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LEGISLATURE ON 12.AUG.2014

REPORT OF THE
COMPTROLLER AND AUDITOR GENERAL OF INDIA
ON
REVENUE SECTOR

FOR THE YEAR ENDED MARCH 2013

GOVERNMENT OF TAMIL NADU

Report No. 2 of 2014

SECRET
CONFIDENTIAL

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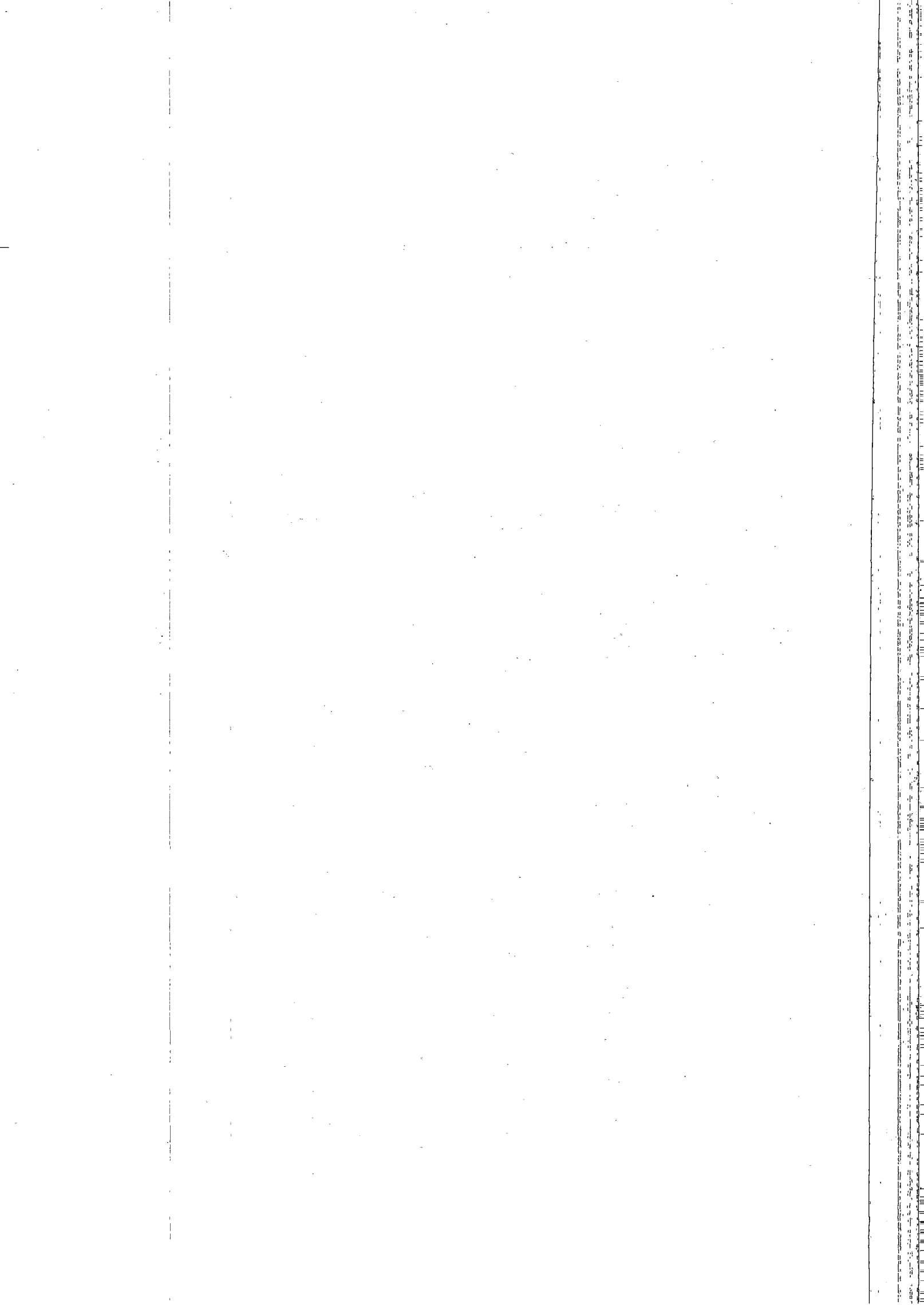
PREFACE

This Report is prepared for submission to the Governor of the State of Tamil Nadu under Article 151 of the Constitution of India.

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

The cases mentioned in this Report are among those which came to notice in the course of test audit of records during the year 2012-13 as well as those noticed in earlier years, but could not be reported in the previous Audit Reports; matters relating to the period subsequent to 2012-13 have also been included, wherever necessary.

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



OVERVIEW

The Report contains 18 paragraphs including two Performance Audits relating to non/short levy of taxes, royalty, interest, penalty, etc., involving ₹ 171.25 crore. Some of the major findings are mentioned below:

I General

The total revenue receipts of the State during 2012-13 were ₹ 98,827.70 crore, comprising tax revenue of ₹ 71,254.27 crore and non-tax revenue of ₹ 6,554.26 crore. ₹ 14,519.69 crore was received from the Government of India as State's share of divisible Union taxes and ₹ 6,499.48 crore as grants-in-aid. The revenue raised by the State Government in 2012-13 was 79 per cent of the total revenue receipts as compared to 77 per cent in 2011-12. Sales tax (₹ 44,041.13 crore) formed a major portion (62 per cent) of the tax revenue of the State. Interest receipts, dividends and profits (₹ 2,053.88 crore) accounted for 31 per cent of the non-tax revenue.

(Paragraph 1.1)

Test check of records relating to commercial taxes, state excise, motor vehicles tax, stamp duty and registration fees, electricity tax and mines and minerals during the year 2012-13 revealed underassessments, short levy, loss of revenue and other observations amounting to ₹ 1,635.97 crore in 1,828 cases.

(Paragraph 1.5.1)

II Sales Tax / Value Added Tax

"Cross verification of import data obtained from the Customs Department" revealed the following:

- The existing system in the Commercial Taxes Department to ensure proper accounting and disclosure of imports by dealers is deficient in identifying tax evaders, detecting suppression of turnover and consequent evasion of tax.

(Paragraph 2.13.2)

- Sixty six dealers of 23 assessment circles who imported goods worth ₹ 904.67 crore during the years 2008-09 to 2011-12 did not file returns with the Commercial Taxes Department. The tax and penalty leviable on the turnover not disclosed by the dealers worked out to ₹ 48.91 crore and ₹ 73.37 crore respectively.

(Paragraph 2.13.3.1)

- Sixteen dealers of 12 assessment circles who imported goods worth ₹ 89.49 crore during the years 2008-09 to 2011-12 did not disclose any turnover of purchase and sales in the returns filed by them with the Commercial Taxes Department. The tax and penalty leviable on the turnover which was not disclosed by the dealers worked out to ₹ 6.42 crore and ₹ 9.63 crore.

(Paragraph 2.13.3.2)

- Seven dealers of five assessment circles did not disclose the entire turnover of import in the returns filed by them with the Commercial Taxes Department. The tax and penalty leviable on the turnover which was not disclosed by the dealers worked out to ₹ 2.90 crore and ₹ 4.35 crore respectively.

(Paragraph 2.13.3.2)

Other observations

In eight assessment circles involving 17 cases, there were irregularities in claim of ITC of ₹ 75.48 lakh.

(Paragraph 2.15.2)

Non/short reversal of ITC of ₹ 1.67 crore was noticed in 27 cases involving sale of goods to SEZ situated in other States, inter-State sales not covered by declaration forms and stock transfer of goods to other States.

(Paragraph 2.15.3)

III Stamp duty and Registration fees

Performance Audit on “Implementation of Computerisation in the Registration Department” revealed the following:

- The computerisation initiative undertaken by the Department is yet to be completed due to adhoc planning and non-monitoring of implementation. There was delay of eight years in computerisation of the offices covered in Phase IV. Web based software is yet to be developed.

(Paragraph 3.8.7.1)

- Non-utilisation of software resulted in non-sharing of information between Sub Registrar Offices and the Taluk offices.

(Paragraph 3.8.7.1)

- Non-mapping of business rules in the system even after 13 years of its inception necessitates the need for manual intervention in collection of stamp duty in case of partition deed and in collection of late fee for delay in presentation of document for registration.

(Paragraph 3.8.7.2)

- Absence of input controls/validation checks and incomplete data led to deficient data quality.

(Paragraph 3.8.8.1)

- Deficiencies in programming logic gave scope for generation of multiple receipts with same serial number and risk of generation of incomplete encumbrance certificate.

(Paragraph 3.8.8.3)

- Inadequate security controls resulted in modification of registration details without authorisation by superior officers. There was also no audit trail for collection of fee.

(Paragraph 3.8.9.2)

- More than 1,571 e-stamps issued under the e-stamping system were not locked though system requires the same to be locked to prevent re-use or misuse.

(Paragraph 3.8.10.1)

“Pendency of documents for valuation with the District Revenue Officer (Stamps)/Special Deputy Collector (Stamps)” revealed the following:

- Delay in assessment and determination of market value of instruments in 1,116 cases resulted in blocking of revenue of ₹ 139.67 crore due to the Government.

(Paragraph 3.9.5)

- Action was not taken for determination of market value of 99 instruments which were returned under the orders of Court.

(Paragraph 3.9.7)

- Due process for recovery of deficit stamp duty arrears under the Revenue Recovery Act was not initiated by the DRO (Stamps)/SDC (Stamps).

(Paragraph 3.9.8)

Other observations

Misclassification of instruments of Conveyance as Cancellation Deeds resulted in short realisation of stamp duty and registration fees of ₹ 17.82 lakh.

(Paragraph 3.11.1)

In seven cases though the executants were not members or were members of Co-operative Societies for a period less than two years, exemption from payment of stamp duty was allowed which resulted in non-realisation of stamp duty of ₹ 2.55 crore.

(Paragraph 3.11.4.1)

The notification granting remission of stamp duty issued under the Tamil Nadu Co-operative Societies Act, 1961 was incorrectly applied to societies registered under the Multi-State Co-operative Societies Act, 2002 which resulted in non-realisation of stamp duty of ₹ 1.47 crore.

(Paragraph 3.11.4.2)

Stamp duty and registration fees of ₹ 1.03 crore was short levied due to under valuation of properties in 56 instruments.

(Paragraph 3.11.5)

IV Taxes on Vehicles

Adoption of incorrect rate of tax resulted in short collection of motor vehicle tax of ₹ 36.58 lakh

(Paragraph 4.9.1)

V Non Tax Receipts

Mines and Minerals

Performance Audit of “**Mining activities in the State**” revealed the following:

- There existed delay in disposing applications for grant of fresh leases/renewal of existing leases.

(Paragraph 5.5.8.1)

- There was short realisation of royalty of ₹ 1.10 crore in respect of removal of four minerals during the years from 2008-09 to 2012-13 by 64 lessees as the system of levy of royalty based on Indian Bureau of Mines declared values was not adopted.

[Paragraph 5.5.10.1(i)]

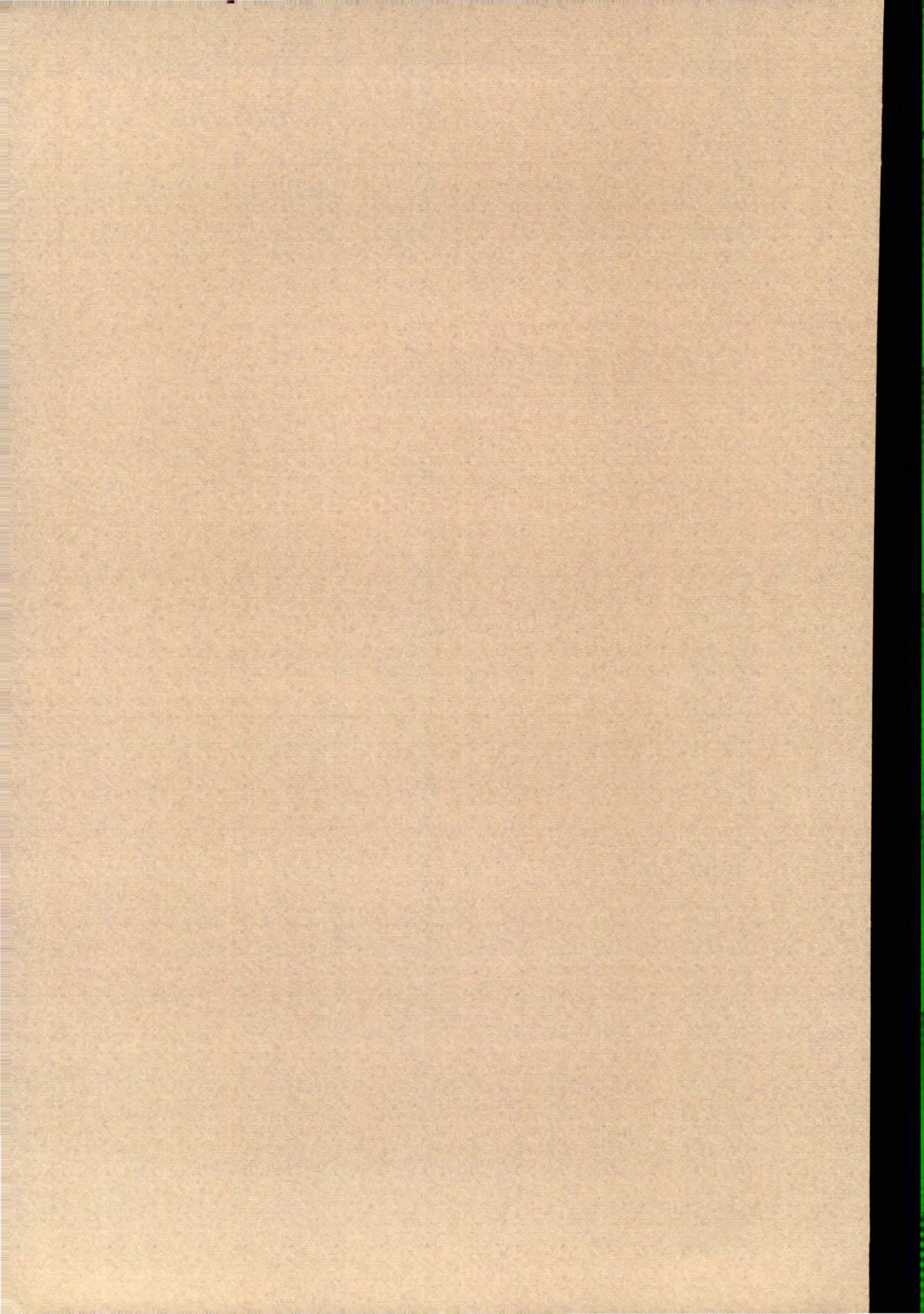
- Non-monitoring of the sale price declared by lessees of beach sand minerals to the Indian Bureau of Mines led to less realisation of royalty in respect of mineral ‘Garnet’.

(Paragraph 5.5.10.2)

- Non-monitoring of submission of returns and inadequate inspections of mines rendered the internal control system weak.

(Paragraph 5.5.12)

CHAPTER I
GENERAL



CHAPTER I

GENERAL

1.1 Trend of revenue receipts

1.1.1 The tax and non-tax revenue raised by the Government of Tamil Nadu during the year 2012-13, the State's share of net proceeds of divisible Union taxes and duties assigned to States and grants-in-aid received from the Government of India during the year and the corresponding figures for the preceding four years are mentioned below:

(₹ in crore)

Sl. No.	Particulars	2008-09	2009-10	2010-11	2011-12	2012-13
1.	Revenue raised by the State Government					
	• Tax revenue	33,684.37	36,546.66	47,782.17	59,517.66	71,254.27
	• Non-tax revenue	5,712.33	5,027.05	4,651.45	5,683.57	6,554.26
	Total	39,396.70	41,573.71	52,433.62	65,201.23	77,808.53
2.	Receipts from the Government of India					
	• State's share of divisible Union taxes	8,510.80	8,756.20	10,913.98	12,714.60	14,519.69 ¹
	• Grants-in-aid	7,135.01	5,514.22	6,840.02	7,286.31	6,499.48
	Total	15,645.81	14,270.42	17,754.00	20,000.91	21,019.17
3.	Total revenue receipts of the State Government (1 + 2)	55,042.51	55,844.13	70,187.62	85,202.14	98,827.70
4.	Percentage of 1 to 3	72	74	75	77	79

Source: Finance Accounts of Government of Tamil Nadu

The above table indicates that during the year 2012-13, the revenue raised by the State Government (₹ 77,808.53 crore) was 79 per cent of the total revenue receipts as against 77 per cent in the preceding year. The balance 21 per cent of the receipts during 2012-13 was from the Government of India.

¹ For details please see Statement No. 11 – Detailed statements of revenue by minor heads of the Finance Accounts of the Government of Tamil Nadu for the year 2012-13. Figures under the head '0021 – Taxes on income other than corporation tax – Share of net proceeds assigned to States' booked in the Finance Accounts under 'A – Tax revenue' have been excluded from the revenue raised by the State and included in 'State's share of divisible Union taxes' in this statement.

1.1.2 The following table presents the details of tax revenue raised during the period from 2008-09 to 2012-13:

(₹ in crore)

Sl. No.	Head of revenue	2008-09	2009-10	2010-11	2011-12	2012-13	Percentage of increase (+)/ decrease (-) in 2012-13 over 2011-12
1.	Sales tax/VAT	20,674.70	22,661.52	28,614.23	36,288.90	44,041.13	(+) 21.36
2.	State excise	5,755.52	6,740.68	8,115.94	9,975.21	12,125.68	(+) 21.56
3.	Stamp duty and registration fees						
	Stamps – Judicial	79.58	78.63	98.08	105.65	114.64	(+) 8.51
	Stamps – non-judicial	3,127.28	3,019.98	3,817.57	5,505.56	6,227.44	(+) 13.11
	Registration fees	586.82	563.55	734.94	969.57	1,303.32	(+) 34.42
4.	Taxes on vehicles	1,709.57	2,024.64	2,660.05	3,101.09	3,928.43	(+) 26.68
5.	Land revenue	207.73	116.66	113.28	87.21	131.31	(+) 50.57
6.	Taxes on immovable property other than agricultural land (urban land tax)	11.79	12.01	10.21	10.89	16.75	(+) 53.81
7.	Others	1,531.38	1,328.99	3,617.87	3,473.58	3,365.57	(-) 3.11
	Total	33,684.37	36,546.66	47,782.17	59,517.66	71,254.27	

Source: Finance Accounts of Government of Tamil Nadu

The following reasons for variation were reported by the concerned Departments:

Sales tax/VAT: The increase in revenue was due to increase in tax rate and revenue buoyancy in non-VAT goods, automobile sector, fast moving consumer goods sector and edible oil.

State excise: The increase in revenue was due to upward revision of privilege fee and license fee and huge receipts under “vend fee on foreign liquor and spirits”, duty on beer and malt liquor.

Stamp duty and registration fees: The increase in revenue was due to revision of guideline rates for immovable properties with effect from 1 April 2012.

Land revenue: The increase was mainly due to increase in revenue under ‘sale proceeds of waste lands and redemption of land tax’ and ‘receipts in connection with survey and settlement operations’.

Taxes on vehicles: The increase in revenue was due to revision of tax with effect from 1 April 2012.

Taxes on immovable property other than agricultural land (urban land tax): The increase in revenue was due to efforts taken by the Assistant Commissioners (being entrusted with collection work also) in co-ordinating with the collection agency viz., Taluk Tahsildars and Revenue Divisional Officers.

1.1.3 The following table presents the details of non-tax revenue raised during the period from 2008-09 to 2012-13:

(₹ in crore)							
Sl. No.	Head of revenue	2008-09	2009-10	2010-11	2011-12	2012-13	Percentage of increase (+) / decrease (-) in 2012-13 over 2011-12
1.	Interest receipts, dividends and profits	1,501.09	1,845.61	1,689.78	2,056.89	2,053.88	(-) 0.15
2.	Crop husbandry	73.53	92.54	116.30	125.32	125.85	(+) 0.42
3.	Forestry and wild life	82.65	86.90	139.22	105.86	93.94	(-) 11.26
4.	Non-ferrous mining and metallurgical industries	527.36	610.89	675.87	943.83	927.19	(-) 1.76
5.	Education, sports, art and culture	302.74	383.64	518.83	483.26	751.88	(+) 55.58
6.	Other receipts	3,224.96	2,007.47	1,511.45	1,968.41	2,601.52	(+) 32.16
Total		5,712.33	5,027.05	4,651.45	5,683.57	6,554.26	

Source: Finance Accounts of Government of Tamil Nadu

The following reasons for variation were reported by the concerned Departments.

Forestry and wild life: The decrease in revenue was due to decrease under “Miscellaneous receipts”.

Education, Sports, Art and Culture: The increase was mainly due to increase in revenue under ‘Re-imburement of expenditure under Rashtriya Madhyamik Shiksha Abhiyan’, ‘Tuition and other fees’ under ‘Adult Education’ and ‘Receipts for payment of teachers in Government High Schools and Higher Secondary Schools under Sarva Shiksha Abhiyan’.

1.2 Response of the Departments/Government towards audit

1.2.1 Failure of the senior officials to enforce accountability and protect the interest of the State Government

The Principal Accountant General (Economic and Revenue Sector Audit), Tamil Nadu (PAG) conducts periodical inspection of the Government Departments to test check the transactions and verify the maintenance of important accounts and other records as prescribed in the rules and procedures. These inspections are followed up with IRs incorporating irregularities detected during the inspection and not settled on the spot, which are issued to the heads of the offices inspected with copies to the next higher authorities for taking prompt corrective action. The heads of the offices/Government are required to comply with the observations contained in the IRs, rectify the defects and omissions and report compliance through initial replies to the PAG within one month from the date of issue of the IRs. Serious financial irregularities are reported to the heads of the Departments and the Government.

Review of IRs issued upto 31 December 2012 disclosed that 24,237 paragraphs involving ₹ 3,622.83 crore relating to 7,524 IRs remained outstanding at the end of June 2013. A table containing figures for the current year and preceding two years is given below:

	June 2011	June 2012	June 2013
Number of outstanding IRs	7,101	7,008	7,524
Number of outstanding audit observations	23,075	22,320	24,237
Amount involved (₹ in crore)	3,424.21	3,054.95	3,622.83

Department-wise details of the IRs and audit observations outstanding as on 30 June 2013 and the amounts involved are mentioned below:

Sl. No.	Name of the Department	Nature of receipts	Number of outstanding		Money value involved (₹ in crore)
			Inspection reports	Audit observations	
1.	Commercial Taxes and Registration	Sales tax/Value added tax	3,182	14,495	1,384.93
		Stamp duty and registration fees	1,545	3,362	763.92
		Entry tax	164	295	5.82
		Entertainment tax	56	62	2.57
		Luxury tax	114	137	4.57
		Betting tax	12	23	0.09
2.	Revenue	Land revenue	1,104	3,091	483.55
		Urban land tax	220	585	42.62
		Taxes on agricultural income	72	175	81.03
3.	Home (Transport)	Taxes on vehicles	455	1,010	94.14
4.	Home (Prohibition and Excise)	State excise	221	276	78.10
5.	Industries	Mines and minerals	286	561	321.91
6.	Energy	Electricity duty	93	165	359.58
Total			7,524	24,237	3,622.83

Source: As per data maintained in office of the PAG

Even the first replies required to be received from the heads of offices within one month from the date of issue of IRs were not received for 812 paragraphs issued upto December 2012. This large pendency of IRs due to non-receipt of the replies is indicative of the fact that the heads of offices and heads of Departments did not initiate action to rectify the defects, omissions and irregularities pointed out by Audit in IRs.

It is recommended that the Government takes suitable steps to install an effective procedure for prompt and appropriate response to audit observations as well as taking action against officials/officers who fail to send replies to IRs/paragraphs as per the prescribed time schedules and also fail to take action to recover loss/outstanding demand in a time bound manner.

1.2.2 Departmental Audit Committee Meetings

The Government set up Audit Committees (during various periods) to monitor and expedite the progress of the settlement of paragraphs in the IRs. The details of Audit Committee Meetings held during the year 2012-13 and the paragraphs settled are mentioned below:

Head of revenue	Number of meetings held	Number of paragraphs settled	Money value involved (₹ in crore)
Stamp duty and registration fees	12	766	75.22
Mines and minerals	1	55	3.21
Total	13	821	78.43

As large number of IRs and paragraphs are pending settlement, it is recommended that the Government may instruct all Departments to conduct more Audit Committee Meetings, after furnishing replies, to expedite clearance.

1.2.3 Non-production of records to audit for scrutiny

The programme of local audit of commercial tax offices is prepared sufficiently in advance and intimated to the Department one month before the commencement of local audit to enable them to keep relevant records ready for audit scrutiny.

During 2012-13, 33,429 sales tax assessment records relating to 166 offices were not made available for audit. Of these, 195 assessments pertain to three special circles where assessments of major dealers are dealt with.

The delay in production of records for audit would render audit scrutiny ineffective, as rectification of underassessments, if any, might become barred by limitation, by the time these files are produced to audit.

The matter regarding non-production of records in each office and arrears in assessment is brought to the notice of the Department through the local audit reports of the respective offices.

1.2.4 Response of the Departments to draft Audit Paragraphs

The Government (Finance Department) issued directions (April 1952) to all Departments to send their responses to the draft audit paragraphs proposed for inclusion in the Report of the Comptroller and Auditor General of India within six weeks from the date of receipt of the draft paragraphs. The draft paragraphs are forwarded to the Secretaries of the concerned Departments through demi-official letters, drawing their attention to the audit findings with a request to send their response within six weeks. The fact of non-receipt of replies from the Departments is indicated at the end of each such paragraph included in the Audit Report.

Forty one draft paragraphs (clubbed into 18 paragraphs including two Performance Audits) proposed for inclusion in the Report of the Comptroller and Auditor General of India for the year ended March 2013 were forwarded to the Secretaries of the respective Departments during April-November 2013 through demi-official letters. The Secretaries of the Departments did not send replies to 27 draft paragraphs (December 2013). Thus, there was non-compliance to the above mentioned instructions of the Government. These paragraphs have been included in the Report without the response of the Secretaries of the Departments concerned.

1.2.5 Follow-up on Audit Reports

With a view to ensuring accountability of the executive in respect of the issues dealt with in the Audit Reports, the Public Accounts Committee (PAC) directed that the Department concerned should furnish remedial/corrective Action Taken Notes (ATN) on the recommendations of PAC relating to the paragraphs contained in the Audit Reports within the prescribed time frame. The review of the outstanding ATNs as of 31 March 2013 on paragraphs included in the Report of the Comptroller and Auditor General of India, Revenue Receipts, Government of Tamil Nadu indicated that the Departments had not submitted ATNs for 1,113 recommendations pertaining to 312 audit paragraphs discussed by PAC. Out of the pending 1,113 recommendations, even the first ATN has not been received in respect of 572 recommendations, the earliest of which relates to the Audit Report for the year 1986-87.

