultant fails to perform any or all of the obligations within the time period(s) specified in the agreement and the bid security/ performance security shall stand forfeited.

Audit observed that after a lapse of 499 weeks (more than nine years), work was incomplete (March 2018). However, for this delay, neither penalty amounting to ₹ 20.50 lakh (10 per cent of ₹ 2.05 crore) was levied nor was the agreement terminated by forfeiting the performance security of ₹ 25 lakh.

Moreover, the Government has to bear additional financial expenditure of ₹ 2.16 crore on consultants appointed to monitor the working of CMC limited and advisory on matters related to computerisation, despite the fact that project is still incomplete and resulted in increase in project cost.

In the exit conference (November 2017), Principal Secretary accepted the audit observation and instructed the Department to levy penalty and forfeit performance security in cases where the delay was attributable to the licensee. However, in detailed reply (February 2018) Department stated that enough efforts have been made by the Department to implement this project. Considering the complex procedures of the Department, the work of software development is currently going to be completed soon. Amount of penalty would be worked out after completion of the work and penalty would be imposed thereafter.

The reply of Department is not acceptable as the contractor has not performed the work according to the terms of the tender and despite huge investment of ₹ 19.49 crore⁴⁵, no penalty for violation of agreement conditions was imposed.

Hardware Procurement and Installation

2.5.15.2 Neither Bid Security/Performance Security was forfeited for delay in start of project nor was penalty imposed by Department for delay in completion of project.

Despite failure of the contractor to adhere to provisions of the agreement, forfeiture of bid security/ performance security and penalty amounting to ₹ 4.96 crore was not forfeited/imposed by the Department.

The bid document stipulated that failure of the successful bidder to furnish performance security within the stipulated period and/or failure to execute the work within stipulated period from award (February 2009) would lead to termination of contract and/or penalty as applicable.

Audit observed that M/s Tulip Telecom who was awarded the contract (5 February 2009) deposited the performance security after a delay of 138 days, executed the agreement after delay of 271 days and delayed deliveries of hardware by 37 weeks. Despite these delays, the Department failed to forfeit the bid security of ₹ 20 lakh, failed to levy penalty of ₹ 2.67 crore (20 per cent of ₹ 13.35 crore- value of hardware), failed to forfeit the performance security of ₹ 2.09 crore.

In the exit conference (November 2017), the Department accepted the audit observation and directed levy of penalty and forfeiting performance security in cases where the delay was attributable to the licensee. However, in their detailed reply (February 2018) Department stated that as there was a twofold difference between L1 and L2 bidder the bid of M/s Tulip Telecom was not disqualified and bid security forfeited. Further, for imposition of penalty Department stated that Tulip Telecom Limited was paid after withholding the amount for penalty.

⁴⁵ Payment to M/s Tulip Telecom (₹16.50 crore) plus payment to consultant (₹ 2.16 crore) and payment to CMC (₹ 83.25 lakh).

The reply is not acceptable as Department has not issued any orders for imposition of penalty and possibilities of release of withheld amount cannot be ruled out at the time of final payment.

2.5.15.3 Outsourcing the project without the permission of the Government.

The Department allowed the vendor to outsource the work without approval.

The bid document stipulated that the Vendor should not assign to any other vendor, in whole or in part, its obligations except with the prior written consent of the competent authorities.

Audit observed that the vendor (M/s Tulip Telecom) outsourced its work to Vayam Technologies without the approval of the Department. Though the Department was aware of this fact, it took no action, and in fact made payments in an escrow account⁴⁶ created in favour of both the vendor and sub-vendor.

In the exit conference (November 2017) the Department stated that permission of the Government was taken after the matter was pointed out by Audit. However, in detailed reply (February 2018) the Department stated that Tulip Telecom Limited did not assign any work to Vayam Technologies, who was only a supplier for Tulip Telecom Limited.

The reply is not acceptable in view of the facts on record, stated above.

2.5.16 Conclusion

The Performance Audit revealed the following:

- Non-prescribing of norms/ lower norms prescribed for production of Alcohol from grains, non-revision of fermentation and distillation efficiency norms and non-prescribing of norms for production of beer from grains deprived the State Government of minimum excise duty of ₹ 1,192.12 crore.
- The policy of Government to allow only distillers from the State to participate in the tender process for supply of country liquor without analysing cost of country liquor has resulted in cartel formation and undue benefit of ₹ 653.08 crore to distillers.
- Fixation of asymmetric transport fees by Government for transportation of ENA/RS in distilleries premises in comparison to outside distillery premises, resulted in undue advantage to a section of manufacturers and loss of excise duty of ₹ 100.84 crore.
- Officers-in-charge did not initiate action for imposition of penalty in cases of delayed submission of Excise verification certificates, non-maintenance of minimum requisite stock of country liquor, non-installation of V-SAT connectivity at Country liquor warehouses, etc.

⁴⁶ An escrow is a contractual arrangement in which a third party receives and disburses money for the primary transacting parties with the disbursement dependent on conditions agreed to by the transacting parties.

- Transport/ export of liquor involving duty of ₹ 50.67 crore was permitted by officer-in-charge of manufacturing units without deposit of required security deposit.
- The Department incurred huge expenditure on computerisation. Despite this, computerisation is still incomplete after 10 years of start of project resulting in non-achieving of intended benefits.

CHAPTER – 3
COMMERCIAL TAX

CHAPTER 3 COMMERCIAL TAX

3.1 Tax administration

The Principal Secretary, Commercial Tax Department (CTD) is the administrative head of the Department at the apex level. The Department functions under overall control of the Commissioner of Commercial Tax (CCT) assisted by a Director and Additional Commissioner. The Department is divided in five zones, each headed by a Zonal Additional Commissioner. These zones comprises 16 divisional offices headed by divisional Deputy Commissioners (DCs). Under these divisions, there are 84 circle offices and 19 Regional assistant commissioner offices headed by the Commercial Tax Officers/Assistant Commissioners (CTOs/ACs).

3.2 Trend of receipts

The trend of revenue receipts against budget estimates of Commercial Tax Department from revenue heads Taxes on sales, trade, etc. and Taxes on goods and passengers is mentioned in **Table 3.1**.

Table 3.1
Trend of receipts

(₹ in crore)

Year	Budget estimates	Actual receipts	Percentage of variation
2012-13	16,150.00	17,251.33	(+) 6.82
2013-14	19,140.00	19,228.59	(+) 0.46
2014-15	22,400.00	20,822.35	(-) 7.04
2015-16	24,500.00	22,890.91	(-) 6.57
2016-17	26,200.00	26,366.16	(+) 0.63

(Source: Finance Accounts and Budget Estimates of Government of Madhya Pradesh)

Audit observed that the MP Power Generating Company did not pay entry tax on purchase of coal from April 2007 to March 2017 and the matter was under consideration with the High Court. Finally, a meeting was held on 25 August 2015 between the two ministries and it was decided that the MPPGCL would make payment of Entry tax of ₹ 875.13 crore. The company had paid arrears of ₹ 12.90 crore during 2013-14 and ₹ 590.09 crore during 2016-17. This was the main reason for increase in actual receipts of the Department over the budget estimates of 2016-17.

3.3 Internal Audit

The Public Accounts Committee (PAC) in its 65th Report directed (December 2015) the Department to establish Internal Audit Wing and make it function effectively. However, the Department is yet to comply with the PAC orders.

The Department accepted (July 2017) the audit observation, but stated that personnel from Finance/ Accounts services posted in the Department conduct internal audit as per roster. The reply is not acceptable for the following reasons: (i) the Department has not explained why it failed to comply with

PAC orders; (ii) the Department has not provided any evidence by way of details of units audited and audit observations to support its contention; (iii) as admitted by the Department, there is vacancy of Sr. Accounts Officer in the Department, and therefore there was no supervisory control for any internal audit activity stated to have been conducted.

Recommendation:

The Department should immediately comply with the recommendations of the Public Accounts Committee and ensure the establishment of fully functioning Internal Audit Wing.

3.4 Results of audit

During the year 2016-17, 113 units¹ (out of 132 auditable units) of the Commercial Tax Department (CTD) were covered for Audit. Revenue generated by the Department during the year 2016-17 aggregated to ₹ 26,366.16 crore of which audited units collected ₹ 20,590.54 crore. Audit of “Assessment of taxes on works contracts and builders under MPVAT Act” was done between December 2016 and November 2017. Audit noticed underassessment of tax and other irregularities involving ₹ 1,030.24 crore in 1,398 cases, which fall under the following categories as mentioned in Table 3.2.

**Table 3.2
Results of Audit**

(₹ in crore)			
Sl. No.	Categories	No. of cases	Amount
1.	Audit on "Assessment of taxes on works contracts and builders under MPVAT Act"	1	667.02
2.	Tax short levied/not levied	291	49.41
3.	Application of incorrect rate of tax	137	43.81
4.	Incorrect determination of tax	381	132.85
5.	Incorrect grant of exemption/deduction	179	33.64
6.	Others	409	103.51
Total		1,398	1,030.24

The Department accepted underassessment of tax and other irregularities of ₹ 961.40 crore in 872 cases. In the remaining cases, it was replied that the cases would be reopened and Audit would be intimated accordingly. Further progress in this regard including recoveries would be watched in Audit.

During 2016-17, the Department reported revenue realisation of ₹ 2.68 crore in 24 cases pertaining to previous Audit Reports and Inspection Reports.

3.5 Follow up of previous Audit Reports

In the Audit Reports for the period from 2011-12 to 2015-16, Audit had pointed out various observations amounting to ₹ 542.10 crore in 116

¹ Office of Commissioner, Commercial Tax, 26 Divisional Offices, 21 Regional Offices and 65 Circle Offices.

paragraphs against which recovery of ₹ 1.11 crore only was effected by the Department. Further, audit recommended (Audit Report 2014-2015) that the Department should prepare a Manual to outline policy, general rules and procedures to be followed for VAT assessments. However, the Department has not prepared such a Manual.

The PAC has already given its recommendations and directions (65th Report, 2014-15 and 72nd Report, 2015-16) on similar paragraphs of ARs for the years 2004-05 and 2006-07. Some of the directions were as follows: (i) the Department should issue instructions so as to check repetition of same irregularities; (ii) action should be taken against defaulting officers.

The Department has however, failed to comply with these directions and the same type of irregularities persist.

Recommendations:

- **The Department should comply with the directions of the PAC and issue instructions and take action to ensure that similar irregularities do not occur;**
- **The Department should prepare a Manual on rules, procedures, guidelines etc., for use by its officers and staff.**

3.6 Audit on "Assessment of taxes on works contracts and builders under MPVAT Act"

3.6.1 Introduction

The definition of "Sale" under the Madhya Pradesh Value Added Tax Act, 2002 (MPVAT Act) includes 'a transfer of property in goods involved in the execution of works contract'. Every works contractor whose turnover in a year exceeds ₹ five lakh shall get himself registered with the Commercial Tax Department (CTD) and shall pay tax under Section 9 on the value of goods transferred in execution of the works contract at specified rates². Works contractors may, however, opt for composition facility³ but will not be eligible to Input Tax Rebate (ITR) on purchase value of goods transferred.

The MPVAT Act was amended (April 2011) and Section 9-B 'Tax on buildings' was inserted to enable levy of tax on builders at the rate of five *per cent* on the capital value of the buildings constructed by them and sold or leased out. No tax under this section shall be levied in respect of transactions which are in the nature of works contract and on which tax is payable under Section 9 as a works contractor. Every builder liable to pay tax under Section 9-B and who is not liable to pay tax under Section 9, shall get himself enrolled with the CTD.

² Five *per cent* rate of tax as mentioned in part II of Schedule II and 13/14 *per cent* rate of tax as mentioned in part IV of Schedule II.

³ Under composition facility, works contractors are allowed to pay lump sum tax at the rate of one or five *per cent*, under Section 11-A instead of paying tax under Section 9 of MPVAT Act.

In terms of Supreme Court decision⁴, if the building is constructed by the builder by entering into an agreement with the prospective purchaser taking advances, such transaction shall be treated as works contracts and tax should be assessed on value of goods transferred in execution of works contract under Section 9.

3.6.2 Audit Objectives

Audit was conducted to ascertain whether:

- An effective mechanism exists in the Department to monitor the tax payable by works contractors and builders;
- The provisions of Acts/Rules, instruction/orders contained in circulars/notifications were followed to prevent leakages of revenue; and
- The correctness of declared turnover, Input Tax Rebate (ITR) availed and Tax Deducted at Source (TDS) claimed by the works contractors and builders were ensured.

3.6.3 Audit Criteria

Audit criteria were derived from the following:

- Madhya Pradesh VAT Act, 2002,
- Madhya Pradesh VAT Rules, 2006,
- Madhya Pradesh Entry Tax Act 1976, and
- Rules, notifications, circulars and instructions issued by the State Government and Department.

3.6.4 Scope of audit and methodology

The audit was conducted between December 2016 and November 2017. The records pertaining to the period 2012-13 to 2014-15 on assessments done by the Assessing Authorities (AAs) between 1 April 2015 and 31 March 2017 were examined.

Audit selected all construction circles⁵ which were established specifically to assess the cases of builders and contractors and their Divisional Offices⁶. Out of the remaining 45 circles, Audit selected nine circles⁷ on random sampling basis.

There were 33,810 registered works contractors and 311 enrolled builders in the State (December 2016), out of which 16,176 works contractors and 236 builders were registered/enrolled in selected units. Audit examined records of 691 works contractors and 162 builders assessed in selected units during the period covered in audit. The Department may like to internally examine records of remaining works contractors and builders with a view to ensure that they have paid correct amount of tax.

⁴ Civil appeal No. 8672 of 2013 - M/s Larsen & Toubro Ltd. versus State of Karnataka 2013.

⁵ CTO- Bhopal VI, Gwalior I, Indore III and Jabalpur II.

⁶ DC- Bhopal I, Gwalior I, Indore II and Jabalpur I.

⁷ CTO- Anuppur, Balaghat, Betul, Chhatarpur, Jhabua, Ratlam I, Rewa, Sendhwa and Waidhan.

Audit obtained the data⁸ of Value Added Tax Information System (VATIS⁹) from the Department and analysed the e>Returns, option for composition of tax given by the works contractors, levy of tax by way of composition, deposit of tax, verification of ITR, scrutiny of issued statutory forms and assessment orders. Data from external sources like Municipal Corporation and Department of Registration and Stamps were also obtained and cross verified with database of the Commercial Tax Department.

An entry conference was held on 10 March 2017 with the Principal Secretary of the Department, in which the objectives, scope and methodology of Audit was discussed. An exit conference was held on 29 November 2017 with the Principal Secretary of the Department. The replies of the Department have been duly incorporated in the paragraphs.

Acknowledgement

The cooperation of the Department in providing necessary information and records to audit is acknowledged.

Audit Findings

Audit found system deficiencies and non-compliance of various provisions of the Act/ Rules involving financial effect of ₹ 667.02 crore as discussed in the following paragraphs:

System deficiencies

3.6.5 MPVAT Act did not define works contract and procedure to determine the taxable turnover

The MPVAT Act did not define works contract and procedure to determine taxable turnover of contractors. As a result, AAs did not apply uniform process for assessment of taxes on works contract.

Clause 29-A of Article 366 of the Constitution of India empowers States to levy sales tax on the value of the material transferred in the execution of a works contract and this definition was also incorporated in the MPVAT Act.

Audit observed that works contract is not specifically defined under MPVAT Act; also, there is no format prescribed for return, nor any procedure adopted, for assessment of taxable turnover (value of materials transferred) of contractors. Therefore, AAs had adopted different methods to determine taxable turnover of contractors by either allowing deduction of direct expenses from gross receipt or adding profit in value of material purchased and other expenses relating to material transferred. This resulted in underassessment in 125 cases as discussed in paragraph 3.6.10.

In the exit conference, the Department stated (November 2017) that the issue was well taken but in the upcoming Goods and Service Tax regime the above discrepancy shall be rectified.

⁸ VATIS data received (December 2016) from the Department for the year 2012-13 to 2015-16.

⁹ Departmental work i.e. registration, submission of returns, issuance of statutory forms, submission of VAT audit report and assessment etc., done through application software "VATIS".

The reply is not acceptable because assessment/re-assessment of legacy cases of VAT regime has not been completed and therefore, works contract and related procedures need to be defined.

Recommendation:

The Department may consider issuing specific guidelines/instructions for determination of taxable turnover of works contracts.

3.6.6 Cases of works contractors/builders were not included in construction circles

Even after the formation of four construction circles, cases of 1,947 works contractors/builders were assessed in other circles.

The State Government notified (September 2012) formation of four new construction circles¹⁰ for the purpose of effective monitoring of tax liability and verification of input tax rebate in the cases of contractors, builders and dealers dealing with construction material viz., cement, iron and steel, *gitti*, *murrum*¹¹, bricks, marble and tiles. Such assesses were to be included in construction circles corresponding to the respective revenue districts¹².

Audit analysis revealed, however, that cases of 1,947 out of 8,913 works contractors/builders of the four revenue districts were not included in the new construction circles, and these assesses continued filing returns in their erstwhile circles between September 2012 to November 2017. Consequently, the very purpose of formation of the four specialised construction circles was defeated.

Accepting the audit observation during the exit conference, the Department stated (November 2017) that the assessment of contractors continued in the revenue circles for administrative convenience, as the earmarked four circles were not capable of handling all such cases.

The reply is not acceptable, since it is for the Department to equip the construction circles to handle the additional work load, and not to continue with the existing system that does not meet the State Government's requirements.

Recommendation:

Department may ensure that all cases of works contractors of the four revenue districts are transferred to the respective construction circles.

3.6.7 Non-monitoring of TDS certificate and related returns

The Department did not ensure submission of annual return in Form 35 by persons who had taken blank TDS certificate forms.

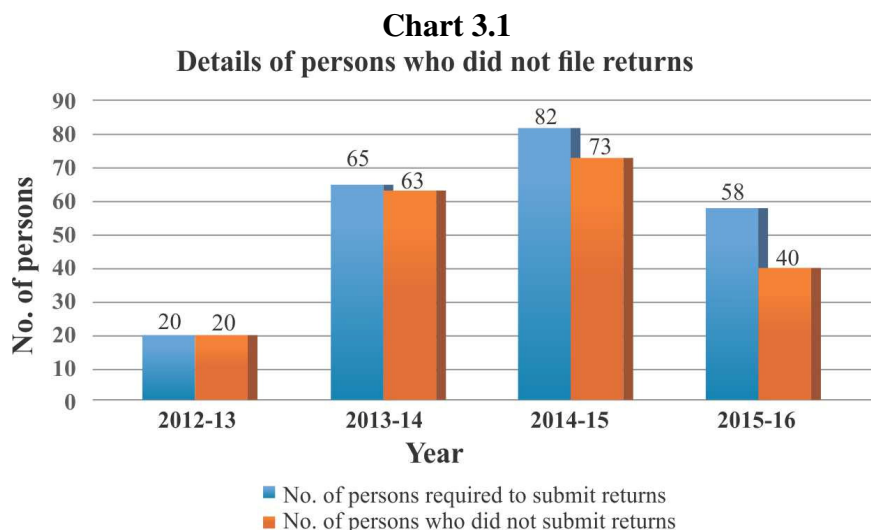
¹⁰ CTO- Bhopal VI, Gwalior I, Indore III and Jabalpur II.

¹¹ A type of laterite used for road surfaces.

¹² Revenue Districts of Bhopal, Gwalior, Indore and Jabalpur.

The MPVAT Act and the MPVAT Rules prescribe that the person¹³ shall deposit the amount of TDS deducted from the works contractors in Government Treasury before the 10th day of the next month. The persons shall obtain the blank TDS certificate (Form 32) from the Commercial Tax Department and give duly filled TDS certificate to the works contractors. They are also bound to file annual return of utilised TDS certificates in Form 35¹⁴ within thirty days of expiry of the financial year to which the returns relate. The Commissioner, Commercial Tax (CCT) vide circulars¹⁵ also reiterated the necessity of obtaining the details of TDS.

Audit test check in four circles¹⁶ out of 13 circles, most of the persons who obtained blank TDS Certificate forms from the Commercial Tax Department for the period between 2012-13 and 2015-16 did not submit annual returns in Form 35 and shortfall ranged between 69 *per cent* and 100 *per cent*. The Department also did not initiate action for submission of returns by these persons. Details are given in **Chart 3.1**.



The Department failed to monitor the mandatory requirement of submission of annual returns which would have facilitated the Department to detect short deduction of TDS, delay in deposit of revenue in Government treasury and identification of unregistered dealers.

In the exit conference (November 2017), the Department agreed with the fact and assured to take remedial action for submission of return by the persons.

Recommendation:

The Department may ensure compliance of departmental instructions regarding submission of annual returns by the TDS deducting persons.

¹³ Person means-Department of Central or the State Government, Public Sector Undertaking, Municipal Corporation, Authority enacted under any law for the time being in force, Public Limited Company.

¹⁴ Form 35 contains the complete details of payment to contractor and also details of deducted and deposited amount of TDS.

¹⁵ Circular No.164/2012-13/30/15/diary/6, Indore dated 15 February 2013 and No.184/2012-13/30/15/22, Indore dated 31 March 2013.

¹⁶ CTO- Indore III, Jhabua, Rewa and Sendhwa.

3.6.8 Non-registration of builders and contractors

Failure of the Department to register 656 contractors with annual turnover of more than rupees five lakh resulted in contractors' receipts of ₹ 456.99 crore escaping assessment.

The MPVAT Act stipulates that every contractor, whose turnover in a year exceeds rupees five lakh, shall get himself registered with the Commercial Tax Department. The Commissioner vide circulars¹⁷ instructed the circles-in-charge of construction circles to obtain annual returns from Municipal Corporations on works executed within their jurisdictions to assess the tax liability of such works contractors.

Audit test check of records relating to four Municipal Corporations¹⁸ revealed that the circles in-charge failed to ensure regular submission of returns by the Municipal Corporations and consequently, an amount of ₹ 456.99 crore received by 656 unregistered contractors was detected to have been unassessed.

In the exit conference (November 2017), the Department issued instructions to get the records of the Commercial Tax units reconciled with those of Municipal Corporations. Progress will be monitored in future audits.

Recommendation:

The Department may put in place mechanisms to ensure that Commercial Tax units mandatorily reconcile their records with those of Municipal Corporations and Councils, so that all contractors who are required to be registered are so registered and their turnover is assessed to tax.

Compliance deficiencies

Short levy of tax on works contractors

3.6.9 Short levy of tax on notified goods in execution of works contracts

AAs failed to cross check returns of works contractors with related records and royalty payments on the sand and *gitti* consumed by them, resulting in short levy of tax of ₹ 45.51 crore including penalty.

The State Government notified¹⁹ goods like sand and *gitti* (small pieces of stone) liable to tax at the rate of ₹ 20 per cubic meter (cu.m). Further, if underassessment of tax is attributable to the contractor, penalty between 3 to 3.5 times of the amount of assessed tax shall be imposed under the MPVAT Act.

Audit test check of records in eight circle offices²⁰ and Division-I, Bhopal revealed that in 30 cases, the AAs assessed the volume of sand and *gitti* as

¹⁷ No/164/2012-13/30/fifteen/dairy/06 dated 15 February 2013 and No/164/2012-13/30/fifteen/dairy/365 dated 09 May 2014.

¹⁸ Bhopal, Gwalior, Indore and Jabalpur.

¹⁹ Government Notification no.35 dated 27 January 2010.

²⁰ CTO- Bhopal VI, Gwalior I, Indore III, Jabalpur II, Jhabua, Ratlam I, Rewa and Sendhwa.