Further, PAC has laid down that necessary explanatory notes for the issues mentioned in the Audit Reports should be furnished to the Committee within a maximum period of two months from the date of placing of the Report before the Legislature. Though the Audit Reports for the years from 2001-02 to 2011-12 were placed before the Legislative Assembly between May 2003 and May 2013, the Departments are yet to submit explanatory notes for 120 paragraphs included in these Reports.

1.2.6 Compliance with the earlier Audit Reports – Position of recovery of accepted cases

During the period from 2007-08 to 2011-12, the Departments/Government accepted audit observations involving ₹ 336.15 crore, of which ₹ 31.01 crore were recovered till 31 October 2013 as mentioned below:

Subject	Total money value	Accepted money value	(₹ in crore)
			Collected
2007-08	408.47	103.13	9.31
2008-09	337.40	115.99	2.22
2009-10	239.97	13.13	6.52
2010-11	742.00	20.00	6.58
2011-12	549.40	83.90	6.38
Total	2,277.24	336.15	31.01

The Government may institute a mechanism to monitor the position of recoveries in respect of the cases pointed out in the Audit Reports and take necessary steps for early collection.

1.3 Analysis of the mechanism for dealing with the issues raised by audit

In order to analyse the system of addressing the issues highlighted in the IRs/Audit Reports by the Departments/Government, the action taken on the paragraphs and Performance Audits included in the Audit Reports of the last five years in respect of one Department is evaluated and included in each Audit Report.

Accordingly, the succeeding paragraphs 1.3.1 to 1.3.2.2 discuss the performance of the **Home (Prohibition and Excise) Department – State Excise** to deal with the cases detected in the course of local audit conducted during the last five years and also the cases included in the Audit Reports for the years 2007-08 to 2011-12.

1.3.1 Position of Inspection Reports

The summarised position of IRs issued in respect of the Home (Prohibition and Excise) Department – State Excise during the last five years, paragraphs included in these IRs and their status as on 30 September 2013 are tabulated below:

(₹ in crore)

Year	Opening balance			Additions during the year			Clearance during the year			Closing balance		
	IRs	Para gra phs	Money value	IRs	Para gra phs	Money value	IRs	Para gra phs	Money value	IRs	Para gra phs	Money value
2007-08	303	591	129.50	13	18	0.42	22	49	0.46	294	560	129.46
2008-09	294	560	129.46	17	37	1.82	63	168	41.67	248	429	89.61
2009-10	248	429	89.61	33	55	9.66	70	191	12.63	211	293	86.64
2010-11	211	293	86.64	12	17	0.70	25	80	8.15	198	230	79.19
2011-12	198	230	79.19	23	36	1.55	6	15	2.72	215	251	78.02

The above position indicates that large number of inspection reports and paragraphs are pending settlement.

The Government may issue suitable instructions to the Department to take appropriate steps to clear the outstanding audit observations at the earliest.

1.3.2 Assurances given by the Department/Government on the issues highlighted in the Audit Reports

1.3.2.1 Recovery of accepted cases

During the last five years, two paragraphs including one Performance Audit amounting to ₹ 11.19 crore in respect of Home (Prohibition and Excise) Department – State Excise were included in the Audit Reports. The Department accepted audit observations involving ₹ 7.30 crore and collected ₹ one lakh.

This indicates that the overall percentage of recoveries of the accepted cases to the money value of the paragraphs included is less than one *per cent* which is very low.

The Government may institute a mechanism to monitor the position of recoveries in respect of the cases pointed out in the Audit Reports.

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

The draft Performance Audit Reports are forwarded to the concerned Department/Government for their information with a request to furnish their replies. These Reports are also discussed in exit conference and the Department's/Government's views are considered while finalising the Performance Audit Reports.

A Performance Audit on Functioning of Prohibition and Excise Department featured in the Audit Report for the year ended March 2012. The Performance Audit contained four recommendations. Response to the recommendations has not been received.

1.4 Audit planning

The unit offices under various Departments are categorised into high, medium and low risk units according to their revenue position, past trends of audit observations, nature/volume of transactions, etc. The annual audit plan is prepared on the basis of risk analysis which, *inter-alia*, includes statistical analysis of the revenue earnings during the past five years, features of the tax administration, audit coverage and its impact during the past five years, etc.

During the year 2012-13, the audit universe comprised 1,241 auditable units, of which 374 units were planned and audited during the year 2012-13 i.e., 30 *per cent* of the total auditable units. The details are shown in Annexure-1.

1.5 Results of audit

1.5.1 Position of local audit conducted during the year

The records of 374 units of commercial taxes, state excise, motor vehicles tax, stamp duty and registration fees, electricity tax and mines and minerals were test checked during 2012-13 and underassessments, short levy, loss of revenue and other observations amounting to ₹ 1,635.97 crore were noticed in 1,828 cases. During the year, the Departments accepted underassessments and other deficiencies in 668 cases involving ₹ 14.86 crore. Out of this, 311 cases involving ₹ 7.09 crore were pointed out in 2012-13 and 357 cases involving ₹ 7.77 crore pertain to objections raised in earlier years. The Departments collected ₹ 6.99 crore during 2012-13.

1.5.2 This Report

This Report contains 18 paragraphs including two Performance Audits relating to non/short levy of taxes, duties, interest and penalties and other audit observations involving financial effect of ₹ 171.25 crore. The Departments/Government accepted audit observations involving ₹ 8.40 crore of which ₹ 1.53 crore had been recovered/adjusted by the Departments. Reply in respect of remaining cases has not been received (December 2013). These are discussed in succeeding Chapters II to V.

CHAPTER II
SALES TAX/VALUE ADDED TAX

Executive Summary

Increase in tax collection	In 2012-13 the collection from sales tax/value added tax increased by 21 <i>per cent</i> over the previous year.
Internal audit	Internal audit was completed only in 14 <i>per cent</i> of the offices that were due for audit during 2012-13. The Department attributed the reason for lesser coverage of internal audit to shortage of man power in the Internal Audit Wing
Results of audit conducted in 2012-13	<p>In 2012-13, Audit test checked the records of 166 units and found underassessment of tax and other irregularities amounting to ₹ 338.81 crore in 1,345 cases.</p> <p>The Department accepted underassessments and other deficiencies amounting to ₹ 12.19 crore in 512 cases out of which ₹ 6.35 crore involved in 278 cases were pointed out during the year and the rest in earlier years. Out of the above, an amount of ₹ 4.98 crore has been collected.</p>
What is highlighted in this Chapter	<p>Audit findings on “Cross verification of import data obtained from the Customs Department” involving ₹ 145.58 crore is featured in this Chapter. The same revealed that existing practice followed by the Department for collection and dissemination of information regarding import of goods by dealers to ensure proper accounting of the same is deficient in identifying tax evaders, detecting suppression of sales turnover and consequent evasion of tax. This chapter also features a few illustrative cases selected from observations like application of incorrect rate of tax, short levy of additional sales tax, incorrect claim of input tax credit (ITC), non/short reversal of ITC, etc. noticed during test check of records in the assessment circles relating to assessment and collection of sales tax/value added tax, where the provisions of the Acts/Rules were not followed.</p> <p>Similar omissions have been pointed out by Audit earlier also. These omissions were apparent from the records made available to Audit but the assessing authorities were unable to detect these mistakes.</p>
Conclusion	The Department needs to improve the internal control system including strengthening internal audit to reduce recurrence of such omissions. It also needs to expedite collection of tax in accepted cases on priority.

CHAPTER II

SALES TAX/VALUE ADDED TAX

2.1 Tax administration

Assessment, levy and collection of sales tax, central sales tax and value added tax are governed by the erstwhile Tamil Nadu General Sales Tax Act, 1959 and the Rules made thereunder, the Central Sales Tax Act 1956 and the Rules made thereunder, the Tamil Nadu Value Added Tax Act, 2006 and the Tamil Nadu Value Added Tax Rules, 2007 respectively. Administration of the Department is vested with the Commissioner of Commercial Taxes. The State has been divided into 40 zones, comprising 323 assessment circles including four Large Taxpayers² units at Chennai and two Fast Track Assessment Circles (FTACs) at Coimbatore. Assessment, levy and collection of tax are done by the assessing authorities in charge of the assessment circles. Monitoring and control at the Government level is done by the Secretary, Commercial Taxes and Registration Department.

2.2 Trend of receipts

Actual receipts from sales tax/value added tax during the last five years from 2008-09 to 2012-13 along with the total tax receipts during the same period are exhibited in the following table:

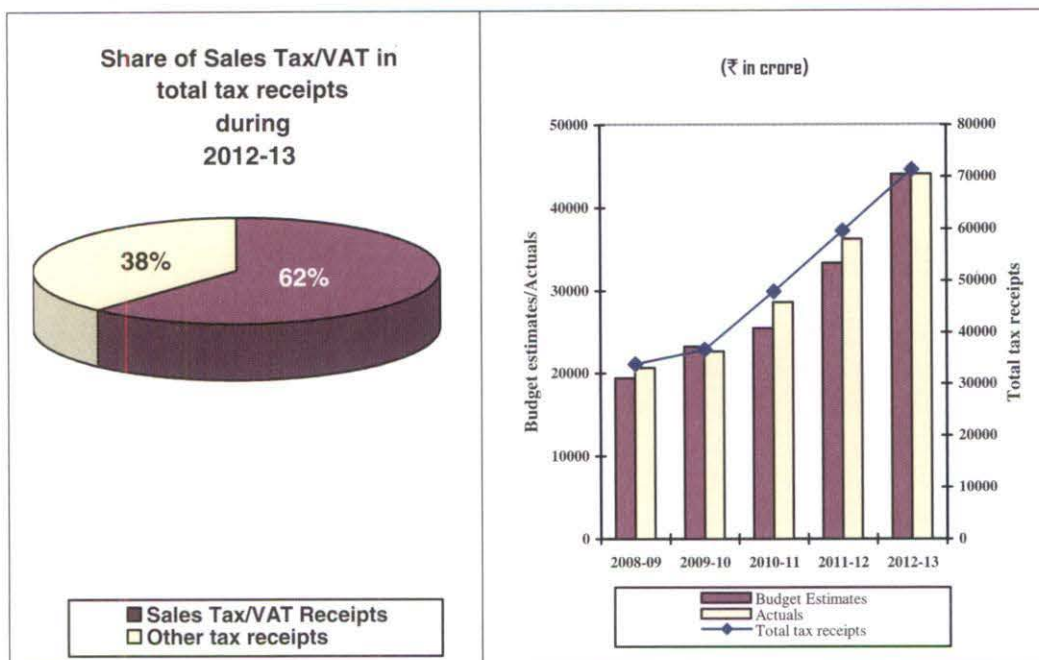
(₹ in crore)

Year	Budget estimates	Actuals	Variation excess (+)/ short fall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2008-09	19,417.74	20,674.70	(+) 1,256.96	(+) 6.47	33,684.37	61
2009-10	23,242.53	22,661.52	(-) 581.01	(-) 2.50	36,546.66	62
2010-11	25,504.65	28,614.23	(+) 3,109.58	(+) 12.19	47,782.17	60
2011-12	33,393.95	36,288.90	(+) 2,894.95	(+) 8.67	59,517.66	61
2012-13	44,007.69	44,041.13	(+) 33.44	(+) 0.07	71,254.27	62

Source: Finance Accounts of Government of Tamil Nadu

A bar diagram depicting budget estimates, actual receipts of Sales Tax/VAT and total tax receipts of the State and a pie chart depicting the position of Sales Tax/VAT receipts in the total tax receipts are given in the following page.

² Large taxpayers – Dealers whose taxable turnover for a year exceeds ₹ 200 crore.



In 2012-13 the collection from sales tax/value added tax increased by 21 per cent over the previous year. The Department attributed the reasons for increase in revenue to increase in tax rate and revenue buoyancy in automobile sector, fast moving consumer goods sector, edible oil and non-VAT goods like tobacco products, Indian made foreign liquor and petroleum products.

2.3 Analysis of arrears of revenue

As per the information furnished by the Department, the arrears of revenue as on 31 March 2013 along with the figures for the preceding four years are given in the following table:

(₹ in crore)					
Year	Opening balance	Addition	Total	Amount collected* during the year	Closing balance
2008-09	8,221.59	2,429.37	10,650.96	779.61	9,871.35
2009-10	9,871.35	1,937.68	11,809.03	818.97	10,990.06
2010-11	10,990.06	211.61	11,201.67	1,069.33	10,132.34
2011-12	10,132.34	1,397.50	11,529.84	695.90	10,833.94
2012-13	10,833.94	1,977.13	12,811.07	694.03	12,117.04

*includes demands eliminated, waived and written off

As per the details furnished by the Department, the arrears as on 31 March 2013 includes ₹ 5,537.26 crore outstanding for more than five years. Demands amounting to ₹ 3,089.23 crore were covered under the Revenue Recovery Act. Demands amounting to ₹ 1,885.88 crore were stayed by the Government/High Court and other judicial/appellate fora and an amount of ₹ 150.28 crore was held up due to rectification/review applications. A sum of ₹ 52.15 crore could not be recovered on account of assessee's becoming insolvent while a sum of ₹ 656.67 crore was likely to be written off/waived.

An amount of ₹ 3,522.42 crore was covered under the deferral scheme. An amount of ₹ 882.25 crore was proposed to be eliminated. A sum of ₹ 383.08 crore was covered under civil suits and Board for Industrial and Financial Reconstruction and a sum of ₹ 1,495.08 crore was under various stages of recovery.

The above details indicate that the amount of uncollected revenue as on 31 March 2013 was more than one fourth of the sales tax/VAT revenue realised by the Department during the year 2012-13 and substantial amounts were covered under the Revenue Recovery Act.

The Government may consider fixing targets for collection of old arrears in a time bound manner and closely monitor the performance of the Departmental officers *vis-à-vis* the set targets.

2.4 Assessee profile

The number of registered dealers in 2012-13 was 6,36,816 comprising 6,34,333 VAT dealers and 2,483 non-VAT dealers. Of the above, the large tax payers were 116 and the rest were classified as small tax payers. The number of dealers required to file returns during the year were 3,12,115 VAT dealers and 2,483 non-VAT dealers. The number of returns due from the dealers for the year 2012-13 was 35,74,510 against which 27,53,770 returns were received. 8,08,002 and 12,738 returns were not received from VAT and non-VAT dealers respectively.

The Department stated (January 2014) that notices are issued under Section 25 of the TNVAT Act to non-filers of returns proposing best judgment assessment apart from levying compounding fees. The Department further stated that notices were issued for cancellation of registration certificates to non-filers of returns.

2.5 Collection of sales tax/VAT per assessee

Details of amount of sales tax/value added tax realised during the year, the number of assessees and the collection of sales tax/value added tax per assessee for the period from 2008-09 to 2012-13 are given in the following table:

Year	No. of assessees	Revenue (₹ in crore)	Revenue per assessee (₹ in lakh)
2008-09	2,45,052	20,674.70	8.44
2009-10	2,70,159	22,661.52	8.39
2010-11	3,11,517	28,614.23	9.19
2011-12	3,63,462	36,288.90	9.98
2012-13	4,05,721	44,041.13	10.85

2.6 Arrears in assessment

The number of cases pending for assessment at the beginning of the year 2012-13, due for assessment during the year, disposed during the year and pending at the end of the year 2012-13 along with the figures for the preceding four years as furnished by the Commercial Taxes Department are given in the following table:

Year	Opening balance	Cases which became due for assessment	Total	Cases disposed during the year	Cases pending at the end of the year	Percentage of disposal (Col.5 to 4)
1	2	3	4	5	6	7
2008-09						
Sales tax	2,01,148	---	2,01,148	55,381	1,45,767	28
VAT	1,22,651	1,85,270	3,07,921	95,047	2,12,874	31
2009-10						
Sales tax	1,45,767	---	1,45,767	84,600	61,167	58
VAT	2,12,874	2,21,166	4,34,040	1,14,638	3,19,402	26
2010-11						
Sales tax	61,167	---	61,167	36,122	25,045	59
VAT	3,19,402	2,37,073	5,56,475	1,63,957	3,92,518	29
2011-12						
Sales tax	25,045	---	25,045	22,682	5,151	91
VAT	3,92,518	3,41,487	7,34,005	4,72,411	2,61,594	64
2012-13						
Sales tax	5,151	---	5,151	3,349	1,802	65
VAT	2,61,594	2,77,774	5,39,368	4,83,474	55,894	90

The above position indicates that finalisation of assessments under VAT has considerably increased when compared to earlier years though finalisation of assessment relating to sales tax is still pending.

2.7 Cost of collection

The gross collection in respect of sales tax/VAT, expenditure incurred on collection and percentage of such expenditure to gross collection during the years 2010-11, 2011-12 and 2012-13 along with the relevant all India average percentage of expenditure on collection to gross collection for the previous years are given in the following table:

(₹ in crore)

Head of revenue	Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage for the previous years
Sales tax/ VAT	2010-11	28,614.23	230.38	0.81	0.96
	2011-12	36,288.90	215.61	0.59	0.75
	2012-13	44,041.13	214.95	0.49	0.83

Source: Finance Accounts of Government of Tamil Nadu

The percentage of expenditure on collection has shown a decreasing trend and is also less than the all India average percentage in all the three years.

2.8 Analysis of collection

The break-up of total collection at pre-assessment stage and after regular assessment of taxes for the years 2010-11, 2011-12 and 2012-13 as furnished by the Department are given in the following table:

(₹ in crore)

Year	Amount collected at pre-assessment stage	Amount collected after regular assessment (additional demand)	Penalties for delay in payment of taxes	Amount refunded	Net collection as per department	Net collection as per Finance Account	Percentage of col. 2 to 7
1	2	3	4	5	6	7	8
2010-11							
Sales tax/ VAT	4,442.83	89.03	86.88	625.58	30,491.00	28,614.23	108
2011-12							
Sales tax/ VAT	5,580.93	192.48	79.85	823.57	38,721.17	36,288.90	107
2012-13							
Sales tax/ VAT	2,869.77	103.88	622.11	1,250.25	46,634.00	44,041.13	101

The collection of revenue at pre-assessment stage to the net collection was 101 per cent during 2012-13 as against 107 per cent in 2011-12.

2.9 Impact of Audit Reports

2.9.1 Revenue impact

During the last five years, Audit pointed out non/short levy, non/short realisation, underassessment/loss of revenue, incorrect exemption, concealment/suppression of turnover, application of incorrect rate of tax, incorrect computation, etc., with revenue implication of ₹ 707.27 crore in 60 paragraphs. Of these, the Department/Government accepted audit observations

involving ₹ 59.66 crore and since recovered ₹ 13.26 crore. The details are shown in the following table:

(₹ in crore)

Year of Audit Report	Paragraphs included		Accepted money value	Amount recovered
	Number	Money value		
2007-08	14	50.77	4.73	1.50
2008-09	12	72.52	3.12	1.07
2009-10	13	134.99	7.94	5.69
2010-11	13	21.45	6.78	0.42
2011-12	8	427.54	37.09	4.58
Total	60	707.27	59.66	13.26

The Government may institute a mechanism to monitor the position of recoveries in the cases pointed out in the Audit Reports and take necessary steps for early collection.

2.10 Amendments to the Acts/Rules/Notifications/Orders issued by the Government at the instance of audit

Audit pointed out (Para 2.2.10 of Audit Report 2008-09) that the delay in passing of self assessment orders in turn delayed the selection of cases for scrutiny. The Government amended the TNVAT Act with effect from 19 June 2012 to provide that the returns filed by the dealers along with prescribed documents and proof of payment of tax shall be deemed to have been assessed.

Audit pointed out, (Para 2.13.9.1(ii) of Audit Report 2011-12), the absence of provision for online filing of annual return in Form I-1. The Government introduced provision for filing of annual return in Form I-1 in electronic mode with effect from August 2012.

Audit recommended (Para 2.13.15 of Audit Report 2010-11) introduction of online issue of declaration forms. The Government introduced online issue of declaration forms with effect from October 2012.

2.11 Working of internal audit wing

The internal audit wing is organised in each CT district and consists of an Assistant Commissioner, Commercial Tax Officer and four supporting staff. The assessments finalised and the refunds made in the preceding quarter were to be taken up for audit in the succeeding quarter. The details of the number of offices due for internal audit and those completed, as furnished by the Department, are given in the following table:

Year	Number of offices due	Number of offices completed	Balance	Percentage of col.3 to 2
1	2	3	4	5
2008-09	452	155	297	34
2009-10	452	133	319	29
2010-11	443	83	360	19
2011-12	348	80	268	23
2012-13	348	49	299	14

The Department attributed the reason for non-coverage of internal audit to vacancy in staff strength and stated that audit in respect of assessments finalised by assessing officers who were due for retirement and in respect of cases which would become time barred were only being conducted.

The Government may consider strengthening internal audit so that audit may be conducted for all the units due for audit.

2.12 Results of audit

Test check of records in 166 units during the period from April 2012 to March 2013 revealed underassessment of tax and other irregularities amounting to ₹ 338.81 crore in 1,345 cases, which broadly fall under the following categories.

(₹ in crore)

Sl. No.	Category	No. of cases	Amount
1	“Cross verification of import data obtained from the Customs Department”	1	145.58
2	Incorrect exemption of tax	43	6.41
3	Incorrect rate of tax	146	37.66
4	Incorrect computation of taxable turnover	51	10.53
5	Non/short levy of tax	63	5.84
6	Non levy of penalty /interest	125	3.35
7	Incorrect claim of input tax credit	805	115.22
8	Others	111	14.22
Total		1,345	338.81

During the course of the year 2012-13, the Department accepted underassessments and other deficiencies amounting to ₹ 12.19 crore in 512 cases, out of which, ₹ 6.35 crore involved in 278 cases were pointed out during the year and the rest in earlier years. Out of the above, an amount of ₹ 4.98 crore has been collected.

The Department recovered ₹ 79.86 lakh in five cases in respect of which draft paragraphs were issued to the Government.

2.13 Cross verification of import data obtained from the Customs Department

2.13.1 Introduction

According to Standing Order 225 c (iii)(2) of the Tamil Nadu Commercial Taxes Manual (Volume III), the Administrative Assistant Commissioner of the Commercial Taxes Department (CTD) should get the entire details of imports from the Customs Department, refer to the records maintained by them and make use of the same in order to detect sales suppression and consequent tax evasion. The standing order states that this work should be attended to systematically and as per the arrangement with the Customs authorities, officers of the CTD can have access to the books and registers maintained in the Customs Department.

Audit was undertaken to ascertain whether there exists a system in the CT Department for constant interaction with the Customs Department and if so, whether the same is effective in identifying tax evaders, unearthing suppression of turnover and thereby preventing evasion of tax due to the State exchequer. Details of imports, relating to the period 2008-09 to 2011-12, obtained from the Customs Department were analysed with the database of the CTD to ascertain the Taxpayers Identification Number (TIN) of the importers under the Tamil Nadu Value Added Tax Act, 2006, (TNVAT Act) and their jurisdictional assessment circles. The details of imports were then compared with the details of returns filed by the dealers with the CTD. Audit was conducted between August 2012 and July 2013.

Audit findings are mentioned in the following paragraphs.

2.13.2 Collection and analysis of import details by the Enforcement Wing of the CT Department

System in existence and deficiencies noticed therein

The Enforcement Wing of the CTD is responsible for coordinating with other Departments like Customs, Central Excise etc. for obtaining information from them. Details of imports are collected from Harbour Wharf, Chennai and Air Cargo, Chennai by the Joint Commissioner Enforcement-I, Chennai and from Tuticorin Port Trust by the Joint Commissioner, Tirunelveli. The information obtained from the Customs Department is passed on to the Computer Centre for being uploaded in the intranet of the Department to facilitate cross verification by the assessing authorities (AAs).

The existing practice followed by the CTD for collection and dissemination of information regarding import of goods by dealers to ensure proper accounting of the same is deficient in identifying tax evaders, detecting suppression of sales turnover and consequent evasion of tax for the reasons mentioned below:

- There was no fixed periodicity in collection of details from the Customs Department. Details of imports were obtained from the Customs Department for intermittent periods only. For instance, details of imports were obtained from Air Cargo, Chennai for the period from

September 2008 to May 2009 and from November 2011 to November 2012. Similarly, details were obtained from Harbour Wharf, Chennai for the period from September 2008 to May 2009, June 2011 to August 2011 and October 2012.

- PAN, one of the common fields in the database maintained by Customs Department and CTD, plays a crucial role in identifying TIN and jurisdictional assessment circles of the importers. Audit noticed that details obtained by CTD from Customs Department do not contain PAN. Further, duty payment particulars, name and address of the foreign suppliers were also not available in the intranet to enable AAs to make use of them in the verification process.

The details obtained from Customs Department were uploaded in intranet in the same form in which they were obtained. No analysis was undertaken to ascertain the TIN of importers and their jurisdictional assessment circles. In the absence of the important information, the AAs of the assessment circles could not make use of the data uploaded in intranet in the verification process.

2.13.3 Non/short-reporting of sales turnover

2.13.3.1 Non-filing of returns by registered dealers who imported goods

Section 21 of the TNVAT Act read with Rule 7(1)(a) of the TNVAT Rules provides that every dealer registered under the Act shall file return, which shall, among other things, include details of purchases including imports in Annexure-I thereto.

Section 22(4) of the Act provides that if no return is submitted by the dealer for a year or if the return filed is incomplete or incorrect, the AA shall assess the dealer to the best of its judgment. In addition, penalty at 150 *per cent* of tax so assessed is leviable under section 22(5) of the Act.

Under the TNVAT Act, goods specified under Part B and Part C of the First Schedule were taxable at the rates of four *per cent* and 12.5 *per cent* upto 11 July 2011 and thereafter at the rates of five *per cent* and 14.5 *per cent* respectively.

Audit scrutiny of the details obtained from the Customs Department indicated that 66 dealers pertaining to 23 assessment circles³ imported goods valued at ₹ 904.67 crore during the period from 2008-09 to 2011-12. Cross verification with the CTD database revealed that these dealers did not file monthly returns with the jurisdictional AAs of the CTD. The tax and penalty leviable on the turnover which was not disclosed by the dealers works out

to ₹ 48.91 crore and ₹ 73.37 crore respectively.

³ Alwarpet, Amaindakarai, Chepauk, Chintadripet, Harbour-I, Harbour-IV, Ice House, Luz, Mannady (East), Mannady (West), Nandanam, Park Town-I, Peddunaickenpet (North), Perambur-I, Sowcarpet-III, Tambaram-II, T.Nagar (North), Triplicane-I, Vadapalani-I, Vadapalani-II, Vallalar Nagar, Velacherry and Villivakkam

After Audit pointed this out (between January and July 2013), the AAs concerned issued notices to the dealers; which were returned unserved in 48 cases. The AAs of Vadapalani-I and Amaindakarai assessment circles passed (March 2013) best judgment assessment orders in respect of three dealers raising additional demand of ₹ 2.40 crore (inclusive of penalty of ₹ 1.44 crore). Further report regarding revision of assessments and raising of additional demand in respect of the remaining cases is awaited (December 2013).

2.13.3.2 Non-reporting/short reporting of import purchases

According to Section 27(1) of the Act, where whole or any part of the turnover of a dealer has escaped assessment to tax, the AA may determine to the best of its judgment the turnover which has escaped assessment and assess the tax payable on such turnover. Section 27(3)(c) provides for levy of penalty at 150 per cent of the tax due on the assessable turnover that was willfully not disclosed, if the tax due on such turnover is more than 50 per cent of the tax paid as per the return.

Under the TNVAT Act, goods specified under Part B and Part C of the First Schedule were taxable at the rates of four per cent and 12.5 per cent upto 11 July 2011 and thereafter at the rates of five per cent and 14.5 per cent respectively.

- Audit noticed that 16 dealers of 12 assessment circles⁴ imported goods valued at ₹ 89.49 crore during the period from 2008-09 to 2011-12. The dealers did not disclose any turnover of purchase and sales in the returns filed ('Nil' returns) by them with the CTD. The tax and penalty leviable on the turnover which was not disclosed by the dealers works out to ₹ 6.42 crore and ₹ 9.63 crore

respectively.

After Audit pointed this out (January and July 2013), the AAs concerned issued notices to the dealers, which were returned unserved in 13 cases owing to the absence of dealers at the registered place of business. The AA, Moore Market (North) assessment circle, subsequently passed best judgment assessment order in one case and raised (February 2013) additional demand of ₹ 0.43 crore including penalty of ₹ 0.26 crore.

- Audit noticed that seven dealers of five assessment circles⁵ imported goods valued at ₹ 50.35 crore during the period from 2008-09 to 2011-12. The import purchases disclosed by the dealers in the monthly returns filed by them with the CTD was ₹ 8.38 crore only resulting in suppression of purchase turnover of goods of ₹ 41.97 crore. The tax and penalty leviable on the

⁴ Alwarpet, Amaindakarai, Chepauk, Chintadripet, Mooremarket (North), Perambur-I, Royapettah-II, Royapuram, Triplicane-I, Vallalar Nagar, Velacherry and Villivakkam

⁵ Alwarpet, Chintadripet, Harbour-I, Royapettah-I and Royapuram

turnover suppressed by the dealers works out to ₹ 2.90 crore and ₹ 4.35 crore respectively.

After Audit pointed this out in January 2013, the AAs concerned issued notices to the dealers, which were returned unserved owing to the absence of dealers at the registered place of business. Further report is awaited from the Department (December 2013).

2.13.4 Importers whose registration status with CT Department could not be ascertained

According to the provisions of Section 38(3) of the TNVAT Act, every dealer who in the course of his business obtains or brings goods from outside the State shall get himself registered under this Act, irrespective of the quantum of his turnover in such goods.

Audit matched the data obtained from the Customs Department with the database of dealers of CTD on the basis of PAN of importers to ascertain their TIN under the TNVAT Act. While doing so, Audit could not identify the TIN of 143 dealers under the TNVAT Act. Audit pointed this out to the

Department in March 2013 along with details of the importers, viz., name, address, PAN, etc. The Department identified the registration details in 14 cases on the basis of the information furnished by audit. However, in respect of the remaining 129 cases, the Department could not identify the TIN of the importers; with the result their status under the TNVAT Act could not be ascertained. Since goods valued at ₹ 860.65 crore were imported by these dealers during the period from 2008-09 to 2010-11, the possibility of the sales turnover escaping assessment from levy of tax of ₹ 39.64 crore cannot be ruled out.

Audit pointed this out to the Department (March 2013); reply is awaited (December 2013).

2.13.5 Conclusion

The existing procedure followed by the CTD for collection and dissemination of details of import has not achieved its objectives, viz., ensuring proper accounting of all imports by the dealers, identification of tax evaders, detecting suppression of sales turnover and consequent evasion of tax. The details have not been obtained from the customs department for continuous periods and there is no periodicity in collection of data. No analysis of the data obtained from Customs Department was undertaken and due to absence of important details in the data uploaded in intranet, the AAs of assessment circles could not make use of the same in verification process.

2.14 Other audit observations

Audit scrutinised the records in the offices of the Commercial Taxes Department and noticed several cases of non-observance of provisions of the Acts/Rules, resulting in application of incorrect rate of tax, short levy of additional sales tax, irregularities in claim of input tax credit, non/short reversal of input tax credit and other cases as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and based on test checks carried out in audit. Although such omissions are pointed out every year, the irregularities persist. There is a need for the Government to consider directing the Department to improve the internal control systems including strengthening internal audit so that such omissions can be avoided, detected and corrected.

2.15 Non-compliance of the provisions of the Acts/Rules

The Tamil Nadu Value Added Tax (TNVAT) Act, 2006, the Tamil Nadu General Sales Tax (TNGST) Act, 1959, the Central Sales Tax (CST) Act, 1956, the Tamil Nadu Additional Sales Tax (TNAST) Act, 1970, and Rules made thereunder provide for:

- (i) Levy of tax at the rates prescribed in the schedules to the Acts;*
- (ii) Regulating the claim of input tax credit by the dealers in accordance with the provisions governing such claim;*
- (iii) Payment of additional sales tax, where the taxable turnover of the dealer exceeds the prescribed minimum; and*
- (iv) Levy of interest for belated payment of tax by the dealers.*

Audit noticed non-compliance of the provisions of the Acts/Rules in some cases involving non/short realisation of ₹ 3.37 crore. These cases are mentioned in paragraphs 2.15.1 to 2.16.2.

Value added tax

2.15.1 Application of incorrect rate of tax

Section 3(4) of the Tamil Nadu Value Added Tax Act, 2006, (TNVAT Act) provides that every dealer, who effects second and subsequent sale of goods purchased within the State and whose turnover relating to taxable goods for a year is less than ₹ 50 lakh, may pay tax at 0.5 *per cent* on the said turnover.

Audit, while scrutinising monthly returns filed by the dealers in Tenkasi assessment circle, noticed (February 2013) that two dealers paid tax at concessional rate of 0.5 *per cent* under Section 3(4) of the TNVAT Act, during the years 2008-09 and 2009-10.

Verification of intranet of the Department revealed that the dealers purchased goods from other States during the years 2008-09 and 2009-10. As the dealers did not fulfill the condition prescribed in Section 3(4) of the Act, they were not eligible for paying tax at concessional rate. The short-payment of tax, adopting the minimum rate of four *per cent* on the taxable turnover works out to ₹ 4.15 lakh.

Verification of intranet of the Department revealed that the dealers purchased goods from

Audit communicated the omission to the Department in February 2013 and to the Government in May 2013. Reply is awaited (December 2013).

2.15.2 Irregularities in the claim of Input Tax Credit

According to Section 19(11) of the TNVAT Act, 2006, in case any dealer fails to claim ITC in respect of any transaction of taxable purchase in any month, he shall make the claim before the end of the financial year or before ninety days from the date of purchase, whichever is later.

Section 27(4) of the Act provides for levy of penalty for wrong availment of ITC, which shall, in the first instance, be at 50 *per cent* of such wrong availment.

2.15.2.1 During test check of records in four assessment circles⁶, Audit noticed (January and February 2013) from the self assessed returns of six dealers that their claim of ITC for the years 2009-10 and 2010-11, *inter-alia*, included claim of ₹ 37.45 lakh preferred beyond the prescribed time period. As the claim of ITC was not preferred within the prescribed time, the same had to be disallowed and the

amount recovered from the assessee. Penalty of ₹ 18.73 lakh is also leviable. The AAs, however, failed to invoke the provisions of Section 19 (11) of the Act and disallow the time barred claim of ITC of the dealers.

⁶ Anna Salai-I, Chengalpet, Nungambakkam and Royapettah-II

After Audit pointed this out (January and February 2013), the AA, Nungambakkam assessment circle, reversed ITC of ₹ 6.78 lakh in one case. Reply in respect of remaining cases is awaited (December 2013).

Audit reported the matter to the Government during April and May 2013. Reply of the Government is awaited (December 2013).

According to Section 19 (2) of the TNVAT Act, 2006, ITC shall be allowed for the goods purchased within the State from a registered dealer for the purpose of resale or using as inputs in manufacturing or processing of goods in the State or using as capital goods in the manufacture of taxable goods.

The term capital goods is defined in Section 2(11) of the Act.

Section 27(4) of the Act provides for levy of penalty for wrong availment of ITC, which shall, in the first instance, be at 50 per cent of such wrong availment.

2.15.2.2 During test check of records in three assessment circles⁷, Audit noticed (between January and March 2013) from the self assessed returns that seven assessees claimed ITC of ₹ 17.67 lakh on the local purchase of personal protective equipments, fire fighting equipments, cranes, excavators, weighing machines and food items during the years from 2008-09 to 2010-11. As the above goods were neither used as inputs nor defined as capital goods, the assessees

are not eligible for ITC on these purchases. Hence, ITC of ₹ 17.67 lakh already claimed by them has to be disallowed and the amount recovered from the assessees. Besides, penalty is also leviable at 50 per cent of the wrong claim, which works out to ₹ 8.83 lakh. The AAs, however, failed to disallow the ineligible claim of ITC by the assessees during scrutiny of returns.

After Audit pointed this out (between January and March 2013), the AA, Thiruvanmiyur assessment circle replied (January 2013) that the assessee, being a works contractor, the purchase of excavator was essential considering the nature of business and therefore the claim of ITC was in order. The AA, Annasalai-III assessment circle contended that cranes may be considered as capital goods since they are necessary for moving the goods. The reply is not tenable as the term 'capital goods' as defined in the Act does not include excavator and crane. These goods are also not inputs and the provisions of the Act governing claim of ITC do not facilitate such claim by the assessees. Reply in respect of other cases is awaited (December 2013).

Audit reported the matter to the Government between March 2013 and June 2013. Reply is awaited (December 2013).

⁷ Annasalai-III, Chengalpet and Thiruvanmiyur

According to Section 7(1)(b) of the TNVAT Act, every dealer other than star hotels shall pay tax on sale of ready to eat unbranded foods at the rate of two *per cent* of the taxable turnover. The dealers who pay tax under Section 7(1)(b) are not eligible for ITC.

Section 27(4) of the Act provides for levy of penalty for wrong availment of ITC, which shall, in the first instance, be at 50 *per cent* of such wrong availment.

2.15.2.3 During test check of records in Ramnagar and Anna Salai III assessment circles, Audit noticed (February and March 2013) from the assessment orders and self assessed returns that three hoteliers paid tax at the rate of two *per cent* under section 7(1)(b) of the Act, but availed ITC of ₹ 4.18 lakh, during the years 2009-10 and

2010-11. As the assesseees were paying tax under section 7(1)(b) of the Act, they were not eligible for claim of ITC. The AAs, however, failed to notice the incorrect claim of ITC by the dealers, either while finalising the assessment of the dealers or during scrutiny of returns filed by them. The ITC of ₹ 4.18 lakh wrongly claimed by the assesseees has to be reversed and the amount recovered along with penalty of ₹ 2.09 lakh.

After Audit pointed out the matter to the Department (February and March 2013) and to the Government (April 2013), the Government replied (December 2013) that additional demand was raised for ₹ 6.27 lakh, out of which a sum of ₹ 3.67 lakh was collected. Reply on collection of balance amount is awaited (December 2013).

As per Section 19 (1) of the TNVAT Act, there shall be ITC of the amount of tax paid or payable under the Act, by the registered dealer to the seller on his purchases of taxable goods specified in the First Schedule.

Provided that the registered dealer, who claims ITC, shall establish that the tax due on such purchases has been paid by him in the manner prescribed.

Section 27(4) of the Act provides for levy of penalty for wrong availment of ITC, which shall, in the first instance, be at 50 *per cent* of such wrong availment.

2.15.2.4 Audit noticed (January 2013) in Choolai assessment circle that a dealer availed ITC of ₹ 16.18 lakh as tax paid on goods purchased from five selling dealers during the month of March 2011. However, cross verification with the monthly returns filed by the selling dealers revealed that they had not effected any sales to the assessee during the corresponding period.

This led to incorrect availment of ITC of ₹ 16.18

lakh, which requires reversal and collection of the amount. Besides, penalty of ₹ 8.09 lakh is also leviable.

After Audit pointed this out (January 2013), the AA, citing Madras High court judgment⁸ contended that ITC of the buying dealer could not be reversed. The Department also stated that cross check references would be sent to the offices where selling dealers are assessed to ascertain whether the selling dealers had filed return or not. The reply is not tenable since the judgment referred to relate to availment of ITC in respect of purchases made from the selling dealers whose registrations were cancelled retrospectively. In the present case, it is not so.

Audit reported the matter to the Government in May 2013. Reply is awaited (December 2013).

2.15.3 Non/short reversal of Input Tax Credit

Section 19(2)(v) of the TNVAT Act provides for ITC on purchase of goods for the purpose of sale covered under section 8(1) of the CST Act.

As per Section 8(1) of the CST Act, inter-State sale of goods to a registered dealer is taxable at two *per cent* or at the local rate whichever is lower. Sale of goods to developer of SEZ in other States and units located in these SEZs are covered under Section 8(6) of the Act and are exempt.

2.15.3.1 During test check of records in three assessment circles, Audit noticed (December 2012, January and March 2013) from the assessment records that three dealers had claimed ITC of ₹ 3.31 crore during the period from 2006-07 to 2009-10. The total sales turnover of ₹ 161.95 crore under the CST Act, *inter alia*, included sale of goods to the SEZ units located in Andhra Pradesh, Gujarat and Karnataka for ₹ 13.38 crore.

Since sales to SEZ units in other States are covered under Section 8(6) of the CST Act and exempt from levy of tax, the same is not eligible for ITC. The ITC relating to corresponding purchase of goods has to be reversed. The AAs, however, failed to reverse the ITC while finalising the assessments of the dealers (March and December 2010 and May 2011). The amount of ITC reversible works out to ₹ 20.08 lakh as detailed below:

(₹ in lakh)

Name of the assessment circle	Year of transaction	ITC claimed	Total turnover under TNVAT Act and CST Act	Turnover relating to sale of goods to SEZ units in other States	Amount of ITC reversible
FTAC-II Coimbatore	2006-07	46.82	3,672.47	507.82	6.47
	2007-08	223.81	15,520.60	523.18	7.54
Royapettah-I	2008-09	20.87	762.73	67.63	1.85
	2009-10	12.30	418.41	15.41	0.45
Thiruvanmiyur	2007-08	27.37	1,623.35	223.47	3.77

⁸ WP No. 12305 of 2012 and 12306 of 2012 dated 22.11.2012

After Audit pointed this out (December 2012, January 2013 and March 2013), the AA, Royapettah-I assessment circle, replied (January 2013) that as the dealer had filed Form I, he was eligible for ITC. The reply is not tenable since Form I is meant for claiming exemption under Section 8(6) of the CST Act and does not confer upon the dealer the right to claim ITC. In respect of other circles, reply is awaited (December 2013).

Audit reported the matter to the Government during March and May 2013. Reply of the Government is awaited (December 2013).

According to Section 19(5)(c) of the TNVAT Act, no ITC shall be allowed on the purchase of goods sold as such or used in the manufacture of other goods and sold in the course of inter-State trade or commerce without declaration in Form 'C'.

2.15.3.2 Audit noticed (between September 2012 and February 2013) in 12 assessment circles⁹ that 19 dealers had claimed ITC of ₹ 34.09 crore on purchase of goods made during the period from 2006-07 to 2010-11. Audit further observed that they had made inter-State

sale of goods worth ₹ 42.84 crore which were not covered by declarations in Form 'C'. Such sale warrants reversal of ITC. However, the assessee failed to reverse ITC corresponding to such sales in the monthly returns. The AAs also failed to enforce such reversal during scrutiny of returns filed by the assessee. The amount of ITC reversible works out to ₹ 1.23 crore.

After Audit pointed this out, the Department reversed ITC amounting to ₹ 3.74 lakh in two cases pertaining to Namakkal (Town) and T.Nagar (North) assessment circles. The AA, Chengalpet assessment circle replied that the sales were local sales but the dealer had incorrectly reported it under the CST Act. The reply of the AA is not tenable as the goods have moved to other States and the sales were not covered by declarations in Form 'C'. Hence ITC of ₹ 17.27 lakh is reversible. Reply of the Department in respect of other cases is awaited (December 2013).

Audit reported the matter to the Government between January and May 2013. Government accepted the audit observation in two cases pertaining to Namakkal (Town) and T.Nagar (North) assessment circles. Reply in respect of remaining cases is awaited (December 2013).

⁹ Adyar-II, Ambattur, Chengalpet, Guindy, Kongunagar, Koyambedu, Lakshminagar, Namakkal (Town), Podanur, Royapettah-I, T.Nagar (North) and Thiruvottiyur.

As per Section 19 (4) of the TNVAT Act, ITC shall be allowed on tax paid or payable in the State on the purchase of goods, in excess of three *per cent* of tax relating to such purchases, if goods are transferred to a place outside the State otherwise than by way of sale; or they are used in manufacture of other goods and transferred to a place outside the State, otherwise than by way of sale. Provided, that if a dealer has already availed ITC, it should be reversed.

2.15.3.3 Audit noticed (between July 2012 and February 2013) in five assessment circles¹⁰ that five dealers claimed ITC of ₹ 3.39 crore on their purchases, during the period from 2007-08 to 2010-11. As they transferred the goods to other States otherwise than by way of sale, proportionate ITC applicable to such stock transfer was required to be reversed. However, proportionate ITC was not reversed in four cases and in one case there was short reversal.

The non/short reversal of ITC works out to ₹ 23.67 lakh.

After Audit pointed this out (between July 2012 and February 2013), the Department reversed (February and March 2013) ITC of ₹ 6.55 lakh in two cases relating to Saidapet and Udumalpet (North) assessment circles and collected ₹ 3.22 lakh. Reply in respect of other cases is awaited (December 2013).

Audit reported the matter to the Government between December 2012 and June 2013. Government accepted the audit observation in two cases pertaining to Saidapet and Udumalpet (North) assessment circles (September and November 2013). Reply in respect of other cases is awaited (December 2013).

¹⁰

Chintadripet, Mannadi (East), Saidapet, Trichy Road and Udumalpet (North)

2.15.4 Non levy of interest

According to Section 24(3) of the TNGST Act, on any belated payment of tax, the dealer shall pay interest at one and half *per cent* per month for the first three months of default and at two *per cent* for the subsequent period of default.

The TNVAT Act provides that where a dealer submits the prescribed return after expiry of the prescribed period or makes default in payment of tax, the dealer shall pay interest at one and a quarter *per cent* of the tax payable for every month or part thereof.

Audit noticed (between June 2012 and March 2013) in six assessment circles¹¹ that tax of ₹ 39.17 crore pertaining to the years 2002-03, 2003-04, 2005-06 to 2011-12 was paid belatedly by nine dealers. The delay ranged from two days to 46 months and eight days. Though the belated payment of tax attracts levy of interest of ₹ 30.04 lakh, the AAs failed to collect the same.

After Audit pointed this out, the Department collected interest of ₹ 23.05 lakh in eight cases. Reply in respect of the remaining case is awaited (December 2013).

Audit reported the matter to the Government between April and June 2013. Government accepted the audit observation in three cases. Reply in respect of other cases is awaited (December 2013).

Sales Tax

2.16.1 Application of incorrect rate of tax

According to Section 8(1) of the CST Act, inter-State sale of goods covered by valid declarations in Form 'C' was assessable to tax at the rate of three *per cent* from 1 April 2007 to 31 May 2008 and at two *per cent* thereafter.

By a Notification dated 5 August 1996 issued under Section 8(5) of the CST Act, 1956, the rate of tax on inter-State sale of hosiery goods covered by declarations in Form 'C' was reduced to one *per cent* provided the dealer had not effected any branch or consignment transfer during the year.

During test check of records in Lakshmi Nagar assessment circle, Audit noticed (February 2013), that the AA, while finalising the assessment of a dealer for the years 2007-08 and 2008-09 during January 2012 and June 2012 respectively, levied tax at the reduced rate of one *per cent* on the inter-State sales turnover of hosiery goods (covered by declarations in Form 'C') amounting to ₹ 9.10 crore. Since the dealer had also effected stock transfer of hosiery goods to other States during the said years, the dealer was not

¹¹ Adayar-II, Anna Salai-I, Nungambakkam, Ponneri, T.Nagar (East) and Trichy Road

eligible for the reduced rate of tax. The application of incorrect rate of tax resulted in short levy of tax of ₹ 12.23 lakh.

Audit communicated the matter to the Department in February 2013 and to the Government in April 2013. Their reply is awaited (December 2013).

2.16.2 Short levy of Additional Sales Tax

As per Section 2(1)(aa) of the TNAST Act, the tax payable under the TNGST Act, in the case of a dealer whose taxable turnover for a year exceeds ₹ 10 crore but does not exceed ₹ 25 crore, shall be increased by an additional tax at the rate of one *per cent* of the taxable turnover.

Audit noticed (December 2012) in Perur assessment circle that while finalising the assessment (February 2011) of a dealer for the year 2003-04, the AA levied Additional Sales Tax (AST) at the rate of one *per cent* on the turnover of ₹ 0.74 crore after incorrectly deducting the turnover of ₹ 10 crore from the taxable turnover of ₹ 10.74 crore. This resulted in short levy of AST of ₹ 10 lakh.

After Audit pointed this out in December 2012, the AA contended that taxable turnover in excess of ₹ 10 crore alone has to be considered for levy of AST. The reply of the AA is not tenable as the Act does not provide for any deduction from the taxable turnover. Hence, AST was leviable on the taxable turnover of ₹ 10.74 crore.

Audit reported the matter to the Government in March 2013. Reply of the Government is awaited (December 2013).

CHAPTER III
STAMP DUTY AND REGISTRATION FEES

Executive Summary

Increase in tax collection	The revenue from stamp duty and registration fees during 2012-13 was ₹ 7,645.40 crore as against ₹ 6,580.78 crore during 2011-12; indicating an increase of 16 <i>per cent</i> over the previous year.
Arrears of revenue	Out of the arrears of ₹ 299.46 crore pending as on 31 March 2013, ₹ 296.23 crore, i.e. 99 <i>per cent</i> were covered under the Revenue Recovery Act.
Cost of collection	In all the three years from 2010-11 to 2012-13, the expenditure incurred on collection was more than the all India average cost of collection of the previous years.
Internal audit	There was short fall in the conduct of internal audit in the past few years due to shortage of staff in the internal audit wing. This resultantly had its impact in terms of weak internal controls in the Department.
Results of audit conducted in 2012-13	<p>In 2012-13, test check of records in 135 units revealed undervaluation of duty and other irregularities amounting to ₹ 1,271.27 crore in 351 cases.</p> <p>The Department accepted under assessments and other deficiencies amounting to ₹ 1.80 crore in 85 cases, out of which, ₹ 62.62 lakh involved in 24 cases were pointed out during the year and the rest in earlier years. Out of the above, an amount of ₹ 1.14 crore has been collected.</p>
What is highlighted in the Chapter	<p>This Chapter features a performance audit on “Implementation of Computerisation in the Registration Department”, an Audit on “Pendency of documents for valuation with the DRO (Stamps)/SDC (Stamps)” and illustrative audit observations involving non observance of the provisions of the Acts/Rules resulting in non/short levy of stamp duty due to misclassification of instruments, undervaluation of properties, incorrect grant of exemption, etc. noticed during test check of records in the registration offices.</p> <p>Similar omissions have been pointed out by Audit in earlier years also. The Department had not taken corrective action despite these mistakes being apparent from the records made available to Audit.</p>
Conclusion	The Department needs to improve the internal control system including strengthening of internal audit so that the weaknesses in the system are addressed and omissions of the nature detected in Audit are avoided in future. It also needs to initiate action to recover the non/short levy of stamp duty pointed out in Audit. The cost of collection in the State is higher than the all India average cost of collection and the Department needs to take action to reduce the cost of collection.

CHAPTER III

STAMP DUTY AND REGISTRATION FEES

3.1 Tax administration

The Registration Department administers the Indian Stamp Act, 1899 and the Registration Act, 1908 and the Rules made thereunder. The administration of the Department is vested with the Inspector General of Registration. There are 50 registration districts comprising 578 registration offices in the State. The levy and collection of stamp duty and registration fees are done by the registering authorities. The monitoring and control at the Government level is done by the Principal Secretary, Commercial Taxes and Registration Department.

3.2 Trend of receipts

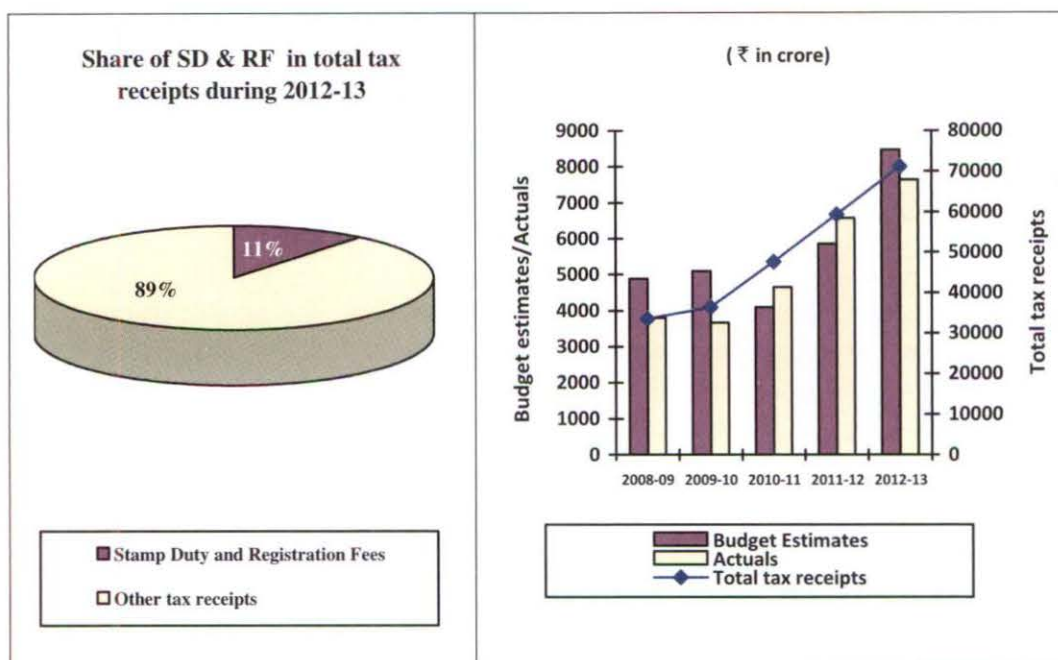
Actual receipts from stamp duty and registration fees during the last five years from 2008-09 to 2012-13 along with the total tax receipts during the same period are exhibited in the following table:

(₹ in crore)

Year	Budget estimates	Actuals	Variation excess (+)/ short fall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2008-09	4,888.90	3,793.68	(-) 1,095.22	(-) 22.40	33,684.37	11
2009-10	5,093.99	3,662.16	(-) 1,431.83	(-) 28.11	36,546.66	10
2010-11	4,096.18	4,650.59	(+) 554.41	(+) 13.53	47,782.17	10
2011-12	5,856.07	6,580.78	(+) 724.71	(+) 12.38	59,517.66	11
2012-13	8,466.94	7,645.40	(-) 821.54	(-) 9.70	71,254.27	11

Source: Finance Accounts of Government of Tamil Nadu

A bar diagram depicting budget estimates, actual receipts of stamp duty and registration fees and total tax receipts of the State and a pie chart depicting the position of stamp duty and registration fees receipts in the total tax receipts are given in the following page.