12,83,535 cu.m against the aggregate volume of 70,92,014 cu.m, without verifying the volume of sand/ *gitti* on the basis of royalty paid as mentioned in their books of accounts and other relevant records. Failure to assess 58,08,479 cu.m sand and *gitti* resulted in short levy of tax amounting to ₹ 11.62 crore and penalty of ₹ 33.89 crore.

In the exit conference (November 2017), the Department agreed with the audit findings and assured that all these cases shall be reopened and appropriate action taken under intimation to Audit.

3.6.10 Short levy of tax due to failure to perform mandatory checks

Failure of AAs to perform mandatory checks on records like audited accounts, details of material purchased, TDS certificates etc., at the time of assessment led to underassessed turnover of ₹ 872.97 crore resulting in short levy of tax of ₹ 226.13 crore including penalty.

Audit test check of records in three Divisional offices²¹ and 10 circle offices²² revealed that in 125 cases of works contractors, some important documents relating to works contracts like agreements, work orders, running account bills were not found in case files. Without verifying the nature, value and quantity of material transferred in execution of works contracts, the AAs assessed the taxable turnover of ₹ 1,034.70 crore on the basis of tax proposals submitted by the contractors against the aggregate turnover of ₹ 1,907.67 crore which was determined on the basis of audited accounts, value of material purchased, TDS certificates etc., available with the Department. Thus, the AAs failed to perform mandatory checks on records at the time of assessment leading to underassessed turnover of ₹ 872.97 crore resulting in short levy of tax amounting to ₹ 58.04 crore and penalty of ₹ 168.09 crore.

In the exit conference (November 2017), the Department agreed with the audit findings and assured that all these cases shall be reopened and appropriate action taken under intimation to Audit.

Recommendation:

The Department should introduce mechanisms to ensure that Assessing Authorities verify, at the time of assessment, all records relating to the value of goods transferred in execution of the works contracts.

Sub-contractor

3.6.11 Deductions allowed to main contractors without confirmation of tax payment by sub-contractors

²¹ DC- Bhopal I, Gwalior I and Indore II.

²² CTO- Betul, Bhopal VI, Chhatarpur, Gwalior I, Indore III, Jabalpur II, Jhabua, Ratlam I, Rewa and Sendhwa.

Failure of AAs of main contractors, when allowing deductions to the main contractor, to cross-verify from the AAs of the sub-contractors, whether sub-contractors had paid tax on these deductions, resulted in non-inclusion of contract receipts of ₹ 171.82 crore in the taxable turnover of the sub-contractors/ main contractors, and short levy of tax of ₹ 20.60 crore including penalty.

The MPVAT Act prescribes that in case of works contracts executed through sub-contractors, the principal contractor and the sub-contractor shall be jointly and severally liable to pay tax in respect of such works contract. If the contractor proves in the prescribed manner²³ to the satisfaction of the Department that the tax has been paid by the sub-contractor on the turnover of the works contracts, the contractor shall not be liable to pay tax again on the said turnover. Audit scrutiny revealed failure of the AAs to include the taxable turnover of the sub-contractors at the time of assessment of tax in the following cases:

- M/s Sarla Mantena MP JV (main contractor) got two works contracts (May 2013 and July 2013 respectively) in Pench Diversion Project amounting to ₹ 145 crore and ₹ 100 crore on turnkey basis. The main contractor sublet the entire works to M/s Mantena Infra LLP and M/s Sarla Project Works Pvt. Ltd respectively. In the assessments pertaining to 2014-15, the AA allowed deductions to the main contractor amounting to ₹ 93.95 crore from the contract receipts on the basis of acceptance of the tax liability by the sub-contractors (Mantena Infra for ₹ 51.69 crore and Sarla Project Works for ₹ 42.26 crore), without verifying the fact that both sub-contractors did not include said receipts in determination of turnover in their returns.
- M/s HES Infra Pvt. Ltd. (main contractor) got two works contracts (both, in August 2013) in Pench Diversion Project amounting to ₹ 126 crore and ₹ 76.50 crore on turnkey basis. The main contractor sublet both the works entirely to M/s Mantena Infra LLP. In the assessments pertaining to 2014-15, the AA allowed deductions to the main contractor amounting to ₹ 10.23 crore from the contract receipts on the basis of acceptance of the tax liability by the sub-contractor, without verifying the fact that the sub-contractor did not include said receipts in determination of turnover in their return.
- M/s HES Mantena MP JV (main contractor) sublet the entire works in Mahi Dam Project to M/s Mantena Construction Pvt. Ltd. In the assessments pertaining to 2014-15, the AA allowed deductions of ₹ 67.34 crore from the contract receipts of the main contractor on the basis of acceptance of tax liability by sub-contractor for the above receipts. However, the sub-contractor did not include the contract receipts in its turnover and the same was not detected by the AA.

In all above cases, the AAs of the main contractors, when allowing deductions to the main contractors, did not cross-verify from the AAs of the sub-contractors, whether sub-contractors had paid tax on these deductions or not. As a result, neither the main contractors nor the sub-contractors included the

²³ Deduction claims by a contractor shall be supported by a declaration in Form 3 by the sub-contractor.

contract receipts amounting to ₹ 171.82 crore in their taxable turnovers. This led to short levy of tax amounting to ₹ 5.15 crore and penalty of ₹ 15.45 crore.

In the exit conference (November 2017), the Department agreed with the audit findings. The Department further intimated (February, 2018) that all the cases had been reopened for reassessment under Section 21(1) of MPVAT Act.

Recommendation:

The Department may evolve a mechanism whereby, deductions may be allowed to the main contractors only on receipt of evidence that the sub-contractors had actually remitted the tax, on whose turnover the main contractors claimed the deductions.

3.6.12 Irregular exclusion of sub contract value in the absence of requisite certificate Form 3

AAs determined taxable turnover without including sub-contract expenses resulted in short levy of tax and penalty amounting to ₹ 5.20 crore.

The MPVAT Act and MPVAT Rules prescribe that deduction from the contract receipt claimed by a principal contractor shall be supported by a declaration in Form 3 to be issued by the sub-contractor to the principal contractor and the principal contractor shall not be liable to pay tax again on the said turnover.

Audit scrutiny of records (assessment orders, audited accounts, returns, VATIS report etc.) in seven circle offices²⁴ revealed that in 17 cases of works contractors assessed between April 2015 and March 2017 for the years 2012-13 to 2014-15, AAs determined taxable turnover by irregularly excluding the sub contract expenses even in the absence of Form 3. However, sub contractor's expenses aggregating to ₹ 70.96 crore were certified in their audited account which was required to be included in the turnover of the main contractors. Thus, injudicious exclusion of sub-contract expenses in determining taxable turnover of the main contractors led to underassessment of taxable turnover by ₹ 70.96 crore which resulted in short levy of tax amounting to ₹ 2.12 crore and penalty of ₹ 3.08 crore.

In the exit conference (November 2017), the Department agreed with the audit findings and assured that all these cases shall be reopened and appropriate action would be taken under intimation to audit.

Deficiencies in administration of composition of tax

Registered dealers involved in works contracts in MP may opt for composition facility in respect of the works executed by them. Under composition facility, works contractors are allowed to pay lump sum tax at the rate of one or five *per cent*²⁵ on gross contract receipts, instead of tax ranging between five and 14 *per cent* at the rate prescribed in Schedule-II of MPVAT Act on taxable turnover. Contractor shall pay composition of tax and submit their quarterly statement in Form 4-B within 30 days after end of the quarter enclosing

²⁴ CTO- Bhopal VI, Gwalior I, Indore III, Jabalpur II, Jhabua, Ratlam and Rewa.

²⁵ In terms of the MPVAT Rules, composition of tax shall be levied at the rate of one *per cent* (applicable to goods purchased within the State) otherwise five *per cent*.

therewith proof of the payment. Composition opted dealers are exempted from submission of returns (Section 18), maintenance of audited account (Section 39), liability of assessment of tax (Section 20) and interest cannot be charged in case of delay in payment of amount of tax [Section 18(4)(a)]. If dealers who opt for composition do not fulfill the restrictions and condition prescribed under Rule 8-A of MPVAT Rules, the CTO may revoke the permission granted to the registered dealer, who shall then be liable to be assessed under Section 20 and the provision of Section 18, 20 and 39 shall apply in relation to the works contract in respect of which such permission had been revoked.

3.6.13 Incorrect acceptance of option for composition facility

Applications for option of composition of tax were required to be submitted within 60 days from commencement of work. However, the AAs allowed composition of tax without recording reasons in cases where applications were received with delays ranging between 10 and 3,296 days.

The MPVAT Act and MPVAT Rules prescribe that option for composition of tax is to be submitted online in Form 4-A to the CTO concerned within 60 days of commencement of execution of the works contracts. In cases of any delay in filing Form 4-A, the CTO may reject the application. But, if there are sufficient and reasonable cause for such delay, the delay may be condoned.

Audit analysed the data provided by the Department pertaining to contractors who opted for composition of tax. Audit found that in all circle offices 3,618 composition applications were sanctioned by the CTO, out of which 310 composition applications with contract amount of ₹ 3,402.49 crore were submitted after prescribed time with delays ranging between 10 and 3,296 days. Details of delays are shown in **Table 3.3**.

Table 3.3
Incorrect grant of composition of tax

(₹ in crore)

Year	No. of applications (composition granted)	No. of composition application submitted after prescribed time	Range of delay (in days)	Median value of delays	Amount of contract works
2013-14	1,091	5	10 to 228	108	105.95
2014-15	1,272	213	10 to 3,112	425	2,567.35
2015-16	1,255	92	10 to 3,296	265	729.19
Total	3,618	310	10 to 3,296		3,402.49

In these cases, instead of rejecting the applications, the CTOs condoned delayed submission of applications for composition of tax without recording reasons for the same. The CTOs incorrectly allowed these works contractors to pay lump sum tax under composition facility, and exempted from assessment and liability of submission of returns and accounts. However, they were liable to be assessed under section 20 of MPVAT Act.

In the exit conference (November 2017), the Department agreed with the audit findings.

3.6.14 Inadmissible allowance of composition of tax

Two hundred eighty eight contractors submitted their quarterly statement of composition of tax belatedly upto 877 days, 646 contractors did not deposit tax of composition amounting to ₹ 163.29 crore, and 698 contractors belatedly deposited composition of tax amounting to ₹ 38.78 crore.

3.6.14.1 Delayed submission of quarterly statements

Audit analysed data provided by the Department and found in all circle offices that 288 out of 402 composition facility opted contractors submitted quarterly statement in Form 4-B after prescribed time with delay upto 877 days as shown in **Table 3.4**.

Table 3.4
Delayed submission of quarterly statements

Year	No. of dealer who submitted quarterly statements	No. of dealer who submitted quarterly statements after prescribed time	Range of delay in days
2013-14	54	46	01 to 877
2014-15	150	131	01 to 807
2015-16	198	111	01 to 601
Total	402	288	

The Department did not revoke the permission of composition facility of such contractors and assess their cases under Section 20 of MPVAT Act.

In the exit conference (November 2017) the Department agreed with the audit findings and assured that all these cases shall be reopened and appropriate action would be taken under intimation to Audit.

3.6.14.2 Composition of tax not deposited

Audit analysis of records relating to all circles revealed that there was no evidence that 646 works contractors who had composition facility for contract amount of ₹ 4,535.40 crore during the year 2013-14 to 2015-16, had actually paid the composition of tax amounting to ₹ 163.29 crore as shown in **Table 3.5**.

Table 3.5
Composition of tax not deposited

(₹ in crore)

Year	No. of works contractors where there is no evidence of payment	Contract Amount	Amount of composition of tax due
2013-14	226	1,565.99	55.16
2014-15	106	287.66	8.72
2015-16	314	2,681.75	99.41
Total	646	4,535.40	163.29

In the exit conference (November 2017), the Department agreed with the audit findings and assured that all these cases shall be reopened and appropriate action would be taken under intimation to Audit.

3.6.14.3 Delayed deposit of composition of tax

Audit scrutiny revealed that 941 contractors deposited composition of tax amounting to ₹ 38.78 crore for the period 2013-14 and 2015-16, with delays ranging from 32 to 1,233 days as shown in **Table 3.6**.

Table 3.6

Delayed deposit of Composition of tax

(₹ in crore)

Year	No. of contractors who deposited composition of tax	Amount of tax deposited	No. of contractors who deposited composition of tax with delay	Amount of tax involved in delay deposit	Delay in days	Median value of delays
2013-14	108	12.26	52	1.95	32 to 473	67
2014-15	369	52.82	213	16.25	32 to 765	78
2015-16	464	65.00	433	20.58	32 to 1,233	70
Total	941	130.08	698	38.78	32 to 1,233	

The Department should have revoked the permission of composition facility under sub-rule 8 below Rule 8-A of MPVAT Rules and assessed these cases under Section 20 of MPVAT Act. However, the same was not done.

In the exit conference (November 2017), the Department agreed with the audit findings and assured that all these cases shall be reopened and appropriate action would be taken under intimation to Audit.

3.6.15 Application of incorrect rate of composition of tax

Failure of AAs to apply the correct rate of composition of tax on contractors purchasing materials from outside the State resulted in short levy of tax of ₹ 119.04 crore including penalty.

Audit scrutiny revealed that in two cases²⁶ of Division-II, Indore and CTO-VI, Bhopal, contractors were allowed composition of tax of ₹ 86.21 lakh at the rate of one *per cent* (applicable to goods purchased within the State) although these two contractors had purchased the materials from outside the State, for which the composition of tax rate was five *per cent*. Thus failure of the AAs to apply the correct rate resulted in short levy of tax amounting to ₹ 3.44 crore and penalty of ₹ 10.32 crore. Similarly, Audit analysed the data relating to all the circles and found that 218 contractors were allowed the composition of tax amounting to ₹ 26.32 crore at the rate of one *per cent* for the period between 2013-14 and 2015-16. However, these contractors had purchased the materials from outside the State which were transferred in works contract. Thus these contractors were liable to pay tax of ₹ 131.60 crore at the rate of five *per cent* instead of ₹ 26.32 crore. The AAs did not verify the fact that the contractors had purchased materials from outside the State which was available in Form

²⁶ M/s Highway Engineering Pvt. Ltd and M/s PS Construction.

4B and Form 49. This resulted in short levy of tax amounting to ₹ 105.28 crore. Thus the total short levy of tax worked out to ₹ 119.04 crore (₹ 13.76 crore + ₹ 105.28 crore) including penalty.

In the exit conference (November 2017), the Department agreed with the audit findings and assured that all these cases shall be reopened and appropriate action taken under intimation to Audit.

3.6.16 Short levy of composition of tax

AAs incorrectly allowed composition facility in four cases, applied incorrect rate of tax in five cases and determined less taxable turnover in three cases against the contract receipt certified from payment details of works contracts. This resulted in short levy of tax amounting to ₹ 7.26 crore including penalty.

The MPVAT Act prescribes that any registered dealer executing works contract may grant composition facility in respect of any one or more of the works contracts executed by him and the provisions of Sections 18 (returns), Section 20 (assessment) and Section 39 (audited accounts) shall not apply to these dealers. Contractors who have not opted this facility, shall be liable to be assessed under Section 20 of MPVAT Act.

Audit scrutiny of records of one Division²⁷ and six circle offices²⁸ revealed that AAs incorrectly allowed composition facility in four cases where the works were not covered under composition facility, applied incorrect rate of tax in five cases and determined less taxable turnover in three cases against the contract receipt certified from payment details of works contracts. This resulted in short levy of tax amounting to ₹ 3.35 crore and penalty of ₹ 3.91 crore.

In the exit conference (November 2017), the Department agreed with the audit findings and assured that all these cases shall be reopened and appropriate action would be taken under intimation to Audit.

Recommendation:

The Department may develop an automated system in VATIS to reject applications received after prescribed time, to generate alert to contractors for submission of statements and to detect contractors purchasing materials from out of State and apply higher rate of composition of tax.

Short levy of tax on builders

3.6.17 Assessments of builders without using VATIS

The Department instructed²⁹ (January, 2012) its circle offices that all the processes relating to registration, returns, tax assessment etc., would mandatorily be routed through VATIS modules from 1 February 2012.

²⁷ DC- Bhopal I

²⁸ CTO- Bhopal VI, Gwalior I, Indore III, Jabalpur II, Jhabua and Ratlam I.

²⁹ Vide Circular No.83/2011-12/30/Pandraha/120, Indore dated 31 January 2012.

Audit observed from records in all selected circle offices that in clear disregard to departmental instruction, all the cases of builders for the year 2012-13 to 2014-15 were assessed by the AAs between 2015-16 and 2016-17 under Section 9-B without using the VATIS. Moreover, the assessment orders were not uploaded in the VATIS. During further scrutiny it was found that requisite module for the assessment of enrolled builders was not developed in the VATIS by the Department. Thus, due to non-availability of data relating to the assessment of builders in VATIS module, the Department could not use the data (purchase and sales details, returns etc.,) to ascertain the correctness of assessments.

In the exit conference (November 2017), the Department agreed with the audit findings and stated that although the computerisation work in Department was complete, these issues continued to crop up.

The reply is not acceptable. The problems arose precisely because the Department failed to develop a module for assessment of builders in VATIS.

3.6.18 Incorrect determination of turnover in absence of returns

Due to lack of efforts by AAs in gathering requisite information from Registration Department or from VATIS before issuing *ex parte* assessment order, turnover was underassessed. This resulted in short levy of tax of ₹ 3.08 crore including penalty.

The MPVAT Act prescribes that if a dealer has not furnished returns and statement as prescribed in the Act and failed to comply with any of the terms of the notice issued, then the cases of such dealers will be assessed by the taxing authority to the best of his judgement. Further, the MPVAT Rules prescribe that every registered/enrolled builder shall furnish to the appropriate Commercial Tax Officer or any other officer authorized by the Commissioner in this behalf for each quarter of a year a quarterly return in Form 10-B within thirty days from the date of expiry of the quarter to which the return relates.

In three³⁰ cases in CTO-VI, Bhopal, the builders had not filed any returns and the AAs had settled the cases on *ex parte* basis to the best of their judgement. The AAs did not record basis of determining tax liability of builders in their assessment orders. Audit found that the AAs had failed to verify the data of these builders with related records available in the Registration Department and with the VATIS database and found that, though the builders sold the buildings for ₹ 11.57 crore, the AAs determined their Gross Turnover (GTO) at ₹ 1.26 crore, resulting in failure to levy tax on Taxable Turnover (TTO) of ₹ 6.19 crore³¹. Similarly, in seven cases of builders in CTO-III, Indore, where also, the AAs assessed the cases *ex parte*, the builders purchased material of ₹ 8.38 crore during the period 2014-15 but the AAs determined their TTO and tax as Nil, resulting in failure to levy tax on TTO of ₹ 9.22 crore (material value ₹ 8.38 crore plus 10 *per cent* profit on material value).

Thus, failure of the AAs in verifying related information available with the Registration Department and in the VATIS database before issuing *ex parte*

³⁰ Ultimate construction (81329000173), Sai Construction (81459000257) and Pradhan Homes (81419000164).

³¹ 60 *per cent* material value of GTO of ₹ 10.31 crore [₹ 11.57 crore (-) ₹ 1.26 crore]

assessment order, resulted in underassessment of turnover by ₹ 15.41 crore (₹ 6.19 crore + ₹ 9.22 crore), and short levy of tax (at the minimum rate of five *per cent*) amounting to ₹ 77.03 lakh and penalty of ₹ 2.31 crore.

In the exit conference (November 2017), the Department accepted the audit findings, and issued directions that AAs should coordinate with related departments and local bodies and with the VATIS database, before making *ex parte* determinations of tax.

Recommendation:

The Department should formalise a mechanism in VATIS whereby AAs mandatorily cross-verify details relating to their assesseees with related databases and records in other Government departments and local bodies.

3.6.19 Works contractors incorrectly treated as builders

The AAs failed to treat builders as works contractors even though the builders had entered into agreements with prospective purchasers by taking advances. This resulted in short levy of tax and penalty of ₹ 34.77 crore.

Section 9-B of the MPVAT Act prescribes that every builder shall be liable to pay tax at the rate of five *per cent* on the capital value of the building, constructed by him and sold or leased out. Where transactions are in the nature of works contracts, tax is levied under Section 9 applicable to works contractors. Further, contractors entering in the works contract valued at ₹ five lakhs and above, shall get themselves registered with the Department.

In terms of Supreme Court decision³², if the building is constructed by the builder by entering into agreements with prospective purchasers taking advances, such transactions shall be treated as works contracts and taxes assessed under Section 9 of the MPVAT Act. Unregistered contractors are liable to pay two times penalty on assessed tax under Section 20(6) of the MPVAT Act and in case of contractors already registered, they are liable to pay penalty at three times of the short assessed tax under Section 21(2) of the MPVAT Act.

Audit test check of records in five circle³³ offices revealed that in 36 cases of builders the AAs assessed the tax amounting to ₹ 3.23 crore under Section 9-B of MPVAT Act though such builders took advances from the prospective purchasers and were liable to pay tax under section 9. It was also noticed that there were development agreements/ tripartite agreements between the land owners, builders/ developers and the purchasers for monetary consideration. This indicated the transactions should have been treated as works contracts, and tax levied on the value of the materials involved in execution of the works. Assessment of taxes of ₹ 3.23 crore against the tax liability of ₹ 26.46 crore resulted not only in short-levy of tax amounting to ₹ 23.22 crore but also indicated the failure of the AAs in making realistic assessment of taxes. This also attracts levy of penalty of ₹ 11.55 crore.

³² Civil appeal No. 8672 of 2013 in case of M/s Larsen & Toubro Ltd. versus State of Karnataka 2013.

³³ CTO- Bhopal VI, Gwalior I, Jabalpur II, Ratlam I and Rewa.

In the exit conference (November 2017), the Department agreed with the audit findings and assured that all these cases shall be reopened and appropriate action taken under intimation to audit.

Recommendation:

The Department may devise appropriate procedures to ensure that builders entering into composite contracts involving both works contract and transfer of immovable property are treated as works contractors for purposes of assessment of tax.

Inadmissible grant of input tax rebate (ITR)

3.6.20 Allowance of inadmissible ITR to works contractors

Allowance of inadmissible ITR to builders who should have been treated as unregistered works contractors, and to works contractors without verifying tax paid by the corresponding selling dealers, led to short levy of tax amounting to ₹ 36.67 crore including penalty.

The MPVAT Act prescribes that input tax rebate (ITR) shall be allowed only where a registered dealer purchases any specified goods within the State, from another registered dealer, after payment of input tax. Further, the amount of input tax rebate on any purchase of goods shall not exceed the amount of tax in respect of such purchase of goods actually paid into the Government Treasury. If rebate of input tax has incorrectly been allowed, while making the assessment, and it is attributable to the dealer, penalty between 3 to 3.5 times of the amount of assessed tax shall be imposed under Section 21(2) of the Act.

Audit test check of records in Division-I, Bhopal and seven circle offices³⁴ revealed that in 20 cases, the AAs allowed ITR amounting to ₹ 2.76 crore to enrolled builders. Such builders took advances from the prospective purchasers and were liable to pay taxes under section 9. It was also noticed that there were development agreements/ tripartite agreements between the land owners, builders/ developers and the purchasers for monetary consideration. This indicated the transaction should have been treated as works contracts. Further, since these builders were not registered under the MPVAT Act, these builders should have been treated as unregistered works contractors instead of enrolled builder. Failure of the AAs to verify the above facts during assessments of builders resulted in allowance of inadmissible ITR of ₹ 2.76 crore.

Further in 18 cases, AAs allowed ITR of ₹ 22.63 crore to works contractors but the corresponding selling dealers had paid tax of ₹ 63.97 lakh only. As such, ITR should have been restricted to ₹ 63.97 lakh. Thus, AAs allowed inadmissible grant of ITR of ₹ 21.99 crore.