In 2012-13 the collection of revenue from stamp duty and registration fees increased by 16 per cent over the previous year which was attributed by the Department to revision of guideline rates for immovable properties.

3.3 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2013 along with the figures for the preceding four years as furnished by the Department are given in the following table:

(₹ in crore)					
Year	Opening balance	Addition	Total	Amount collected during the year	Closing balance
2008-09	148.81	29.93	178.74	30.86	147.88
2009-10	147.88	65.37	213.25	15.75	197.50
2010-11	197.50	37.15	234.65	20.73	213.92
2011-12	213.92	72.91	286.83	40.64	246.19
2012-13	246.19	83.63	329.82	30.36	299.46

As per the details furnished by the Department, the arrears as on 31 March 2013 includes ₹ 147.88 crore outstanding for more than five years. Demands amounting to ₹ 296.23 crore were covered under the Revenue Recovery Act. Demands of ₹ 3.23 crore were stayed by the High Court and other judicial authorities.

The above details indicate that substantial amounts were covered under the Revenue Recovery Act.

It is recommended that the Government may consider fixing targets for collection of old arrears in a time bound manner and closely monitor the performance of the Departmental officers vis-à-vis the set targets.

3.4 Cost of collection

The gross collection in respect of stamp duty and registration fees, expenditure incurred on collection and percentage of such expenditure to gross collection during the years 2010-11, 2011-12 and 2012-13 along with the relevant all India average percentage of expenditure on collection to gross collection for the previous years are given in the following table:

(₹ in crore)

Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage for the previous years
2010-11	4,650.59	171.14	3.68	2.47
2011-12	6,580.78	179.40	2.73	1.60
2012-13	7,645.40	203.00	2.66	1.89

Source: Finance Accounts of Government of Tamil Nadu

The above table indicates that the percentage of expenditure on collection was more than the all India average in all the years.

The Government needs to take appropriate measures to bring down the cost of collection.

3.5 Impact of Audit Reports

3.5.1 Revenue impact

During the last five years, Audit pointed out under valuation of properties, misclassification of instruments and other irregularities with revenue implication of ₹ 224.26 crore in 37 paragraphs. Of these, the Department/Government accepted audit observations involving ₹ 30.72 crore and has since recovered ₹ 11.34 crore. The details are shown in the following table:

(₹ in crore)

Year of Audit Report	Paragraphs included		Accepted money value	Amount recovered
	Number	Money value		
2007-08	12	42.63	19.72	6.95
2008-09	8	10.73	3.38	0.68
2009-10	1	90.84	0.46	0.46
2010-11	5	3.48	1.74	1.45
2011-12	11	76.58	5.42	1.80
Total	37	224.26	30.72	11.34

The Government may institute a mechanism to monitor the position of recoveries in the cases pointed out in the Audit Reports and take necessary steps for early collection.

3.6 Working of internal audit wing

The details of the number of offices due for internal audit and those completed, as furnished by the Department are given in the following table:

Year	Number of offices audits due	Number of office audits completed	Balance	Percentage of col.3 to 2
1	2	3	4	5
2008-09	881	859	22	97.50
2009-10	1,005	879	126	87.46
2010-11	991	563	428	56.81
2011-12	935	624	311	66.74
2012-13	1,021	613	408	60.04

The Department attributed (November 2013) the reason for shortfall in conducting internal audit to vacancy of Audit Registrars and stated that special teams were formed to complete the audit.

3.7 Results of audit

Test check of records of 135 Departmental offices during the period from April 2012 to March 2013 revealed under valuation of duty and other irregularities amounting to ₹ 1,271.27 crore in 351 cases, which broadly fall under the following categories.

Sl. No.	Category	(₹ in crore)	
		No. of cases	Amount
1	Performance Audit on “Implementation of Computerisation in the Registration Department”	1	---
2	“Pendency of documents for valuation with the DRO (Stamps)/SDC (Stamps)”	1	---
3	Under valuation of properties	93	11.07
4	Misclassification of instruments	124	1,243.50
5	Other observations	132	16.70
Total		351	1,271.27

During the course of the year 2012-13, the Department accepted under assessments and other deficiencies amounting to ₹ 1.80 crore in 85 cases, out of which, ₹ 62.62 lakh involved in 24 cases were pointed out during the year and the rest in earlier years. Out of the above, an amount of ₹ 1.14 crore has been collected.

After issue of draft paragraph, the Department collected ₹ 3.78 lakh in one case.

3.8 Performance Audit on “Implementation of Computerisation in the Registration Department”

Highlights

- The computerisation initiative undertaken by the Department is yet to be completed due to adhoc planning and non-monitoring of implementation. There was delay of eight years in computerisation of the offices covered in Phase IV. Web based software is yet to be developed.

(Paragraph 3.8.7.1)
- Non-utilisation of module resulted in non-sharing of information between Sub Registrar Offices and the Taluk offices.

(Paragraph 3.8.7.1)
- Non-mapping of business rules in the system necessitates the need for manual intervention in collection of stamp duty in case of partition deed and in collection of late fee for delay in presentation of document for registration

(Paragraph 3.8.7.2)
- Absence of input controls/validation checks and incomplete data led to deficient data quality.

(Paragraph 3.8.8.1)
- Deficiencies in programming logic gave scope for generation of multiple receipts with same serial number and risk of generation of incomplete Encumbrance Certificate (EC).

(Paragraph 3.8.8.3)
- Inadequate security controls resulted in modification of registration details without authorisation by superior officers. There was also no audit trail for collection of fee.

(Paragraph 3.8.9.2)
- More than 1,571 e-stamps issued under the e-stamping system were not locked though system requires the same to be locked to prevent re-use or misuse.

(Paragraph 3.8.10.1)

3.8.1 Introduction

The Registration Department undertook computerisation of its activities during 2000 with a view to introduce transparency in its operations and provide better and efficient services to the public. Activities having maximum citizen interface were given top priority. The application software 'STAR' (Simple and Transparent Administration of Registration) was designed and developed by the Department with the assistance of National Informatics Centre (NIC). 'STAR' has three modules namely:

- (i) Accounts Module: for receipts and accounts management;
- (ii) Indexing Module: for making Index II entries (details of property registered), generation of Encumbrance Certificate (EC) and Hindu Marriage registration;
- (iii) Scanning Module: for scanning, storing and retrieval of documents registered.

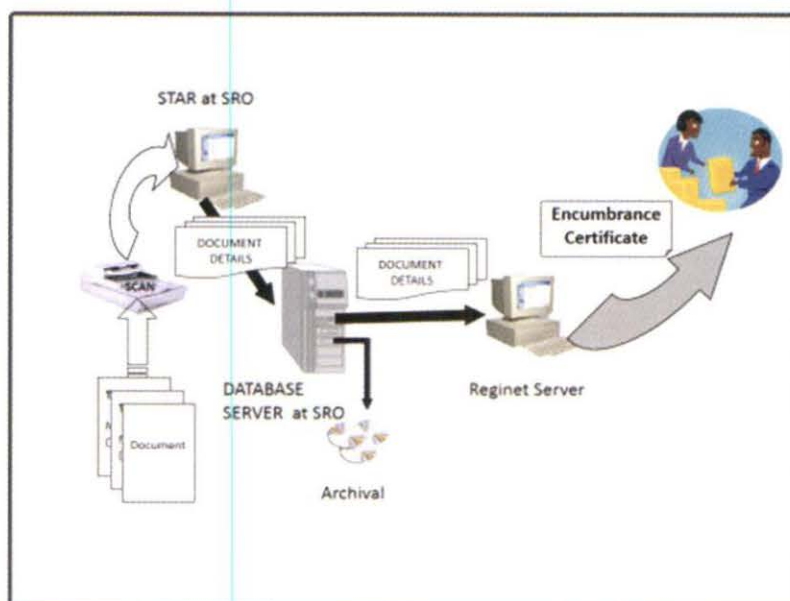
All the offices of Registration Department were planned to be computerised by 2003-04. Computerisation was undertaken in a phased manner. Phase I was implemented in 2000 while phases II and III were implemented in 2006. Phase IV covering 108 Sub-registrar offices (SROs) proposed to be completed during 2003-04 was completed in July 2009. Computerisation of 19 new SROs were completed at the time of their inception (during 2010 and 2011) in Phase V.

Performance Audit (PA) on computerisation of the Registration Department covering Phases I to III was included in the Report of the Comptroller and Auditor General of India (Revenue Receipts), Government of Tamil Nadu for the year ended 31 March 2008. During the current PA, a study of computerisation of the Department in Phases IV and V has been covered.

REGiNET is a dedicated network through which data available in all registration offices become shareable. This enables the registrants to approach the nearest SRO and avail the services. REGiNET centre is a service centre that was established at Chennai in 2002 with the purpose of providing the following services:

- Issue of Encumbrance Certificate of any property located in Tamil Nadu.
- Property Valuation Statement for any property
- Issue of certified copies of documents
- Statewide information on Guideline Values
- Draft deeds and sample forms relating to registration.

Data Flow diagram for STAR and REGiNET



3.8.2 Organisational setup

The Inspector General of Registration (IGR) is the head of the Department and functions under the control of the Principal Secretary, Commercial Taxes and Registration Department at the Government level. The IGR is assisted by three Additional Inspectors General of Registration of whom the Additional Inspector General (Guidelines) has been entrusted with the responsibility of overseeing the computerisation of the functions of the Department. The State has been divided into 50 registration districts for administrative purpose. There are 578 SROs for registration of documents and other purposes. Besides, two District Revenue Officers (DRO) (Stamps) and nine Special Deputy Collectors (SDC) (Stamps) function to fix the market value of the property in case of dispute. The Department has a system of internal audit and there are 45 audit units, each headed by a District Registrar (DR).

3.8.3 Audit objectives

Performance audit was conducted to ascertain whether,

- planning for computerisation of activities of the Department was in line with the Information and Communication Technology (ICT) policy of the Government of Tamil Nadu and assessment of requirement of ICT infrastructure, funds and human resource was done effectively;
- business rules on the activities of the Department were adequately mapped into the system;
- data integrity, reliability, accuracy and completeness were ensured by proper application controls and adequate internal control mechanism;
- adequate security control, Business continuity and Disaster recovery plans were in place; and

- implementation of computerisation was done within the timeframe as planned and resulted in better transparency and delivery of services to the public.

3.8.4 Audit criteria

The following audit criteria were adopted:

- Information Technology Audit Guidelines issued by ASOSAI;
- Information Technology Audit Manual of the CAG of India;
- Information Communication and Technology/Government Policy Notes;
- Indian Stamp Act, 1899;
- Indian Registration Act, 1908;
- The rules made under the above Acts.

3.8.5 Scope and methodology

Audit covered the period from 2008-09 to 2011-12 for this PA. In addition to the records and data available at the office of the Inspector General of Registration, Registration Department of the State Government, REGiNET Centre, fourteen¹² out of 127 SROs covered under phase IV and V were selected adopting simple random sampling without replacement method. Further, eight SROs¹³ covered under the earlier phases of computerisation were selected to verify whether the deficiencies noticed in the earlier PA have been rectified. The completeness of computerisation was verified through study of various modules, generation of reports and data analysis for the period from 1 April 2008 to 31 March 2012.

3.8.6 Acknowledgment

Audit acknowledges the co-operation extended by Registration Department in providing necessary information and records. An Entry Conference was held with the Secretary to Government, Commercial Taxes and Registration Department in September 2012 in which Audit explained objectives, scope and methodology. The statement of facts was forwarded to Department and Government in May 2013. The Exit Conference was held with the Secretary to Government, Commercial Taxes and Registration Department on 9 July 2013. The views expressed by the Government during the Exit Conference and replies received at other points of time have been appropriately incorporated in relevant paragraphs in this report.

¹² Ayyampettai, Chekkanoorani, Jalakandapuram, Kudavasal, Morappur, Nambiyur, Negamam, Othakadai, Pallipalayam, Selaiyur, Tharangampadi, Thiruvankadu, Thottipalayam and Yercaud

¹³ Coimbatore Joint II, Ganapathy, Gandhipuram, Kancheepuram Joint I, Kancheepuram Joint II, Kancheepuram Joint IV, Pallavaram and Tambaram

Audit Findings

3.8.7 General controls

3.8.7.1 Planning and implementation

- **Inadequate network management**

Tamil Nadu State Wide Area Network (TNSWAN) is the network connectivity for communication requirements of all the Departments in Government of Tamil Nadu. This is covered under e-governance of ICT policy of the Government of Tamil Nadu. Electronics Corporation of Tamil Nadu Limited (ELCOT) is a nodal agency for implementation of TNSWAN. M/s. Tata Consultancy Services Limited and M/s. Hindustan Computers Limited are implementing agencies identified by ELCOT. This network covers 700 locations of Registration Department, in four phases with an outlay of ₹ 9.19 crore including all SROs, SDCs, DROs, DRs, Assistant Inspector General of Registration, Deputy Inspector General of Registration, Inspector General of Registration and REGiNET Centre. TNSWAN enables inter-office communication and also enables the SROs to upload Registration details (Index II data) to REGiNET server. It was found that out of 700 locations, 42 are yet to be connected (February 2013).

An amount of ₹ 59.65 lakh for the above 42 locations were released (during 2007 and 2011) in advance to ELCOT. Non-provision of connectivity by implementing agencies for 42 locations resulted in delay in rendering services like issue of Encumbrance Certificate of any property in Tamil Nadu and issue of certified copies of documents.

- **Deficient IT Strategy - Lack of risk assessment**

In Phase IV of computerisation, Computers with Linux based Operating Systems (OS) were supplied to the SROs during November 2007 but the computers supplied to the SROs under phases I to III were Windows based. Further, ELCOT was entrusted with the work of development of web based software during November 2007 which is compatible with Linux and Windows OS. The web based software developed by ELCOT was not accepted by the Department as it was not comprehensive. During June 2009, Department procured windows operating system for computerisation of the above SROs. Consequently, the existing STAR software was rolled out in 108 SROs covered under Phase IV with effect from July 2009.

Audit observed that the non-development of the comprehensive web based software by ELCOT resulted in procurement of windows OS for Phase IV SROs; delay in computerisation for one and half years in 108 SROs and systems/peripherals purchased for ₹ 8.47 crore being kept idle; business objective of rendering service like issue of EC of any property in Tamil Nadu and issue of certified copies of documents not being achieved in time;

additional cost of around ₹ 15 lakh for data entry of 5.03 lakh records and reduction in the life time of UPS.

Computerisation of 108 SROs in Phase IV was proposed to be completed during 2003-04; but was extended to 2006-07 and completed in July 2009. There was delay of eight year in computerisation of SROs covered in Phase IV.

Subsequently, the Department engaged, during December 2011, M/s Price Waterhouse Coopers Pvt. Ltd. to prepare Detailed Project Report (DPR) for comprehensive web based software with work flow system. Based on DPR, sanction was accorded in November 2012 for ₹ 117.34 crore for the development of comprehensive web based software in lieu of STAR software. Project of comprehensive web based software is under tender finalisation stage (December 2013). Hence the web based software which was planned during 2007 is yet to be developed.

Government stated in July 2013 that delay was due to opting for Linux OS platform on the advice of ELCOT which ultimately could not be integrated with the existing STAR software. However, the fact of delay pointed out by Audit and delay in rendering service like issue of EC of any property in Tamil Nadu and issue of certified copies of documents remains.

• **Non-capturing of biometric information**

Photograph and Thumb impression of the registrants were to be captured through bio-metric devices and web cameras and saved along with the document registered with the aim to arrest impersonation and avoid malpractice by registrants. Sub-Registrar Offices (108) covered under Phase IV (November 2007) were supplied with bio-metric devices and web cameras costing ₹ 16.10 lakh. The work of development of software was entrusted to NIC during 2007. In July 2010, these devices were put to use on pilot run basis in 250 SROs. Department addressed NIC of the practical problems encountered during such test run and requested NIC to develop software with better security controls. Audit observed (March 2013) that these devices procured during August 2005 and November 2007 for Phases I to IV for ₹ 85.61 lakh were kept idle for want of software.

This clearly indicates that security concerns now adduced by the Department for non utilisation of bio metric devices were not visualised at the time of procurement of the devices and development of the software, resulting in the devices lying idle and blocking funds of ₹ 85.61 lakh for more than five years.

Government accepted the audit observation and stated that the web based software which is under process involves the deployment of devices with due security features. However, the fact remains that these devices were not put to use and funds remain blocked.

- **Non-sharing of information**

Sub-registrar office and Taluk office

Sub-Registrar Offices, while registering the documents have to verify the ownership details from Taluk records as they are the custodian of records showing the right or title to the property. The software for the above verification, namely 'STAR view module for Taluk offices' had been developed by NIC. Audit observed that the above module was not utilised.

Failure on the part of Department to utilise such software resulted in non-sharing of information between SROs and Taluk offices and non-achievement of intended objective of transparency.

Government replied in July 2013 that the Department intended to link Taluk office database in the upcoming project of end-to-end web based software. However, the fact of non-verification of information remains though there exists software and connectivity for the above purposes.

Sub-registrar office and SDC office

Under Section 47A (1) of Indian Stamp Act, when the value of the document is less than the market value, SRO may, after registering the instrument, refer the same to SDCs/DROs for determination of correct market value of the property and the proper duty payable thereon. STAR – index II module has a provision to enter the references to SDC and on return to capture the details such as market value fixed by SDC and differential stamp duty collected, etc.

On a test check of data, Audit found in 22 SROs that in 34 cases, no entries were made for documents which had been referred to SDCs. Further, though 234 cases were shown as pending with SDC in the STAR- index II module, Audit, on scrutiny of Section 47A register found that the documents were already returned after collection of differential stamp duty. It reveals that the details of return of document are not updated by the Department in STAR – Index II module.

If provision for viewing and updating such information is available at SDC/DROs, the details of cases referred, value fixed and amount of differential duty can be viewed and updated at both the ends. Failure on the part of the Department to develop module for integrating SROs and SDCs at the time of procurement of hardware and provision of connectivity to SDC offices, resulted in non-sharing of information with regard to documents referred to SDC. As a result, reconciliation of cases was carried out manually.

Government stated (July 2013) that linking SDC offices with SROs would be part of the end-to-end web based and work flow system architecture which shall seamlessly integrate all the registration processes and its related application.

Audit recommends that action may be taken to contemplate the process of sharing of information so as to reduce the manual process.

3.8.7.2 Mapping of business rules

- **Non mapping of business rules**

All the relevant business rules and procedures are required to be identified and suitably incorporated in the application so as to avoid the necessity of manual intervention and manual control.

Audit observed that the business rules such as collection of fine for delay of more than four months in presentation of document for registration after the date of its execution was not mapped in IT systems. Also, in respect of partition deeds involving more than one schedule the provision for calculation of stamp duty and registration fee on each schedule was not mapped in IT systems which necessitated manual intervention.

Further, the system does not provide for automatic calculation of the value of the document, though the parameters like nature, extent, survey number, guideline value, etc are being captured in the system. Also, the levy of additional fee of ₹ 200 applicable under Rule 4 of the the Tamil Nadu Registration Rules 1983 read with item 17 (3) (a) of the Table of fees in respect of registration of document on holidays was not mapped into the system. On data analysis, Audit observed that in 22 SROs, though 1,949 documents were shown as registered on holidays and registration fee receipts were generated on holidays for 1,232 documents, no holiday fee was collected. The Department in an interim reply stated that the data entry could be wrong and agreed to give a detailed reply after verification of data.

Government stated in July 2013 that in respect of collection of fee for delay in presentation of document, the business rule is mapped by modifying the software suitably. The Government stated that as regards automatic calculation of charges for all the schedules in partition deeds, the audit observation would be taken into account and suitable provision would be made in the new comprehensive web based software which is under development.

However, the facts remain that though similar issues have been pointed out by Audit in earlier Audit Report for the year ended 31 March 2008, the Department had not taken corrective action by modifying the software suitably and to rectify the data entry errors already captured even after a lapse of four years.

3.8.8 Application controls

3.8.8.1 Input controls - Absence of validation checks

Input controls ensure that data received for processing is genuine, complete, authorised and accurate without duplication. Input controls also serve as an effective measure to detect or prevent error in a computerised system.

In Index II data, the registration details like date of execution, presentation, registration and other details like executant/claimant name, boundary details, PAN, consideration and market value are being entered for the purpose of generation of EC. In Index II, the date of entry of the details are captured from the system date.

Input control should be built into the system and an alert should be thrown to the user that the date of presentation/registration should not be after the date of entry/system date. Further, system should be allowed to proceed after capturing the details accordingly.

Test check of registration details (Index II data) at 22 SROs indicated that in respect of 9,353 out of 4,18,247 documents, the date of entry in Index II was found to be earlier than the dates of presentation and registration of the document. This is indicative of proper input control not being built into the system.

Government stated (July 2013) that these errors might have crept into the database due to wrong data entry or system date being one day prior to actual date. The Government, however, stated that the business rule has since been mapped by modifying the software suitably and error would not arise again. Though action has been taken by modifying the software accordingly, it is required to rectify the incorrect dates already captured.

3.8.8.2 Completeness of data

Test check of data indicated that there exists incompleteness of data as mentioned below:

- STAR – Index II module provides for capturing the information such as consideration, market value and higher value (if the consideration is higher than the guideline value). Apart from that separate database exists for guideline value. The higher value information is provided for considering the same at the time of guideline revision. Though there exists a provision for capturing the higher value, the information is neither captured nor automatically derived from the consideration in comparison with guideline value. As this is vital information for revision of guideline value action may be taken to capture higher value in the software.

Government stated in July 2013 that under the new web based software, which is under development, audit observation would be taken into account and provision would be made for automatic updation of higher value of registered documents. However, the fact of non-capturing of higher value continues.

- STAR – Index II module provides for capturing the information of 'date and time of return of the document to the registrants' after the process of registration, such as collection of fees and deficit stamp duty, capturing of registration details and scanning the document. This information of 'date and time of return of the document' is not captured in the system. This was also not manually noted in the records; instead only signature of the registrants for receipt of document is captured in the manual records. Audit compared the

date of collection of fee (being first process in the system) and date of scanning (being the last process in the system) and found in 21¹⁴ SROs that in 1.07 lakh cases, there existed delay which varied from three to 26 days. Non-capturing of date of return of the document indicated that the time taken by the Department for the process of registration could not be ascertained, though the time for registration of the document is fixed as one hour in the computerised scenario.

Government stated (July 2013) that circular has been issued to all SROs to add the date of return of registered documents without fail. It is recommended that the process may be integrated in the work-flow in the present system and the proposed web-based software.

- STAR – Index II module provides for capturing the information of PAN of registrants. Further, as per Rule 114E of Income Tax Rules, 1962, an Annual Information Return containing the information of transaction having value more than ₹ 30 lakh should be furnished by SROs. This return has a provision to furnish PAN. In 22 SROs, for 2.94 lakh cases, no entry has been made in the field provided for PAN. As PAN is primary information for cross verifying the transaction, the purpose of furnishing such return was not fulfilled.

- As per Section 2(1) of the Registration Act, 1908, father's name of the executant and claimant have to be furnished as additional information for identification of the person. Further, there exists a provision in the STAR-Index II module to capture such information. Data analysis in 22 SROs revealed that in 2,93,875 cases no entry was made in the field provided for father's name of the executant and claimant. As a result, additional information for identification of the person was not available to the Department.

- As per Rule 6 of the Tamil Nadu Registration Rules 1983, boundary details of the property to be registered have to be furnished as additional information for identification of the property. Further, there exists a provision in the STAR- Index II module to capture such information. Data analysis revealed that in 22 SROs, in 63,187 out of 4,18,247 cases, no entry was made in the field provided for boundary details. As a result, additional information for identification of the property was not available to the Department.

The Government, however, stated that fields for capturing PAN, father's name and boundary details are not mandatory. The Government's reply is not acceptable as PAN in database had been left blank even in high value documents instead of indicating whether the registrants had produced PAN or Form 60/61. Father's name and boundary details which are additional information for identification purpose was not available to the Department.

¹⁴ Ayyampettai, Chekkanoorani, Coimbatore Joint II, Ganapathy, Gandhipuram, Jalakandapuram, Kancheepuram (Joint I, Joint II & Joint IV), Morappur, Nambiyur, Negamam, Othakadai, Pallavaram, Pallipalayam, Selaiyur, Tambaram, Tharangampadi, Thiruvallankadu, Thottipalayam and Yercaud

- Data available in all the SROs are required to be uploaded daily to the REGiNET server. MIS report generated at the REGiNET showed that in nine¹⁵ out of 22 SROs, 69,958 document details were found to be missing while uploading the data for the period ranging from 1989 to 2012. Audit verified the local server at SROs and found that the registration details pertaining to those documents are available. Failure on the part of the Department to verify the completeness of the entries uploaded to the REGiNET server resulted in incomplete information in the REGiNET server. Further, in respect of SR, Chekkanoorani, the missing documents (60,525) were found to be more than the actual number of documents registered (12,343) due to data entry error.

Government attributed the reason for missing document details to bugs in the software, which was subsequently solved and no missing document details are generated once the document is uploaded to the central server. As regards SR, Chekkanoorani, the reason for missing entry was attributed to data entry error. Audit test checked further and found that missing document details persists in MIS report even after the rectification of bugs, hence necessary steps should be taken to upload the complete information.

3.8.8.3 Deficiencies in programming logic

While defining the information architecture, the business requirement of the Department should be satisfied by creating and maintaining appropriate control in the designing of the software.

Integration between modules: There was no integration between three modules, namely the accounts, index and scan modules of the STAR package. While entering the details, the software insists on entering the details repeatedly in each module. For instance, Audit found that in 2,94,803 cases there existed three different registration dates, which is a critical information, in accounts, index and scan module for the same document.

In another instance, Audit noticed in 19 SROs¹⁶ that though 12,446 cases are still shown as pending in the Accounts module, these were subsequently registered and released by allotting registration number. Registration number along with the details are captured in the index II module. The programme is deficient in providing link between the Accounts module and Index II module. Hence the documents which are shown as pending in Accounts module are not updated when the documents are subsequently registered and entered in Index II data.

¹⁵ Ayyampettai, Chekkanoorani, Coimbatore Joint II, Ganapathy, Kudavasal, Nambiyur, Negamam, Othakadai and Tharangampadi

¹⁶ Ayyampettai, Chekkanoorani, Coimbatore Joint II, Ganapathy, Gandhipuram, Jalakandapuram, Kancheepuram Joint I and Joint II, Kudavasal, Nambiyur, Negamam, Othakadai, Pallavaram, Pallipalayam, Tambaram, Tharangampadi, Thiruvankadu, Thottipalayam and Yercaud,

Government stated in July 2013 that all modules would be interlinked in the proposed web based software. Government should take necessary steps for data correction.

- **Manual intervention in Generation of EC:** Encumbrance Certificates are issued for any property located in the concerned jurisdiction by concerned SRO and through REGiNET centre for any property located anywhere in Tamil Nadu for the specific period requested by the applicant. The EC should necessarily reflect all transactions pertaining to the property and for the specified period without exception.

While processing the certificate based on the information provided by the applicant, the user in the Department filters the data based on required survey number and further has the option to manually intervene to restrict the information which should be included in EC. This gives scope for manipulation. Such deficiency in programming logic may lead to generation of incomplete ECs.

The program should be designed in such a way that after selecting a particular transaction entry all the previous and subsequent transactions for that property registered within the specified period should be automatically generated.

- **Issue of manual receipts:** In SRO, Tambaram during the years between 2010 and 2012, 27,902 manual receipts for collection of fees for issue of ECs/copy of documents were issued as the system was not able to generate the receipt number beyond fixed number. For solving this problem, the field was extended in the database and software was modified and distributed in July 2012. As this has not solved the problem, the SRO, Tambaram continued to issue manual receipts, which indicated deficient system design and improper change management.

Government in July 2013 stated that the Department is in pursuit of adopting web-based technology to put a complete control mechanism. Audit contention is that the receipt details pertaining to such manual receipts are not captured in the STAR – accounts module and the revenue information is incomplete.

- **Generation of multiple receipts with same serial number:** Receipts should be generated after authorising the completeness of the transaction. The Department issues computerised receipts through Accounts module with serial number automatically generated by the software, for collecting registration fees, sub-division fees and EC charges. A scrutiny of the process of issue of receipt revealed that duplicate/more than one receipt with the same serial number could be generated with modified amount for the same transaction. This is due to deficient programming in prioritising the provision for generation of receipts before authorising the completeness of the transaction.

- **Discrepancy in automatic numbering of receipts:** Continuous receipt numbers are automatically generated by the 'STAR' –Accounts module. Audit observed in SRO Pallipalayam that receipts were not consecutively numbered. In the year 2011 and 2012 receipt numbers from 645 to 2224 and 2288 to 2929 respectively were missing. The Department

attributed the discrepancy in receipt numbers to error in the computer. However, the Department should take action to rectify the error.

3.8.8.4 Lack of output control

Output requirement should be defined and documented while going for IT solutions. Audit found that definition and documentation of the same is lacking and that the following outputs are not generated through system but prepared manually.

- **MIS Report on Periodicals:** Sub-Registrar Offices prepare around fifteen periodicals manually every month such as year-wise pendency of documents, monitoring of reference under Section 47 A(1), monitoring of pending documents in SROs, documents referred to DRO(Stamps), etc. Though all the required data is available in the system, no provision has been made to generate report automatically. This resulted in loss of time and man power.

The Government stated (July 2013) that under the new web based software which is under development, provision for generation of MIS reports would be made. However, the fact remains that when data are available, the Department continued to prepare such report manually.

- **Issue of incorrect receipts:** In SRO, Negamam, receipts for EC, registration fees etc., were issued in the name of SRO, Mylapore. This would result in incorrect generation of receipt due to deficient programming.

Government stated (July 2013) that the error has since been rectified. Though this problem is rectified at the above office, Department should take action to verify the correctness in all the SROs, as the receipt given to public is inaccurate.

3.8.9 Security issues

3.8.9.1 Inadequate disaster recovery plan and business continuity arrangement

A business continuity management process should be implemented to reduce the disruption caused by disasters and security failures. The business continuity plan should be tested regularly to ensure that they are updated and periodically reviewed for their continued effectiveness. Audit observed the following:

Backup of server: The document details which are stored in local server are uploaded to the REGiNET server daily. Accounts details and scanned copy of the documents are stored locally and replicated in compact discs. Audit observed that no disaster recovery mechanism exists for the REGiNET server containing legally valuable data and only periodical back up was being taken and mirroring of database was not done. Government stated in July 2013 that these concepts would be part of the new web-based software. Department should take immediate steps to secure the available data.

Backup of Scanned document: The scanned images need to be stored permanently since the data are of permanent nature and having legal validation. Such scanned documents are stored in local server. Further, backups are taken in temporary storage media like compact disks, external hard disk. No storage mechanism like indexing, testing, retrieval is defined for off-site storage.

A random check undertaken in Audit revealed that the back-up scanned images of documents stored in two backup CDs containing 298 documents could not be accessed in SRO, Coimbatore Joint II. Similarly at the off-site storage area of District Registrar, Salem (East), the disks containing the scanned images of documents registered at SROs, Dadagapatty and Ayodhyapattinam during the year 2002 could not be accessed. As a result, the very purpose of taking back-ups was not served.

Further, funds allotted by the Government of India through M/s. National Informatics Centre Service Inc., (₹ 60 lakh) under enhancing e-services (2007) for procurement of high end server and Storage Area Network (SAN) storage device for backup purpose was diverted for TNSWAN connectivity and purchase of high end server with 10 TB SAN Storage for storing scanned images was not made.

Government stated in July 2013 that since the images in hard disk as well as CDs are fragile, proposal for digitisation and storage of documents in micro films (microfiche) is under consideration of the Government. The Government further stated that procurement of high end server/SAN storage is included in the proposal of web based software which is under progress.

Lack of Power Backup: Computer equipment may be damaged or disrupted by fluctuations in electrical power supply. Frequent power failure ranging from four to six hours were encountered during working hours daily in 22 SROs test checked. Generators were not provided to SROs for power backup. As a result, the routine work of SRO and service to public is disrupted.

Government stated in July 2013 that generators are being supplied to SROs and ELCOT had also been requested to replace worn out batteries in the UPS.

3.8.9.2 Inadequate IT security policy

Information systems security policy relates to safeguarding valuable assets/data against threats, loss, misuse, unauthorised access or damage. Audit observed the following:

- **No Audit trail for collection of fees:** STAR- Accounts module is used for issue of receipts. The module should have provision to capture the details of the user who collects the fees. Appropriate audit trails and controls are required to examine evidence relating to collection of fees. An analysis of database pertaining to collection of fees revealed that the details of the user who collected the fees and generated the receipts are not being captured.

- **Modification details not available:** Details of document are entered in STAR- Index II module at the time of registration of the document. The software should not allow modification of the details unless it is authorised by SR. Instead, module allows modification of data at later stage.

Analysis of the data revealed that the date of modification is captured but the details of modifications are not available in the module. Audit found that 1.07 lakh records in 22 SROs¹⁷ were modified at later stage. The details of modification made in the database and reason for the same are not available. In the absence of the same, audit trail of the modification made are not available in the system. Further there is no record that these modifications were authorised by Sub-registrar (SR) to provide assurance that all transactions are valid, complete, authorised and recorded.

Government stated in July 2013 that the above mentioned issues would be considered and duly incorporated in the new web based software which is under progress and detailed log facility would be created.

Though controls may be incorporated in the new web based software, action may be taken to rectify the deficiency in the existing software by issue of patches, considering the criticality of the issue and delay in implementation of the web based software. Also while creating log facility, logging application has to be created to capture all the activities taking place through software.

3.8.9.3 Inadequate change management and documentation

Established change management practices/procedures are required to ensure that unauthorised changes are not carried out to the system. Audit observed that user change requests were not properly documented; in the absence of which audit was unable to find out whether the business rules which were not mapped in the STAR software were due to lack of requirement analysis at the mapping. Similarly, though many patches were issued for STAR software, the reasons for issue were not documented.

Government stated in July 2013 that documentation of user change request and issue of patches is now being undertaken.

¹⁷ Ayyampettai, Chekkanoorani, Coimbatore Joint II, Ganapathy, Gandhipuram, Jalakandapuram, Kancheepuram (Joint I, Joint II & Joint IV), Kudavasal, Morappur, Nambiyur, Negamam, Othakadai, Pallavaram, Pallipalayam, Selaiyur, Tambaram, Tharangampadi, Thiruvankadu, Thottipalayam and Yercaud

3.8.9.4 Delay in Encumbrance Certificate Search

Encumbrance Certificates are issued in SROs from the registration details captured in STAR-Index II module based on the application submitted by the Public. In 22 SROs there was delay of four days to more than one year in EC search for 20,367 applications. Government replied in July 2013 that the delay of five days might be due to power failure, increasing workload, shortage of manpower etc. Government further stated that delay of more than one year might be due to accessing the same application for various purposes since the original date was rewritten with accessing date.

Since the original date is rewritten with accessing date, the software should have been designed in such a way that both dates are captured separately. Hence it requires further examination by the Department.

3.8.9.5 Deficient services by REGiNET Centre

REGiNET Centre is a service centre that had been established at Chennai since 2002 with the purpose of providing services such as issue of EC of any property located in Tamil Nadu, Certified copies of documents, etc. The function of the REGiNET Centre was examined and the following were noticed:

- Though application is received online, the service is rendered from the concerned office to the public only through post, as the scanned documents are not stored centrally.
- Data analysis in respect of issue of EC through REGiNET Centre revealed that in 7,339 cases, there were delay ranging from 5 to 872 days.
- 2,437 applications for requests for EC were pending.
- 2,345 applications for requests for copies of documents were pending

Government stated in July 2013 that the status of issue of EC is not updated in the server. It involves data entry work and since updating of issue of EC requires details of dispatch, it cannot be made to update automatically. The Government further stated that occurrence of delay might be due to non-availability of sufficient details of property or due to unavoidable factors like power failure, system slow down, delay in downloading of details and instructions are being issued for speedy processing of requests.

However, delay in issue of EC can take place due to non-uploading of data in time into REGiNET and the Department has to take remedial action to control other factors.

3.8.10 Other Issues

3.8.10.1 Irregularities in e-stamping

E-Stamping, an alternative method of stamp duty payment with the objective of eradicating fake stamp circulation, has been implemented in 63 SROs of Chennai Zone. The Government of India has authorised Stock Holding

Corporation of India Limited (SHCIL) to act as Central Record-keeping Agency (CRA) for the introduction of e-stamping system as an alternative method of collection of stamp duty. The data pertaining to e-stamping were owned by SHCIL and not under the custody of Department. Further, entire data on the issue of e-stamps, revenue collected, commission on e-stamps, etc., is in the custody of the SHCIL and MIS report on issue of e-stamps is being furnished to the Department.

◦ **Incorrect accounting procedure in booking for payment of commission :** While accounting e-stamp receipts in the Government account, the total amount for which e-stamps are issued should be booked under receipts side under the head of account "0030 Stamps and Registration" and the commission allowed to SHCIL should be booked under expenditure side under "2030 Stamps and Registration". Inspector General, Registration also requested the Government in December 2008 to adopt above accounting procedure for the remittance of Stamp duty amount received under e-Stamping system through SHCIL.

Audit noticed that SHCIL remitted the amount after deducting the commission which was booked under the receipt Head "0030 – Stamps and Registration". The commission allowed at the rate of 0.65 per cent to SCHIL was not booked under the Expenditure Head "2030– Stamps and Registration". SHCIL was allowed commission of ₹ 15.67 lakh and ₹ 73.93 lakh during the years 2010-11 and 2011-12 respectively. Government stated in July 2013 that necessary action to rectify the defect would be taken.

◦ **Non reconciliation of remittances relating to e-stamping:** On a scrutiny of the reconciliation of e-stamping records in the office of District Registrar Chennai (North), Audit found that though monthly reconciliation report was submitted to the IGR, monthly figure of SHCIL was not reconciled with PAO figure from December 2010 onwards. Further, no provision has been made for periodical audit of the receipts and remittances made by the CRA with the e-stamp certificates issued.

The Government in July 2013 stated that reconciliation has been completed up to May 2013. Audit further verified (September 2013) and found that for the months of September 2011 and July 2012 the certified amount of receipts under e-stamp for those months did not tally with daily collection details.

◦ **Certificates not locked:** When the e-stamp is issued by SHCIL, the details of e-stamp are made available to SRs through the e-Stamping System (eSS) application. When e-stamp is presented for registration, the SR can verify the validity of e-stamp by logging in and lock the e-Stamp entry to prevent further use. A scrutiny of MIS Report on e-stamps generated for the period up to 31 March 2012 revealed that 1,571 e-Stamps issued for documents were not locked.

Government stated in July 2013 that instructions have been given with regard to locking of e-stamps and to strictly follow the e-stamping procedures. The Government further stated that e-stamping certificates could be locked only when the document was presented for registration and audit had not specifically mentioned whether the cases pointed out had been presented for registration.

Audit further verified (September 2013) four cases relating to SRO, Mylapore and found that in respect of documents which were registered, e-stamping certificates were not locked. This indicates that the above omission remains.

3.8.10.2 Inadequate training

Key Resource Persons (KRP) were given training initially. Further 2,697 persons were given training during 2002 and 2003. After that no periodical / refresher training on STAR software was given to the staff.

Government stated in July 2013 that motivated staff were identified as KRP. These KRPs train other officials in districts/zones. However, KRP were not given refresher training and new KRP were also not identified and given training after 2003. It is also observed that while proposing for outsourcing of activities such as scanning, biometric, index II data entry etc., the Department has stated that staff are not well trained in handling computers, data entry, trouble shooting and bilingual typing.

3.8.10.3 Non implementation of e-waste disposal policy

Discarded computer hardware and other non-biodegradable electronic devices are being seen as new threats to the environment.

The Department sent proposals to the Government in August 2009 and August 2010 seeking direction for disposal of 5,834 numbers of outdated systems and peripherals. The Department subsequently requested the Government in December 2011 to permit disposal of the above items through auction.

Though the Government published the e-waste policy in May 2010, no action was taken on the request of the Department till date resulting in accumulation and dumping of obsolete computers and peripherals.

Government stated in July 2013 that further process had been initiated as per guidelines issued in April 2013.

3.8.10.4 Irregularities in Procurement of Hardware

- **Excess payment of service charges and service tax to ELCOT:** ELCOT being the optional procurement agency was allowed service charge for the procurement for Departments of Government of Tamil Nadu. Government sanctioned¹⁸ ₹ 22.19 crore towards computerisation of SROs and fixed the service charge payable to ELCOT at two *per cent*. However, service

¹⁸ G.O.Ms.No.151 Commercial Taxes and Registration (u) Department dated 13.10.2009 ;
G.O.Ms 60 CT&R dated 4.5.2010

charge at the rate of three and half *per cent* and corresponding service tax as claimed by ELCOT was allowed. This resulted in excess allowance of service charge and corresponding service tax of ₹ 26.20 lakh.

Government stated in July 2013 that on receipt of reply from ELCOT, excess amount, if any, would be recovered. Further report is awaited.

- **Amount remaining blocked with ELCOT:** Funds for various stages of computerisation were sanctioned by the Union/State governments and transferred to the account of ELCOT in entirety, as and when received from Government. The unutilised funds of ₹ 5.16 crore were allowed to accumulate with ELCOT. In this regard, it is observed that no periodical reconciliations were made at each stage of purchase/ installation/ implementation of project. Though ELCOT offered to refund the excess amount, it is evident from the records produced, that no action was taken by the Department.

In an instance, Government, during October 2009, sanctioned ₹ 24.43 lakh for the procurement of 390 Digital cameras through ELCOT for the purpose of taking photograph and retrieval. However, only 54 digital cameras were supplied and those too were rejected as they were not controllable through software. ELCOT raised an invoice claiming an amount of ₹ 24.43 lakh for supply of 390 Digital Cameras and same was paid by the Department. Thus amount of ₹ 24.43 lakh was paid by the Department for the items that were not supplied or were rejected by the Department.

Government stated in July 2013 that the amount remaining with ELCOT has to be reckoned considering the invoices from both procurement and service sections. However, the fact remains that no periodical reconciliations were done.

- **Excess sanction for Facility Management Service:** An amount of ₹ 1.60 crore¹⁹ was sanctioned for Facility Management Service (FMS)²⁰ including replacement of minor spares for 25 districts, ₹ 1.28 lakh per year per district, covering 108 SROs, under Phase IV for 5 years. The cost was worked out based on the number of registration districts instead of number of SROs. The SROs situated in each district vary from one to thirteen SROs.²¹ Audit observed that the average cost per office would work out to ₹ 9,846²² (₹ 1.28 lakh/13 SROs) adopting ₹ 1.28 lakh per year for thirteen SROs in one district. This resulted in excess sanction of ₹ 1.07 crore²³ for five years.

Government (July 2013) replied that as per estimate of ELCOT ₹ 1.28 lakh per year per person had to be paid. Further SROs in other phases would also be covered by the persons deployed.

¹⁹ ₹ 1,28,000/per year X 25 Districts X 5 Years = ₹ 1,60,00,000

²⁰ Infrastructure management service charges including replacement of minor spares

²¹ Minimum of one office each in Madurai, Tiruchirapalli and Thanjavur Districts and maximum of 13 offices in Tirunelveli district.

²² ₹ 1,28,000 /13= ₹ 9,846

²³ [₹ 1,60,00,000 - (₹ 9846 X 5 X 108 offices) = ₹ 53,16,840] = ₹ 1,06,83,160]

However, the FMS charges including replacement of minor spares should be based on the number of systems and hardware covered. Reply of Department stating that SROs in other phases would also be covered by the person deployed in Phase IV is not understood since the amount for FMS has been sanctioned separately for each phases.

3.8.11 Conclusion

The computerisation initiative undertaken by the Department to make registration process simple, transparent and fast is yet to achieve its objective of providing better and efficient services to Public, as a result of adhoc planning and non-monitoring of the implementation. Non utilisation of module resulted in non-sharing of information between the Sub Registrar's Office and the Taluk offices. The deficiencies in the computerised system with respect to system design, input/validation controls, mapping of business rules exists even after a period of thirteen years since computerisation was initiated through STAR. In the absence of adequate controls, the reliability and completeness of the data cannot be ensured. The Department did not plan for disaster recovery or business continuity plan. The Department's attempts to render services to the public need to improve.

3.8.12 Recommendations

Government may take necessary steps to

- complete the newly initiated projects including web based application, with proper IT strategy and monitor the same to achieve optimal benefit;
- utilise the module intended to share the information between SRO and Taluk office/SDC to render better service to the public;
- correct the system deficiencies and also ensure correctness of data entry by enforcing appropriate controls and validation checks; and,
- secure the data captured by adopting disaster recovery or business continuity plan like mirroring, off-site storage, indexing, retrieval, etc.

3.9 Pendency of documents for valuation with the DRO (Stamps)/ SDC (Stamps)

3.9.1 Introduction

According to Section 47-A of the Indian Stamp Act, 1899 (IS Act), if the Registering Officer (RO) has reason to believe that the market value of the property has not been truly set forth in the instrument, he may, after registering the instrument, refer the same to the Collector viz., DRO (Stamps)/SDC (Stamps)²⁴ for determination of market value of such property and the proper duty payable thereon. As an internal procedure, all instruments quoting consideration lesser than the guideline value²⁵ maintained by the Department are deemed as undervalued and referred to the DRO (Stamps)/SDC (Stamps).

The details of instruments received in the offices of the DRO (Stamps)/SDC (Stamps) for determination of market value are entered in a register called the Master Register. The procedure for determination of market value on receipt of reference under Section 47-A(1) is prescribed in the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968. The process of determination of market value commences with issue of notice in Form I, followed by provisional determination of market value of the properties and the duty payable thereon, which shall be communicated to the persons liable to pay duty. After considering the representation of the parties and all relevant factors and evidence available with him, the DRO (Stamps)/SDC (Stamps) shall pass an order determining the market value of the properties and the duty payable thereon. After collection of deficit stamp duty, the DRO (Stamps)/SDC (Stamps) shall make necessary endorsement in the instrument and return the same to RO for collection of deficit registration fee.

The DRO (Stamps)/SDC (Stamps) is also empowered, *suo-motu* or otherwise, to call for and examine any instrument under Section 47-A(3), if he has reason to believe that the same has been undervalued. The follow-up procedure is similar to that of references made under Section 47-A(1). Appeal against the valuation lies with the Chief Controlling Revenue Authority (CCRA). The CCRA may, *suo-motu* call for and examine the order passed by the DRO (Stamps)/SDC (Stamps) under Section 47-A(6) of the IS Act.

3.9.2 Scope, methodology and objective

Audit was conducted to ascertain whether the cases received under Section 47-A were properly assessed within the prescribed time frame and the demand against such assessments were properly raised and collected. There are two DRO (Stamps) and nine SDC (Stamps) offices in the State. Audit selected two DRO (Stamps) and four SDC (Stamps) offices on the basis of pendency of

²⁴ DRO – District Revenue Officer, SDC – Special Deputy Collector

²⁵ Guideline Value is the value fixed by the Government for each survey number in the entire State and Stamp Duty is charged on the guideline value or market value whichever is higher.

documents. Audit analysed the manual data pertaining to 1,777 assessed cases and 1,116 pending cases available in the master register of six DRO (Stamps)/SDC (Stamps) offices²⁶. Audit was conducted between July 2012 and February 2013 covering the period from 2009-10 to 2011-12. Cases involving referred deficit duty of ₹ five lakh and above in respect of DRO (Stamps) and cases involving referred deficit duty of ₹ two lakh and above in respect of SDC (Stamps) were selected for data analysis.

3.9.3 Pendency of documents

The number of documents pending for determination of market value in the six offices as on 31 March 2012, along with the position for the previous three years is given below:

	Position as on 31 March		
	2010	2011	2012
Number of documents pending	34,600	33,881	14,264
Amount involved (₹ in crore)	690.48	868.26	454.66

The decrease in pendency from 33,881 cases as on 31 March 2011 to 14,264 cases as on 31 March 2012, including those received during 2011-12, was due to the clearance of 23,804 documents under the Samadhan Scheme 2011²⁷.

3.9.4 Improper maintenance of Master Register

A Master Register which has columns for entering details such as document number, date of registration, value referred, value fixed, date of issue of notice under Form I, etc., is maintained in each office to record details of instruments referred under Section 47-A(1) and 47-A(3) and to monitor the progress of disposal. All entries are assigned unique numbers every calendar year to facilitate identification of cases and the relevant files.

Mention was made in the Report of the Comptroller and Auditor General of India on Registration Department (Revenue Receipts), Government of Tamil Nadu for the year ended 31 March 2010 of improper maintenance of the Master Register. Audit had recommended computerisation of the Master Register.

The deficiencies in the maintenance of Master Register continued to exist. Audit noticed that there was no uniformity in the maintenance of the register and the sequence of columns (format) in the register was different in each office. Audit noticed that all columns relating to an instrument referred for valuation were not filled up. Further there was no distinction as to whether the instruments were referred by ROs or were *suo-motu* taken up for determination of market value. Thus, the authenticity of the figures in

²⁶ DRO (Stamps) Chennai and Coimbatore; SDC (Stamps) Salem, Trichy, Tirunelveli and Vellore

²⁷ Samadhan Scheme was introduced in October 2011 considering the huge number of documents pending with DRO (Stamps)/SDC (Stamps) for determination of market value. Under the scheme, a remission of one-third of the difference of stamp duty between the duty already paid and what is chargeable on the value of the properties as proposed by the registering officer on the basis of guideline register was granted.

periodical returns furnished by the DRO (Stamps)/SDC (Stamps) to the CCRA could not be ensured.

3.9.5 Delay in assessment and determination of market value

Rule 7 of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968 provides that the Collector shall pass an order within three months from the date of first notice, determine the market value of the properties and the duty payable on the instrument and communicate the order so passed to the parties and take steps to collect the difference of stamp duty, if any.

Mention was made in the Report of the Comptroller and Auditor General of India on Registration Department for the year ended March 2010 of the delay in determination of market value by DRO (Stamps)/ SDC (Stamps) resulting in

blocking of Government revenue. Audit suggested to the Government for enforcement of the time limit prescribed under the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968.

- Audit observed that 1,116 documents with referred deficit stamp duty of ₹ 139.67 crore were pending as on 31 March 2012. The age wise analysis of documents which were pending beyond the period of three months since the receipt of the same in the offices are detailed in the following table:

Period	No. of cases
Pending for more than 90 days but less than a year	323
Pending for more than one year but less than two years	389
Pending for more than two years	382
Total	1,094

The above table indicates that the time limit prescribed under the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968 has not been enforced. The non-enforcement of Rule provisions resulted in blocking of revenue to the Government.

- Data analysis of 1,040 out of 1,777 assessed cases revealed that the average time taken to determine the value of a document worked out to 355 days as against 90 days stipulated in the rules. The time taken for finalising 1,040 cases is detailed below:

Time period of finalisation	Number of documents
More than 90 days but before one year	646
More than one year but before two years	280
More than two years but before three years	106
After three years	8
Total	1,040

After Audit pointed this out, the SDC (Stamps) Salem replied (October 2013) that there is no specific reason for pendency beyond 90 days and attributed the same to administrative reasons. The reply of the Government regarding non-

enforcement of the prescribed time limit for determination of market value is awaited.

3.9.6 Lack of provision for levy of minimum duty

The instruments quoting consideration lesser than the guideline value are referred by the RO to DRO (Stamps)/SDC (Stamps) under Section 47-A(1) of IS Act for determination of market value. The Act or Rules are silent on a minimum duty to be paid, even under protest, for processing the instruments under Section 47-A(1).

Mention was made in the Report of the Comptroller and Auditor General of India on Registration Department for the year ended March 2010 that lack of provision for levy of minimum duty is taken advantage of by executants who get the instruments registered by quoting modest consideration and postpone the payment of deficit duty to a much later date upon completion of the process of determination of market value. Audit suggested that the Government may regulate the payment of stamp duty and registration fee on any document admitted for registration on a percentage of guideline value, which could be adjusted in the final assessment by the Collector.

Audit observed that in 2,884 cases, the parties had quoted very low values as consideration. The total stamp duty payable as per the guideline value in respect of these instruments was ₹ 373.12 crore. The duty actually paid at the time of registration of documents during the period from 2009-10 to 2011-12 in the Sub Registrar's office was ₹ 71.50 crore; which works out to only 19.16 *per cent* of the required duty. The following table shows that in 2,216 instruments, stamp duty was paid at less than 25 *per cent* of the stamp duty required as per guideline values.