Thus, audit scrutiny revealed short levy of tax amounting to ₹ 24.74 crore and penalty of ₹ 11.93 crore.

In the exit conference (November 2017), the Department agreed with the audit findings and assured that all these cases shall be reopened and appropriate action taken under intimation to Audit.

³⁴ CTO- Bhopal VI, Gwalior I, Jabalpur II, Jhabua, Ratlam I, Rewa and Sendhwa.

Entry Tax

3.6.21 Short levy of Entry Tax

Entry Tax on goods like *gitti, murrām*, cement, iron and steel, furnace oil, bitumen etc., was either not levied or was levied at incorrect rates. This resulted in short levy of tax of ₹ 5.47 crore including penalty.

The Madhya Pradesh Entry Tax Act, 1976 (ET Act) stipulates that where underassessment of entry tax (ET) is attributable to the contractor, penalty at not less than three times the assessed tax shall be imposed.

Audit scrutiny of records in two Divisional offices³⁵ and nine circle offices³⁶ revealed that in 48 cases of works contractors assessed between April 2015 and March 2017 for the years 2012-13 to 2014-15, the AAs short levied tax due to less determination of taxable turnover against the purchases certified in books of accounts and statutory forms³⁷, wrong treatment of taxable goods purchased through un-registered dealers as tax paid goods, and application of incorrect rate of tax on goods like *gitti, murrām*, cement, iron and steel, furnace oil, bitumen etc. This resulted in short levy of tax amounting to ₹ 1.47 crore and penalty of ₹ 4.00 crore.

In the exit conference (November 2017), the Department agreed with the audit findings and assured that all these cases shall be reopened and appropriate action taken under intimation to Audit.

3.6.22 Conclusion

- The works contract is not specifically defined in MPVAT Act and no specific guidelines were issued by the Department to determine the taxable turnover in case of works contracts. This led to short levy of tax of ₹ 226.13 crore.
- The Department has not established any mechanism for cross verification of inter-departmental database of works contractors who had received more than rupees five lakh in a year and not registered themselves with the Department. Audit found that 656 unregistered works contractors who received more than rupees five lakh in a year from Municipal Corporations were not registered and contract receipts of ₹ 456.99 crore received by them escaped from assessment.
- While allowing deductions from contract receipts to the main contractor, the AAs of main contractors did not cross-verify from the AAs of the sub-contractors whether sub-contractors had paid tax on these deductions or not. As a result, neither the main contractors nor the sub-contractors included the contract receipts of ₹ 171.82 crore in their taxable turnover.
- The Department did not revoke the permission of composition of tax in cases where works contractors had violated restrictions and conditions under Section 11-A of MPVAT Act.

³⁵ DC- Bhopal I and Indore II.

³⁶ CTO- Balaghat, Bhopal VI, Chhatarpur, Gwalior I, Jabalpur II, Jhabua, Ratlam I, Rewa and Sendhwa.

³⁷ Dealer used Form-49 and Form-C to purchase the goods from outside the State.

- The Department did not issue instructions regarding treating builders as works contractors in cases where the builders enter into any agreement with the prospective purchasers and take advances for the work. This resulted in short levy of tax of ₹ 34.77 crore.

Audit observations of Compliance Audit

3.7 Incorrect determination of turnover

Under determination of taxable turnover by ₹ 48.95 crore by AAs resulted in non-levy of tax of ₹ 3.98 crore, interest of ₹ 18.13 lakh and penalty of ₹ 5.41 crore.

The MPVAT Act stipulates that if underassessment of tax is attributable to the assessee, penalty is to be imposed at between 3 to 3.5 times the amount of assessed tax.

Audit test check of records of five divisional offices³⁸, 10 regional offices³⁹ and 33 circle offices⁴⁰ revealed that in 94 cases assessed between November 2014 and July 2016 for the period between 2011-12 and 2013-14, the AAs determined less turnover amounting to ₹ 48.95 crore due to non/short account of sale value, profit and other receipts in 55 cases, non-adoption of figures in audited accounts in 10 cases and adoption of lower rates of VAT and excise duty in 13 cases. In 15 cases excess deductions were given while in one case the views of the AAs were not taken by the Appellate Authority. As a result, tax of ₹ 9.57 crore including interest of ₹ 18.13 lakh and penalty of ₹ 5.41 crore could not be levied.

The Department intimated in November 2017 that the reassessment of cases was under process. Final recovery and action taken will be watched in Audit.

Similar observations were pointed out in previous Audit Reports from 2011-12 to 2015-16 but the Department has not evolved an effective mechanism to check the persistence of such irregularities. During the exit conference (October 2015) on Performance Audit on “System of Assessment under VAT in Madhya Pradesh” the Principal Secretary directed the Department to rectify the irregularities within a time frame, improve the internal check system and incorporate necessary modules in the VATIS to strengthen the system of assessment. However, the Department has not developed an effective mechanism to check the persistence of such irregularities.

Recommendation:

The Department is required to incorporate necessary modules in VATIS and initiate other measures to ensure that the system of assessment is strengthened.

³⁸ DCCT- Chhindwara, Gwalior (TAW), Indore (LTPU), Indore (TAW I) and Ratlam.

³⁹ ACCT- Bhopal III, Chhindwara, Gwalior I, Indore II, Jabalpur II, Katni I, Khandwa, Neemuch, Pithampur (Dhar) and Rewa.

⁴⁰ CTO- Anuppur, Balaghat, Betul, Bhopal I, Bhopal IV, Bhopal V, Chhindwara I, Damoh, Dewas, Gwalior II, Gwalior III, Gwalior IV, Harda I, Indore I, Indore II, Indore III, Indore VIII, Indore X, Indore XI, Indore XII, Indore XIV, Indore XV, Itarsi, Jabalpur I, Katni II, Khargone, Mandideep, Mandla, Neemuch, Sagar, Shahdol, Tikamgarh and Ujjain II.

3.8 Allowance of inadmissible input tax rebate

The Assessing Authorities allowed input tax rebate of ₹ 120.97 crore against the admissible input tax rebate of ₹ 117.06 crore resulting in short realisation of tax of ₹ 9.41 crore including penalty of ₹ 5.50 crore.

The MPVAT Act stipulates that input tax rebate (ITR) is allowed only in respect of specific goods purchased by a registered dealer from another registered dealer who has paid input tax, and further, the input tax rebate shall not exceed the input tax actually paid. If rebate of input tax has incorrectly been allowed, and is attributable to the dealer, penalty shall be imposed.

Audit test check of records in seven divisional offices⁴¹, 11 regional offices⁴² and 25 circle offices⁴³ revealed that in 92 cases, assessed between April 2014 and December 2016 for the period between 2010-11 and 2013-14, the assessing authorities allowed higher ITR on the basis of returns submitted by the dealers without taking into consideration the purchase list and audited accounts. In 32 cases, the input tax paid by the dealer was less than what they had claimed in their returns for rebate, and in 31 cases ITR was granted though it was inadmissible. In other cases, either the ITR was given on tax-free goods or double ITR was given. As a result, inadmissible ITR of ₹ 3.91 crore and penalty of ₹ 5.50 crore is to be recovered.

In the exit conference (November 2017), the Department intimated that the reassessment of cases was under process. Further progress will be awaited in Audit.

Similar observations were pointed out in previous Audit Reports from 2011-12 to 2015-16. Audit in its recommendation on the Performance Audit on “System of assessment under Value Added Tax” of Audit Report for the year 2014-15 stated that purchase details should be properly authenticated/substantiated through the documents and in conformity with the audited accounts before accepting claims of ITR. In the exit conference held in October 2015 to discuss findings of this PA, the Department had intimated that all the ITR cases were being cross verified electronically after 2013-14 and a special cell for ITR verification was created. However, cases of inadmissible ITR have regularly been pointed out in audit. Despite existence of mechanism in the Department for monitoring the correctness of the ITR claimed/paid, intra departmental data/information were not taken into cognizance for ITR claims.

Recommendation:

The Department may consider strengthening of ITR verification mechanism so that purchase details are verified with audited accounts,

⁴¹ DCCT- Bhopal II, Gwalior (TAW), Indore I, Indore I (TAW), Khandwa, Ratlam and Ujjain.

⁴² ACCT- Bhopal I, Bhopal III, Gwalior II, Indore I, Indore II, Indore III, Khandwa, Pithampur (Dhar), Ratlam, Rewa and Sagar II.

⁴³ CTO- Anuppur, Betul, Bhopal I, Chhatarpur, Chhindwara I, Chhindwara II, Damoh, Dewas, Guna, Gwalior II, Gwalior III, Gwalior IV, Harda I, Indore I, Indore II, Indore III, Indore VII, Indore XI, Indore XII, Indore XIV, Indore XV, Jabalpur III, Jaora (Ratlam), Khargone and Mandla.

properly authenticated/substantiated by documents and cross-verified with corresponding selling dealers.

3.9 Entry tax not levied/short levied

Entry Tax on goods was either not levied or levied at incorrect rates on their entry into local areas, resulting in non-realisation of entry tax amounting to ₹ 2.04 crore, penalty of ₹ 2.15 crore and interest of ₹ 10.23 lakh.

The ET Act stipulates that if under-assessment of entry tax is attributable to the dealer, penalty at not less than three times of the assessed tax shall be imposed.

Audit test check of records of four divisional offices⁴⁴, nine regional offices⁴⁵ and 19 circle offices⁴⁶ revealed that in 62 cases assessed /reassessed between April 2015 and January 2016 for the period 2012-13 to 2013-14, entry tax on goods like machinery, motor cycle, auto parts, oils, arms and ammunition, soyabean, HDPE fabrics, coal etc., was either not levied or was levied at incorrect rates on their entry into local area.

Of these 62 cases, in 32 cases entry tax was applied at the rates lower than the applicable rates; in 14 cases, the leviable entry tax was not levied, in six cases goods leviable to entry tax were not taken in the gross taxable turnover, and in other cases incorrect exemption or deduction was allowed without evidence. As a result, entry tax amounting to ₹ 4.29 crore including penalty of ₹ 2.15 crore and interest of ₹ 10.23 lakh could not be realised.

In the exit conference (November 2017), the Department intimated that the reassessment of cases was under process. Final action was awaited (May 2018).

Similar observations were pointed out in previous Audit Reports for the years 2011-12 to 2015-16. But the AAs continued to commit similar errors in the assessments ignoring clear provisions/tax rates of the Act/schedule which obviously reflect weaknesses in internal control.

Recommendation:

The Department may ensure that claims for deduction of entry tax paid purchases from taxable turnover are properly authenticated by documents, and gross purchase are cross-verified with audited accounts of the dealers.

3.10 Application of incorrect rate of tax

Failure of AAs to apply the correct rates of tax resulted in short levy of tax of ₹ 3.98 crore including penalty of ₹ 2.44 crore.

⁴⁴ DCCT - Indore (LTPU), Bhopal II, Khandwa and Ratlam.

⁴⁵ ACCT - Bhopal I, Bhopal III, Gwalior II, Gwalior (TAW), Indore III, Khandwa, Neemuch, Pithampur (Dhar) and Rewa.

⁴⁶ CTO - Anuppur, Bhopal V, Chhindwara I, Chhindwara II, Damoh, Dewas, Gwalior III, Indore I, Indore II, Indore VII, Indore VIII, Indore XI, Indore XII, Indore XIV, Jabalpur I, Jabalpur III, Katni II, Mandideep and Sagar.

As per the MPVAT Act, plant and machinery, scrap packing material, emulsion tractor accessories etc., are taxable at the rate of 13 *per cent*.

Audit test check of records in one divisional office⁴⁷, one regional office⁴⁸ and eight circle offices⁴⁹ revealed that in 20 cases of 17 dealers assessed between September 2013 and January 2016 for the period between 2010-11 and 2013-14, the AAs levied five *per cent* or four *per cent* tax on the sale of tractor accessories, sanitary goods, furniture, kitchen panels, metal crash barrier system and machinery parts which were taxable at the rate of 13 *per cent*. This resulted in short levy of VAT of ₹ 1.54 crore and penalty of ₹ 2.44 crore thereon.

In the exit conference (November 2017), the Department agreed with the audit observations and intimated that reassessment of cases was under process. Final action was awaited (May 2018).

Similar observations were pointed out in previous Audit Reports from 2011-12 to 2015-16. The Department accepted (October 2015) that incorrect rates could have been applied due to difference of opinion with regard to the rate of tax for a commodity and in the absence of Harmonised System of Nomenclature (HSN) Code⁵⁰ there was possibility of such error. The PAC also recommended (2015-16), on similar irregularity pointed out in Audit Report for 2006-07, that, besides recovery of tax with interest the Department should avoid reoccurrence of such irregularities. The PAC held the departmental officers responsible for not initiating appropriate action on accepted cases.

The Department had not adopted the HSN code and there was no monitoring measure in the Department which could have a deterrent effect on the AAs to strictly follow the provisions of the Acts, Rules and departmental Circulars in order to classify the commodity correctly and apply the appropriate rate of tax.

Recommendation:

The Department should adopt the Harmonised System of Nomenclature Code expeditiously, and also implement the recommendations/ directions of the Public Accounts Committee to initiate measures that will ensure non-recurrence of such irregularities in future.

3.11 Short levy of tax/grant of irregular concession under CST Act

Failure of AAs to apply provisions relating to inter-state sales resulted in short realisation of tax of ₹ 2.52 crore and non-levy of penalty of ₹ 4.45 lakh.

The Central Sales Tax (CST) Act stipulates that if a dealer claiming tax on inter-state sales (entitling him to pay tax at two *per cent* of turnover) fails to furnish the required declaration in Form 'C' signed by the purchasing dealer, he shall be liable to pay tax at the rate applicable to the sale or purchase of

⁴⁷ DCCT- Ujjain

⁴⁸ ACCT- Jabalpur II

⁴⁹ CTO- Bhopal I, Bhopal V, Chhindwara I, Chhindwara II, Gwalior IV, Harda I, Khargone and Katni II.

⁵⁰ Harmonised System of Nomenclature is an internationally adopted commodity description and coding system.

such goods inside the appropriate State, and in addition, pay penalty at three times of the tax so assessed.

Audit test check (between October 2016 and February 2017) of records of two divisional offices⁵¹, five circle offices⁵² and office of the Assistant Commissioner, Neemuch revealed that in nine cases of nine dealers assessed between April 2015 and December 2015 for the assessment years between 2012-13 and 2014-15, the AAs allowed incorrect concession under CST Act.

Audit observed that in seven cases the AAs incorrectly allowed concessional rate of tax on interstate sales not supported with declaration in Form 'C'. The AAs applied two *per cent* tax in three cases where five *per cent* tax was applicable and five *per cent* or two *per cent* tax in four cases where 13 *per cent* tax was applicable. In one case AA did not include interstate sale which was not supported by Form 'C' in GTO. Further, in one case there was calculation mistake (two *per cent* CST was leviable, however less than 0.2 *per cent* was levied). This resulted in short realisation of tax of ₹ 2.52 crore and non-levy of penalty of ₹ 4.45 lakh.

In the exit conference (November 2017), the Department assured that reassessment would be done. Final action was awaited (May 2018).

Similar observations were pointed out in previous Audit Reports from 2011-12 to 2015-16. Audit observed that the AAs committed errors in the assessments ignoring clear provisions in the Act regarding applicability of the appropriate rate of tax.

3.12 Irregular grant of deduction

Incorrect allowance of deductions by AAs resulted in short levy of tax of ₹ 1.92 crore including penalty of ₹ 72.80 lakh.

The MPVAT Act provides a formula to arrive at the amount of taxable turnover and states that no deduction on the basis of formula shall be made if the amount by way of tax collected by registered dealer had been otherwise deducted from the aggregate of sale prices or not included in the sale prices. Sales returns beyond six months are not admissible. Further, deduction is not allowed if the transaction is not supported by prescribed declaration forms.

Audit test check of records in two regional offices⁵³ and 10 circle offices⁵⁴ and revealed that in 19 cases of 12 dealers, assessed between July 2014 and January 2016 for the years 2011-12 to 2013-14, the Assessing Authorities (AA) allowed irregular deductions as follows: in 10 cases, the AAs allowed deduction of tax from the aggregate of sale price though the same was not included in it; in two cases incorrect deduction of freight from the Gross Turnover (GTO) was allowed; and in the seven remaining cases incorrect deduction of sales return beyond six months, discount and interstate sales not supported by declaration forms was given. These irregular allowance of

⁵¹ DCCT- Indore III and Ratlam.

⁵² CTO- Bhopal IV, Bhopal V, Chhindwara I, Indore II and Indore VII.

⁵³ ACCT- Bhopal III and Katni I.

⁵⁴ CTO- Bhopal I, Bhopal V, Bina, Damoh, Dewas, Gwalior III, Harda I, Indore VII, Indore XI and Mandla.

deductions resulted in short levy of tax of ₹ 1.92 crore including penalty of ₹ 72.80 lakh.

Similar observations were pointed out in previous Audit Reports from 2011-12 to 2015-16. Audit observed that despite clear provisions in the Act and instructions of the Department, AAs did not adopt uniform approach to deal with the assessment cases. While determining taxable turnover, AAs were allowing deductions arbitrarily and data/information available with the Department was also not taken into cognizance in some of the cases.

In the exit conference (November 2017), the Department intimated that reassessment of cases was under process. Final action was awaited (May 2018).

3.13 Tax short/ not levied under Luxury, Entertainment, Amusement and Advertisement Tax Act

Underassessment by AAs of luxury tax in seven cases, entertainment tax in one case and advertisement tax in one case, resulted in short-levy of tax of ₹ 37.75 lakh and penalty of ₹ 1.13 crore.

Luxury, entertainment and advertisement tax are leviable in terms of the Madhya Pradesh Luxury, Entertainment, Amusement and Advertisement Tax Act (MP LEAT Act), 2011.

Audit test check of records of three circle offices⁵⁵ for the period from 2012-13 and 2013-14 revealed that the AAs under-assessed the tax in nine cases, as follows. In five cases rent receipts from rooms attached to marriage/ banquet halls, and in two cases hotel facilities and banquet sales were not taken in gross turnover (GTO), resulting in short levy of luxury tax of ₹ 32.93 lakh. In one case income from advertisement was not included in GTO resulting in short levy of ₹ 2.54 lakh. In one case the dealer was allowed 10 *per cent* entertainment tax on guest charges, which was allowable only for regular members, resulting in short levy of ₹ 2.29 lakh. In all, tax amounting to ₹ 1.51 crore including penalty of ₹ 1.13 crore was short levied.

The Department did not adopt a uniform approach to deal with the assessment cases. AAs were allowing or disallowing amounts pertaining to transactions arbitrarily despite clear provisions.

In the exit conference (November 2017), the Department intimated that reassessment of cases was under process. Final action was awaited (May 2018).

⁵⁵ CTO- Indore, Jabalpur and Gwalior (Amod Vilas).

CHAPTER – 4

MINING RECEIPTS

CHAPTER 4 MINING RECEIPTS

4.1 Introduction

Minerals are classified as Major minerals (iron ore, manganese, gold etc.) and Minor minerals (sand, granite, gravel, building stone etc). Mines are allotted/sanctioned for excavation of minerals in the form of Mining lease¹, Quarry lease² and Trade Quarry³. The levy and collection of royalty on minerals in the State is governed by the Mines and Minerals (Development and Regulation) Act, 1957, the Mineral Concession Rules, 1960 and the Madhya Pradesh Minor Mineral Rules, 1996.

4.2 Tax administration

The Mineral Resources Department functions under the overall charge of the Secretary to the Department. The Director, Geology and Mining is the head of the Department who is assisted by Deputy Directors at Headquarters and regional offices at Gwalior, Indore, Jabalpur and Rewa. The Collector is the administrative head at District level and departmental officials like District Mining Officers (DMO), Assistant Mining Officers (AMO) and Mining Inspectors (MI) assist him in discharge of his duties regarding revenue collection. The DMOs/AMOs and MIs are responsible for assessment, levy and collection of royalty and other mining receipts. DMOs and MIs are authorised to inspect the mines, review production and despatch of minerals.

4.3 Results of audit

During the year 2016-17, 33 District Mining Offices (out of 51) of the Mineral Resources Department were covered for audit. Revenue generated by the Department during the year 2016-17 aggregated to ₹ 3,168.28 crore of which, the audited units collected ₹ 2,610.66 crore. In addition, an audit on “Sand mining and environmental consequences” covering the period 2012-13 to 2016-17 was also conducted during January to June 2017. Audit noticed cases of revenue not realised/short realised and other irregularities involving ₹ 605.49 crore in 2,272 cases which fall under the categories mentioned in Table 4.1.

Table 4.1
Results of Audit

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
1.	Audit on “Sand mining and environmental consequences”	1	153.18
2.	District Mineral Foundation (DMF) not levied	153	298.12
3.	Dead rent/royalty not/short levied	518	72.66
4.	Interest on belated payments not/short realised	375	26.22
5.	Rural Infrastructure and Road Development Tax on mines not/short levied	506	18.73

¹ Mining lease means a lease granted for the purpose of undertaking mining operations and includes a sub-lease granted for such purpose. It is granted for major minerals.

² Quarry lease means a mining lease for minor minerals.

³ Trade quarry means a quarry for which the right to work is auctioned.

6.	National Mineral Exploration Trust (NMET) Fund not levied	140	16.32
7.	Contract money not/short realised	22	1.83
8.	Outstanding revenue not realised	27	0.55
9.	Others (Penalty not levied, Stamp duty and Registration fees on lease agreements of mines not levied etc.)	530	17.88
Total		2,272	605.49

Out of these cases, the Department accepted 2,263 cases involving ₹ 338.95 crore and effected (February 2018) recovery of ₹ 4.19 crore only. For the remaining cases, it was intimated that Audit would be informed after scrutiny. Further progress in this regard will be watched in Audit.

During 2016-17, the Department effected recovery of ₹ 1.03 crore in 117 cases in respect of audit observations pertaining to the previous Audit Reports and Inspection Reports.

4.4 Follow up of previous Audit Reports

In the Audit Reports for the period from 2011-12 to 2015-16, Audit had pointed out various observations amounting to ₹ 212.34 crore in 68 paragraphs against which recovery of ₹ 39.17 crore only was effected by the Department in respect of these observations. Out of these 68 paragraphs, 26 paragraphs⁴ were selected by the PAC between June 2014 and May 2017 for discussion. The PAC discussed 14 paragraphs of Audit Reports 2011-12 to 2014-15. However, reply of the Department in respect of 57 paragraphs has since been received through PAC.

The PAC has also given its recommendations and directions (27th Report, 2014-15; 390th Report, 2016-17; and 393th Report, 2016-17) on similar paragraphs of Audit Reports for the periods 2008-09, 2010-11 and 2011-12. The directions were—(i) the Department was to effect recovery within three months from the date of recommendation in all the cases, (ii) to check the repetition of similar irregularities in future and issue necessary orders which includes initiation of necessary action against the responsible DMOs. Further, some recommendations were –(i) the Department was to take action for writing off the probable irrecoverable amount from the account besides recovering pending amount, (ii) time limit was to be prescribed by the Department for recovery of pending dues and interest thereon.

The Department, however, has not complied with the recommendations.

Recommendation:

The Department should immediately comply with the direction of the Public Accounts Committee to effect recovery.

Audit findings of the audit on “**Sand mining and environmental consequences**” involving ₹ 153.18 crore and a few illustrative cases involving ₹ 164.85 crore highlighting important audit findings are mentioned in the following paragraphs. All observations were communicated to the Government and the Department.

⁴ 2011-12 (06), 2012-13 (09), 2013-14 (03), 2014-15 (04) and 2015-16 (04).