Amount paid at the time of registration as a percentage of duty collectable as per the Guideline value	No. of documents
Below one <i>per cent</i>	115
Between one <i>per cent</i> and 10 <i>per cent</i>	1,337
Between 10 <i>per cent</i> but below 25 <i>per cent</i>	764
Total	2,216

Of the 2,216 cases, 1,312 cases were finalised by DRO (Stamps)/SDC (Stamps). In 430 cases the market value determined by DRO (Stamps)/SDC (Stamps) and the stamp duty payable thereon was equal to or more than 50 *per cent* of the amount of duty payable as per the guideline value and in 869 cases it was less than 50 *per cent*. Only in 13 cases, the duty paid by the registrants has been confirmed by DRO (Stamps)/SDC (Stamps).

3.9.7 Valuation pending in respect of documents returned on directions of Court

The CCRA instructed in August 2008 that a deposition should be obtained from the applicant, who sought return of document through court, that the property pending valuation would not be sold or encumbered until payment of deficit duty. The Inspector General of Registration instructed the DRO (Stamps) and SDC (Stamps) in November 2005 to finalise within three months, the cases where the documents were returned to the parties based on court direction.

There is no provision in the Act for retention of original instruments after registration. The original documents are retained by the DRO (Stamps)/ SDC (Stamps) only as a security for payment of deficit duty, if any, determined. However, parties obtain the original deeds through court orders before determination of market value. After returning the original document, the general procedure is to retain a copy

of instruments till the valuation procedure is completed. As the original documents are returned to the parties, it is imperative that such cases are tracked and valuation of properties involved is done on priority basis. However, Audit noticed that no records were maintained to follow cases of original instruments that were returned to the parties. During test check of files, audit noticed 99 cases wherein the original instruments were returned by orders of Court but valuation was pending.

Audit noticed in Sub Registry, Redhills that a claimant who obtained the original deed through Court orders from DRO (Stamps), Chennai, subsequently sold the property through 51 instruments as undivided shares. The parent deed, however, is yet to be valued by DRO (Stamps). The non-following of procedure laid down by CCRA has increased the risk of non-enforceability of Revenue Recovery Act, 1864 (RR Act), in case of default, due to the property having been acquired by a number of buyers. The case is pending with the DRO (Stamps), Chennai for more than two years.

3.9.8 Cases incorrectly shown as pending under Revenue Recovery Act

- **Stamp Duty**

The deficit stamp duty determined by DRO (Stamps)/SDC (Stamps) upon determination of market value shall be paid within two months from the date of final order. The IS Act provides for collection of unpaid stamp duty as arrears of land revenue under the RR Act.

Since the Government have not notified any other authority as the "Collector" for the purpose of Section 48 of the Indian Stamp Act, the District Collector alone is empowered to take action under Section 48.

Audit scrutiny of the details furnished by IGR office indicated that recovery of ₹ 174.07 crore pertaining to 39,239 cases of six offices of DRO (Stamps)/SDC (Stamps) was pending under the RR Act. A test check of relevant files in the offices revealed that there was no indication of the cases having been referred to the District Collector for recovery of demand under the RR Act, after determination of deficit stamp duty, but they

were shown as pending under RR Act in the annual returns submitted to IGR. Thus the amount shown as having been covered under the RR Act was actually pending with DRO (Stamps)/SDC (Stamps) for collection of demand.

After Audit pointed this out, the Department replied between September and October 2013 that the Collectors of five²⁸ districts have delegated, with effect from 1 April 2013, the powers for recovery under RR Act to the SDC (Stamps). Thus, prior to delegation of powers no action was initiated to recover the arrears under RR Act.

²⁸ Erode, Kancheepuram, Nilgiris, Salem and Tiruppur

• **Registration Fees**

According to Section 80A of the Registration Act 1908, if, after registration of a document, it is found the fee payable under the Act has not been paid or has been insufficiently paid, such fee or the deficit, may, on a certificate of the registering officer, be recovered from the person who presented such document for registration, as arrears of land revenue. Rule 2 of the Tamil Nadu Registration Rules 1983 stipulates that no enquiry under Section 80A of the Registration Act could be commenced after the expiry of three years from the date of registration or in the case of collection of stamp duty under Section 47-A of IS Act after one year from the date of such collection, whichever is later.

Audit noticed that the provision is applicable for those cases wherein stamp duty was collected but collection of registration fee is pending. Therefore, in cases where collection of stamp duty is pending and likely to be processed for recovery under RR Act, the process of reference of deficit registration fee under the RR Act has to be commenced only after the recovery of stamp duty. Thus the recovery process has to be initiated again against the same person for the same instrument which would result in

delay in recovery.

Government may institute a suitable mechanism for empowering the registering authority to simultaneously initiate action under the RR Act for collection of deficit registration fees when the collection of deficit stamp duty for the same instrument is placed under the RR Act so that the final demand is consolidated and collection is expedited.

3.9.9 Other points of interest

3.9.9.1 Non-notification of amendment to Section 47A

An amendment to Section 47A(1), along with other sections, was notified for general information in March 2008, incorporating certain changes in the process of dealing with undervalued documents, following the assent of President of India obtained in March 2008. According to the amendment, the undervalued instrument shall be kept pending until the completion of valuation and payment of deficit duty. The proposal would be advantageous in the following ways:

- (i) Non-registration would bring in a sense of urgency in valuation of the property thereby reducing pendency
- (ii) Since the instrument is not registered and kept pending for valuation, subsequent sale of property, can be prevented
- (iii) Return of original documents pending valuation will not arise
- (iv) The question of non-collection of required stamp duty and fee would not arise, since undervalued instruments also would be registered only on payment of duty and fee on market value.

The date of effect of the amendments relating to Section 47-A has not yet been notified. The delay in giving effect to the notification has resulted in continued pendency of documents and blockage of revenue due to the Government.

3.9.9.2 Non-observance of procedure

There is no provision in the IS Act for return of the instrument referred to the DRO(Stamps)/SDC(Stamps) under Section 47-A(1) of the IS Act without determination of the value of the property. The registering authority cannot recall the document since the registration process has already been completed.

Audit noticed that original documents were returned to the registering authorities without determination of market value. One document relating to SRO, Pollachi was returned in July 2010 by the DRO (Stamps), Coimbatore citing belated reference as reason. The instrument was later processed under the

Samadhan Scheme 2011. Two documents relating to SR, Chengam were requested back and retained by the registering authority from March 2012. They were returned to the SDC (Stamps) only when these files were called for scrutiny after one year in February 2013. Similarly, in five cases, the documents were returned by DRO (Stamps), Chennai to the registering authorities otherwise than on the directions of the Court without determining the market value.

3.9.9.3 Non-availability of details for cases under appeal

Audit noticed that no records were maintained for cases in appeal under Section 47-A(5). No separate demand particulars were available for cases in appeal. In the absence of these details, the number of cases pending in appeal, the date of appeal, the date of disposal of appeal, collection of additional demand due to appeal order, details of further appeals under Section 47-A(10), etc. could not be ascertained. In the absence of any record for appeals, audit could not verify whether appeals were made in time and revisions were made based on the appeal verdicts.

3.9.10 Conclusion

The deficiencies already pointed out by Audit persist and no action has been taken on the recommendations made in the Report of the Comptroller and Auditor General of India for the year ended 31 March 2010. The time limit prescribed under the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968 for determination of market value of instruments has not been enforced and the pendency of documents with DRO (Stamps)/SDC (Stamps) has resulted in blocking of revenue to Government. The lack of provision for payment of minimum duty by executants who choose to protest guideline value has resulted in declaration of modest consideration at the time of presenting documents for registration and the payment of deficit stamp duty being deferred to a much later date. The due procedure for recovery of deficit stamp duty under the RR Act was not followed.

3.10 Audit observations

Audit test checked the records in the offices of the Registration Department relating to revenue received from stamp duty and registration fees and noticed several cases of non-observance of the provisions of the Acts/Rules resulting in non/short levy of duty, fees and other cases as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and based on test checks carried out by Audit. Although such omissions are pointed out every year, the irregularities persist and remain undetected till the next audit is conducted. There is need for the Government to consider directing the Department to improve the internal control systems including strengthening of internal audit so that such omissions can be avoided, detected and corrected.

3.11 Non-compliance of the provisions of the Acts/Rules

The provisions of the Indian Stamp Act, 1899, the Registration Act, 1908 and the Rules made thereunder require payment of stamp duty and registration fees at the time of executing and registering the documents viz., Conveyance Deed, Power of Attorney for consideration, Sale Agreements, etc., as per the rates prescribed in the schedule to the Act.

Audit noticed non-compliance of the provisions of the Acts/Rules in some cases as mentioned in paragraphs 3.11.1 to 3.11.6 which resulted in non/short realisation of revenue of ₹ 5.87 crore.

3.11.1 Misclassification of instruments of Conveyance as Cancellation Deeds

According to Section 2(10) of the IS Act, conveyance includes a conveyance on sale and every instrument by which property whether movable or immovable, is transferred *inter vivos* and which is not otherwise specifically provided for by Schedule I.

As per Article 23, in the case of conveyance of an immovable property, stamp duty is leviable at the rate of eight *per cent* including transfer duty surcharge on the market value of the property. As per Article 17 of Schedule I of the IS Act, for Instrument of Cancellation, if attested and not otherwise provided for, stamp duty of ₹ 50 is to be levied on the same.

It was judicially held²⁹ that there can be no such thing as cancellation of a conveyance under which right of property has already been passed. Property can be retransferred only by re-conveyance. Further, it was held³⁰ by the Madras High Court that cancellation of a Sale Deed by a Deed of Cancellation can be effected only when a condition that title will pass on payment of consideration, was included in the original Sale Deed.

Audit noticed (between September 2011 and January 2013) during scrutiny of records in 10 Registering offices³¹ that conveyance of properties were effected (between November 2006 and July 2011) through 34 Sale Deeds wherein it was stated that consideration was received and possession handed over. However these deeds were cancelled through 'Deeds of Cancellation' registered subsequently (between July 2007 and October 2011) on the ground that consideration was not received and possession not handed over or the properties were not in absolute ownership of the original vendor. Since the vendors had re-acquired right and interest over the properties from the original purchasers through Cancellation Deeds, these deeds were to be treated as Conveyance Deeds.

Accordingly, stamp duty and registration fees of ₹ 17.86 lakh was required to be levied on the market value of the property of ₹ 1.98 crore as against ₹ 0.04 lakh collected by the Department. Thus, there was a short collection of stamp duty and registration fees of ₹ 17.82 lakh due to misclassification of Conveyance Deeds as Cancellation Deeds.

²⁹ cf Emperor Vs Rameshardoss 32 All 171 SIC 697

³⁰ W.A.Nos.592 & 938 of 2009, in Latif Estate Line India Ltd., Vs. Registration Department

³¹ Arakkonam (Joint-II SR), Chengalpet (DR), Chokkikulam (SR), Ilayangudi (SR), Kumarapalayam (SR), Mylapore (SR), Nallur (SR), Ponneri (SR), Singanallur (SR) and Vridhachalam (DR).

Audit pointed this out to the Department between October 2011 and February 2013 and to the Government in May 2013. The Government replied (August 2013) that as the relevant Sale Deeds registered previously were cancelled, it has to be treated as 'Cancellation Deeds' only and would fall under Article 17 of the IS Act and unless there is a specific recital in the cancellation documents to the effect that right and interest over the property that was sold out through the sale deeds has been retransferred to the vendor of the sale deed, these Cancellation deeds cannot be construed as Reconveyance/Conveyance deeds. However, as original sale deeds indicated receipt of consideration and handing over possession of properties, subsequent instruments retransferring the properties to the original vendors are to be classified as Conveyance deeds falling under Article 23 of the IS Act. Further reply is awaited (December 2013)

3.11.2 Misclassification of document

As per the provisions of Article 40(a) of Schedule I to the IS Act, when possession of the property or any part of the property comprised in a mortgage deed is given by the mortgagor or agreed to be given, stamp duty including surcharge is leviable at the rate of four *per cent* on the amount secured by such deed. As per the Explanation under Article 40, a mortgagor who gives or has given to the mortgagee a lease of the property mortgaged or part thereof is deemed to have given possession thereof within the meaning of this article. In addition, Registration fee is collectable at the rate of one *per cent* on the secured amount, subject to a maximum of ₹ two lakh.

Audit observed (January 2012) during test check of documents in the Office of the Sub Registry, Anna Nagar, that an instrument was executed and registered in December 2010 in favour of a Bank, mortgaging immovable property consisting of land and building thereon as a security for the repayment of loan of ₹ 2.20 crore advanced by the bank. The loan was to be repaid in 108 equal monthly instalments from December 2010. The instrument was treated as simple mortgage deed

involving maximum stamp duty of ₹ 40,000 and registration fees of ₹ 10,000. Audit, however, observed that the property was leased by the mortgagor to the mortgagee bank through a deed of lease executed and registered in August 2010 for a period of nine years from June 2010 to June 2019 for its business purpose and possession of the property was given to the bank. As the mortgaged property was already in possession of the bank, the mortgage deed registered in December 2010 was to be treated as mortgage with possession as per the explanation to Article 40. The instrument was, therefore, chargeable to stamp duty at four *per cent* of the loan amount and registration fee of one *per cent* (subject to a maximum of ₹ two lakh) which works out to ₹ 10.80 lakh.

Failure of the RO to classify the document correctly resulted in short levy of stamp duty and registration fees of ₹ 10.30 lakh.

After Audit pointed this out to the Department in February 2012 and to the Government (January 2013), the Government replied (June 2013) that mortgage and lease are separate transactions and further stated that the mortgage deed does not contain a recital to the effect that interest for the mortgaged amount or repayment of loan amount has been adjusted towards the rent payable by the lessee. However, the mortgaged property was already in possession of the mortgagee bank. As such the deed was to be classified under Article 40(a) as per the explanation given in the schedule. Further report is awaited (December 2013).

3.11.3 Cross verification of records

According to Section 27 of the IS Act, the consideration, market value and all other facts and circumstances affecting the chargeability of the instrument with duty or the amount of duty with which it is chargeable shall be fully and truly set forth therein.

As per Explanation II (3) under Rule 3 of Tamil Nadu Stamps (Prevention of Undervaluation of Instruments) Rules, 1968 the RO may, for the purpose of finding out whether the market value has been correctly furnished in the instrument, make such enquiries as he may deem fit. He may elicit from the parties concerned any information bearing on the subject and call for and examine any records kept with any public officer or authority.

Audit noticed from a cross check of Income Tax records with the documents registered in the Registration Department that in respect of two cases, the executants had either misclassified the instruments or undervalued properties in order to pay lesser stamp duty and registration fees.

The executants concerned suppressed the fact about the correct nature of the instrument or the correct value of the consideration and the RO failed to verify the facts as provided for in the Rules. The details are given in the following paragraphs.

3.11.3.1 Misclassification of instruments

As per Article 48(e) of Schedule I to the IS Act, in the case of an instrument of power of attorney given for consideration and authorising the attorney to sell any immovable property, stamp duty is leviable at the rate of four *per cent* on the market value equal to the amount of consideration.

Three instruments of Power of attorney were executed in September 2007 whereby the land owners appointed a person as their power agent in respect of land measuring 6.09½ acres situated in Pattanam Village, Palladam Taluk, Coimbatore, to deal with the properties including sale on behalf of them.

These were registered as General Power of Attorney in Sub-Registries, Gandhipuram and Singanallur and stamp duty and registration fees of ₹ 450 was collected.

Audit, however, noticed from the Income tax records for the year 2009-10 submitted by the assessee to the Income Tax Department, that the power holder had declared purchase of lands situated at Pattanam Village through Power of Attorney Documents for a consideration of ₹ 1.93 crore which was not disclosed in the Power of Attorney deed. The suppression of receipt of consideration in the instruments of Power of Attorney was in violation of the provisions of IS Act, which resulted in short levy of stamp duty and registration fees of ₹ 9.63 lakh.

Audit also noticed from the Income Tax Returns, that a Sale Agreement was entered into between the parties in the same month. The recitals of such agreement indicate receipt of consideration of ₹ 1.93 crore, handing over of possession of property and also transfer of title. Thus this instrument was more in the nature of Conveyance Deed, which requires compulsory registration.

Audit reported the matter to the Department (March 2013) and to the Government (April 2013). The Government stated (November 2013) that the SR has to go by the recitals of the documents before him and should not go beyond the recitals. The Government further stated that unless the recitals indicate receipt of consideration by the Principal, the instrument cannot be considered as power for consideration. The reply requires reconsideration as the Department failed to make enquiries envisaged in the Tamil Nadu Stamps (Prevention of Undervaluation of Instruments) Rules, 1968 and the party to the instrument has not complied with the provisions of the Act, which states that the consideration, market value and all other facts and circumstances affecting the chargeability of the instrument with duty or the amount of duty with which it is chargeable shall be fully and truly set forth therein.

3.11.3.2 Short levy due to under valuation of property

As per Article 23 of Schedule I to the IS Act, in the case of conveyance of immovable property, stamp duty shall be levied at the rate of eight *per cent*, including surcharge, on the market value of the property which is the subject matter of conveyance.

Audit noticed from a sale deed executed and registered in District Registry, Coimbatore in May 2008 that land measuring 2,685 sq.ft. with building was conveyed by a partnership firm in Coimbatore. The consideration stated in the instrument was ₹ 1.25 crore and stamp duty and registration fees of ₹ 11.25 lakh was collected.

Audit, however, noticed from the Income-tax records for the year 2009-10 submitted by the assessee to the Income Tax Department, that the partnership firm had declared sale consideration of ₹ three crore as against ₹ 1.25 crore disclosed in the sale deed. Thus, the parties to the sale deed violated the provisions of Stamp Act by suppressing the sale consideration of ₹ 1.75 crore. This resulted in short payment of stamp duty and registration fees of ₹ 15.75 lakh.

Audit reported the matter to the Department (March 2013) and to the Government (April 2013). The Government accepted (November 2013) the audit observation and stated that action has been initiated to collect the amount. Further report is awaited (December 2013).

3.11.4 Incorrect exemption to societies

According to Notification dated 29 June 1966 issued under the Co-operative Societies Act, remission of stamp duty chargeable under the IS Act is admissible in respect of instruments executed by a member of a registered co-operative society in favour of the society, provided the executant was a member of such society continuously for a period not less than two years immediately before the date of execution of the sale deed.

3.11.4.1 Audit noticed (between August 2012 and January 2013) during test check of documents in three³² registering offices that through seven deeds of conveyance executed and registered between August 2010 and January 2012, house sites measuring 5.71 lakh sq.ft., were conveyed in favour of three co-operative societies. These instruments were granted exemption from

payment of stamp duty on the ground that the executants were members of the societies. Audit, however, observed that the executants were either not members of the concerned society or were members for a period less than two years. In view of this, the instruments were not eligible for exemption and stamp duty was leviable. This resulted in non-realisation of stamp duty of ₹ 2.55 crore as mentioned below:

³² Chengalpet, Katpadi and Thiruporur

- In Sub Registry, Thiruporur, through a deed of conveyance executed and registered in August, 2010, developed house site measuring 2.25 lakh sq.ft. was conveyed to a Co-operative Building Society for a consideration of ₹ 17.71 crore by two persons, who were not members of the Society. The instrument was, however, classified as a transaction between the Co-operative Society and its members and exempted from levy of stamp duty. The incorrect remission of stamp duty resulted in non collection of stamp duty of ₹ 1.32 crore
- In District Registry, Chengalpet, through five deeds of conveyance executed and registered between May 2011 and January 2012, approved house sites measuring 3.35 lakh sq.ft. (145 Plots) comprised in various survey numbers in Nenmeli Village were conveyed in favour of a Co-operative Housing Society by three members of the Society. As the period of membership of the Vendors was less than two years, the above sale deeds were not eligible for exemption from payment of stamp duty. The Society was, however, exempted from payment of stamp duty of ₹ 1.16 crore.
- In Sub Registry, Katpadi, through a deed of conveyance registered in April 2011, house sites measuring 11,333 sq.ft. were conveyed in favour of a Co-operative Township by its 13 members who were absolute owners of the land. The Society was exempted from payment of stamp duty of ₹ 6.76 lakh leviable on the market value of ₹ 84.54 lakh set forth in the document. As the period of membership of the Vendors was less than two years, the above sale deed was not eligible for exemption from payment of stamp duty. Thus, there was incorrect allowance of exemption of stamp duty of ₹ 6.76 lakh.

Audit reported the matter to the Department (between August 2012 and January 2013) and to the Government (between January and April 2013). The Department in the case of Katpadi and the Government in respect of the case pertaining to Chengalpet replied (May 2013) that the period of two years was applicable only to Co-operative House Construction Society and not to any other societies. The reply requires reconsideration as the second proviso of the Notification clearly indicates that exemption is admissible to those members who are in continuous membership of two years or more. This proviso is applicable to all registered Co-operative societies and not to House Construction Society alone. Further report is awaited (December 2013).

By a Notification issued under Section 43(1) of the Tamil Nadu Co-operative Societies Act, 1961, remission of stamp duty was granted (subject to certain conditions) in respect of instruments executed by or in favour of a registered co-operative society in relation to the business of such society. As per Section 2(22) of the Tamil Nadu Co-operative Societies Act, 1983 registered society means a society registered or deemed to be registered under that Act. As per Section 183(3) of the Act *ibid*, registration effected under the Tamil Nadu Co-operative Societies Act, 1961 which was repealed by the Act of 1983, shall be deemed to have been registered under this Act.

3.11.4.2 Audit observed (between April 2011 and October 2012) during test check of documents in four³³ Sub-Registries, that house sites were conveyed either by members in favour of the societies or by the societies to its members through 313 documents of sale registered between the years 2009 and 2012 and these instruments were granted exemption from payment of stamp duty. The societies were registered (October 2007) under Multi State Co-operative Societies Act, 2002. As the Notification is

applicable to societies registered under the Tamil Nadu Co-operative Societies Act, exemption granted to societies registered under the Multi-State Co-operative Societies Act is not in order. This resulted in non-realisation of stamp duty of ₹ 1.47 crore.

Audit reported the matter to the Department (between May 2011 and December 2012) and to the Government (between February 2012 and February 2013). The Government accepted (October 2013) the audit observation and stated that exemption is not applicable to Co-operative societies registered under the Multi-State Co-operative Societies Act, 2002. The Inspector General of Registration had instructed (October 2013) all the registering authorities to take necessary action in this regard.

³³

Manavalanagar, Sembium, Thiruvallur and Thiruvottiyur

3.11.5 Short levy due to under valuation of property

As per Article 23 of Schedule I to the IS Act, in the case of conveyance of immovable property, stamp duty shall be levied at the rate of eight *per cent*, including surcharge, on the market value of the property which is the subject matter of conveyance.

According to Section 27 of the IS Act, the consideration, market value and all other facts and circumstances affecting the chargeability of the instrument with duty or the amount of duty with which it is chargeable shall be fully and truly set forth therein.

Guidelines are supplied to the Registering Officers to arrive at the market value of the land.

3.11.5.1 Audit observed (June 2012), during test check of documents in the office of the Sub Registrar, Rasipuram that house sites measuring 37,099.5 sq.ft. situated in 'Sri Mahalakshmi Nagar' (Survey No.5/3 in Kattanachampatti village) were conveyed along with pathway right through 26 instruments of sale executed and registered between September 2011 and March 2012. The value set forth in the documents was ₹ 18.57 lakh at ₹ 50 per sq.ft. and stamp duty and registration fees of ₹ 1.73 lakh was collected.

Audit noticed from scrutiny of files that in respect of a document registered in September 2011, the RO fixed (March 2012) the market rate of the house site in Survey No.5/3, Kattanachampatti village at ₹ 250 per sq.ft. The RO, however, failed to adopt this rate for other documents registered in the same survey number. This resulted in the subsequently conveyed properties being undervalued by ₹ 74.21 lakh and consequent short collection of stamp duty and registration fees of ₹ 6.62 lakh.

After Audit pointed this out (June 2012) the Sub Registrar replied that the deficit amount would be collected. Further report is awaited (December 2013).

Audit reported the matter to the Government in March 2013. Reply of the Government is awaited (December 2013).

According to Section 47-A(1) of the IS Act, if the registering officer has reason to believe that the market value of the property which is the subject matter of conveyance, has not been truly set forth in the instrument, he may after registering such instrument, refer the same to the Collector for determination of the market value of the property and the proper duty payable thereon.

3.11.5.2 Audit observed (November 2011), during test check of documents in the office of the Sub Registry, Ambur that through two instruments of sale executed and registered in February 2008 and June 2010, land

measuring 13,643 sq. meter³⁴ was conveyed for ₹ 1.77 crore and stamp duty of ₹ 14.13 lakh was collected. As the property was undervalued, the instruments were referred to Special Deputy Collector (Stamps), Vellore under Section 47-A(1) in March 2008 and July 2010 for determination of market value. In the proposal, the market value of the property was stated as ₹ 5.89 crore instead of ₹ 9.70 crore by the RO due to adoption of the rate of ₹ 4,310 per sq. meter as against guideline value of ₹ 7,105 per sq. meter applicable to the conveyed property. The omission by the RO resulted in under valuation of property by ₹ 3.82 crore and consequent short levy of stamp duty of ₹ 30.52 lakh.

After Audit pointed this out (November 2011), the RO replied that revised proposal adopting the value of ₹ 7,105 per sq. meter was sent to SDC (Stamps), Vellore in February 2012. The SDC (Stamps), Vellore passed final orders determining the deficit stamp duty payable as ₹ 63.50 lakh (including the amount pointed out by Audit) adopting the value of ₹ 7,105 per sq. meter as pointed out in Audit. Collection particulars are awaited (December 2013).

Audit reported the matter to the Government in February 2013. Reply of the Government is awaited (December 2013).

3.11.5.3 Audit observed (June 2012), during test check of documents in the office of the District Registry, Krishnagiri, that through an instrument of sale executed and registered in June 2011, vacant land measuring 1.08 lakh sq.ft. in two survey numbers viz., (survey No.123/2 – 88,654 sq.ft. and survey No.123/3 – 19,036 sq.ft.) was conveyed and stamp duty and registration fees of ₹ 3.42 lakh was collected on the market value of ₹ 37.69 lakh, adopting the rate of ₹ 35 per sq.ft. Audit, however, observed that the Joint Sub-Registrar-I, Krishnagiri had fixed the rate of the land in Survey No.123/2 at ₹ 70 per sq.ft. in December 2010. The omission to adopt the rate already fixed in December 2010 for the document registered subsequently in June 2011 in respect of the same survey number resulted in undervaluation of property by ₹ 31.03 lakh and consequent short-levy of stamp duty and registration fees of ₹ 2.76 lakh.

Audit reported the matter to the Department (July 2012) and to the Government (February 2013). Their reply is awaited (December 2013).

3.11.5.4 Audit observed (February 2012) during test check of documents in the office of the Joint-III Sub Registry, Salem (West) that through an instrument of “Sale Certificate” registered in April 2010, factory land and building measuring 10.225 acres was conveyed under the SARFAESI³⁵ Act, 2002 on payment of ₹ 15.03 crore and stamp duty and registration fees aggregating ₹ 1.35 crore was collected.