4.5 Audit on “Sand mining and environmental consequences”

4.5.1 Introduction

Sand is mainly excavated from rivers. Excessive and illegal sand mining causes degradation of rivers, forces the river to change its course, affects the groundwater tables and adversely impacts the habitat of micro-organisms. Sand is important for ground water recharge since, as part of the riverbed, it acts as a link between the flowing river and the water table and is part of the aquifer.

The Sand Mining Policy, 2015 was formulated by the State Government after taking into account the preventive measures and guiding principles suggested by the Ministry of Environment, Forests and Climate Change (MoEF&CC) to safeguard environment. The policy further aims at maximizing the number of operational sand mines in the State so as to make sand available at justifiable rates for public use. The mining and transportation of sand from the river bodies is to be regulated and monitored in accordance with the environmental safeguards provided in the Sustainable Sand Mining Management Guidelines 2016 issued by MoEF&CC.

Mining of sand comes under the purview of the Mineral Resources Department Government of Madhya Pradesh (GoMP). The State Environment Impact Assessment Authority (SEIAA) formed (January 2008) under MoEF&CC issues the environmental clearance (EC) for mining activity of both major and minor minerals. The District Level Environment Impact Assessment Authority (DEIAA) was constituted (January 2016), by the Government of India (GoI) for grant of environmental clearance (EC) in respect of projects up to five hectare (ha) lease area for mining of minor minerals including sand and gravel. DEIAA comprises of four members out of which three are Government officials⁵ and one is expert in environmental field.

Mining activities in 586 sand mines with area of 4,537 hectares and located in 33 districts are regulated by the District Administration, whereas 449 sand mines with area of 4,318 hectares and located in the remaining 18 districts are allotted by District Collector to Madhya Pradesh State Mining Corporation Limited (MPSMCL) for execution of sand mining. The GoMP leases sand mines to (MPSMCL) on dead rent⁶ or royalty basis. MPSMCL further sub leases the sand mines to the contractors for sand mining on auction price basis. In cases of sand mines under the direct control of the Department, the District Collectors have been made responsible to control auction, and subsequent allotment and renewal of sand mines. District Collectors are also responsible to check and prevent the cases of illegal mining. District Collectors also should ensure timely realisation of revenue in the form of royalty, dead rent, surface rent, interest and penalty and their timely remittance to the Government account.

⁵ District Collector, Sub Divisional Officer and Senior Divisional Forest Officer.

⁶ Dead rent is the charge/fee to be paid by the lease holder for the area included in the mining lease if minerals are not extracted. However, as the royalty exceeds dead rent in case of active mines, then only royalty is paid and dead rent is adjusted against royalty.

4.5.2 Organisational setup

The Mineral Resources Department functions under the overall charge of the Secretary, Mineral Resources Department, Government of Madhya Pradesh. The Director, Geology and Mining is the head of the Department who is assisted by Deputy Directors at Headquarters and regional offices at Gwalior, Indore, Jabalpur and Rewa. The Collector is the administrative head at District level and departmental officials like District Mining Officers (DMO), Assistant Mining Officers (AMO) and Mining Inspectors (MI) assist him in discharge of his duties regarding revenue collection.

In 18 districts, sand mines were reserved by GoMP for MPSMCL. MPSMCL is governed by a Board of Directors and headed by the Managing Director of the Company and assisted by one Executive Director, Chief General Managers and General Managers. For the mines allotted to MPSMCL, lease deed is executed between the District Collector and MPSMCL where District administration is the Lessor and MPSMCL is the Lessee. MPSMCL further subleases the sand mines to contractors.

4.5.3 Audit objectives

Audit was conducted with a view to ascertain whether:

- Allotment/renewal of sand mining leases was done timely so as to prevent illegal and mining over and above the contracted quantity;
- Levy and collection of revenue like fees, rent, royalty, penalty etc. was done timely and correctly; and
- Effective control existed to monitor sand mining activities so that the environmental and ecological concerns were addressed properly.

4.5.4 Scope and methodology

The audit on “Sand mining and environmental consequences” covered the period from 2012-13 to 2016-17. Audit selected 18 units⁷ (11 out of 33 DMOs and 7 out of 18 districts allotted to MPSMCL) of Mineral Resources Department on the basis of stratified random sampling method.

Out of total 1,035 sand mines (involving revenue of ₹ 1,057.44 crore during the period 2012-13 to 2016-17) in 51 districts of Madhya Pradesh, Audit examined records of 638 sand mines involving revenue of ₹ 470.43 crore (44 per cent) in 18 selected districts. The Department may like to internally examine records of remaining sand mines with a view to ensure that they have paid correct amount of royalty/contract money/dead rent.

Field audit was conducted between January and June 2017. The scope and methodology of audit was discussed with the Secretary, Mineral Resources Department in an entry conference held on 22 March 2017. The draft report was forwarded to the Government and Department in August 2017 and discussed in the exit conference held on 6 October 2017 with Secretary of the Department

⁷ Anuppur, Balaghat, Bhind, Chhindwara, Damoh, Harda, Hoshangabad, Khandwa, Khargone, Panna, Rajgarh, Sehore, Seoni, Shahdol, Sidhi, Singrauli, Tikamgarh and Ujjain.

and Director, Geology and Mining. Replies received from the Department/Government have been incorporated in respective paragraphs.

Acknowledgement

The cooperation of the Mineral Resources Department for providing necessary information and records to audit is acknowledged.

4.5.5 Audit criteria

Audit criteria were derived from the following:

- Sustainable Sand Mining Management Guidelines 2016 issued by MoEF&CC;
- Madhya Pradesh Sand Mining Policy 2015;
- Madhya Pradesh Mineral Policy 2010;
- Madhya Pradesh Minerals (Prevention of illegal mining, transportation and stock) Rules, 2006;
- Madhya Pradesh Minor Minerals Rules, 1996 (MPMM Rules);
- Mines and Minerals (Development and Regulation) Act (MMDR Act) 1957; and
- Notifications and circulars issued by the Central/ State Government and Directorate of Geology and mining.

4.5.6 Trend of receipts

The trend of receipts from sand mining vis-à-vis total receipts of the Mineral Resources Department during last five years is as under:

Table 4.2
Trend of revenue

(₹ in crore)

Year	Total mining receipts (from major and minor minerals)	Total revenue receipts from sand mining	Percentage of sand mining receipts over total mining receipts
2012-13	2,443.39	184.93	7.57
2013-14	2,306.17	179.41	7.78
2014-15	2,813.66	238.64	8.48
2015-16	3,059.64	214.30	7.00
2016-17	3,168.28	240.16	7.58
Total	13,791.14	1,057.44	7.67

(Source: Finance Accounts of Govt. of Madhya Pradesh and information furnished by the Department)

The Department attributed (December 2017) the fluctuations in sand mining receipts to suspensions in mining operations in 2013-14 due to requirements of mandatory environmental clearance, introduction of e-auctions in 2015-16 leading to delay in allotments etc. Mining activities were also subdued because of pending cases in National Green Tribunal and various courts.

The explanations cannot be fully accepted. It is true that total mining (including sand mining) receipts fell in 2013-14. However, unlike sand mining receipts which decreased significantly in 2015-16, there was no decrease in total mining receipts in 2015-16 (which should have happened if e-auctions were a factor leading to delay in allotments). Also, the explanations (which affect total mining and sand mining equally) of the Department, do not throw light on reasons for

fluctuation of percentage of sand mining to total mining receipts during this period.

Audit findings

4.5.7 Insufficient man power for monitoring mining activities

Men in position (MIP) against sanctioned posts were not sufficient. Only 21 Mining Officers (MO) and 98 Mining Inspectors (MI) were posted for keeping a watch on the mining activities in the State. Due to shortage of staff, monitoring of mining activities could not be watched adequately. Further, revenue recovery was also adversely affected.

MOs and MIs are critical to the functioning of the Department. Audit observed that Men in Position (MIP) against sanctioned posts of MOs and MIs were not sufficient, considering the total mining area of MP. The details of sanctioned posts and MIP are given in **Table 4.3**.

Table 4.3
Details of insufficient man power for mining activities

Sl. No.	Name of the post	Sanctioned strength	MIP	Shortage	Percentage shortage
1.	Mining Officer (MO)	31	21	10	32.26
2.	Mining Inspector (MI)	112	98	14	12.50

From the above table, it is evident that only 21 mining officers were posted in 51 mining districts, and even their sanctioned strength was kept low. Similarly in 367 *Tahsils*, the sanctioned strength of MIs was only 112 i.e., only one MI in more than three *Tahsils*, and against which only 98 MIs were posted. The Department was working with lower strength of manpower despite the fact that it was also given the responsibility of safeguarding the environment in addition to regulating mining activity.

Recommendation:

The Department may review the existing sanctioned strength of Mining Officers and Mining Inspectors and also ensure that all existing vacancies are filled.

4.5.8 Auction of sand mines

Deficiency in e-auction process and fixation of lower reserve price in auction resulted in short realisation of revenue of ₹ 3.37 crore as discussed below.

4.5.8.1 Deficiency in e-auction process

No rules framed to blacklist successful bidders in e-auctions who fail to execute agreements.

Audit observed (April 2017) that, apart from effecting forfeiture of the security deposit at 10 *per cent* of the reserve price, the Department has not framed any rules to black-list successful bidders in e-auctions who fail to execute agreements.

In Chhindwara, during the e-auction held between October 2015 and May 2016, the successful bidders bid ₹ 46.71 crore in five sand quarries against the reserved price of ₹ 6.23 crore, but thereafter, failed to execute the bid. The Department forfeited security deposit of ₹ 62.34 lakh and re-auctioned these mines (after three to five months) for ₹ 20.10 crore.

During the exit conference (October 2017), the Department stated that security deposit has been enhanced to 25 per cent of reserve price.

The reply is not acceptable since such token increase is unlikely to act as deterrent to tenderers who fail to execute bids.

Recommendation:

The Department should either increase the security deposit equivalent to reserve price or blacklist such defaulters to discourage such practices by them from participating in bidding process in future.

4.5.8.2 Fixation of lower reserve price for auction of sand mines

District Collectors fixed the reserve price on dead rent instead of the estimated quantity of sand resulting in short realisation of royalty of ₹ 3.37 crore in two districts.

Director, Geology and Mining ordered (March 2013 and November 2014) that the reserve price for auction of minor mineral is to be fixed on estimated quantity of the available mineral.

Audit test check of auction records of 31 sand mines of two DMOs viz., Balaghat and Ujjain revealed that the respective District Collectors fixed (December 2014) the reserve price of 19 sand mines in Balaghat and 12 mines in Ujjain at ₹ 1.31 crore, on the basis of dead rent, without estimating the quantity of sand. However, from the Mining Plan submitted by the contractors, Audit observed that the quantity of sand was 10.39 lakh cu.m, in Balaghat and 67,830 cu.m in Ujjain, on the basis of which, the reserve price should have been fixed at ₹ 11.07 crore⁸ at the rate of royalty of ₹ 100 per cu.m, of sand. Thus, due to fixation of lower reserve price, auctioned amount of ₹ 7.70 crore only was realised, resulting in estimated short realisation of revenue to the exchequer by ₹ 3.37 crore.

During the exit conference (October 2017), the Department stated that there was no provision for fixing reserve price for auction of sand mines till the Sand Mining Policy came into force in 2015. The reply is not acceptable as, even the departmental circular of March 2013, had stipulated that reserve price for auction of all minor minerals should be decided on estimated quantity of mineral available.

4.5.9 Contract Management

Short assessment/ realisation of contract money, short levy of interest on belated payments and irregular issue of temporary permit in 49 sand mines resulted in short realisation of ₹ 4.68 crore. Besides, less excavation of contracted quantity of sand led to loss of royalty of ₹ 136.69 crore.

⁸ 11,06,830 cu.m sand (10,39,000 + 67,830) @ ₹ 100 per cu.m = ₹ 11.07 crore.

4.5.9.1 Short realisation of contract money and interest on belated payments in sand quarry

Failure of District Mining Officers to maintain the register of income from trade quarries resulted in short recovery of contract money of ₹ 1.38 crore, and short realisation of interest ₹ 2.35 crore.

The MPMM Rules and standard conditions of the contract agreements stipulated that in the event contractors of trade quarries failed to pay contract money more than one month from the scheduled date, the contract would be cancelled and the quarry re-auctioned. Further, interest at the rate of 24 per cent per annum would be levied for the period of default.

Audit test check of the records in five DMOs⁹ revealed that 18 contractors had paid contract money of only ₹ 40.53 lakh against the payable amount of ₹ 1.79 crore for the period April 2016 and January 2017, resulting in short realisation of ₹ 1.38 crore. However, the Department had not initiated any action to cancel the contract and re-auction the quarries.

Further, in eight DMOs¹⁰, 36 contractors of trade quarries had delayed payment of contract money (for the years 2015-16 and 2016-17) by 8 to 391 days, on which, they had paid interest of ₹ 13.76 lakh against the payable amount of ₹ 2.49 crore. The Department did not issue demand notices for the recovery of the differential interest of ₹ 2.35 crore.

Audit also observed that none of the test checked nine DMOs maintained the register of income from trade quarries in Form 23 to monitor timely receipt of contract and levy of interest on belated payments. This resulted in failure to collect the contract money by the stipulated time and levy interest on belated payments.

During the exit conference (October 2017), the Department accepted the audit findings and assured that appropriate action would be taken. Further progress would be watched in Audit.

4.5.9.2 Irregular issue of permit of sand mining

Irregular issue of permit to sub-contractor and short realisation of royalty of ₹ 95.69 lakh in respect of permit of sand.

According to the MPMM Rules, the District Mining Officer shall grant permission for extraction, removal and transportation of any minor mineral from any specified quarry. Such permission shall only be granted to the concerned Departmental authority or its authorised contractor on furnishing of proof of award of contract, on payment of advance royalty.

Audit test check of records in DMO, Sidhi (June 2017) revealed that one permit for sand mining was issued (June 2013) to a contractor for road constructions work of NH-75. The DMO issued temporary permit to a sub-contractor who was other than the original contractor and to whom the work was not awarded by the Government agency. It was further observed that though temporary

⁹ Anuppur, Chhindwara, Damoh, Seoni and Ujjain.

¹⁰ Anuppur, Balaghat, Chhindwara, Damoh, Panna, Seoni, Shahdol, and Singrauli.

permits were issued without mentioning the quantity of sand, the sub-contractor had applied for environmental clearance for the quantity of 1,00,000 cu.m. It was further observed that advance royalty leviable on the quantity of sand was also not realised. The contractor had paid ₹ 4.31 lakh against payable royalty of ₹ one crore (@ ₹ 100 per cu.m for 1,00,000 cu.m). This not only resulted in short realisation of revenue of ₹ 95.69 lakh but also irregular issue of the permit without obtaining the proof of award of work to this contractor.

During the exit conference (October 2017), the Department assured that appropriate action would be taken. Further progress would be watched in Audit.

4.5.9.3 Loss due to flaw in lease agreement

MPSMCL did not credit royalty of ₹ 136.69 crore to the Government as the lease agreement of the MPSMCL with the GoMP did not stipulate deposit of entire amount of royalty received by MPSMCL from the contractor.

As per lease agreement between the Government and MPSMCL, the latter had to pay royalty on quantity of sand consumed and despatched. On the other hand, as per agreement executed between MPSMCL and the contractor, the contractor had to pay total amount (royalty plus profit margin plus taxes) to MPSMCL on contracted quantity.

Audit test checked records of 386 sand mines in seven selected districts of MPSMCL and observed that in 372 cases, contractors excavated 109.13 lakh cu.m against the contracted quantity of 226.29 lakh cu.m of sand for the period 2013-14 to 2016-17. The contractor had paid royalty of ₹ 257.91 crore on contracted quantity of sand. However, MPSMCL deposited only ₹ 121.22 crore on the lesser quantity of actually consumed and despatched quantity of sand to the Government account. Thus, MPSMCL did not credit royalty of ₹ 136.69 crore to the Government as the lease agreement of the MPSMCL with the GoMP did not stipulate deposit of entire amount of royalty received by MPSMCL from the contractor.

During the exit conference (October 2017), the Department assured that appropriate action would be taken. Progress in this regard would be watched in Audit.

Recommendation:

The Department should revise agreements with MPSMCL so that the royalty on contracted quantity or actually consumed and despatched quantity of sand, whichever is more, is collected from MPSMCL, so that Government may not incur loss of revenue.

4.5.9.4 Stamp duty and Registration fees not levied due to non-execution of supplementary agreement

Despite Government orders, supplementary lease agreements were not executed and registered which resulted in non-levy of Stamp duty and Registration fees of ₹ 8.44 crore.

GoMP extended (June 2014), the existing lease period of sand mines allotted to MPSMCL, for 10 years from April 2010, and directed MPSMCL to execute and register supplementary agreements for the extended period.

Audit test check of records in four Districts relating to MPSMCL viz., Harda, Hoshangabad, Khargone and Tikamgarh, revealed that lease periods of 37 sand mines with annual production capacity of 64.31 lakh cu.m¹¹, were extended by another ten years, from April 2010 to March 2020. However, supplementary agreements for these mines were not executed and registered by MPSMCL, although this was mandatory under Rule 26 of the MPMM Rules. On the basis of the production capacity of these sand mines, it is estimated that GoMP was deprived of Stamp duty and Registration fees of ₹ 8.44 crore due to failure to execute and register fresh leases for these mines.

During the exit conference (October 2017), the Department assured that appropriate action should be taken. Progress in this regard would be watched in Audit.

4.5.10 Environmental Management

4.5.10.1 Absence of provision to collect funds for the District Mineral Foundation (DMF)

The Department did not prescribe the amount of contribution to be paid to the DMF in respect of minor minerals. As a result, no funds were available for welfare of mining affected areas / persons.

As per the Mines and Minerals (Development and Regulation) Act, as amended in 2015, the State Government may prescribe the amount of contribution to be paid to the DMF by mineral concession¹² holders of minor minerals and the manner in which DMF could utilise the fund for the benefit of persons and areas affected by mining.

Audit observed, however, that the State Government is yet to implement the provisions of the amended Act.

During the exit conference (October 2017), the Department assured that appropriate actions would be taken. Subsequently, the new Sand Mining Policy, 2017 (issued in December 2017) prescribes that ₹ 50 per cubic metre out of the royalty on sand shall be paid to the DMF. The contribution in respect of other minor minerals have not been prescribed so far (April 2018). Further progress will be watched in Audit.

4.5.10.2 Absence of mechanism to ensure compliance of conditions of environmental clearance issued by SEIAA

The Department did not prescribe any mechanism to monitor compliance of conditions laid down by SEIAA for sand mining.

¹¹ As per the mining plans submitted between April 2013 and March 2014.

¹² Mineral concession means a reconnaissance permit, a non-exclusive reconnaissance permit, a prospecting license, a prospecting license cum mining lease, or a mining lease, as applicable.

Successful bidders for sand mining leases are required to take prior environmental clearance from the State Environment Impact Assessment Authority (SEIAA). The environmental clearance issued by SEIAA further contains detailed terms and conditions, which must be followed by the lessee while undertaking mining activities. Some of the important terms and conditions were: (i) the average depth of the pit should not exceed three metre or water level, whichever is less; (ii) the mining activity should be done manually, heavy vehicles should not be allowed on the banks for loading of sand; (iii) No in-stream mining should be allowed; (iv) plantation should be carried out on the banks; and, (v) established water conveyance channels should not be relocated, straightened, or modified. Leases of sand mines could be cancelled, if any of these conditions were violated.

A view of use of heavy machinery in sand mines and excavation of sand by diverting the river flow



(Source: Reports of Mining Inspector, Singrauli)

Audit test check of records of 638 sand mines in 18 selected districts and scrutiny of correspondence files and reports of Mining Inspectors relating to leases of sand mines in four¹³ DMOs, revealed that, mining activities were carried out by heavy machinery, and sand was transported by heavy vehicles adjacent to the river bed. In-stream mining by diverting the flow of river and road constructed in the river for mining caused huge damage to the river in these 18 cases. The respective DMOs issued show cause notices to lessees/contractors (between June 2016 and March 2017). Out of these, only DMO Singrauli forfeited ₹ 1.62 lakh as part of security deposit in three cases where the contractor was found guilty and in the remaining 15 cases respective DMOs could not establish involvement of contractors.

The Department did not evolve an efficient mechanism to monitor compliance with the conditions laid down by SEIAA for environmental clearances for sand mining. No periodic returns were prescribed to closely monitor the issues related to environment clearances and to derive assurances from officials responsible for keeping a watch on conditions laid down by SEIAA for sand mining. This defeated the very purpose for which SEIAA was established.

During the exit conference (October 2017), the Department attributed the failure to monitor and act on such irregularities to shortage of manpower.

¹³ Anuppur, Balaghat, Panna and Singrauli.

Recommendation:

The Department may evolve mechanism to monitor compliance with the conditions laid down by SEIAA for environment clearances for sand mining. For this purpose, the Department may prescribe periodic returns to closely monitor the issues related to environment clearances.

4.5.10.3 Failure to implement filing of online quarterly returns

The Department failed to provide online access to mineral carrier owners to enable online filing of quarterly returns.

In terms of the Madhya Pradesh Minerals (Prevention of Illegal Mining, Transportation and Storage) Rules, 2006, as amended in 2012, all vehicles/carriers for transportation of minerals shall be registered with the Department. Further, owners of registered carriers are required to file online quarterly returns, giving details of minerals transported.

Audit observed that even more than five years after amendment to the rules, the Department did not evolve any system or module for submission of online quarterly returns by the mineral carriers. Due to lack of monitoring over excavated and transported quantity of minerals, the possibility of illegal mining and associated loss to environment could not be ruled out.

During the exit conference (October 2017), the Department accepted that quarterly returns were not being submitted by mineral carriers as the Department had not provided login access.

Recommendation:

The Department may develop module and provide login access to minerals carriers to facilitate them for submission of online quarterly returns.

4.5.10.4 Inadequate check posts to prevent illegal mining

Adequate check posts were not established to prevent illegal transportation of sand.

As per the Madhya Pradesh Minerals (Prevention of Illegal Mining, Transportation and Storage) Rules and Mineral Policy, check posts were to be set up in coordination with Commercial Tax, Forest and Transport Departments on main routes of the State to ensure effective vigil on illegal mining and transportation of minerals.

Only 62 check posts were notified in 11 districts as of March 2017, and no check post was notified for the remaining 40 districts. Out of the 62 notified check posts, only seven check posts are functioning¹⁴, and the remaining 55 notified check posts have not been established. Thus, the Department's capability to curtail illegal mining was limited.

During the exit conference (October 2017), the Department assured that appropriate action would be taken, but also stated that the extant Rules requires amendment as movements of vehicles are now being watched through e-transit passes.

¹⁴ Four in Sehore, two in Tikamgarh and one in Raisen.

The reply is not acceptable as only legal sand transportation can be monitored through e-transit passes.

Recommendation:

The Department may establish sufficient number of check posts in every district to prevent illegal mining and transportation.

4.5.11 Internal Controls

4.5.11.1 Absence of monitoring of compliance of Environment Management Plan (EMP)

Quarterly Reports prescribed for monitoring of compliance of EMP was submitted by contractors in only one out of 18 selected Districts. Further, EMP was available in only two districts.

The MPMM Rules requires contractors who are allotted areas for excavation to submit Environment Management Plans (EMP) for approval and monitoring by the District Collector, and thereafter, submit quarterly reports on fulfilment of the EMP.

Audit test checked records of 18 selected Districts and found that EMP was available in Anuppur and Rajgarh Districts only, and quarterly reports were submitted by the contractors in only Anuppur District. Further, reports or records regarding monitoring of EMP and inspection of sand mines by the Collector or DMOs were not found in any of the Districts. This shows that DMOs did not monitor the compliance of EMP. Due to non-availability of EMP, non-submission of quarterly reports and lack of monitoring thereof, the Department could not assess the impact of sand mining activities on the environment. Further, no directions regarding compliance of EMP were given by the DMOs to the contractors.

During the exit conference (October 2017), the Department attributed the lapses in monitoring to lack of manpower. It was further stated that issues related to environmental clearances was the concern of District Level Environment Impact Assessment Authority (DEIAA).

This reply cannot be accepted. The Rules as well as the Departments own circular (September 2014) expects the District Collector to ensure compliance of EMP.

4.5.11.2 Absence of monitoring and non-submission of returns by mineral dealers

In 18 selected DMOs, only 13.50 per cent registered mineral dealers submitted quarterly returns, and consequently, the DMOs could not monitor the stock position, sale and purchase of sand by mineral dealers.

As per the Madhya Pradesh Minerals (Prevention of Illegal Mining, Transportation and Storage) Rules, all mineral dealers are required to file quarterly returns giving details of stock and sale of minerals traded.

Audit observed that out of 67 registered sand dealers in 18 selected DMOs, only nine sand dealers submitted quarterly returns. Thus, DMOs did not ensure submission of quarterly return by the remaining sand dealers and thus did not monitor the stock position, sale and purchase of sand by mineral dealers.

During the exit conference (October 2017), the Department assured that appropriate action would be taken. Progress in this regard will be watched in Audit.

4.5.11.3 Absence of Departmental Manual and Internal Audit Wing

The Department did not have any Departmental Manual and Internal Audit wing, in the absence of which, various checks and balances to be exercised by various functionaries of the Department for assessment, levy and collection of revenue etc., could not be ensured.

Audit observed that the Department did not have an Internal Audit Wing and no internal audit was conducted during the period 2012-13 to 2016-17. Further, the Department did not have any Departmental Manual, detailing the functions and responsibilities of the staff at various levels. In the absence of these, various checks and balances to be exercised by various functionaries of the Department for assessment, levy and collection of revenue etc., could not be ensured which are discussed in previous paragraphs.

During the exit conference (October 2017), the Department assured that appropriate action would be taken. Progress in this regard would be watched in Audit.

Recommendation:

The Department should prepare a Departmental Manual and set up an Internal Audit wing.

4.5.12 Conclusion

- The Department is working with insufficient manpower and does not have Internal Audit Wing and Departmental Manual. In the absence of these, various checks and balances to be exercised by various functionaries of the Department for assessments, levy and collection of revenue etc., could not be ensured. Cases of non-execution of supplementary agreements, fixation of lower reserve price, underassessment of royalty, short realisation of contract money, non-levy of interest on belated payments and irregular issue of permit leading to short realisation of revenue of ₹ 16.49 crore were noticed.
- The MPSMCL collected royalty of ₹ 257.91 crore from the contractors on the contracted quantity of sand but paid royalty of ₹ 121.22 crore to the Government on the actual excavated quantity of sand as the lease agreement between Government and MPSMCL did not stipulate deposit of entire amount of royalty received by MPSMCL from contractor.
- The Department did not prescribe any mechanism to monitor compliance of conditions laid down by State Environment Impact Assessment Authority for sand mining.

- The Department did not ensure submission of quarterly returns prescribed for monitoring of compliance of Environmental Management Plan. Therefore, the Department could not assess the impact of sand mining activities on environment.
- The Department has not evolved any system or module for submission of online quarterly returns by the mineral carriers as prescribed (April 2012) in Rule 5A in Madhya Pradesh Minerals (Prevention of Illegal Mining, Transportation and Storage Rules, 2006).

Audit observations of Compliance Audit

4.6 Royalty and contract money was not realised/short realised

In 18 District Mining Offices, royalty of ₹ 62.50 crore was not realised/short realised from 58 lessees and 11 contractors.

4.6.1 Mining Lease

According to the MMDR Act, every lessee of a mining lease has to pay royalty in respect of minerals removed or consumed by him from the leased area, at the rates specified in the Schedule II of the Act.

Audit test checked the records of seven District Mining Offices¹⁵ and observed that 22 lessees of major minerals, out of 431 test checked, had paid royalty of ₹ 55.66 crore against the payable amount of ₹ 116.16 crore for the period April 2013 to March 2016. As a result, royalty of ₹ 60.50 crore¹⁶ was either not realised or short realised. The DMOs did not recover the outstanding amount of royalty as arrears of Land revenue.

During the exit conference (November 2017), the Department intimated that out of 22 cases pointed out in audit, in 12 cases, recovery of ₹ 18.81 crore had been made, and in 10 cases recovery of ₹ 41.69 crore was under process.

4.6.2 Trade quarry

According to the MPMM Rules, if the contractor extracts or carries away any quantity of minerals exceeding the prescribed quantity, he shall be liable to pay royalty at the prevalent rate for such excess quantity extracted or carried away.

Audit test check of case files of 22 trade quarries of two DMOs¹⁷ for the period 2015-16 revealed that, in nine trade quarries an excess of 1,13,600.77 cu.m, of minerals were excavated, resulting in short realisation of revenue of ₹ 0.54 crore¹⁸.

During the exit conference (November 2017), the Department intimated that appropriate action is being taken. Further progress will be watched in Audit.

¹⁵ Balaghat, Dhar, Mandla, Narsinghpur, Rewa, Satna and Sidhi.

¹⁶ DMO Mandla (1 case, ₹ 1.81 lakh), DMO Satna (2 cases, ₹ 5.19 crore), DMO Narsinghpur (1 case, ₹ 1.15 lakh), DMO Dhar (4 cases, ₹ 5.58 lakh), DMO Sidhi (3 cases, ₹ 13.71 crore), DMO Rewa (7 cases, ₹ 40.04 crore) and DMO Balaghat (4 cases, ₹ 1.47 crore).

¹⁷ Harda and Shahdol.

¹⁸ DMO Harda (6 cases, ₹ 36.38 lakh) and DMO Shahdol (3 cases, ₹ 17.69 lakh).

Similar observations were pointed out in Audit Reports from 2011-12 to 2015-16 but the Department has not evolved a mechanism to check the persistence of such irregularities.

4.6.3 Quarry lease

As per the MPMM Rules, the lessee shall pay the dead rent or royalty whichever is higher in amount but not both in respect of each mineral. The lessee shall pay royalty in respect of quantities of mineral intended to be consumed or transported from the leased area, no sooner than the amount of dead rent already paid equals the royalty on mineral consumed or transported by him.

Audit test check of records of nine DMOs¹⁹ for the period from April 2014 to March 2016 revealed that 36 quarry lessees, out of 852 test checked, had short-deposited royalty of ₹ 0.46 crore. Of these, though the DMOs issued demand notices amounting to ₹ two lakh in three cases, they failed to ensure recovery. In the remaining cases, no demand notices were issued.

During the exit conference (November 2017), the Department intimated that appropriate action had since initiated. Further progress would be watched in Audit.

Similar observations were pointed out in Audit Reports from 2011-12 to 2015-16, but the Department has not evolved a mechanism to check the persistence of such irregularities.

4.6.4 Temporary permits

According to the MPMM Rules, DMO shall grant permission for extraction, removal and transportation of any minor mineral from any specific quarry or land which may be required for the works of any Department and undertaking of the Central Government or the State Government. Further, such permission shall only be granted on payment of advance royalty calculated at specified rates. Also, such permission shall not exceed the quantity of minerals required for construction work and the period shall not exceed the period of construction work.

Audit scrutiny of the records of two DMOs²⁰ for the period 2015-16 revealed that out of six test checked permits, two temporary lease permits were issued to two contractors for the extraction, removal and transportation of minerals used in the government construction work. However, the DMOs did not realise the entire sum of royalty payable in advance and instead issued permits against part payments by the contractors. The District Collectors who approved the issue of temporary permits did not monitor revenue realisation by the DMOs. Consequently, the Department failed to realise revenue of ₹ one crore²¹.

During the exit conference (November 2017), the Department intimated that appropriate action had since initiated. Further progress would be watched in Audit.

¹⁹ Alirajpur, Bhopal, Burhanpur, Dewas, Dhar, Narsinghpur, Ratlam, Shahdol and Tikamgarh.

²⁰ Seoni and Katni.

²¹ DMO Seoni (1 case, ₹ 40 lakh) and DMO Katni (1 case, ₹ 60 lakh).

Similar observations were pointed out in Audit Reports from 2011-12 to 2015-16, but the Department has not evolved a mechanism to check the persistence of such irregularities.

4.7 Rural infrastructure and road development tax not realised/short realised and penalty for non-payment of tax was not imposed

Four hundred fifty one mining lessees of idle mines had either not paid or short paid rural infrastructure and road development tax of ₹ 16.92 crore, which became recoverable, along with penalty of ₹ 50.76 crore.

According to the Madhya Pradesh Rural Infrastructure and Road Development Act, 2005 and notification of May 2006, rural infrastructure and road development tax at the rate of ₹ 4,000 per hectare per year in the case of idle mines was to be levied on lessees holding mining leases. In cases where tax was not paid, the competent authority shall impose the penalty not exceeding three times of the tax payable, unpaid tax and penalty shall be recovered as arrears of land revenue.

Audit test check of individual case files of major minerals in respect of mining leases of 14 DMOs²² revealed that one lessee each of DMO Katni and DMO, Sagar had paid ₹ 7.87 crore as rural infrastructure and road development tax for idle mines for the period 2013-16, against the payable amount of ₹ 13.12 crore in these two cases. Further, 449 lessees did not make any payment against the payable tax of ₹ 11.67 crore. Consequently, ₹ 16.92 crore against short / non-realisation of tax, and penalty of up to ₹ 50.76 crore became leviable.

During the exit conference (November 2017), the Department intimated that appropriate action was since being taken. Further progress would be awaited in audit.

Similar observations were pointed out in Audit Reports from 2011-12 to 2015-16 but the Department has not evolved a mechanism to check the persistence of such irregularities.

4.8 Contribution to the NMET fund by lessees not paid/short paid

Failure of District Collectors and 11 DMOs to monitor deposit of NMET royalty resulted in short realisation of ₹ 8.11 crore from 20 licensees and nil payment of royalty of ₹ 8.12 crore from 42 licencees.

Government of India set up (August 2015) the National Mineral Exploration Trust (NMET), the rules of which require holders of mining lease or a prospecting-cum-mining lease which is in the stage of production through mining, to pay the concerned State Governments a sum equivalent to two *per cent* of the royalty paid along with the periodical payments of royalty. It was further instructed that royalty should not be get deposited into the State Government account unless contribution of NMET fund is paid by the license holders.

²² Balaghat, Chhatarpur, Chhindwara, Damoh, Datia, Katni, Mandasaur, Narsinghpur, Rewa, Sagar, Satna, Seoni, Sidhi and Tikamgarh.

Audit test check of individual case files and royalty statements of 353 licensees/ lease holders of 11 DMOs²³ for the period April 2014 to March 2016 revealed that 20 licensees had short deposited NMET fund of ₹ 8.11 crore and 42 licensees had not deposited any amount against their contribution of ₹ 8.12 crore, resulting in short realisation of ₹ 16.23 crore.

During the exit conference (November 2017), the Department intimated that appropriate action was being taken. Further progress will be watched in Audit.

4.9 Interest on belated payments not realised/short realised

Failure of DMOs to recover interest on belated payments of dead rent/royalty from 153 lessees resulted in short realisation of revenue of ₹ 13.91 crore.

4.9.1 Delayed payment of dead rent in quarry leases

According to the MPMM Rules, failure of lessees of quarries to pay dead rent or royalty to the State Government on or before the specified date will entail payment of interest at the rate of 24 *per cent* per annum for the period of default.

Audit scrutiny of case files of quarry leases in 23 DMOs²⁴ for the period 2012-13 to 2015-16 revealed that 143 quarry lessees, out of 1,770 test checked, delayed payment of dead rent by 30 to 1,651 days. Of these, three lessees had made belated payment of dead rent amounting to ₹ 14 lakh but made short payment of penal interest by ₹ 2.94 lakh, and the remaining 140 lessees did not make payment of interest of ₹ 79.68 lakh on belated payment of dead rent of ₹ 3.32 crore. Thus, the DMOs failed to recover interest of ₹ 82.62 lakh on belated payments of dead rent.

During the exit conference (November 2017), the Department intimated that appropriate action was since being taken. Further progress will be awaited in audit.

Similar observations were pointed out in Audit Reports from 2011-12 to 2015-16 but the Department has not evolved a mechanism to check the persistence of such irregularities.

4.9.2 Delayed payment of royalty in mining leases

According to Mineral Concession Rules, 1960, failure of lessees to pay royalty, rent and rates by the prescribed date, will entail payment of simple interest at the rate of 24 *per cent* per annum from the sixtieth day of the expiry of the stipulated date till the date of payment of such royalty.

Audit test check of case files of two DMOs²⁵ for the period April 2015 to March 2016 revealed that 10 lessees, out of 52 test checked, had delayed payments of royalty by 30 to 456 days beyond the above mentioned due date. The two DMOs, however, failed to recover interest of ₹ 13.08 crore²⁶.

²³ Anuppur, Balaghat, Chhindwara, Dhar, Katni, Narsinghpur, Rewa, Sagar, Satna, Sidhi and Singrauli.

²⁴ Anuppur, Ashok Nagar, Balaghat, Bhopal, Burhanpur, Chhatarpur, Chhindwara, Damoh, Datia, Dewas, Dhar, Katni, Narsinghpur, Raisen, Ratlam, Rewa, Sagar, Shahdol, Shajapur, Seoni, Sidhi, Tikamgarh and Ujjain.

²⁵ Rewa and Sidhi.

²⁶ DMO Sidhi (3 cases, ₹ 1.69 crore) and DMO Rewa (7 cases, ₹ 11.39 crore).

During the exit conference (November 2017), the Department intimated appropriate action was since being taken. Further progress would be watched in Audit.

Similar observations were pointed out in Audit Reports from 2011-12 to 2015-16 but the Department has not evolved a mechanism to check the persistence of such irregularities.

4.10 Dead rent not realised or short realised

The District Collectors failed to recover ₹ 2.92 crore towards dead rent from 218 lessees.

According to the MPMM Rules / MMDR Act, every lessee of a quarry lease/mining lease has to pay dead rent every year at prescribed rates in respect of all areas included in the lease provided that where the lessee becomes liable to pay royalty for any mineral removed or consumed, he shall be liable to pay either such royalty or the dead rent in respect of that area, whichever is greater.

The MPMM Rules further provides that where lessees of quarry leases fail to pay yearly dead rent by the prescribed date, the District Collector/ Additional Collector are required, after issue of adequate notice, to determine the lease and forfeit the whole or part of the security deposit or in the alternative receive from the lessees such penalty for the breach not exceeding four times the amount of the said half yearly dead rent as the lessor may fix.

Audit test check of records of 30 DMOs²⁷ for the period April 2013 to March 2016 revealed that 203 quarry lessees, out of 1,940 test checked, and 15 mining lessees, out of 37 test checked, had short-deposited ₹ 2.92 crore. Though the DMOs had issued demand notices in 54 cases, no further action was taken either in these 54 cases or in the remaining 164 cases.

During the exit conference (November 2017), the Department intimated that appropriate action was since being taken. Further progress would be watched in Audit.

Similar observations were pointed out in Audit Reports from 2011-12 to 2015-16 but the Department has not evolved a mechanism to check the persistence of such irregularities.

4.11 Contract money on trade quarries not realised/short realised

The Department failed to realise contract money of ₹ 1.61 crore from 13 contractors of trade quarries.

According to the MPMM Rules and conditions of the standard contract agreement, failure of the contractors of trade quarries to pay contract money beyond one month from the scheduled date, would entail cancellation of the contract and re-auction of the quarry. If the Government sustains any loss on re-auction, the same will be recovered from the defaulting contractor as arrears of land revenue, after issue of notice. The rules also require DMOs to monitor

²⁷ Alirajpur, Anuppur, Ashok Nagar, Balaghat, Bhopal, Burhanpur, Chhatarpur, Chhindwara, Damoh, Datia, Dewas, Dhar, Harda, Katni, Mandla, Mandsaur, Narsinghpur, Raisen, Rajgarh, Ratlam, Rewa, Sagar, Satna, Sehore, Seoni, Shahdol, Shajapur, Sidhi, Ujjain and Umaria.

timely receipt of contract money and levy of interest on belated payments through the Register of Income from Trade Quarries in Form 23.

Audit test check of the case files of 53 trade quarries in five DMOs²⁸, for the period April 2013 to March 2016 revealed that 13 contractors had paid contract money amounting to ₹ 41.99 lakh against the payable amount of ₹ 2.03 crore. The DMOs had not followed up on demand notices in seven cases amounting to ₹ 75 lakh and had not issued demand notices for ₹ 86 lakh in the remaining six cases. As a result, contract money amounting to ₹ 1.61 crore from 13 contractors was not realised.

It was further observed that DMO Raisen, DMO Seoni and DMO Shajapur had not maintained the Register of Income from Trade Quarry which has been prescribed as a tool to monitor receipt of contract money. Though the remaining two DMOs maintained the register, they did not monitor the payment of contract money.

During the exit conference (November 2017), the Department intimated that appropriate action was since being taken. Further progress would be watched in Audit.

Similar observations were pointed out in Audit Reports from 2011-12 to 2015-16 but the Department has not evolved a mechanism to check the persistence of such irregularities.

²⁸ Burhanpur, Mandla, Raisen, Seoni and Shajapur.

CHAPTER – 5

WATER TAX

CHAPTER 5 WATER TAX

5.1 Results of audit

Audit on “Assessment and collection of Water Tax” was conducted in 18 Divisions of Water Resources Department during the period February 2017 to June 2017 and irregularities involving ₹ 1,627.54 crore were noticed. The Department accepted irregularities amounting to ₹ 1,626.24 crore.

Audit findings are discussed in the following paragraphs.

5.2 Audit on “Assessment and collection of Water Tax”

5.2.1 Introduction

The Water Resources Department (Department) in Madhya Pradesh is responsible for assessment and collection of water tax for irrigation and non-irrigation purposes. The assessment and collection of water tax is governed by the Madhya Pradesh Irrigation Act, 1931 and Madhya Pradesh Irrigation Rules, 1974 made thereunder.

Under the above Act/Rules, water may be drawn for the purpose of irrigation, industrial use and domestic water supply. Water is provided through agreements between the Water Resources Divisions and local bodies, industries and cultivators.

*Jamabandi*¹ Register is the initial and basic record for computing water tax and is prepared on the basis of *Khasra*². Water tax for irrigational purposes is levied on the basis of agricultural land (per hectare) to be irrigated, whereas, for non-irrigation purposes measuring devices are installed to ascertain the quantity of water used. There are provisions for imposition of additional rates for unauthorised use of water and interest for non-payment of water tax. Arrears of water tax are to be recovered as arrears of land revenue³.

5.2.2 Organisational Setup

The Department is headed by the Principal Secretary at the Government level and the Engineer-in-Chief (E-in-C) at the Departmental level. Chief Engineers and Superintending Engineers are the heads of zonal offices and circle offices respectively whereas the field offices i.e., the divisional offices and sub divisional offices are headed by Executive Engineers and Sub Divisional Officers respectively. Sub Divisional Officers, Irrigation Inspectors and *Amin*⁴ are the key persons primarily responsible for assessment and collection of tax on water used for irrigation.

¹ *Jamabandi* Register contains the names of owners, area of land, shares of owners and their rights. It also indicates cultivation, rent and revenue, and other cesses payable on land.

² An agricultural document that specifies land and crop details.

³ Section 61 of MP Irrigation Act, 1931.

⁴ *Amin* prepares *khasra* which forms the basis for assessment of water tax to be charged from the cultivators.

5.2.3 Audit Objectives

The audit was conducted to ascertain whether:

- The system of assessment and collection of water tax was efficient and effective;
- An adequate revenue recovery system existed for realisation of water tax; and
- The Department has an effective internal control and monitoring mechanism.

5.2.4 Audit Criteria

Audit Criteria have been derived from the following:

- Madhya Pradesh Irrigation Act, 1931;
- Madhya Pradesh Irrigation Rules, 1974;
- Madhya Pradesh Financial Code;
- Madhya Pradesh Treasury Code; and
- Orders / Notifications issued by the Government/ Department from time to time.

5.2.5 Scope and methodology

Out of 86 Water Resources (WR) Divisions dealing with water tax receipts, 18 WR Divisions⁵ were selected on the basis of stratified random sampling method. Records for the period 2012-13 to 2016-17 were examined in 18 WR Divisions and information from Zonal Offices was collected and scrutinised between February 2017 and June 2017.

An entry conference to discuss the audit objectives and scope of audit was held on 4 April 2017 in which the Principal Secretary and other officers of the Department participated. The findings were discussed with the Principal Secretary of the Department in an exit conference held on 27 October 2017. Replies given in the exit conference and detailed reply (on issues related to industries) given in February 2018 by the Department have been suitably incorporated.

The Department may like to internally examine records in other WR Divisions with a view to check whether irregularities pointed out in test checked Divisions also prevail there and to take remedial actions.

Acknowledgement

The cooperation of the Department in providing necessary information and records to Audit is acknowledged.

⁵ Anuppur, Betul, Chhindwara, Datia, Damoh, Deolond, Indore, Itarsi, Jabalpur, Katni, Nasrullaganj, Sehore, Seoni Malwa, Shivpuri, Shohagpur, Singrauli, Umaria and Ujjain.

Audit findings

5.2.6 Shortage of revenue staff

The Madhya Pradesh Works Department Manual prescribes one *Amin* for each 800 hectare of land and one Irrigation Inspector for every 10 *Amins*.

Audit observed that under 18 WR Divisions water was available for irrigation of 5,50,757 hectare land. Against the required 688 *Amins* and 72 Irrigation Inspectors, only 195 *Amins* and five Irrigation Inspectors were posted in these Divisions.

The revenue recovery and follow up was adversely affected due to shortage of staff. The Department had not assessed the position of the revenue staff (*Amins* and Irrigation Inspectors) as per the norms and did not make recruitment accordingly.

During the exit conference (October 2017), the Department accepted the facts and assured to initiate the recruitment process.

Recommendation:

The Government may review the staff position and initiate recruitment process at the earliest.

5.2.7 Internal Audit

The Department does not have Internal Audit Wing. Records pertaining to establishment and construction works maintained in the Divisional Offices are inspected by the officials of the controlling offices.

Reports of revenue realisation only were being sent by the Executive Engineers to higher authorities but the issues of drawal of water by the cultivators and the local bodies without execution of agreements, and accumulation of huge outstanding water tax were not being addressed by the higher authorities of the Department.

During the exit conference (October 2017), the Department assured that the issue of internal control would be properly addressed as to strengthen the revenue recovery mechanism in all categories. Progress in this regard would be watched in audit.

5.2.8 Target and recovery of water tax

The targets set by the Department against the total recoverable amount of water tax and amount recovered during the last five years are given in **Table 5.1**.

Table 5.1
Details of target and recovery of water tax

(₹ in crore)

Year	Opening Balance	Current demand	Total demand	Recovery target (percentage of total demand)	Recovery			Closing Balance
					against outstanding demand	against current demand	Total (percentage of target)	
2012-13	577.86	378.13	955.99	328.90 (34.40)	36.33	238.69	275.02 (83.62)	680.97
2013-14	680.96	119.91	800.87	316.71 (39.55)	22.65	54.49	77.14 (24.36)	723.73
2014-15	723.73	229.30	953.03	313.40 (32.88)	19.00	62.20	81.20 (25.91)	871.83
2015-16	871.83	238.07	1,109.90	406.47 (36.62)	14.94	50.29	65.23 (16.05)	1,044.67
2016-17	1,044.67	127.57	1,172.24	414.28 (35.34)	18.65	56.39	75.04 (18.11)	1,097.20

(Source: Data provided by the office of Engineer-in-Chief)

From the above, it is evident that despite increasing total demand, the Department set target of revenue recovery below 40 per cent since 2012-13 while the actual recovery ranged from 16 per cent to 26 per cent of the recovery target during the period 2013-14 to 2016-17.