The recitals of the document, however, revealed that the property was sold on “as is where is and as is what is basis” with all known and unknown encumbrances and liabilities and that all liabilities shall be the sole responsibility and to the account of the purchaser. As per the certificate, known liabilities was ₹ 1.22 crore, payable to Employees Co-operative Thrift

³⁴ One acre = 43,560 sq.ft. ; one sq. meter = 10.76 sq.ft.

³⁵ Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002

and Credit Society Limited and the Customs Department. Therefore, the actual consideration of the said property is ₹ 16.25 crore inclusive of known debts and not ₹ 15.03 crore as considered by the Registering Authority. This resulted in short levy of stamp duty and registration fees of ₹ 10.98 lakh.

Audit pointed this out to the Department in March 2012 and to the Government in January 2013. The Government accepted the audit observation in June 2013 and stated that action has been initiated for recovery of the amount.

Government introduced Samadhan Scheme in October 2011³⁶ allowing remission of one third of difference of stamp duty between the duty already paid and the duty chargeable on the value of properties as proposed by the Registering Officer based on the guideline value. This was with reference to instruments pending for determination of market value under section 47A and 19 B(4) of the Act.

3.11.5.5 Audit observed (January 2013) from test check of documents in the office of the Sub Registrar, Anna Nagar that through an instrument of sale executed and registered in June 2010, land (3,200 sq.ft.) and building (375 sq.ft.) was conveyed and stamp duty and registration fee was paid on a value of ₹ 45 lakh stated to be the market value. The RO referred the document to DRO

(Stamps), Chennai for determination of correct market value. This document was subsequently cleared under the said Samadhan Scheme by the Department adopting the value of property as ₹ 85.92 lakh and by collecting deficit stamp duty and registration fees of ₹ 2.46 lakh after allowing remission.

The market value of the property as per guideline register was, however, ₹ 3.54 crore. The RO failed to determine the value of the land as per guideline value applicable to the property conveyed. This resulted in undervaluation of the property conveyed to the extent of ₹ 2.68 crore and consequent short collection of stamp duty and registration fees of ₹ 16.08 lakh after allowing remission.

Audit reported the matter to the Department (January 2013) and the Government (April 2013). Their reply is awaited (December 2013).

³⁶ G.O.Ms.No.132, Commercial Taxes and Registration (J1) Department dated 31.10.2011

The Central Valuation Committee for Guideline Value decided in September, 2007 that if any document has been registered for a particular survey number/street/nagar with a higher value before 01 August 2007, the same should be taken into account for registering a document on or after 01 August 2007 in respect of that survey number/street/nagar.

3.11.5.6 Audit observed (January 2012) during test check of documents in the office of the Sub Registry, Mylapore that in respect of 19 instruments of sale executed and registered between April 2010 and August 2011 for conveyance of properties including land situated in various streets, stamp duty and registration fees

were levied and collected on the value of land and building as set forth in the documents, without considering the higher value adopted in ten instruments of sale registered prior to August 2007 (between December 2006 and July 2007) as directed by the Central Valuation Committee. The failure of the Registering authority to adopt the higher value for determination of value of land resulted in under valuation of properties by ₹ 2.48 crore and consequent short levy of stamp duty and registration fees of ₹ 22.35 lakh.

After Audit pointed this out to the Department (February 2012) and to the Government in February 2013, the Government accepted (December 2013) the audit observation and stated that the District Registrar has been directed to instruct the Sub Registrar to refer the documents under Section 47-A(3) of the IS Act. Further report is awaited (December 2013).

3.11.5.7 Audit observed (January 2012) from test check of documents in the office of the Sub Registry, Anna Nagar that through a sale document executed and registered in February 2011, an extent of 5,918 sq.ft. of vacant land situated at Koyambedu, Chennai was conveyed for a consideration of ₹ 60 lakh adopting the rate of ₹ 1,000 per sq.ft. and stamp duty and registration fees of ₹ 5.43 lakh was collected. Audit, however, observed that the market value of the property purchased by the vendor and registered in August 2006 was fixed at ₹ 98.59 lakh at the rate of ₹ 1,666 per sq.ft. by DRO (Stamps), Chennai in June 2010 on a reference made under section 47-A(1) and deficit stamp duty and registration fee of ₹ 7.22 lakh was also collected in June 2010. Thus, the property which was valued at ₹ 98.59 lakh in August 2006 was registered for a lesser value of ₹ 60 lakh in respect of subsequent sale effected in February 2011. The failure of the RO to atleast adopt the same value ignoring the appreciation in the land value in four years resulted in short levy of stamp duty and registration fees of ₹ 3.45 lakh.

After Audit pointed this out (February 2012), the Department replied (May 2012) that the guideline value of the property with effect from 01 August 2007 was ₹ 1,000 per sq.ft only and as per the Inspector General of Registration's circular issued in September 2007 the higher value noticed after August 2007 was required to be considered during subsequent revision of guideline value and hence the value adopted for a previous document could not be applied in respect of the subsequent document.

The reply is not tenable since in the case of conveyance of immovable properties, stamp duty has to be levied on the market value of the property conveyed and not on the consideration, if it is less than the market value and the Registering authority should have adopted the rate fixed by the DRO (Stamps) in June 2010, who is the competent authority regarding fixation of value for that property. The action of the RO is also not in consonance with the recommendations of the Central Valuation Committee. Further report is awaited (December 2013).

According to Section 47A(1) of the IS Act, if the registering officer has reason to believe that the market value of the property which is the subject matter of conveyance, has not been truly set forth in the instrument, he may after registering such instrument, refer the same to the Collector for determination of the market value of the property and the proper duty payable thereon.

3.11.5.8 Audit observed (September 2012) during test check of documents in the office of the District Registry, Virudhachalam that through three instruments of sale executed and registered in March 2008 and May 2009, vacant land measuring 35,316 sq.ft situated in Pazhamainathar Nagar, Vridhachalam Town was conveyed for a consideration of ₹ 72.50 lakh. The Sub-Registrar

while registering the document fixed the market value of the property as ₹ 91.84 lakh at ₹ 260 per sq.ft treating it as residential area and stamp duty and registration fees of ₹ 8.27 lakh was collected.

A scrutiny of the guideline register, however, indicated that the guideline value of Pazhamainathar Nagar is ₹ 344 per sq.ft. Adopting this rate, the market value of the property would be ₹ 121.49 lakh. The RO should have either fixed the market value as per the guideline register or should have forwarded the document to SDC (Stamps) for determination of correct market value. Failure of the RO to follow the laid down procedure and omission to determine the correct market value resulted in undervaluation of the property conveyed by ₹ 29.65 lakh involving short levy of stamp duty and registration fees of ₹ 2.67 lakh.

After Audit pointed this out (September 2012), the Sub Registrar replied that Pazhamainathar Nagar was a residential area and the rate for residential area is ₹ 260 per sq.ft. and only for commercial area, the rate is ₹ 344 per sq.ft. The reply of the RO is not tenable as the guideline value available for the Pazhamainathar Nagar is ₹ 344 (commercial area) and no other rate is available in the Guideline Register. Further, the RO should have forwarded the documents to SDC (Stamps) under Section 47-A(1) for correct fixation instead of fixing the rate below the guideline value. Further report is awaited (December 2013).

3.11.5.9 Audit noticed (January 2013) during test check of documents in the office of the Sub Registrar, Anna Nagar that, through three instruments of sale, undivided share of land measuring 1,416 sq.ft abutting Jawaharlal Nehru Salai was conveyed and stamp duty and registration fees of ₹ 7.33 lakh was collected on the set forth value of ₹ 81.42 lakh adopting the rate of ₹ 5,750 per sq.ft and the Department accepted the same.

A scrutiny of the guideline register, however, revealed that the guideline rate applicable to the property was ₹ 11,500 per sq.ft. and the value works out to ₹ 1.63 crore. The failure of the registering authority to determine the market value of the property by adopting the guideline value resulted in undervaluation of the property to an extent of ₹ 81.42 lakh and consequent short levy of stamp duty and registration fees of ₹ 7.33 lakh.

After Audit pointed this out (January 2013), the RO replied that action would be taken to collect the deficit stamp duty and registration fees. Further report is awaited (December 2013).

Audit reported the matter to the Government between January and April 2013. Reply of the Government is awaited (December 2013).

3.11.6 Excess allocation of transfer duty surcharge

According to Section 94 of the Tamil Nadu Urban Local Bodies Act, 1998 and Section 175 of the Tamil Nadu Panchayat Act, 1994, a duty shall be levied and collected on transfer of immovable property in the form of surcharge on the duty imposed under the IS Act, viz., sale, exchange, gift, mortgage with possession and lease in perpetuity. It shall be levied and collected at the rate of two per cent on the market value of the property involved, along with the stamp duty and subsequently allocated to concerned local bodies.

Audit observed (August 2011 and December 2012) from the register of transfer duty surcharge in five³⁷ Sub-Registries that though a sum of ₹ 3.63 lakh was actually collected towards transfer duty surcharge, the Department allocated ₹ 31.99 lakh to local bodies in respect of 27 sale documents due to clerical error. This resulted in excess allocation of ₹ 28.36 lakh to local bodies out of the revenue due to the Government.

³⁷

Ganapathy, Gandhipuram, Ponneri, Tiruppur and Vadavalli

After Audit pointed this out to the Department (August 2012 and February 2013) and to the Government (between January 2013 and May 2013), the Government replied (May 2013) that excess allocation of surcharge amounting to ₹ 10.45 lakh had since been adjusted. Further report is awaited (December 2013).

The issue of excess allocation of transfer duty surcharge to local bodies has been repeatedly pointed out in earlier Audit Reports but the same still persists and remains undetected until pointed out in audit. The Department may take measures to ensure non-recurrence of such lapses in future.

CHAPTER IV
TAXES ON VEHICLES

Executive Summary

Increase in tax collection	In 2012-13, collection of revenue from taxes on vehicles increased by 27 <i>per cent</i> over the previous year which was attributed by the Department to revision of tax with effect from 1 April 2012.
Results of audit in 2012-13	<p>In 2012-13, test check of the records of 24 units revealed non/short collection of tax, fees, penalty, etc amounting to ₹ 64.34 lakh in 50 cases.</p> <p>The Department accepted non/short collection of tax, fees, penalty and other deficiencies in 42 cases and recovered ₹ 36.79 lakh; of which ₹ 2.85 lakh involved in four cases were pointed out during the year and the rest in earlier years.</p>
Highlights	<p>In this Chapter, Audit findings of illustrative cases involving ₹ 44.69 lakh selected during test check of records in the regional transport offices due to non observance of the provisions of the Acts/Rules are presented.</p> <p>Similar omissions have been pointed out by Audit in the earlier Audit Reports also, but the Department had not taken corrective action though these mistakes were apparent from the records made available to Audit.</p>
Conclusion	The Department needs to improve the internal control system including strengthening of internal audit so that the weaknesses in the system are addressed and omission of the nature detected by audit are avoided in future. It also needs to initiate action to recover the non/short levies pointed out by Audit.

CHAPTER IV TAXES ON VEHICLES

4.1 Tax administration

The Transport Department of the Government of Tamil Nadu administers the provisions of the Motor Vehicles Act, 1988, the Central Motor Vehicles Rules, 1989, the Tamil Nadu Motor Vehicles Rules, 1989 and the Tamil Nadu Motor Vehicles Taxation Act and Rules, 1974.

4.2 Trend of receipts

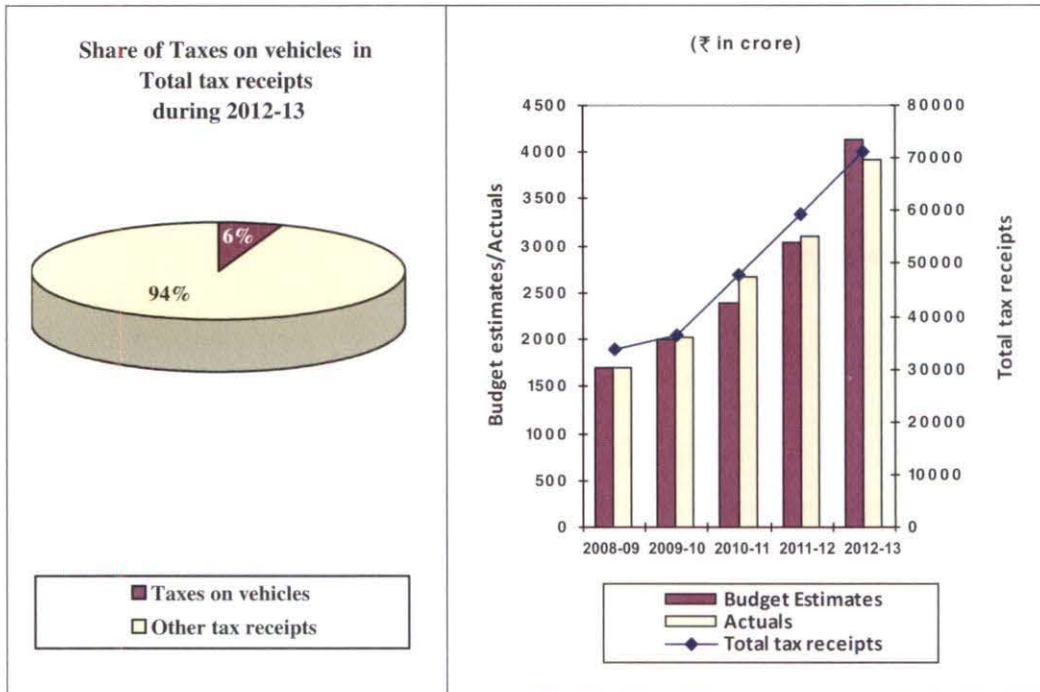
Actual receipts from taxes on vehicles during the last five years from 2008-09 to 2012-13 along with the total tax receipts during the same period are exhibited in the following table:

(₹ in crore)

Year	Budget estimates	Actuals	Variation excess (+)/ short fall (-)	Percentage of variation	Total tax receipts of the State	Percentage of actual receipts vis-à-vis total tax receipts
2008-09	1,707.60	1,709.57	(+) 1.97	(+) 0.12	33,684.37	5.08
2009-10	1,994.38	2,024.64	(+) 30.26	(+) 1.52	36,546.66	5.54
2010-11	2,396.42	2,660.05	(+) 263.63	(+) 11.00	47,782.17	5.57
2011-12	3,033.11	3,101.09	(+) 67.98	(+) 2.24	59,517.66	5.21
2012-13	4,141.11	3,928.43	(-) 212.68	(-) 5.14	71,254.27	5.51

Source: Finance Accounts of Government of Tamil Nadu

A bar diagram depicting budget estimates, actual receipts of taxes on vehicles and total tax receipts of the State and a pie chart depicting the position of taxes on vehicles receipts in the total tax receipts are given below:



In 2012-13, collection of revenue from taxes on vehicles increased by 27 per cent over the previous year which was attributed by the Department to revision of tax with effect from 1 April 2012.

4.3 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2013 along with the figures for the preceding four years, as furnished by the Department, are given in the following table:

(₹ in crore)					
Year	Opening balance	Addition	Total	Amount collected during the year	Closing balance
2008-09	3.61	6.58	10.19	6.60	3.59
2009-10	3.59	7.28	10.87	7.75	3.12
2010-11	3.12	26.37	29.49	27.48	2.01
2011-12	2.01	48.85	50.86	49.15	1.71
2012-13	1.71	48.78	50.49	48.42	2.07

As per the details furnished by the Department, the arrears as on 31 March 2013 includes ₹ 1.95 crore outstanding for more than five years. Demands amounting to ₹ 1.60 crore were covered under the Revenue Recovery Act. Demands of ₹ 0.02 crore were stayed by the High Court and other judicial authorities. ₹ 0.05 crore is likely to be written off and ₹ 0.40 crore is under various stages of recovery.

It is recommended that the Government may consider fixing targets for collection of old arrears in a time bound manner and closely monitor the performance of the Departmental officers *vis-à-vis* the set targets.

4.4 Cost of collection

The gross collection in respect of taxes on vehicles, expenditure incurred on collection and percentage of such expenditure to gross collection during the years 2010-11, 2011-12 and 2012-13 along with the relevant all India average percentage of expenditure on collection to gross collection for the previous years are given in the following table:

(₹ in crore)

Year	Collection	Expenditure on collection of revenue	Percentage of expenditure on collection	All India average percentage for the previous years
2010-11	2,660.05	104.10	3.91	3.07
2011-12	3,101.09	106.07	3.42	3.71
2012-13	3,928.43	147.84	3.76	2.96

Source: Finance Accounts of Government of Tamil Nadu

The above table indicates that the expenditure on collection during the year 2012-13 was higher than the all India average for previous year.

The Government needs to take appropriate measures to bring down the cost of collection.

4.5 Impact of Audit Reports

4.5.1 Revenue impact

During the last five years, Audit pointed out underassessments and other irregularities with revenue implication of ₹ 249.85 crore in six paragraphs. Of these, the Department/Government accepted audit observations involving ₹ 4.72 crore and since recovered ₹ 0.33 crore. The details are shown in the following table:

(₹ in crore)

Year of Audit Report	Paragraphs included		Accepted money value	Amount recovered
	Number	Money value		
2007-08	1	240.00	3.61	0.04
2008-09	1	0.37	0.37	0.20
2009-10	3	7.79	0.74	0.09
2010-11	1	1.69	0.00	0.00
2011-12	-	0.00	0.00	0.00
Total	6	249.85	4.72	0.33

The Government may institute a mechanism to monitor the position of recoveries in the cases pointed out in the Audit Reports and take necessary steps for early collection.

4.6 Working of internal audit wing

The details of number of offices due for internal audit and those completed, as furnished by the Department, are given in the following table:

Year	Number of offices due	Number of offices completed	Balance	Percentage of col.3 to 2
1	2	3	4	5
2008-09	62	62	NIL	100
2009-10	63	63	NIL	100
2010-11	63	63	NIL	100
2011-12	63	50	13	79
2012-13	70	0	70	0

4.7 Results of audit

Test check of records of 24 Departmental offices conducted during the period from April 2012 to March 2013 revealed underassessments and other irregularities amounting to ₹ 0.64 crore in 50 cases, which broadly fall under the following categories.

Sl. No.	Category	(₹ in lakh)	
		No. of cases	Amount
1	Non/short collection of tax	24	24.31
2	Non/short collection of fees	8	5.33
3	Non/short collection of penalty	9	25.18
4	Others	9	9.52
	Total	50	64.34

During the course of the year 2012-13, the Department accepted underassessments and other deficiencies in 42 cases and recovered ₹ 36.79 lakh; out of which, ₹ 2.85 lakh involved in four cases were pointed out during the year and the rest in earlier years.

4.8 Audit observations

Audit test checked the records in the offices of the Transport Department and noticed cases of non-observance of the provisions of the Acts/Rules resulting in non/short levy of tax/fee as mentioned in the succeeding paragraphs in this chapter. These cases are illustrative and based on test checks carried out by Audit. Although such omissions are pointed out every year, the irregularities persist and remain undetected till the next audit is conducted. There is need for the Government to consider directing the Department to improve the internal control systems including strengthening of internal audit so that such omissions can be avoided, detected and corrected.

4.9 Non-compliance of the provisions of the Acts/Rules

The provisions of the Motor Vehicles Act, 1988, the Tamil Nadu Motor Vehicles Taxation Act, 1974 and the Rules made thereunder require payment of taxes at the time of registration of vehicles and annually, wherever applicable, obtaining of permits, licence etc., as per the rates prescribed in the schedule to the Act.

Audit noticed non-compliance of the provisions of the Acts/Rules in some cases as mentioned in paragraphs 4.9.1 and 4.9.2 which resulted in non/short realisation of revenue of ₹ 44.69 lakh.

4.9.1 Short collection of motor vehicle tax due to adoption of incorrect rate

As per Article 2 III (a) of First Schedule to the Tamil Nadu Motor Vehicles Taxation Act, 1974, tax on vehicles permitted to ply as stage carriages exclusively within the Madras Metropolitan Area shall be leviable at ₹ 80 per seat per quarter. In respect of other cases, tax shall be leviable at ₹ 400 per seat per quarter. Surcharge is also leviable in addition to tax.

The Government issued orders³⁸ in November 2006 revising the contiguous area notified as Chennai Metropolitan area in order to extend the Chennai Metropolitan service from the existing distance of 40 Kms. to 50 Kms. The revised contiguous areas of City of Chennai as comprising the Chennai metropolitan area are specified in the Schedule appended to the Notification. The Metropolitan

Transport Corporation (MTC) is permitted to ply within the contiguous areas of Chennai city.

Audit observed from test check of records in the office of the Regional Transport Officer, Chennai Central (July 2011 and July 2012), that MTC operated stage carriage buses during the years 2010-11 and 2011-12 to four³⁹ areas which are not covered in the areas notified as Chennai Metropolitan area. Ten buses involving 660 seats during 2010-11 and 23 buses involving 1,626 seats during 2011-12 were operated. Though tax at the rate of ₹ 500 (including surcharge) per seat per quarter was required to be collected, only ₹ 100 (including surcharge) per seat per quarter was collected. This resulted in short collection of tax of ₹ 36.58 lakh for the years 2010-11 and 2011-12 in respect of three areas. In respect of the fourth i.e., Kancheepuram, the details of number of stage carriage buses operated by MTC were not available and hence short collection could not be worked out.

After Audit pointed this out (July 2011/August 2012), the Department accepted the audit observation (April 2013) and issued demand notice for ₹ 36.58 lakh. Further report regarding collection is awaited (December 2013).

Audit reported the matter to the Government in April 2013. Reply of the Government is awaited (December 2013).

³⁸ G.O. Ms. No. 1067 Home (Transport I) Department dated 06.11.2006
³⁹ Chengalpet, Kancheepuram, Mammallapuram and Wallajabad.

4.9.2 Non collection of motor vehicle tax

As per the Tamil Nadu Motor Vehicles Taxation Act, tax shall be levied on every motor vehicle used or kept for use in the State of Tamil Nadu at the rate specified in the Schedules. The tax shall be paid either quarterly, half yearly or annually. The tax due shall be paid within such period, not being less than seven days or more than forty five days from the commencement of the quarter, half year or year as may be prescribed. If the tax due in respect of any motor vehicle was not paid within the prescribed period, the tax due shall be paid along with prescribed penalty.

By issue of an Order⁴⁰ in April 2009, Government exempted Tamil Nadu State Transport Corporation (TNSTC), Villupuram from payment of tax for five years with effect from February 2009 in respect of four specially designed air conditioned buses. These buses were meant for 'HOP-ON HOP-OFF' sight-seeing tours in Chennai City subject to the condition that the said motor vehicles had to be used only for these tours.

Audit observed from test check of records in the office of the Regional Transport Officer, Chennai (Central) along with the records of MTC, Chennai that these buses were transferred to MTC, Chennai in September, 2011 and operated as airport coaches from Airport to Central Railway Station (two buses) and to Anna Nagar West Bus Stand (two buses) from November 2011. Since the vehicles were not owned by TNSTC, Villupuram and were also not used for sight-seeing tour schemes in Chennai City, no exemption from payment of tax was allowable from October 2011 onwards. However, the Department failed to collect motor vehicle tax from MTC, Chennai for the period from October 2011 to May 2012 though it was collected from June 2012 onwards. This resulted in non-collection of tax of ₹ 8.11 lakh.

⁴⁰ G.O.Ms.No.327 Home(Transport-I) Department, dated 22.04.2009

After Audit reported the matter to the Department (April 2013), the Regional Transport Officer (Chennai Central) raised a demand for ₹ 8.11 lakh in May 2013. Further report is awaited (December 2013).

Audit reported the matter to the Government in May 2013. Their reply is awaited (December 2013).

CHAPTER V
NON-TAX RECEIPTS
MINES AND MINERALS

Executive Summary

Internal audit	No internal audit was conducted for the past five years in respect of Geology and Mining Department. This resultantly had its impact in terms of weak internal control in the Department
Results of audit conducted in 2012-13	<p>During 2012-13, Audit test checked the records of 22 units and found non/short-levy of dead rent, seigniorage fee, brick mineral annual fee, non-realisation of interest and other observations amounting to ₹ 41.46 crore in 43 cases.</p> <p>The Department accepted and recovered under assessments and other deficiencies amounting to ₹ 49.14 lakh in 26 cases out of which ₹ 8.16 lakh involved in five cases were pointed out during the year and the rest in earlier years.</p>
What is highlighted in this Chapter	This Chapter features a performance audit of Mining activities in the State involving ₹ 15.16 crore. The Performance Audit revealed that applications for grant of fresh/renewal of leases were pending for very long periods, resulting in blocking of systematic mineral development. The Government has not effectively followed the fixation of prices by IBM for the purpose of levy of royalty which has resulted in continued loss of royalty income to the Government. The Performance Audit revealed that there was no effective system of internal checks.
Conclusion	The Department needs to improve the internal control system including strengthening of internal audit so that the weaknesses in the system are addressed and omission of the nature detected by audit are avoided in future. It also needs to initiate action to recover the non/short levies pointed out by audit.

CHAPTER V

NON-TAX RECEIPTS

MINES AND MINERALS

5.1 Tax administration

Extraction of major minerals is governed by the Mines and Minerals (Development and Regulation) Act, 1957 (MMDR Act) and the Mineral Concession Rules, 1960 (MC Rules) made thereunder. Under the Act, the State Government is empowered to make rules to regulate the grant of mining lease in respect of minor minerals. Accordingly, the Tamil Nadu Minor Mineral Concession Rules, 1959 (TNMMC Rules) were framed. Prospecting or mining operations can be undertaken only with a licence or mining lease granted under the TNMMC Rules. The holder of the mining lease shall pay royalty/seigniorage fee at the rates prescribed, as the case may be, in respect of minerals removed by him from the leased area. Wherever royalty/seigniorage fee in a year is less than dead rent, the dead rent is payable in lieu of royalty/seigniorage fee.

The overall control of the Department vests with the Principal Secretary to the Government, Industries Department. The Commissioner of Geology and Mining (CGM) is the head of the Department. He is assisted by the District Collectors (DCs) who are assisted by Deputy Directors (DD) and Assistant Directors (AD) in performing their duties. There are 31 DCs, a gem collection centre at Karur and a geo-technical cell at Coonoor. Each office is headed by a DD/AD. They are assisted by the Tahsildars/Deputy Tahsildars in performance of their statutory functions.

5.2 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2013 alongwith the figures for the preceding four years are mentioned below:

(₹ in crore)					
Year	Opening balance	Addition	Total	Amount collected during the year	Closing balance
2008-09	2,182.96	13.09	2,196.05	0.55	2,195.50
2009-10	2,195.50	20.19	2,215.69	0.73	2,214.96
2010-11	2,214.96	47.58	2,262.54	0.76	2,261.78
2011-12	2,261.78	28.56	2,290.34	7.48	2,282.86
2012-13	2,282.86	143.01	2,425.87	3.58	2,422.29

As per the details furnished by the Department, the arrears as on 31 March 2013 includes ₹ 2,195.50 crore outstanding for more than five years. Demands amounting to ₹ 107.36 crore were covered under the Revenue Recovery Act. Demands amounting to ₹ 1,747.44 crore were stayed by the Government/High Court and other judicial/appellate forums and an amount of ₹ 9.00 crore was held up due to rectification/review application. ₹ 0.55 lakh could not be recovered on account of assessee's becoming

insolvent. A sum of ₹ 0.31 lakh was likely to be written off/waived. A sum of ₹ 558.48 crore was under various stages of recovery.