Scrutiny of files revealed that there were no orders of the Government or any departmental instructions for fixing target of water tax recovery. Besides, Audit could not ascertain the reasons for drop and fluctuations in demand and targets during the period 2013-14 to 2016-17 from the files.

On being asked about the method of assessment of demand, the Engineer-in-Chief stated (August 2017) that demand is assessed on the basis of budget provisions, recovery made in previous years and area to be irrigated. However, reply regarding abnormal drop and fluctuations in demand and targets was not provided.

Recommendation:

The Department may formulate a suitable mechanism for assessment of demand and fixing target of water tax recovery.

5.2.9 Non-formation of irrigation *panchayat*

None of the 18 Divisions formed Irrigation *panchayats* which were supposed to play a significant role in realisation of water tax.

The MP Irrigation Act prescribes the constitution of Irrigation *panchayats* for every village or for a group of villages in the command area of a canal, for the purpose of collection of water tax from the cultivators.

As per the Act, the Executive Engineer is required to recommend to the District Collector the number of members to be elected in an irrigation *panchayat* besides appointing an Irrigation Inspector to preside over the elections. *Sarpanch*, the head of the irrigation *panchayat*, is required to deliver the *parcha* i.e., the demand to the cultivators, collect the water tax from the cultivators, give acknowledgement to the cultivators and remit the tax

to the Government. Thus, irrigation *panchayats* play a significant role in the collection of water tax.

Audit test check of records of 18 Divisions revealed that none of the Divisions had formed irrigation *panchayats*. The Executive Engineers did not initiate action for formation of irrigation *panchayats* due to which the revenue realisation process was weakened, which is evident from the fact that water tax amounting to ₹ 162.13 crore for the period from 2012-13 to 2016-17 is outstanding against the cultivators.

During the exit conference (October 2017), the Department intimated that the system of Irrigation *panchayat* was initially evolved as per provision, but due to improper functioning, the system was discontinued. The Department however assured that the issue of formation of irrigation *panchayat* would be reconsidered so as to strengthen the revenue recovery mechanism in all categories. Progress in this regard would be watched in audit.

5.2.10 Non-recovery of minimum water tax

Minimum water tax amounting to ₹ 17.13 crore was not recovered.

In terms of the agreements executed between WR Divisions and industry, the industry concerned shall pay water tax for at least 90 *per cent* of the quantum of water allowed (as per the effective dates and quantum shown in the agreement) to be drawn by it, even if the actual quantity of water drawn by the company is less than 90 *per cent* of sanctioned quantity.

Audit test check of the records of WR Division, Anuppur revealed that M/s Moser Baer Power and Infrastructures Limited had executed agreement (October 2014) for drawal of 75.60 MCM⁶ water *per annum*. However, the Executive Engineer, Anuppur failed to raise bills for the quantity of water drawn by the company or 90 *per cent* of sanctioned quantity, whichever was more, resulting in non-recovery of minimum water tax of ₹ 17.13 crore for the period October 2014 to March 2017.

The Department replied (February 2018) that bills on the basis of 90 *per cent* quantity of water have been raised. Progress in this regard would be watched in audit.

5.2.11 Non recovery of penal water tax from NTPC

Penal water tax amounting to ₹ 1.30 crore was not recovered from NTPC, which had failed to commence industrial production within the specified period of 48 months.

According to sub Rule 3(c) of Rule 71 A (amended by Gazette Notification, dated 31 August 2016) of the MP Irrigation Rules, 1974, an industrial unit shall pay water tax equivalent to five *per cent* of the water tax payable on the annual allocation of water if it does not start industrial production within 48 months from the date of issue of the water allocation order.

⁶ Million cubic metre

In WR Hiran Division, Jabalpur a water allocation order had been issued to the National Thermal Power Corporation (NTPC), New Delhi in June 2009 for drawing 111.64 MCM water *per annum*. Further, an agreement between NTPC and the Department had been executed on 30 April 2015 for its 4 x 800 MW Thermal Power Plant at Dongargaon, Gadargara for 30 years commencing from the said date.

NTPC failed to start industrial production from the plant within the specified period of 48 months, i.e., by 12 July 2016, and was therefore required to pay ₹ 1.30 crore⁷ for 18 months delay up to 12 January 2018. But the Executive Engineer did not take any action for imposition and recovery of the penal water tax.

The Department replied (February 2018) that the NTPC has been granted extension (October 2017) up to August 2018 and in case of failure to commence production an amount of ₹ 1.85 crore would be recovered in accordance with the provisions.

The reply is not acceptable because the subsequent extension was allowed after this was pointed out by Audit. Moreover, sub Rule 3(c) of Rule 71 A does not provide for exemption from payment of penal water tax.

5.2.12 Non-recovery of outstanding water tax

WR Divisions had failed to recover the outstanding water tax amounting to ₹ 1,489.67 crore from industries, domestic water supply entities (local bodies) and cultivators.

Audit observed that water tax amounting to ₹ 1,489.67 crore was outstanding (March 2017) from industries, domestic water supply entities and cultivators as follows:

5.2.12.1 Water tax outstanding from industries

According to Clause 12 of the standard agreement, the industry shall pay the amount of water tax for the water drawn by it during the preceding month within 30 days of receipt of monthly bills; non-payment of bills up to six months from the due date of payment shall be treated as breach of agreement. Further, the Government may terminate the agreement forthwith and any sum due and payable by the company shall be recoverable from the company in the same manner as arrears of land revenue.

Audit test checked records in seven WR Divisions⁸ revealed that 11 units of ten industries drawing water under their respective agreements were not making timely payments of water tax. Scrutiny of monthly bills and statements revealed that water tax amounting to ₹ 506.34 crore inclusive of interest for the period between April 1988 to March 2017 was pending for recovery (March 2017).

⁷ 11,16,40,000 cu.m (Agreement quantity of water) x ₹ 1.55 (Rate per cu.m) x 5 per cent x 1 ½ year = ₹ 1,29,78,150 (say ₹ 1.30 crore).

⁸ WR Dn No.2 Singrauli, Bansagar Masonry Dam Dn Deolond, Tawa Project Dn Itarsi, WR Hiran Dn Jabalpur, WR Dn Chhindwara, WR Dn Ujjain, and WR Dn Anuppur.

The Executive Engineers had raised the monthly bills to the companies but had not taken measures such as disconnection of water supply or termination of agreements in order to ensure timely payment of the bills.

The Department stated (February 2018) that action was being taken for recovery of dues from the industries. Progress in this regard would be watched in audit.

5.2.12.2 Water tax not recovered from company after dismissal of the petition

In WR Division Anuppur, an amount of ₹ 771.06 crore was pending for recovery from M/s Orient Paper Mill, Amlai for the period from June 1998 to March 2018.

The company had executed an agreement with the Department for drawal of water from Sone river in September 1970 when the water tax was not in existence. Clause X of the Agreement, however empowered the Department to recover water tax if it decides to recover the same in future. Later in compliance with the provisions notified vide Gazette Notification dated 6 May 1998, the Department demanded water tax from the company from June 1998. Aggrieved by this, the company filed writ petitions before Hon'ble High Court, Jabalpur and the Hon'ble Supreme Court, which were dismissed in January 2009 and March 2009 respectively.

The Executive Engineer did not make concrete effort to recover water tax even after dismissal of the petitions by Hon'ble Supreme Court and High Court.

The Department stated (February 2018) that the company approached (February 2015) to Hon'ble High Court, Jabalpur for appointment of arbitrator, and the decision of Hon'ble High Court, Jabalpur is awaited (May 2018).

The reply of the Department is not acceptable, as there was no bar on the Department to recover the water tax till 11 February 2015, when Hon'ble High Court, Jabalpur suggested for referring the matter for arbitration and restrained the Department from taking coercive steps. The Department did not accept the suggestion for arbitration and the matter is pending for final hearing.

5.2.12.3 Water tax outstanding from local bodies

Audit test checked records of 18 WR Divisions and found in four WR Divisions⁹ that six local bodies¹⁰ had executed agreements with the Department and had drawn water. However, an amount of ₹ 158.03 crore was pending for recovery from these six local bodies as on 31 March 2017.

The Executive Engineers had raised the bills but no concrete measures for recovery of the outstanding amount was made. They had neither discontinued

⁹ WRD, Chhindwara; Kolar Canal Division, Nasrullaganj; WRD, Ujjain; and WRD, Indore
¹⁰ Municipal Corporation, Chhindwara; Municipal Corporation, Bhopal; Municipal Corporation, Ujjain; Nagar Panchayat, Tarana; Municipal Corporation, Nagda; and PHED, Indore.

the water supply nor taken any action for termination of the agreement. The case of Municipal Corporation, Bhopal was reported by the Engineer-in-Chief to the Department (April 2014), but no further action could however be traced in records.

During the exit conference (October 2017), the Department stated that matter of recovery of outstanding water tax would be looked into and suitable revenue recovery mechanism would be developed shortly. Progress in this regard would be watched in audit.

5.2.12.4 Water tax outstanding from the cultivators

Audit test check of records in 16 WR Divisions (except Anuppur and Damoh) revealed that the cultivators had made agreements for drawal of water for irrigation but were not paying the water tax on time. An amount of ₹ 54.24 crore was recoverable from defaulting cultivators as detailed in **Table 5.2**.

Table 5.2
Water tax outstanding from cultivators taking water under agreement

(₹ in crore)

Year	No. of cultivators	Water tax			Percentage of recovery
		Demand	Recovered	Outstanding	
2012-13	1,36,926	14.74	4.76	9.98	32.29
2013-14	1,44,982	15.99	4.25	11.74	26.58
2014-15	1,39,128	16.59	4.72	11.87	28.45
2015-16	1,40,561	17.11	4.28	12.83	25.01
2016-17	1,22,751	10.17	2.35	7.82	23.11
Total		74.60	20.36	54.24	

(Source: Data provided by the WR Divisions)

Audit could not find steps taken by the Executive Engineers for recovery of the above outstanding amount in the divisional records.

During the exit conference (October 2017), the Department stated that matter of recovery of outstanding water tax would be looked into and suitable revenue recovery mechanism would be developed shortly. Progress in this regard would be watched in audit.

Recommendation:

The Department may consider putting in place a dedicated recovery machinery focusing on recovery of outstanding water tax. The Department may also immediately review all cases of such outstanding recoveries, and where it is of the view that any of such amounts are beyond recovery, approach the Finance Department to consider write off.

5.2.13 Irregular drawal of water without agreement

Three WR Divisions had provided water to four local bodies without any agreement. An amount of ₹ 11.55 crore was pending for recovery from those local bodies. Further, more than 1.5 lakh cultivators of 18 WR Divisions had drawn water without any agreement and an amount of ₹ 107.89 crore was recoverable from them.

5.2.13.1 Providing water to local bodies without agreement

According to the MP Irrigation Rules, water may be supplied for any village tank, town or for industrial purposes at specified rates, on the basis of agreements between the Department and the entity.

Audit test check of records in three WR Divisions revealed that four local bodies had taken water from Government sources without any agreement. An amount of ₹ 11.55 crore was pending for recovery from those local bodies as detailed in **Table 5.3**.

Table 5.3
Water tax outstanding from local bodies taking water without agreement

(₹ in crore)

Sl. No.	WR Divisions	Name of local body	Period	Amount
1.	Indore	Nagar Parishad, Manpur	2009-14	0.12
2.	Sehore	Municipal Corporation, Sehore	2000-16	7.11
		Municipal Corporation, Ashtha	2000-16	4.17
3.	Damoh	Municipal Corporation, Damoh	2014-16	0.15
Total				11.55

(Source: Data provided by the WR Divisions concerned)

The Executive Engineers had not made any effort to execute agreements with the above entities. Although demands had been raised but no pursuance for recovery of water tax from them were made.

During the exit conference (October 2017), the Department stated that matter of recovery of outstanding water tax would be looked into and suitable revenue recovery mechanism would be developed shortly. Progress in this regard would be watched in audit.

5.2.13.2 Providing water to cultivators without agreement

According to the MP Irrigation Rules, irrigation cannot be done from a canal unless an agreement is executed between the Government of Madhya Pradesh and the permanent holder of land except in those cases which are exempted under these rules. Irrigation without agreement shall be treated as unauthorized and such holder of land shall be liable to punishment and assessment under the MP Irrigation Act.

Audit test check of the records of all the selected WR Divisions revealed that more than 1.5 lakh cultivators were drawing water without executing any agreement. An amount of ₹ 107.89 crore was recoverable from those unauthorised cultivators as detailed in **Table 5.4**.

Table 5.4
Water tax outstanding from cultivators taking water without agreement

(₹ in crore)

Year	No. of cultivators	Water tax			Percentage of recovery
		Demand	Recovered	Outstanding	
2012-13	2,03,946	24.00	3.33	20.67	13.88
2013-14	2,10,483	26.49	2.87	23.62	10.83
2014-15	2,14,069	29.20	3.56	25.64	12.19
2015-16	1,82,327	21.20	2.64	18.56	12.45
2016-17	1,49,457	20.96	1.56	19.40	7.44
Total		121.85	13.96	107.89	

(Source: Data provided by the WR Divisions)

The Executive Engineers had not made any effort to get the agreements executed with those cultivators or to stop the cultivators from drawing water in unauthorised manner.

During the exit conference (October 2017), the Department accepted that agreement with the cultivators should be executed. As regards recovery of outstanding water tax it was stated that matter would be looked into and suitable revenue recovery mechanism would be developed shortly. Progress in this regard would be watched in audit.

5.2.14 Conclusion

- There was shortage of *Amin* and Irrigation Inspectors in the Department who were mainly responsible for assessment and collection of water tax.
- Irrigation *panchayats* which were responsible for collection of water tax have not been formed under Madhya Pradesh Irrigation Act, 1931.
- A huge amount of ₹ 1,277.40 crore was outstanding against the companies but the measures such as disconnection of water supply and termination of the agreements were not taken by the Executive Engineers.
- Agreements were not entered with the cultivators to regulate the permissible water supply and levy of water tax by the divisional officers.

CHAPTER – 6
STAMPS AND
REGISTRATION FEES

CHAPTER 6 STAMPS AND REGISTRATION FEES

6.1 Tax administration

The Department of Registration and Stamps functions under the overall charge of the Principal Secretary, Commercial Tax Department. The Inspector General, Registration and Superintendent of Stamps, Madhya Pradesh (IGR) is the head of the Department. One Joint Inspector General, Registration (JIGR), one Deputy Inspector General Registration (DIGR), one Senior District Registrar (SDR), one District Registrar (DR) and one Accounts officer (AO) are deployed at the headquarters. The Department has four regional offices located at Bhopal, Gwalior, Jabalpur and Indore working under four zonal DIGs, Registration. There are 51 DR offices and 234 Sub Registrar (SR) offices in the State. The District Collector is the head of Registration administration in the districts. The District Collectors are assisted by 14 SDRs and 37 DRs posted in 51 districts. There are 262 SRs posted in 234 SR offices.

SRs are the registering officers. It is the duty of DRs to guide SRs in their day-to-day function, determine correct market value of land or stamp duty in the cases referred to them by SRs, issue orders to impose penalty or to make refund and inspect the registration offices. The DR is also referred to as the Collector of Stamps.

Stamp duty and Registration fees are collected under the provisions of the following Acts, Rules and notifications issued thereunder:

- Indian Stamp Act, 1899;
- The Registration Act, 1908;
- Indian Stamp (Madhya Pradesh Prevention of Undervaluation of Instruments) Rules, 1975;
- Madhya Pradesh Preparation and Revision of Market Value Guidelines Rules, 2000;
- Madhya Pradesh Stamp Rules, 1942;
- Madhya Pradesh Municipal Corporation Act, 1956;
- Madhya Pradesh Municipalities Act, 1961;
- Madhya Pradesh *Panchayat Raj Adhiniyam*, 1993;
- Madhya Pradesh *Upkar Adhiniyam*, 1982; and
- Circulars and orders of the Government/ IGR of Madhya Pradesh, issued from time to time.

6.2 Trend of receipts

Actual receipts from Stamps and Registration fees during the period 2012-13 to 2016-17 along with the budget estimates during the same period are exhibited in **Table 6.1**.

Table 6.1
Trend of receipts from Stamps and Registration fees

(₹ in crore)

Year	Budget estimates prepared by the Department	Budget estimates approved by the Finance Department	Actual receipts	Percentage of variation
2012-13	3,200	3,200.00	3,944.24	(+) 23.26
2013-14	3,500	4,000.00	3,400.00	(-) 15.00
2014-15	4,000	4,000.00	3,892.77	(-) 2.68
2015-16	4,200	4,700.00	3,867.69	(-) 17.71
2016-17	4,000	4,500.00	3,925.43	(-) 12.77

(Source: Finance Accounts and Budget Estimates of Government of Madhya Pradesh)

It can be seen from the above table that the budget estimates prepared by the Department for years 2013-14, 2015-16 and 2016-17 were increased by the Finance Department. The Finance Department intimated (April 2018) that the estimates were raised to realise the potential of the Department to earn more revenue. There is no evidence on the manner in which the Finance Department tried to achieve this, and the actual receipts fell short of the estimates prepared by the Finance Department.

6.3 Internal Audit

The Department has an Internal Audit Wing (IAW) which is headed by the Joint Director (Finance). Against the sanctioned strength of one Accounts Officer (AO) and 10 Assistant Audit Officers (AAO), there were one AO and four AAOs in the IAW during the year 2016-17. Audit observed that against six posts of AAOs, which were sanctioned by the Government in January 2015, no appointments were made.

In 2016-17, against the plan to audit 30 DR offices, only eight DR offices could be audited. Audit scrutinised (April 2018) the eight Inspection Reports (IRs) of Internal audit and found that irregularities on pendency of 246 RRC cases involving amount of ₹ 1.26 crore and 543 cases referred to DRs by the SRs for valuation of market value of land involving ₹ 2.66 crore were pointed out. However, the Department could not enforce the settlement of cases referred to DRs within prescribed time limit and the same has also been pointed out in this Audit Report.

Audit noticed that out of 83 Internal Audit IRs of DR/SR offices issued during the period 2012-13 to 2016-17, Compliance Reports of only seven IRs were received in IGR office till April 2018. This indicates that the follow up of Internal Audit IRs was not being monitored properly by the Department.

During exit conference (November 2017), the Department intimated that shortfall in audit was due to lack of staff. It was further informed that as an alternative arrangement inspection of subordinate offices was done by IGR/DIGR/DR as per Registration Manual and registration cases were also test checked. Besides, several instructions were also issued for random inspection of Departmental offices from time to time.

Recommendation:

The Department should initiate measures to strengthen the Internal Audit Wing.

6.4 Results of audit

Audit test checked records of 89¹ out of 273 units of the Department during 2016-17. Revenue generated by the Department during the year 2015-16 aggregated to ₹ 3,867.69 crore of which, the audited units collected ₹ 2,688.47 crore. Audit examined 59,440 deeds out of 4,95,333 deeds registered in these offices during the period covered in audit and observations on revenue not realised due to inordinate delay in finalisation of cases referred to DRs, misclassification of deeds, undervaluation of properties, short realisation of Stamp duty and Registration fees, incorrect exemption and other observations involving ₹ 30.74 crore in 1,393 cases were made as mentioned in **Table 6.2**.

Table 6.2
Results of Audit

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
1.	Revenue not realised due to inordinate delay in finalisation of cases referred to DRs under Section 47-A of the Indian Stamp Act	576	23.90
2.	Undervaluation of property	230	3.77
3.	Short levy of Stamp duty and Registration fees on instruments of power of attorney, lease deeds, development/ builder agreements and mortgage deeds	48	1.38
4.	Misclassification of deeds	44	0.74
5.	Irregular exemption of Stamps and Registration fees	244	0.59
6.	Others	251	0.36
Total		1,393	30.74

These observations were communicated to the Department (between May 2016 and April 2017). The Department accepted (between May 2016 and November 2017) underassessment and other deficiencies of ₹ 2.36 crore in 329 cases, against which recovery of ₹ 75.65 lakh was made in 61 cases of which, there was part recovery in 35 cases. In other cases, the Department replied that audit would be intimated after verification of the cases by the DRs. These will be watched in audit.

During 2016-17, the Department effected recovery of ₹ 7.38 crore in 1,012 cases in respect of audit objections pertaining to previous Audit and Inspection Reports. Out of the recovered amount, ₹ 3.35 crore corresponds to Audit Report 2010-11.

6.5 Follow up of previous Audit Reports

In the Audit Reports for the period from 2011-12 to 2015-16, Audit had pointed out various observations amounting to ₹ 384.32 crore in 101 paragraphs against which Department accepted observations involving ₹ 236.33 crore and recovered ₹ 5.77 crore. Out of these 101 paragraphs, 79 paragraphs² were

¹ One DR office and 88 SR offices.

² 2011-12 (05), 2012-13 (09), 2013-14 (23), 2014-15 (02) and 2015-16 (40).

selected by the Public Accounts Committee (PAC) between June 2014 and May 2017 and are awaiting discussion. The PAC has already given its recommendations and directions during 2014-15 and 2015-16 to the departments on similar paragraphs of ARs for the periods 2004-05 and 2006-07. The directions were: (i) the Department was to prescribe definite time limit for effecting recovery and disposal of pending cases; (ii) the Department was to fix responsibility against the Departmental Officers who did not calculate market value as per guidelines and caused revenue loss to the Government.

The Department, however, has not complied with the recommendations.

Recommendation:

The Department should immediately comply with the directions of the Public Accounts Committee to effect recoveries, dispose of pending cases and fix responsibility on defaulting officers.

6.6 Delay in disposal of cases referred by Sub Registrars (SRs)

DRs failed to finalise 172 cases involving revenue of ₹ 4.90 crore referred to them by SRs for determination of market value of properties, though the stipulated period of three months for disposal of referred cases had lapsed.

The Indian Stamp Act provides for the Registering Officer, in specific circumstances, to refer any property registration instrument to the District Registrar (DR) for determination of the correct market value of such property and duty leviable thereon. The Department prescribed (July 2004) a maximum period of three months within which the DR had to dispose such cases.

Audit test checked (between August 2016 and March 2017) 252 cases, referred by 24 SR³ offices (out of 234 SR offices) between April 2009 and March 2016 and observed that in 172 cases, market value of properties were not determined by the DRs, even though the period of three months had elapsed. Out of these 172 cases, 29 cases involved delay of four to 12 months, 122 cases involved delay of 13 to 35 months and 21 cases involved delay of 36 to 85 months beyond stipulated period. The DRs did not comply with the Departmental instructions and the cases referred by the SRs involving Stamp duty and Registration fees of ₹ 4.90 crore were not finalised.

Similar observations were pointed out in Audit Reports for the years 2011-12 to 2015-16 but appropriate action was not taken by the Department to check the persistence of such irregularity. The Department did not enforce implementation of its own instructions of July 2004 regarding disposal of cases referred to DRs within prescribed time limit of three months.

During the exit conference (November 2017), the Department assured that appropriate action would be taken.

³ Agar Malwa, Ambah (Morena), Badnagar (Ujjain), Bagli (Dewas), Datia, Dewas, Dhar, Garoth (Mandsaur), Ganjabsoda (Vidisha), Gwalior I, Gwalior II, Hoshangabad, Indore IV, Jawad (Neemuch), Jirapur (Rajgarh), Manasa (Neemuch), Mehgaon (Bhind), Narsinghgarh (Rajgarh), Raisen, Rajpur (Badwani), Satna, Sanavad (Khargon), Sonkaksh (Dewas) and Susner (Agar).

Recommendation:

The Department should ensure compliance of its orders by District Registrars to dispose, within three months, all cases referred by Sub Registrars regarding determination of correct market value and duty leviable thereon.

6.7 Incorrect determination of market value

The SRs did not determine correct market value of the properties in 180 instruments which resulted in short levy of Stamp duty and Registration fees of ₹ 2.70 crore.

The Indian Stamp Act prescribes that if the registering officer, while registering any instrument, finds that the market value of any property set forth is less than the market value shown in the market value guidelines, he should, before registering such instruments, refer the same to the DR for determination of the correct market value of such property and duty leviable thereon. The District Collector issues market value guidelines every year for valuation of immovable properties.

Audit test checked 44,111 instruments registered between April 2009 and March 2016 in 38 SR⁴ offices and observed that in 180 instruments, the market value of the properties, as per guidelines, was ₹ 114.12 crore against registered value of ₹ 72.34 crore. Audit observed that the SRs incorrectly determined the market value of lands by treating commercial lands as commercial-cum-residential lands, roadside properties valued as off-road properties, developed plots valued as agricultural land, etc. The SRs levied Stamp duty of ₹ 4.48 crore on these properties against leviable duty of ₹ 6.83 crore, and Registration fees of ₹ 58.98 lakh against the leviable fees of ₹ 93.90 lakh. This resulted in short levy of ₹ 2.70 crore.

During the exit conference (November 2017), the Department informed that action was taken in 95 cases and ₹ 40 lakh recovered. The Department assured that DRs/SRs would be instructed to follow the Collector's guidelines and also strictly adhere to the provisions of Section 47-A of the Indian Stamp Act. Further progress in this regard would be watched in Audit.

Similar observations were pointed out in previous Audit Reports and the Department/Government have neither checked the persistence of such irregularity nor complied with the recommendations of the PAC (72nd Report, 2015-16 on Audit Report for the year 2006-07) to take action against the officers responsible for misclassification of instruments and application of incorrect rates of Stamp duty. Despite this, the Department failed to evolve an effective mechanism to check persistence of such irregularities.

⁴ Aasta (Sehore), Ajaygarh (Panna), Bakswaha (Chhatarpur), Bhabra (Alirajpur), Biaora (Rajgarh), Chanderi (Ashoknagar), Dabra (Gwalior), Datia, Devsar (Singrauli), Dhar, Gadawara (Narsinghpur), Ganjabsoda (Vidisha), Gwalior I, Gwalior II, Indore IV, Jabalpur I, Jabalpur II, Jawad (Neemuch), Kalapipal (Shajapur), Karera (Shivpuri), Kellaras (Morena), Kolaras (Shivpuri), Kurwai (Vidisha), Manasa (Neemuch), Manawar (Dhar), Nasrullaganj (Sehore), Navlakha (Indore II), Paribazar (Bhopal I), Raisen, Rajnagar (Chhatarpur), Rajpur (Badwani), Rampur Baghelan (Satna), Sanavad (Khargone), Shahdol, Shajapur, Sheopur, Sukhaliya (Indore III) and Vidisha.

6.8 Stamp duty and Registration fees levied at incorrect rates

Stamp duty and Registration fees of ₹ 1.22 crore was short realised on 46 instruments due to application of incorrect rates.

Audit test checked 41,674 instruments registered between April 2010 and March 2016 in 23 SR offices⁵ and found that in 46 instruments, Stamp duty and Registration fees were levied at incorrect rates due to incorrect categorisation of Power of Attorney (POA)⁶, wrong treatment of builder agreements as POA, title deed as loan agreement, gift deed⁷ as release deed⁸, etc. The SRs accepted these unduly stamped instruments for registration, which resulted in short levy of Stamp duty and Registration fees of ₹ 1.22 crore.

During the exit conference (November 2017), the Department accepted recovery in 11 cases out of which RRC was issued in nine cases, in one case recovery was pending and in one case amount of ₹ 5.95 lakh was recovered. Though the Department informed that eight cases were found correct by the DRs, revised orders were not provided to Audit. The action of the Department is insufficient in the remaining 27 cases pointed out by Audit. Documentary evidences and final action were awaited in all the cases (May 2018).

Similar irregularities relating to misclassification and incorrect application of rates were pointed out in previous Audit Reports also and despite discontent of the PAC (72nd Report, 2015-16 on Audit Report for the year 2006-07) on pendency (upto six years) of recovery in objected cases, the Department/Government has not evolved an effective mechanism to check the persistence of such irregularities.

6.9 Stamp duty and Registration fees on mining/other leases short realised

Stamp duty and Registration fees amounting to ₹ 1.13 crore was short realised in 11 mining leases and 10 other leases.

Audit test checked 196 mining lease deeds executed between January 2016 and February 2017 in six District Mining Offices⁹ and found that in six instruments of mining lease, the whole amount of royalty payable or deliverable under such lease, as mentioned in the approved mining plan, was not taken into consideration for determination of Stamp duty and Registration fees, while in five cases, Stamp duty and Registration fees was levied at the rates applicable before 14 January 2016.

⁵ Anuppur, Bijawar (Chhatarpur), Burhanpur, Dewas, Gwalior I, Indore I, Jabalpur I, Jabalpur II, Jawahar Chowk (Bhopal II), Jirapur (Rajgarh), Kalapipal (Shajapur), Karera (Shivpuri), Kukshi (Ddhar), Manawar (Dhar), Paribazar (Bhopal I), Raisen, Rajpur (Badwani), Rampur Baghelan (Satna), Rewa, Satna, Shahdol, Sukhaliya (Indore III) and Umariya.

⁶ POA is an instrument empowering a specified person to act for and in the name of the person executing it.

⁷ Gift deed is a deed by which a person transfer his own property to another as a gift.

⁸ Release deed is a deed by which one of the several co-owners of a property renounces his claim in favour of others.

⁹ Anuppur, Burhanpur, Shahdol, Sidhi, Harda and Hoshangabad.

Audit further test checked 3,402 lease deeds of five SR¹⁰ offices executed between April 2013 and March 2016 and found that in six lease deeds, Stamp duty and Registration fees was short levied due to underassessment of market value of land while in four cases rates applicable for lesser period of lease were applied.

Audit observed that an amount of ₹ 1.83 crore was leviable as Stamp duty and Registration fee against which ₹ 70.48 lakh was levied. The failure of the SRs to levy correct Stamp duty and Registration fees resulted in short realisation of ₹ 1.13 crore.

The Department intimated (November 2017) that in three cases of lease deeds other than mining lease, RRCs had since been issued. In case of mining leases, the Department intimated (January 2018) that final action taken by the DRs would be intimated. Further progress in this regard would be watched in Audit.

¹⁰ Chhatarpur, Dhar, Karera (Shivpuri), Navlakha (Indore II) and Sukhalia (Indore III).

CHAPTER – 7
LAND REVENUE

CHAPTER 7 LAND REVENUE

7.1 Tax administration

The Revenue Department is headed by the Principal Secretary at the Government level. The Principal Revenue Commissioner (PRC) is the Head of the Department and is assisted by the Commissioner, Settlement and Land Records (CSLR). Commissioners of Divisions exercise administrative and fiscal control over the districts included in the Division. In each district, the Collector administers the activities of the Department and is assisted by one or more sub-divisional officers in the rank of Assistant Collectors/ Joint Collectors/ Deputy Collectors as the case may be. Superintendents/Assistant Superintendents, Land Records (SLR/ASLR) are posted in the Collectorate for maintenance of revenue records and settlement. *Tahsildars/ Additional Tahsildars* are deployed in the *tahsils* as representatives of the Revenue Department. There are 10 revenue divisions (each headed by a Commissioner), 51 districts (each headed by a Collector) and 335 *tahsils* in the State.

As per provisions of Sections 58, 59 and 60 of the Madhya Pradesh Land Revenue Code, 1959, all land is liable to the payment of revenue to the State Government notwithstanding that such revenue may be described as premium¹, rent² or lease money³. When agricultural land is diverted to residential/ commercial purposes, diversion rent and premium are assessed and collected by the Sub Divisional Officers (SDO) and respective *Tahsildars*. *Nazul*⁴/ Government land are allotted on permanent and temporary lease on payment of premium and ground rent. *Panchayat upkar*⁵ (cess) is also levied on land revenue in respect of land situated in *panchayat areas*.

Land Revenue is regulated under the following Acts and Rules and notifications issued thereunder:

- Madhya Pradesh Land Revenue Code (MPLRC), 1959;
- Madhya Pradesh *Panchayat Raj Adhiniyam* (MPPRA), 1993;
- Madhya Pradesh *Upkar Adhiniyam*, 1982;
- Madhya Pradesh *Lokdhan (Shodhya Rashiyon Ki Vasuli) Adhiniyam* (MPLA), 1987; and
- Revenue Book Circular (RBC).

¹ Premium is lump sum amount payable for diversion of land use and for allotment of Government land on lease basis.

² Rent means whatever is paid or is payable in money or in kind - (i) by an occupancy tenant to his *bhumiswami* or (ii) by a Government lessee to the Government.

³ Lease money is the money given to the lessor by the lessee as per terms of the lease.

⁴ *Nazul* land is Government land which is used for the purpose of construction of public utilities viz., *bazaars* or entertainment places.

⁵ *Panchayat upkar* is levied on land situated in *gram panchayat areas*.

7.2 Trend of receipts

Trend of land revenue for the period 2012-13 to 2016-17 are given in Table 7.1.

Table 7.1
Trend of receipts of Land Revenue

(₹ in crore)

Year	Budget estimates	Actual receipts	Percentage of variation
2012-13	550.00	443.59	(-) 19.35
2013-14	572.00	366.23	(-) 35.97
2014-15	700.10	243.10	(-) 65.28
2015-16	500.00	276.86	(-) 44.63
2016-17	500.00	406.65	(-) 18.67

(Source: Finance Accounts and Budget Estimates of Government of Madhya Pradesh)

The Department attributed (March 2018) the significant increase of land revenue in 2016-17 to recovery of land revenue arrears by targeting large defaulters. Audit test checked the records of *Tahsil Huzur*, Bhopal, *Tahsil Vidisha* and *Tahsil Damoh* and confirmed that recovery of arrears of ₹ 92.59 lakh in 40 cases was made during 2016-17.

The Department intimated (April 2018) that the efforts were to be made by the District Collectors and the details of district wise recovery of arrears were not available with the PRC. Further, specific reasons for higher revenue receipts during 2012-13 were not intimated by the Department.

7.3 Internal Audit

The Department informed (September 2017 and May 2018) that there was no separate Internal Audit Wing (IAW) at PRC office. Divisional Commissioner offices perform internal audit of District offices including follow up of Internal Audit Inspection Reports. Further, higher authorities constitute inspection team for inspection of District offices and review the inspection reports submitted and issue directions for corrective actions. Further, through RCMS (Revenue Case Management System) software the inspection programmes and inspection notes uploaded by the inspection staff were being monitored at the PRC office and necessary instructions were issued by the higher authorities to the subordinates.

Scrutiny of inspection reports relating to internal audit conducted by the Divisional Commissioner, Bhopal in the offices of the *Tahsildar*, Raisen, *Tahsildar*, Khilchipur and the Collector, Raisen revealed that the observations on RRC cases, penalty cases and recovery of arrears were made during inspection by the Divisional Commissioner. However, observation like undervaluation of market value of land resulting in less realisation of diversion rent and premium, levy of cess on premium and ground rent, and deposit of process fees to Government account were not made during inspection.

Audit observed that there was no uniformity or consistency in the Department in the implementation of certain provisions of the MP Land Revenue Code including valuation of land and levy of *upkar* (cess) on land revenue that included both premium and rent.

7.4 Results of audit

Audit test checked during 2016-17, the records of 75 units (19 out of 51 Collectorates and 55 out of 335 *Tahsildar* offices and one office of the Principal Revenue Commissioner, Bhopal) out of 387 units relating to land revenue. Revenue generated by the Department during the year 2015-16 aggregated to ₹ 276.86 crore of which, the audited units collected ₹ 29 crore. Audit observed underassessment of revenue and other irregularities involving ₹ 759.65 crore in 1,97,028 cases which included arrears of Land Revenue of previous years also in respect of which the Department did not take appropriate action for recovery. These observations fall under the following categories as mentioned in **Table 7.2**.

Table 7.2
Results of Audit

(₹ in crore)

Sl. No.	Categories	No. of cases	Amount
1.	Incorrect application of rates resulting in loss of premium and ground rent and non-levy of <i>panchayat upkar</i> (cess) on premium or ground rent	250	3.08
2.	Lease in respect of <i>Nazul</i> land not renewed resulting in revenue loss to the Government	39,688	49.29
3.	Underassessment of diversion rent/premium	654	4.83
4.	Land revenue and <i>panchayat upkar</i> not deposited in the major head of accounts	113	122.00
5.	Failure to raise demands of diversion rent/ premium and penalty	17,497	5.99
6.	Process expense not levied/ realised	29,859	38.13
7.	Revenue recovery certificates not instituted	52	30.22
8.	Exemptions in land revenue without reasons	1,822	8.59
9.	Lease not executed or renewed	930	8.22
10.	Non-registration of leases of <i>Nazul</i> land	1,649	10.70
11.	Other observations (penalty not imposed on account of encroachment and unauthorised construction on agricultural land without diversion, inadequate action to recover arrears of land revenue after issue of RRCs)	1,04,514	478.60
Total		1,97,028	759.65

All observations were communicated to the Department between (May 2016 and May 2017). The Department accepted under-assessment and other irregularities of ₹ 23.21 crore in 2,066 cases. Demand notices have been issued in 393 cases and recovery of ₹ 78,610 has been intimated in two cases.

Recovery of ₹ 27.29 crore in 1,931 cases was made during 2016-17 in respect of Audit Report for the year 2010-11.

7.5 Follow up of previous Audit Reports

In the Audit Reports for the period from 2011-12 to 2015-16, Audit had pointed out various observations amounting to ₹ 270.18 crore in 43 paragraphs against which the Department recovered only ₹ 7.26 crore. Out of these 43 paragraphs, 32 paragraphs⁶ were selected by the Public Accounts Committee (PAC) between June 2014 and May 2017 for discussion, out of which, four paragraphs

⁶ 2011-12 (04), 2012-13 (01), 2013-14 (02), 2014-15 (24) and 2015-16 (01).

have been discussed. Reply of the Department in respect of 40 paragraphs has since been received through PAC. The PAC has already given its recommendations on similar paragraphs of ARs prior to 2011-12, compliance of which has still not been made by the Department as neither the time limit has been fixed for recovery in pending cases nor was persistence of such irregularities checked. Details of some observations which recurred despite being highlighted in previous Audit Reports and PAC recommendations are detailed in **Table 7.3**.

Table 7.3
Details of recovery by Department and PAC Recommendations in respect of previous Audit Reports

(₹ in crore)

Categories	Amount of paras printed during 2011-12 to 2015-16	Amount or recovery effected in respect of AR Paras	Previous recommendations ⁷ by PAC (26 th and 387 th Recommendation Reports on ARs 2008-09 and 2009-10 respectively)	Units in which observation recurred
Incorrect application of rates resulting in loss of premium and ground rent	1.06	0.19	The PAC instructed the Government and the Department to make available the revised assessment of objected properties and action taken thereon.	Gwalior
Under assessment of diversion rent/premium	115.40	0.27	The PAC instructed the Government and the Department to make available the revised assessment of objected properties and action taken thereon.	Bhopal, Chhindwara, Ratlam, Ujjain
Lease in respect of <i>Nazul</i> land not renewed resulting in revenue loss to Government	15.57	0	The PAC showed discontent on indifference of Departmental officers to its previous recommendations on the same issue and instructed the Department to issue necessary instructions to check repetition of this irregularity.	Bhopal
Process expense not levied/ realised	0.77	0.04	The PAC expressed its discontent on indifferent attitude of the Departmental officers towards revenue realisation. Further, PAC recommended that action be initiated against the officers responsible for non-recovery and establish monitoring system in collector offices.	Chhindwara, Indore
<i>Panchayat upkar</i> on diversion rent and premium not levied	16.81	2.6	The PAC recommended that the Government issue necessary orders to ensure that <i>panchayat upkar</i> is levied on premium in rural areas and time limit should be fixed to effect recovery.	Ujjain

⁷ 26th and 387th Recommendation Reports were made during the years 2014-15 and 2016-17 respectively.

Recommendation:

The Department is required to initiate measures to ensure that the recommendations of the PAC are complied with and similar instances of short-recovery/ non-recovery do not recur.

A few illustrative cases involving loss of Government revenue of ₹ 8.96 crore are mentioned in the following paragraphs:

7.6 Premium, ground rent, interest and penalty on *Nazul* permanent lease not recovered

Failure to recover premium of ₹ 2.24 crore in three cases, ground rent of ₹ 2.61 crore in 108 cases, interest of ₹ 42.20 lakh and penalty of ₹ 26.06 lakh on unpaid ground rent, resulted in short realisation of revenue of ₹ 5.53 crore.

The Revenue Book of Circulars (RBC) of Madhya Pradesh governs the allotment of government lands by the District Collector on full payment of lease premium in advance and annual ground rent. The Land Revenue Code (LRC) stipulates that if any instalment of land revenue is not paid within one month after the prescribed date, penalty not exceeding 100 *per cent* may be imposed in the case of wilful defaulter. Further, Government notification (11 July 2014) prescribes imposition of 15 *per cent* interest and 10 *per cent* penalty on belated payments of outstanding ground rent.

Audit test check (April 2016) of records⁸ 155 leases of *Nazul* land in Collector (*Nazul*) Ratlam revealed that in four lease agreements, the Collector allotted (between 1987-88 to 2012-13) government lands without deposit of full amount of premium by the lessee, resulting in premium of ₹ 2.68 crore pending for recovery besides penalty of ₹ 5.55 crore. After this was pointed out by Audit, one lessee deposited premium of ₹ 44.21 lakh (September 2016).

Audit further observed that ground rent of ₹ 2.61 crore was outstanding (October 2017) in respect of 108 lessees for which penalty at the rate of 10 *per cent* amounting to ₹ 26.06 lakh was also leviable. Audit calculated leviable interest on outstanding amount of annual ground rent (as on September 2017) in respect of 13 major defaulters (for the period from August 2014 to September 2017) which worked out to ₹ 42.20 lakh.

Thus, allotment of land by the Collector without deposit of premium by the lessees and failure of the *Tahsildar* to recover ground rent resulted in short recovery of premium of ₹ 2.24 crore and short/ non-recovery of ground rent of ₹ 2.61 crore besides interest of ₹ 42.20 lakh and penalty of ₹ 26.06 lakh on ground rent.

During the exit conference (November 2017), the Department replied that compliance report from the Collector, Ratlam was awaited. However, no recovery in objected cases was effected (May 2018) by the Collector, Ratlam.

⁸ Demand and collection register, individual case files and challans.

7.7 Underassessment of premium and ground rent

In four cases value of *Nazul* land was not assessed as per guidelines issued by the Collector which resulted in undervaluation of diversion rent and premium of ₹ 1.77 crore. Further, there was underassessment of diversion rent and premium amounting to ₹ 72.15 lakh in 86 other cases due to undervaluation of market rate of private land. Thus undervaluation of land resulted in short realisation of revenue amounting to ₹ 2.49 crore to the Government.

The RBC stipulates that, in all the cases of allotment of *Nazul* land on lease, premium and ground rent should compulsorily be calculated at the guideline rates approved by the Collector and allotment at lower rates would not be acceptable in any case. Further, the RBC provides for allotment of *Nazul* land to the Municipal Corporation/ Council for planned construction of market, complexes etc., and get regular income from these constructions, on payment of premium at 50 per cent and annual ground rent at 7.5 per cent of the value of land so assessed. In case of private land also, valuation of land is to be done on the basis of the market value guidelines of the Collector.

Audit observed (March 2017) during the audit of the Collector's office, Shivpuri that *Nazul* land was allotted (between October 2016 and December 2016) to Municipal Council, Shivpuri for the planned construction of four markets. The value of *Nazul* land in respect of all the four markets was not assessed as per the Collector's guidelines for market value calculation which resulted in revenue loss of ₹ 1.77 crore (premium of ₹ 1.54 crore and rent of ₹ 0.23 crore). In all the cases, the value of the first 500 square metre (m²) land was to be calculated at the rate of ₹ 8,500 per m² and the remaining land at the rate of ₹ 0.63 crore per hectare on the basis of Collector's guidelines. However, the Collector approved the proposed calculation of land at the rate of ₹ 0.63 crore per hectare for the entire land. This resulted in short realisation of ₹ 1.77 crore.

Further, audit test check of diversion case records in 10 Collectorates⁹ and 10 *Tahsil*¹⁰ offices decided between July 2016 and April 2017, revealed underassessment of diversion rent and premium in 86 cases out of total 1,385 diversion cases, resulting in short realisation of premium of ₹ 60.33 lakh and diversion rent of ₹ 11.82 lakh. In 80 cases, the market value of the entire land was assessed on the rates applicable to agricultural land in hectares, in three cases value was not assessed for the purpose for which the land was diverted and in three cases normal rates were applied on lands situated at the state/national highway, resulting in short realisation of revenue of ₹ 72.15 lakh.

In the exit conference (November 2017), the Department informed that compliance report from the Collectors and *Tahsildars* was awaited.

Audit had pointed out similar observations in all the previous Audit Reports but the Department had not issued necessary instructions to the revenue staff to adhere strictly to the market value guidelines issued by the Collector and

⁹ Agar Malwa, Anuppur, Ashoknagar, Dewas, Narsinghpur, Raisen, Sagar, Shivpuri, Ujjain and Umaria.

¹⁰ Alot (Ratlam), Aron (Guna), Bada Malhera (Chhatarpur), Damoh, Dewas, Guna, Khaniyadhana (Shivpuri), Kurwai (Vidisha), Piparia (Hoshangabad) and Rahatgarh (Sagar).

coordinate with the Department of Stamps and Registration to get the value of land assessed correctly.

Recommendation:

The Department may ensure that market value guidelines issued by the District Collectors are strictly adhered to while calculating premium and rent.

7.8 Panchayat upkar on diversion rent and premium not levied

In 311 cases relating to diversion of land situated in gram panchayat areas, the Collectorates and Tahsil offices did not levy and demand panchayat upkar on premium and in 42 cases upkar was not levied on diversion rent as well as premium, thus depriving the Government of revenue amounting to ₹ 96.59 lakh.

As per MP *Panchayat Raj Adhiniyam* read with the Land Revenue Code (LRC), land holders and Government lessees are required to pay *panchayat upkar* on premium as well as diversion rent on lands held by them in the *gram panchayat* area.

Audit test check of diversion cases decided between October 2010 and September 2016 in seven Collectorates¹¹ and nine *Tahsil*¹² offices revealed that, in 353 cases (out of 2,418 cases test-checked), *upkar* of ₹ 96.59 lakh on diversion rent and premium was not levied though the land was situated in *gram panchayat* area. Out of these 353 cases, in 311 cases, *upkar* was levied on diversion rent but not on premium, while in 42 cases it was not levied either on diversion rent or premium.

In the exit conference (November 2017), the Department informed that compliance report from the concerned Collectors and *Tahsildars* was awaited.

In this connection, it is to be pointed out that though similar observations were made in the Audit Reports of 2014-15 and 2015-16, and the Department also accepted the findings during the respective exit conferences (September 2015 and September 2016), no action to enforce the levy and collection of *panchayat upkar* has been taken. Further the PAC had also recommended (387th Recommendation Report for Audit Report 2009-10) that the Government should issue necessary orders to ensure that *panchayat upkar* is levied on premium in rural areas and time limit should be fixed to effect recovery. Such orders are yet to be issued by the Department.

¹¹ Ashoknagar, Burhanpur, Damoh, Jhabua, Narsinghpur, Raisen and Shivpuri.

¹² Ashta (Sehore), Badnagar (Ujjain), Damoh, Hujur (Rewa), Kasrawad (Khargone), Moman Badodiya (Shajapur), Pipariya (Hoshangabad), Tikamgarh, and Thikri (Barwani).

CHAPTER – 8
TAXES ON VEHICLES

CHAPTER 8 TAXES ON VEHICLES

8.1 Tax administration

The Transport Department functions under the overall charge of the Principal Secretary (Transport). The Transport Commissioner (TC) administers and monitors the issue of driving licences/permits and levy and collection of taxes/fees/penalties on vehicles. He is assisted by one Additional Transport Commissioner (Enforcement), two Joint Transport Commissioners (Administration/Finance), three Deputy Transport Commissioners and an Internal Audit Wing at headquarters level. There are 10 Divisional Deputy Transport Commissioners, 10 Regional Transport Offices (RTOs), 10 Assistant Regional Transport Offices (ARTOs) and 31 District Transport Offices (DTOs) at the field level. The Additional Transport Commissioner (Enforcement) monitors the computerisation activities in the Department. RTOs/ARTOs/DTOs are Taxation Authorities (TAs).

Taxes on vehicles are collected under the provisions of the following Acts, Rules and notifications issued thereunder:

- The Motor Vehicles Act, 1988 (MV Act);
- The Central Motor Vehicles Rules, 1989 (CMV Rules);
- Madhya Pradesh *Motoryan Karadhan Adhiniyam*, 1991 (*Adhiniyam*) and;
- Madhya Pradesh *Motoryan Karadhan Niyam*, 1994 (*Niyam*).

8.2 Trend of receipts

Budget estimates and the actual receipts from taxes on vehicles during the period 2012-13 to 2016-17 are detailed in **Table 8.1**.

Table 8.1
Trend of receipts

(₹ in crore)

Year	Budget estimates	Actual receipts	Percentage of variation
2012-13	1,400.00	1,531.25	(+) 9.38
2013-14	1,650.00	1,598.93	(-) 3.10
2014-15	2,000.00	1,823.84	(-) 8.81
2015-16	2,300.00	1,933.57	(-) 15.93
2016-17	2,500.00	2,251.51	(-) 9.94

(Source: Finance Accounts and Budget Estimates of Government of Madhya Pradesh)

Increase in revenue receipts during 2016-17 was due to increase in number of registrations of BS-III series vehicles during March 2017, increase in tax rates since December 2016 and recovery of old arrears of ₹ 165.35 crore following the declaration of the year 2016-17 as “Old arrear and Audit revenue recovery year”.

8.3 Internal Audit

The Internal Audit Wing (IAW) of the Department functions under the supervision of Joint Transport Commissioner (JTC) (Finance). During 2016-17,

the Department planned 39 field units for internal audit, however, audit of only 17 units was completed.

Audit observed that the Department had no separate staff for IAW due to which there was a shortfall in the internal audit of units planned during 2016-17 and the staff posted at the TC office conduct internal audit along with their regular work related to budget, account and establishment. Eight posts of AAOs were sanctioned for the office of the TC against which there were only four AAOs and the remaining four posts of AAOs were vacant.

Audit further observed that the TC had requested (October 2011 and December 2016) the Principal Secretary, Transport Department to fill the vacancies of four posts of AAOs in the Commissioner office. However, Government had not recruited AAOs in the Department.

Recommendation:

The Government should strengthen IAW by providing dedicated staff.

8.4 Results of audit

Audit test-checked records of 37 units (Office of Transport Commissioner, 12 RTOs, eight ARTOs and 16 DTOs) out of 52 units of Transport Department in the year 2016-17. Revenue generated by the Department during the year 2015-16 aggregated to ₹ 1,933.57 crore of which, the audited units collected ₹ 1,412.39 crore. Audit examined records of 98,439 vehicles out of total 1,21,722 vehicles registered in the test-checked units during the period covered in Audit and observed underassessment of tax and other irregularities involving ₹ 76.96 crore in 61,958 cases which fall under the categories mentioned in **Table 8.2**.

**Table 8.2
Results of Audit**

(₹ in crore)

Sl. No.	Categories	Number of cases	Amount
1.	Vehicle tax and penalty on public service vehicles not levied/short levied	25,021	24.65
2.	Vehicle tax and penalty on goods vehicles not levied/short levied	3,116	13.21
3.	Vehicle tax and penalty on maxi cab vehicles not levied/short levied	1,493	12.25
4.	Others	32,328	26.85
Total		61,958	76.96

The audit observations were forwarded (between April 2016 and February 2017) to the Department. The Department accepted underassessment and other deficiencies of ₹ 22.47 crore in 5,863 cases which were pointed out during 2016-17 and made recovery of ₹ 18.97 lakh in 61 cases.

During 2016-17, the Department recovered ₹ 53.12 lakh in 192 cases in respect of two paragraphs (involving ₹ 1.51 crore in 379 cases) of Audit Report for the year 2012-13.

8.5 Follow up of previous Audit Reports

In the Audit Reports for the period from 2011-12 to 2015-16, Audit had pointed out various observations amounting to ₹ 92.67 crore in 57 paragraphs against which recovery of ₹ 4.75 crore only was effected by the Department. Out of these 57 paragraphs, 24 paragraphs were selected by the Public Accounts Committee (PAC) for discussion. The PAC discussed 10 paragraphs of Audit Reports 2011-12 to 2013-14. The PAC has already given its recommendations on four paragraphs of Audit Report 2011-12 and similar paragraphs of ARs prior to 2011-12. The directions were-(i) The Department should take prompt action and recover tax and penalty within fixed time limit, (ii) The Department should initiate action against officers who did not take timely action to recover the dues.

The Department, however, has not complied with the recommendations.

Recommendations:

The Department should immediately comply with the recommendations of the PAC to effect recovery of tax and penalty and fix responsibility on defaulting officers.

8.6 Vehicle tax and penalty not realised

Vehicle tax of ₹ 20.28 crore and penalty of ₹ 11.65 crore in respect of 5,559 vehicles of various categories was not levied /short levied.

The *Adhiniyam* prescribes rates of tax to be levied on various categories of vehicles used or kept for use in the State and stipulates that in cases of non-payment of tax by the owner of the vehicle within the prescribed period, penalty is to be imposed at the rate of four *per cent* per month on the unpaid amount of tax subject to maximum of twice the amount of tax. The Taxation Authority (TA) shall serve on such owner, who does not pay tax, penalty or interest, a notice for the sum payable and recover the same as arrears of land revenue by attaching and selling the vehicles and accessories thereof for the recovery dues.

Audit test-checked (between April 2016 and March 2017) records of 12 RTOs¹, eight ARTOs² and 11 DTOs³ and found that vehicles tax was not paid or short paid for the period between October 2010 and March 2016 by the vehicle owners for 5,559 vehicles⁴, which was 16.09 *per cent* of the test checked 34,551 vehicles. There was nothing on record to show that the vehicles were declared off road or transferred to any other District/State. The TAs did not issue demand notices for the outstanding amount and did not take action to seize/detain motor

¹ RTOs – Alirajpur, Bhopal, Hoshangabad, Gwalior, Indore, Jabalpur, Morena, Rajgarh, Rewa, Sagar, Shahdol and Ujjain.

² ARTOs – Chhindwara, Dhar, Guna, Katni, Khandwa, Khargone, Mandsaur and Satna.

³ DTOs – Agar Malwa, Ashoknagar, Balaghat, Barwani, Betul, Dewas, Neemuch, Shivpuri, Sidhi, Singrauli and Umaria.

⁴ Goods Vehicles (2,175), Public Service Vehicles kept as reserve (644), Earthmover/Harvester (662), Maxicabs/Taxicabs (1,285), Stage Carriage vehicles (404), All India Tourist Permit Vehicles (54), Ambulance (82) and Public Service Vehicles (253).

vehicles for non-payment of tax. As a result, tax of ₹ 20.28 crore and penalty of ₹ 11.65 crore on the unpaid amount of tax was not realised.

During the exit conference (November 2017), the Department accepted the audit observation and assured that updated recovery position would be intimated. Progress in this regard would be watched in audit.

Similar observation were pointed out in Audit Reports for the years 2011-12 to 2015-16 but appropriate action was not taken by the Department to check the persistence of such irregularities. The PAC had also directed (29th Report, 2014-15 on the Audit Report for the year 2009-10) the Transport Department to recover the outstanding tax and penalty within fixed time limit and initiate action against officers who did not take timely action to recover the dues. Despite this, the Department failed to evolve an effective mechanism to ensure that Vehicle taxes are collected fully and defaulters are not allowed to escape the payment of tax and penalty.

Recommendation:

The Department may evolve a mechanism to ensure that Vehicle Taxes are collected fully and defaulters are not allowed to escape the payment of tax and penalty.

8.7 Incorrect levy of tax on private service vehicles

Vehicle tax was incorrectly levied on 1,532 private service vehicles at rates applicable to educational institution buses, resulting in short realisation of revenue of ₹ 10.53 crore.

The MV Act defines the “Educational Institution Bus” as an omnibus, which is owned by a college, school or other educational institution and used solely for the purpose of transporting students or staff of the educational institution in connection with any of its activities. It further provides that “owner” means a person in possession of the vehicle under an agreement of lease or hypothecation. Tax on educational institution buses, is to be levied at concessional rate of ₹ 30 per seat per quarter (₹ three per seat per quarter from October 2014). On the other hand, Private Service Vehicle having seating capacity of more than six persons excluding the driver which are ordinarily used in connection with trade or business of the owner but not for public purpose are taxed at the rate of ₹ 450 per seat per quarter (₹ 480 per seat per quarter from October 2014).

Audit test checked (between April 2016 and February 2017) records of 5,723 vehicles in 18 offices⁵ for the period between April 2013 to March 2016 and found that TAs levied vehicle tax at the rate prescribed for educational institution buses on 1,532 vehicles which were not owned by a college, school or other educational institution or leased out to educational institution. Out of these 1,532 objected vehicles 1,053 were registered in the names of Educational societies, Committees and Trusts while the remaining 479 vehicles were registered in the names of individuals.

⁵ **DTO** Agar Malwa, Balaghat, Barwani, Dewas, Neemuch and Umaria.
RTO Bhopal, Gwalior, Hoshangabad, Indore, Morena and Ujjain.
ARTO Dhar, Khandwa, Khargone, Mandsaur, Rewa and Satna.

Application of incorrect rate of tax by TAs resulted in short realisation of vehicle tax of ₹ 10.53 crore comprising of ₹ 7.12 crore in respect of Educational societies, Committees and Trusts and ₹ 3.41 crore in respect of private individuals.

During the exit conference (November 2017), the Department did not agree with the audit observation regarding imposition of tax at concessional rates on vehicles registered in the names of Educational societies, Committees and Trusts. However, it was assured that henceforth vehicles registered in the names of Educational societies, Committees and Trusts shall be leased out to the principals of the institutions but no such orders have been issued by the Department so far (May 2018).

The reply is not acceptable. As per provisions of the MV Act, besides usage of vehicle, ownership of the vehicle with the educational institution was necessary for grant of concessional rate of tax. The Department did not furnish reply in the remaining cases where the vehicles were registered in the names of private individuals.



(BHAWANI SHANKAR)

Accountant General

(Economic & Revenue Sector Audit)

Madhya Pradesh

Bhopal
The 24 July 2018

Countersigned



(RAJIV MEHRISHI)

Comptroller and Auditor General of India

New Delhi
The 30 July 2018

APPENDICES

Appendix I

(Referred to in paragraph 2.5.10.1)

Distillery wise supply area of Country Spirit for the period 2012-13 to 2016-17

Year	Associated Alcohol and Breweries Ltd., Khargone	Jagpin Breweries Ltd., Chhatarpur	Gwalior Distilleries Ltd., Gwalior	Som Distilleries Pvt. Ltd., Raisen	Kedia Great Galeon Ltd., Dhar	Agrawal Breweries, Khargone	Vindhyachal Distilleries Pvt. Ltd., Rajgarh	Oasis Distilleries Ltd., Dhar	Total Districts
2012-13	Barwani, Dindori, Khargone, Ratlam, Rewa, Satna, Seoni, Sidhi, Singrauli, Ujjain.	Anuppur, Chhatarpur, Panna, Tikamgarh.	Bhind, Datia, Gwalior, Harda, Jabalpur, Katni, Morena, Sheopur.	Chhindwara, Damoh, Dewas, Raisen, Sagar, Shahdol, Shajapur, Vidisha.	Alirajpur, Balaghat, Dhar, Hoshangabad, Indore, Jhabua, Mandla, Narsinghpur.	Burhanpur, Khandwa, Umaria.	Bhopal, Betul, Rajgarh, Sehore.	Ashoknagar, Guna, Mandasaur, Neemuch, Shivpuri.	50
2013-14	Barwani, Dindori, Khargone, Ratlam, Rewa, Satna, Seoni, Sidhi, Singrauli, Ujjain.	Anuppur, Chhatarpur, Panna, Tikamgarh.	Bhind, Datia, Gwalior, Harda, Jabalpur, Katni, Morena, Sheopur.	Chhindwara, Damoh, Dewas, Raisen, Sagar, Shahdol, Shajapur, Vidisha.	Alirajpur, Balaghat, Dhar, Hoshangabad, Indore, Jhabua, Mandla, Narsinghpur.	Burhanpur, Khandwa, Umaria.	Bhopal, Betul, Rajgarh, Sehore.	Ashoknagar, Guna, Mandasaur, Neemuch, Shivpuri.	50
2014-15	Anuppur, Barwani, Harda, Khargone, Ratlam, Rewa, Satna, Seoni, Sidhi, Ujjain.	Chhatarpur, Panna, Singrauli, Tikamgarh.	Bhind, Datia, Gwalior, Hoshangabad, Jabalpur, Katni, Morena, Sheopur.	Agar, Chhindwara, Damoh, Dewas, Dindori, Raisen, Sagar, Shajapur, Vidisha.	Alirajpur, Balaghat, Dhar, Indore, Jhabua, Mandla, Narsinghpur.	Burhanpur, Khandwa, Umaria, Shahdol.	Ashok Nagar Bhopal, Rajgarh, Sehore.	Betul, Guna, Mandasaur, Neemuch, Shivpuri.	51
2015-16	Barwani, Khargone, Ratlam, Rewa, Satna, Seoni, Sidhi, Ujjain.	Anuppur Chhatarpur Harda, Panna, Singrauli, Tikamgarh.	Bhind, Datia, Gwalior, Dindori, Jabalpur, Katni, Morena, Shajapur, Sheopur.	Chhindwara, Dewas, Hoshangabad, Narsinghpur, Raisen, Sagar, Vidisha.	Alirajpur, Balaghat, Betul, Dhar, Indore, Jhabua, Mandla, Umaria.	Agar, Damoh, Khandwa.	Bhopal, Rajgarh, Sehore, Shahdol.	Ashok Nagar, Burhanpur, Guna, Mandasaur, Neemuch, Shivpuri.	51
2016-17	Barwani, Khargone, Ratlam, Rewa, Satna, Seoni, Sidhi, Ujjain.	Anuppur, Chhatarpur, Panna, Singrauli, Tikamgarh.	Bhind, Datia, Dindori, Gwalior, Jabalpur, Katni, Morena, Shajapur, Sheopur.	Chhindwara, Dewas, Hoshangabad, Narsinghpur, Raisen, Sagar, Vidisha.	Alirajpur, Balaghat, Betul, Dhar, Indore, Jhabua, Mandla, Umaria.	Agar, Damoh, Khandwa.	Bhopal, Rajgarh, Sehore, Shahdol.	Ashok Nagar, Burhanpur, Guna, Harda, Mandasaur, Neemuch, Shivpuri.	51

Appendix II
(Referred to in paragraph 2.5.10.1)
Excess payment made by Government on procurement of Plain country liquor
(Comparison with Rajasthan Beverages Corporation¹)

(Amount in ₹)

	2012-13		2013-14		2014-15		2015-16		2016-17	
	PET	Glass	PET	Glass	PET	Glass	PET	Glass	PET	Glass
Total Proof litre	4,53,65,277.35	64,91,405.50	3,49,34,253.85	1,92,59,309.20	5,96,02,074	61,08,394.70	7,49,63,237.50	27,69,857	7,07,77,269	19,66,036.50
Boxes Sold	1,00,81,173	14,42,535	77,63,168	42,79,846	1,32,44,905	13,57,421	1,66,58,497	6,15,524	1,57,28,282	4,36,897
Rates (M.P.)	323.46	363.28	349.46	392.32	379.57	425.37	378.75	423.55	397.76	444.55
Rates (Rajasthan)	286.46	286.46	286.46	286.46	314.04	314.04	334.01	334.01	334.01	334.01
Rate Difference	37.00	76.82	63.00	105.86	65.53	111.33	44.74	89.54	63.75	110.54
Excess Payment	37,30,03,401	11,08,15,539	48,90,79,584	45,30,64,498	86,79,38,625	15,11,21,679	74,53,01,156	5,51,14,019	1,00,26,77,978	4,82,94,594
Total										4,29,64,11,073

¹ Rajasthan only permits bottling and sale of Plain country liquor.

Appendix III
(Referred to in paragraph 2.5.10.1)
Excess payment made by Government on procurement of Masala country liquor
(Comparison with Excise Department of Uttar Pradesh²)

(Amount in ₹)

	2012-13		2013-14		2014-15		2015-16		2016-17	
	PET	Glass	PET	Glass	PET	Glass	PET	Glass	PET	Glass
Total Proof litre	3,52,62,331	67,55,129	2,45,96,544	1,55,09,091	3,86,10,696	50,81,829	4,05,53,483	14,76,432	5,66,49,220	15,73,587
Boxes Sold	52,24,049	10,00,760	36,43,932	22,97,643	57,20,103	7,52,864	60,07,923	2,18,731	83,92,477	2,33,124
Rates (M.P.)	382.72	422.78	413.72	456.78	448.82	495.80	447.78	494.49	470.82	519.49
Rates (U.P.)	350.22	350.22	344.92	344.92	378.24	378.24	390.02	390.02	400.00	400.00
Rate Difference	32.50	72.56	68.80	111.86	70.58	117.56	57.76	104.47	70.82	119.49
Excess Payment	16,97,81,593	7,26,15,146	25,07,02,522	25,70,14,346	40,37,24,870	8,85,06,692	34,70,17,632	2,28,50,828	59,43,55,221	2,78,55,987
									Total	2,23,44,24,742

² Uttar Pradesh only permits sale of Masala country liquor.

Appendix IV
(Referred to in paragraph 2.510.2)
Comparison of base rates per box for four categories of country liquor in MP with approved rates of neighbouring states

(Amount in ₹)

Year	Bottle type	Plain country liquor			Masala country liquor		
		MP	Rajasthan	Difference	MP	UP	Difference
2015-16	PET	380.00	334.01	45.99	449.00	390.02	58.98
	Glass	425.00	334.01	90.99	496.00	390.02	105.98
2016-17	PET	380.00	334.01	45.99	449.00	400.00	49.00
	Glass	425.00	334.01	90.99	496.00	400.00	96.00

GLOSSARY

Glossary of abbreviations	
AA	Assessing Authority
AC	Assistant Commissioner
ACCT	Assistant Commissioner Commercial Tax
ACM	Audit Committee Meeting
ACTO	Assistant Commercial Tax Officer
ADEO	Assistant District Excise Officer
AEB	Anti-Evasion Bureau
AEC	Assistant Excise Commissioner
AO	Accounts Officer
ARTO	Additional Regional Transport Office
IAW	Internal Audit Wing
ATR	Action Taken Report
BL	Bulk Litre
CCT	Commissioner of Commercial Tax
CMVR	Central Motor Vehicles Rules
CSLR	Commissioner, Settlement and Land Records
CIAE	Central Institute of Agricultural Engineering
CST	Central Sales Tax
CTD	Commercial Tax Department
CTO	Commercial Tax Officer
CMV	Central Motor Vehicle
DC	Deputy Commissioner
DCCT	Deputy Commissioner Commercial Tax
DEC	Deputy Excise Commissioner
DEO	District Excise Officer
DGM	Deputy General Manager
DGM	Director, Geology and Mining
DEIAA	District Level Environment Impact Assessment Authority
DIGR	Deputy Inspector General, Registration
DMO	District Mining Office
DMF	District Mineral Foundation
DR	District Registrar
DTO	District Transport Office
ED	Electricity Duty
EMP	Environment Management Plan
E-in-C	Engineer-in-Chief
EC	Environmental Clearance
EDC	Energy Development Cess
EE	Executive Engineer
ET	Entry Tax
ENA	Extra Neutral Alcohol

EVC	Excise Verification Certificate
FCI	Food Corporation of India
GR	Gross Receipt
GoI	Government of India
GTO	Gross Turnover
HSN	Harmonised System of Nomenclature
IGR	Inspector General, Registration
IAC	Internal Audit Cell
IAW	Internal Audit Wing
IR	Inspection Report
IS	Indian Stamp
ITR	Input Tax Rebate
IGRS	Inspector General, Registration and Superintendent of Stamps
JIGR	Joint Inspector General, Registration
JTC	Joint Transport Commissioner
LPG	Liquefied Petroleum Gas
LRC	Land Revenue Code
MV Act	Motor Vehicles Act
MoU	Memorandum of Understanding
MPLA	Madhya Pradesh Lokdhan (<i>Shodhya Rashiyon Ki Vasuli Adhinyam</i>)
MMDR Act	Mines and Minerals (Development and Regulation) Act
MCM	Million Cubic Metre
MPFC	Madhya Pradesh Finance Code
MPFL	Madhya Pradesh Foreign Liquor
MPBWR	Madhya Pradesh Breweries and Wine Rules
MPLRC	Madhya Pradesh Land Revenue Code
MPIR	Madhya Pradesh Irrigation Act
MPFLR	Madhya Pradesh Foreign Liquor Rules
MPPRA	Madhya Pradesh <i>Panchayat Raj Adhinyam</i>
MPMMR	Madhya Pradesh Minor Mineral Rules
MPTC	Madhya Pradesh Treasury Code
MPSMCL	Madhya Pradesh State Mining Corporation Limited
MPCSR	Madhya Pradesh Country Spirit Rules
MTPA	Million Tonnes Per Annum
NMET	National Mineral Exploration Trust
NMDC	National Mineral Development Corporation
NOC	No Objection Certificate
PA	Performance Audit
PCB	Pollution Control Board
PAC	Public Accounts Committee
PL	Proof Litre

POA	Power of Attorney
PRC	Principal Revenue Commissioner
RBC	Revenue Book Circular
RRC	Revenue Recovery Certificate
RSA	Revenue Sector Audit
RS	Rectified Spirit
RTOs	Regional Transport Offices
SD	Stamp Duty
SDO	Sub Divisional Officers
SDR	Senior District Registrar
SLR	Superintendent Land Record
STA	State Transport Authority
SSMMG	Sustainable Sand Mining Management Guidelines
SR	Sub Registrar
SEIAA	State Environment Impact Assessment Authority
TA	Taxation Authority
TAW	Tax Audit Wing
TC	Transport Commissioner
TDS	Tax Deducted at Source
TIN	Tax Identification Number
TMT	Thermo Mechanical Treatment
TTO	Taxable Turnover
VSAT	Very Small Aperture Terminal
VAT	Value Added Tax
VATIS	Value Added Tax Information System
WRD	Water Resources Department

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