The details indicate that substantial amounts were covered under the Revenue Recovery Act and on account of stays granted by Government.

It is recommended that the Government may consider fixing targets for collection of old arrears in a time bound manner and closely monitor the performance of the departmental officers *vis-à-vis* the set targets.

5.3 Impact of Audit Reports

5.3.1 Revenue impact

During the last five years, Audit pointed out non/short-levy of dead rent, seigniorage fee, brick mineral annual fee and other observations with revenue implication of ₹ 111.66 crore in 5 paragraphs. Of these, the Department/Government had accepted audit observations involving ₹ 110.46 crore and had since recovered ₹ 1.26 crore. The details are shown in the following table:

(₹ in crore)

Year of Audit Report	Paragraphs included		Accepted money value	Amount recovered
	Number	Money value		
2007-08	1	1.04	1.04	0.78
2008-09	1	109.85	108.65	----
2009-10	----	----	----	----
2010-11	3	0.77	0.77	0.48
2011-12	----	----	----	----
Total	5	111.66	110.46	1.26

The Government may institute a mechanism to monitor the position of recoveries in the cases pointed out in the Audit Reports and take necessary steps for early collection.

5.4 Results of audit

Audit test checked the records of the 22 departmental offices during the period from April 2012 to March 2013 and found non/short-levy of dead rent, seigniorage fee, brick mineral annual fee and other observations amounting to ₹ 23.25 crore in 43 cases, which broadly fall under the following categories.

(₹ in crore)			
Sl. No.	Category	No. of cases	Amount
1	Performance Audit of “Mining activities in the State”	1	15.16
2	Non/short levy of dead rent, seigniorage fees, royalty	22	0.80
3	Non-collection of brick mineral annual fee	4	0.18
4	Non-collection of interest/penalty	2	0.04
5	Others	14	7.07
Total		43	23.25

During the course of the year 2012-13, the Department accepted and recovered under assessments and other deficiencies amounting to ₹ 49.14 lakh in 26 cases, out of which, ₹ 8.16 lakh involved in five cases were pointed out during the year and the rest in earlier years.

5.5 Performance Audit of Mining activities in the State

Highlights

There existed delay in disposing applications for grant of fresh leases/renewal of existing leases.

(Paragraph 5.5.8.1)

There was short realisation of royalty of ₹ 1.10 crore in respect of removal of four minerals during the years from 2008-09 to 2012-13 by 64 lessees as the system of levy of royalty based on Indian Bureau of Mines declared values was not adopted.

[Paragraph 5.5.10.1(i)]

Non-monitoring of the sale price declared by lessees of beach sand minerals to the Indian Bureau of Mines led to less realisation of royalty in respect of mineral 'Garnet'.

(Paragraph 5.5.10.2)

Non-monitoring of submission of returns and inadequate inspections of mines rendered the internal control system weak.

(Paragraph 5.5.12)

5.5.1 Introduction

Minerals are finite and non-renewable natural resources. Mineral exploration and development is closely linked with the development of country's economy and the people. Therefore, the management of this precious resource and its optimal and economical use is a matter of national importance and is to be closely integrated with the overall strategy of development.

Minerals are classified into two categories, viz., Major minerals and Minor minerals. Major minerals are further classified as hydrocarbons or energy minerals (such as coal, lignite *etc.*), atomic minerals, metallic and non-metallic minerals. Minor minerals include building stone, ordinary clay, ordinary sand and any other mineral as notified by the Central Government.

The responsibility for the management of mineral resources is shared between the Central and State Governments. For conservation, systematic development and regulation of mining activities in India, the Government of India enacted the Mines and Minerals (Development and Regulation) Act, 1957 (MMDR Act), the Mineral Concession Rules, 1960 (MC Rules), the Mineral Conservation and Development Rules, 1988 (MCDR) and the Granite Conservation and Development Rules, 1999 (GCDR). The mining activities in Tamil Nadu are governed under all the above Acts as well as under the Tamil Nadu Minor Mineral Concession Rules, 1959 (TNMMC Rules) framed

by the State Government in exercise of the powers derived under Section 15 of the MMDR Act. The levy and collection of royalty, seigniorage fee, dead rent, surface rent on minerals are regulated under the above cited Acts/Rules. The conservation, development and extraction of oil and natural gas are regulated under the Oilfield (Regulation and Development) Act, 1948 (ORD Act) and the Petroleum and Natural Gas Rules, 1959 (PNG Rules).

5.5.2 Organisational set up

At the Government level, the Department is under the administrative control of the Principal Secretary, Industries Department. The Geology and Mining Department, which was formed in the year 1983, is headed by the Commissioner of Geology and Mining and is assisted by Joint Directors, Deputy Directors and Assistant Directors in headquarters.

For effective administration, the Department has established District Offices. The District Offices function under the administrative control of the respective District Collectors and are under the overall control of the Commissioner of Geology and Mining. There are 31 District Offices and each office is headed by a Deputy or Assistant Director and assisted by one Geologist on the technical side. There are Tahsildars/Deputy Tahsildars and Revenue Inspectors in the District Offices to assist the Deputy/Assistant Director on the administrative side.

5.5.3 Audit objectives

Performance Audit was conducted to ascertain whether:

- a system was in place and observed for proper levy and collection of royalty, dead rent and surface rent including penalty;
- the provisions of the Acts/Rules and the departmental instructions were properly observed;
- adequate internal control measures including internal audit were in place to monitor assessment and collection and to check leakage of revenue.

5.5.4 Audit criteria

The audit criteria for Performance Audit have been derived from the following Central and State Legislations:

1. The Mines and Minerals (Development and Regulation) Act, 1957
2. The Mineral Concession Rules, 1960
3. The Mineral Conservation and Development Rules, 1988
4. The Granite Conservation and Development Rules, 1999
5. The Tamil Nadu Minor Mineral Concession Rules, 1959
6. The Oilfields Regulation Act, 1948
7. The Petroleum and Natural Gas Rules, 1959
8. National Mineral Policy, 2008

9. Relevant Notifications/Circulars/Orders issued by the Central/State Governments and the Directorate/Commissioner of Geology and Mining.

5.5.5 Audit methodology and scope of audit

Performance Audit was conducted during April to July 2013 covering the period from 2008-09 to 2012-13. Audit selected fifteen⁴¹ out of 31 district offices under the Department on the basis of simple random sampling without replacement method to examine the mechanism for levy and collection of mining receipts. Further, the records at the Commissioner's Office and the Industries Department were scrutinised and the details obtained from the Regional Controller of Mines were correlated with the departmental records.

Entry Conference was held with the Principal Secretary to the Government, Industries Department in April 2013, during which the objectives, scope and methodology of audit were discussed. The draft Performance Audit report was forwarded to the Government in September 2013. Performance Audit was discussed with the Principal Secretary of the Industries Department in the Exit Conference held in October 2013. The views expressed by the Government during the Exit Conference and replies received at other points of time have been appropriately incorporated in the relevant paragraphs of this Report.

5.5.6 Acknowledgment

Indian Audit and Accounts Department acknowledges the co-operation of the Geology and Mining Department and the Regional Controller of Mines, Chennai in providing necessary information and records to Audit.

5.5.7 Revenue contribution of mining sector

Receipts from mines and minerals mainly consist of royalty/seigniorage fee which is levied either on specific rate or on *ad valorem* basis on the type and quantity of mineral removed or consumed from the mines according to the Schedule to the relevant Act. Dead rent is levied on the area leased out for mining activity when no mining is done during a year or when the royalty/seigniorage fee payable is less than the dead rent prescribed in the Schedules to the Act/Rules. Other receipts from mining are application fee for various permits and licences, lease amount, penalties and interest for delayed/belated payments of dues *etc.* Rates of royalty and dead rent in respect of major/minor minerals are prescribed by the Central /State Government respectively. However, these are collected and utilised by the State Government.

The budget estimates of mining receipts, actual receipts from mining, total non-tax revenue raised by the State Government and the percentage of

⁴¹ Cuddalore, Dharmapuri, Dindigul, Kanyakumari, Karur, Krishnagiri, Nagapattinam, Namakkal, Madurai, Salem, Trichy, Tirunelveli, Tiruppur, Tiruvarur and Villupuram

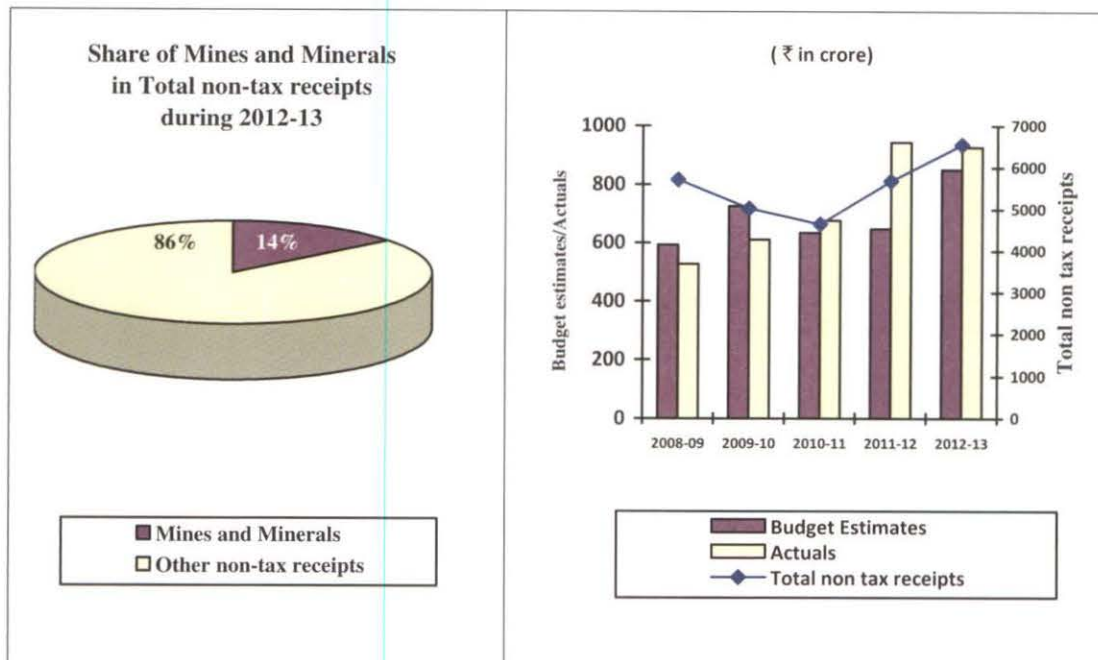
contribution by the mining sector towards non-tax revenue is given in the following table:

(₹ in crore)

Year	Budget estimates	Actual receipts	Variation excess (+)/shortfall(-)	Percentage of variation	Total non-tax receipts of the State	Percentage of the mining receipts to total non-tax receipts
2008-09	593.40	527.36	(-) 66.04	(-) 11.13	5,712.33	9.23
2009-10	725.06	610.89	(-) 114.17	(-) 15.75	5,027.05	12.15
2010-11	634.72	675.87	(+) 41.15	(+) 6.48	4,651.45	14.53
2011-12	647.44	943.83	(+) 296.39	(+) 45.78	5,683.57	16.61
2012-13	850.97	927.19	(+) 76.22	(+) 8.96	6,554.26	14.15

Source : Finance Accounts of Government of Tamil Nadu

A bar diagram depicting budget estimates, actual receipts of Mines and Minerals and total non-tax receipts of the State and a pie chart depicting the position of mines and minerals receipts in the total non-tax receipts are given below:



During the year 2011-12, the increase in actual receipts was due to increase in receipts under mineral concession fees, rents and royalties and receipts from sand quarry operations.

5.5.8 System of grant of lease

The grant of mineral concessions (leases) for major minerals is governed by the MMDR Act and the MC Rules. The Commissioner of Geology and Mining (CGM) is empowered to grant mining lease for major minerals in patta lands. The Government is the competent authority to grant mineral concessions in respect of Government lands. The grant of mineral concession

for minor minerals is governed by the TNMMC Rules. Rule 8-A of TNMMC Rules provides for grant of quarry leases to private persons in Government lands on 'tender-cum-auction' system. The District Collectors (DCs) of the concerned districts is the lease granting authority for minor minerals except granite. The grant of mineral concession for granite is governed by the Granite Conservation and Development Rules, 1999 (GCDR) and the Tamil Nadu Minor Mineral Concession Rules, 1959 (TNMMC Rules). In respect of granite, the Government is the competent authority to grant quarry lease.

In respect of major minerals, any Indian National or a Company as defined in Companies Act, 1956 can apply for mining lease over an area which has earlier been prospected for existence of minerals and the mineral contents have been established. However, if the Government is satisfied that the existence of mineral has been established, it can sanction lease without prospecting such area. The mining lease application should be accompanied by non-refundable application fees and deposit, a certificate of payment of mining dues in case the applicant was already a holder of mining lease, an affidavit stating that the applicant has no income tax dues, an affidavit that the applicant has obtained surface rights over the area and other necessary approvals from competent authorities, wherever necessary. Grant of mining lease is on the principle that the application received earlier shall have preferential right over the application received subsequently. In respect of more than one applicant, the experience, investment prospects and the end use of the mineral are the deciding factors.

Audit noticed various deficiencies in the system of grant of lease which are mentioned in the succeeding paragraphs.

5.5.8.1 Delay in disposal of lease applications

- *Major Minerals*

The MC Rules prescribe the procedure for grant of lease for major minerals. As per Rule 63A, the Government is required to dispose of the application for grant of mining lease within 12 months from the date of its receipt. Rule 24A prescribes that the renewal application for lease is required to be submitted 12 months before the completion of the current lease and if the application is not disposed of before the expiry of the lease, then the lease is deemed to have been extended, until the Government passes orders.

Audit scrutiny of the information regarding pendency of lease applications as at the end of March 2013 furnished by the Office of the Commissioner of Geology and Mining revealed that 114 applications for grant of fresh lease involving total area of 1,904 hectares were

pending for more than one year. The analysis further revealed that 46 applications for renewal of lease covering a total area of 1,078 hectares were

pending with the Department/Government for periods ranging from one and 20 years as detailed below:

Period of delay	Fresh lease		Renewal of lease	
	Number of pending applications	Area involved (in Hectares)	Number of pending applications	Area involved (in Hectares)
More than 15 years	16	605.40.0	17	81.90.06
Between 10 and 15 years	32	225.26.9	14	381.81.80
Between 5 and 10 years	27	623.60.7	10	521.77.90
Between one and 5 years	39	449.36.8	5	92.93.60
Total	114	1,903.64.4	46	1,078.43.36

Test check by Audit of 31 cases in the office of the CGM revealed that the cases were pending for the following reasons:

- in 12 cases, details like sketch of the area, jurisdictional location of the land viz., panchayat or revenue, no objection certificate from existing industries, etc., sought from the applicants between August 2003 and June 2011 were yet to be furnished.
- in 10 cases action is yet to be taken on the applications forwarded by the District Office to the CGM (between 2008 and 2013).
- in seven cases though proposal for rejection of applications was forwarded by the CGM to the Government (between February 2006 and February 2012), action is yet to be taken by the Government.
- in respect of two cases, the lease has been sanctioned (April and May 2013).

Though the applications for renewal are pending, the lessees continue mining operations under the provisions of deemed renewal without execution and registration of formal lease deed. In the absence of lease deed, contractual obligations like adherence to mining plan, environmental clearances, etc. could not be enforced on the lessees. Non granting of fresh lease resulted in blocking of systematic mineral development in the State. Further dead rent/royalty which could have accrued had the lease been granted and stamp duty on the registration of lease deed has not been realised.

During Exit Conference, the Government stated that the pendency was due to furnishing of incomplete details by the applicants and the delay in getting clearances from various departments/agencies. The Government may institute a mechanism to ensure disposal of lease applications within the prescribed time period.

5.5.8.2 Granite leases

The State Government introduced Rule 39 with effect from 8 March 1993 to grant or renew a lease or permission to quarry any mineral on terms and conditions different from those laid down in the Rules in the interest of mineral development and in the public interest, it is necessary so to do. This Rule was deleted in June 1996.

Audit noticed in four⁴² districts that 55 lessees who were granted granite leases between the period 1993 and 1996 for 10 years under Rule 39, applied for renewal before the expiry of the original lease period. The applications were rejected for reason of non existence of Rule 39 at the time of submission of renewal application. The lessees filed an appeal against the rejection of renewal and the

Madras High Court permitted the lessees to continue quarrying and observed (September 2007) that the State Government shall fix the revised rental/charges in accordance with law and after fixing the rental/charges, the Government shall consider the application for renewal within a period of eight weeks thereafter.

However, Audit observed that even after a period of six years since the Court gave its decision, the revised rental charges have not yet been fixed and the lessees continue quarrying operations under the orders of the Court. This has led to (i) non realisation of rental charges; (ii) mining operations being undertaken without a mining plan and (iii) quarrying operations being undertaken without execution of formal lease deed and stamp duty which would have been realised on registration of lease deed has not yet accrued to the Government.

During exit conference, the Government stated that the legal opinion of the Advocate General is being sought for in this regard. However, this is yet to be done (December 2013).

5.5.8.3 Rejection of mining lease and transfer of land for other than mining purpose

The National Mineral Policy, 2008 provides that mineral wealth, though finite and non-renewable in the long term, is a major resource for development. The strategy for development of any mineral should naturally keep in view its ultimate end users and the conditions of mining leases shall favourably predispose the leased areas to systematic and complete extraction of minerals.

Audit scrutiny of the files relating to renewal of lease application revealed that a Government of India undertaking (GOI undertaking) which held two mining leases for mining 'magnesite' on an extent of 343.19 acres in four survey numbers applied for renewal of the same for a further period

⁴² Karur, Krishnagiri, Madurai and Villupuram.

of 20 years by submitting renewal applications in August 2000 and December 2001. The applications were forwarded by the District Collector to the CGM in July 2004 after obtaining technical report from the Assistant Geologist and inspection report from the Special Tahsildar (Mines). The renewal applications were not disposed off till 2007 and the lessee continued mining operations under the provisions of deemed renewal.

Audit, however, noticed that the State Government issued an order⁴³ in March 2007 to provide for transfer of 164.26 acres of the leased area to ELCOT, a State Government Undertaking, for establishment of IT Park. The plea raised by the GOI undertaking against the transfer of land comprised in the leased area was ultimately resolved in the High Powered Committee with the Government agreeing to offer alternative area containing adequate deposit of magnesite to the Company.

Audit further noticed that no IT Park has been established (December 2013) by ELCOT as no major Information Technology Company was interested in setting up their units in this area. An Architectural Consultant Company employed by ELCOT observed that since the land was used as a magnesite quarry, filling of the pits would require three to four rainfall years and artificial consolidation for this volume of work was not possible. Hence, ELCOT proposed to the Government that it would develop only 40 to 50 acres in the first phase.

Government replied during exit conference that ELCOT had retained only 50 acres and the remaining extent of land was being transferred back to the Government.

As seen from the details furnished by the GOI undertaking in June 2008, the extent of land transferred to ELCOT for establishment of IT Park had mineral deposit of 6.5 lakh tonnes worth ₹ 156 crore which was yet to be mined by the GOI undertaking. The purpose for which the land was transferred, viz., setting up of IT Park had also not materialised. As a result, land rich in mineral resources remained blocked up and could not be mined. The decision of the Government to transfer the land to purpose other than mining indicates lack of definite mineral policy and has also rendered further mining impossible in the land so transferred.

⁴³ G.O.No.114 (Revenue) dated 7 March 2007

5.5.9 Non adherence to mining plan

As per Rule 19 read with Rule 18(1) of GCDR, mining operations are to be in accordance with the mining plan and it is valid for the entire duration of the lease. As per Rule 18(2) and 18(3), mining plan is to be reviewed every five years and is to be submitted for the next five years within 120 days before the expiry of the five year period. As per Rule 16(3) a holder of a lease desirous of seeking modification in the approved mining plan, shall apply to the competent authority, setting forth the intended modifications and explaining the reasons for the same.

As per Article 35 of Act *ibid*, stamp duty is leviable at one *per cent* of the amount receivable if the lease period is less than 30 years. As per the instructions⁴⁴ issued by Government (1998), stamp duty on lease deeds is payable on the anticipated total revenue realisable.

Audit scrutiny of the lease deeds, mining plans and permit registers of nine lessees in three districts⁴⁵ revealed that the lessees removed granite blocks over and above the quantity approved in the mining plan between the period from 2005-06 to 2012-13. The lessees did not modify their mining plan and got it approved as and when they cleared quantity of granites in excess of their mining plan. Thus there was no adherence to the mining plan. Audit further noticed that the lease deeds were executed for 20 years and stamp duty was paid on the seigniorage fees realisable for the entire period of lease on the estimated quantity of

minerals to be excavated as per the original mining plan. There was also short realisation of stamp duty of ₹ 45.38 lakh due to underestimation of quantity as per the original mining plan. In a few cases, the quantity excavated in a single year alone exceeded the total estimated quantity for 20 years as detailed in the following table:

Name of the District (No. of lessees)	Estimated quantity shown for 20 years (in cu.mts.)	Stamp Duty paid on revenue realisable on estimated quantity (in ₹)	Quantity excavated in one year (in cu.mts.)	Estimated production for 20 years based on average actual production (in cu.mts.)	Stamp Duty payable (in ₹)	Diff-erence (in ₹)
Madurai (two)	1,000	12,000	9,379.181	30,872.597	4,86,243	4,74,243
	2,018	32,000	2,778.229	42,626.000	6,71,564	6,39,564
Tirunelveli (one)	1,500	23,870	1,749.677	49,700.547	7,83,029	7,59,159

⁴⁴ Letter No. (Ms.) 98 CT & RE dated 30 March 1998

⁴⁵ Krishnagiri, Madurai and Tirunelveli

After Audit pointed this out, the Department replied that mining plans were prepared on estimation basis and hence cannot be accurately predicted. The reply requires reconsideration since the deviation from the mining plan is considerable and it is imperative that such deviation be approved by the State Government as envisaged in the Rules.

5.5.10 System of levy and collection of royalty

Section 9(2) of MMDR Act provides that the holder of a mining lease shall pay royalty in respect of any mineral removed from the leased area. Rule 64-D of the MC Rules provides the guidelines for computing royalty on minerals on ad valorem basis. According to the Rule, the State wise average value for different individual minerals as published by Indian Bureau of Mines (IBM) in the 'Monthly Statistics of Mineral production' shall be the benchmark for computation of royalty by the concerned State Government in respect of any mineral produced any time during a month in the State.

IBM publishes the State-wise average sale prices of minerals on the basis of ex-mine price and production reported in the monthly returns submitted by the lessees to IBM. To arrive at the average sale price, the weighted average of the ex-mine prices with production as weight is taken. In case the sale occurred outside the lease area, the ex-mine price shall be the sale price less the expenditure incurred beyond mine site.

Audit noticed certain deficiencies in the system of levy and collection of royalty. These deficiencies are mentioned in paragraphs 5.5.10.1 and 5.5.10.2.

5.5.10.1 Short realisation of royalty

As per Section 9(2) of MMDR Act, the holder of a mining lease shall pay royalty in respect of any mineral removed from the leased area at the rate for the time being specified in the Second Schedule in respect of that mineral. As per the guidelines prescribed in Rule 64-D of the MC Rules, royalty shall be computed on the sale price for minerals as published by the Indian Bureau of Mines (IBM). As per the proviso to the rule, if the information for a State for a particular month is not published by IBM, the latest information available for that mineral in the State shall be referred, failing which the latest All India rate shall be referred.

(i) Audit noticed from a perusal of permit/royalty payment register in seven⁴⁶ districts that 64 lessees removed minerals⁴⁷ during the period from 2008-09 to 2012-13 by paying royalty at rates which were not based on the prices published by IBM for those minerals. The Assistant Director of Geology and Mining of these Districts, while issuing transport permits to the lessees for removal of minerals from the leased area did not enforce payment of royalty at rates based on the prices published by IBM for those mineral as detailed below:

During the years from 2008-09 to 2012-13	Dunite	Gypsum	Quartz	Silica Sand
Quantity removed (in MT)	27,250	15,470	34,527	96,490
Royalty Rate paid (in ₹)	54 to 70	27 to 72	20 to 200	20 to 40
Royalty rate applicable (in ₹)	80	50.64 to 101.20	173 to 355	44.40 to 142.16

Audit noticed that in Salem District, the Department collected royalty at different amount for removal of the mineral ‘Dunite’ by two different lessees during the year 2012-13. Further different royalty amounts were adopted for the removal of the same mineral by lessees of different districts. Failure of the Department to follow the system of levy of royalty based on IBM declared values resulted in short realisation of royalty to an extent of ₹ 1.10 crore

After Audit pointed this out, the Department replied (November 2013) that District officers concerned were instructed to collect the entire amount and furnish rectification report. The Department further stated that an amount of ₹ 18.80 lakh had since been collected and the balance amount will be collected.

⁴⁶ Coimbatore, Karur, Nagapattinam, Salem, Tiruchy, Tiruppur & Villupuram
⁴⁷ Dunite, Gypsum, Quartz and Silica Sand

- (ii) Ball Clay is subject to levy of royalty at the rate of eight *per cent* on ad valorem basis.

Audit noticed in Cuddalore District that a GOI undertaking (only lessee mining ball clay in the State) removed 15,072.37 MT of ball clay during the period from April 2011 to June 2012 and 6,181.92 MT from July 2012 to March 2013. Audit noticed from the copy of Annual return for the year 2011-12 furnished to the Department that the lessee declared the sale price of ball clay at ₹ 1,000 per MT. However, the lessee paid royalty at ₹ 23 per MT on tonnage basis as IBM did not notify the price of ball clay for the period prior to June 2012 (except December 2011). Further even after IBM notified the price at ₹ 1,000 per MT for subsequent period (from July 2012), the lessee paid royalty at ₹ 23 per MT though royalty was payable at ₹ 80 per MT on the basis of sale price declared by the IBM. This resulted in short realisation of royalty of ₹ 12.38 lakh.

The Department failed to take up the issue of non publishing of price by IBM for the period from April 2011 to June 2012 and also failed to adopt the IBM published price for determination of rate of royalty for the period from July 2012 to March 2013.

After Audit pointed this out, the Department issued notice to the lessee in respect of the period subsequent to June 2012 and stated that IBM would be addressed regarding the discrepancy in respect of the period prior to June 2012. Further report is awaited (December 2013).

5.5.10.2 Non-monitoring of the invoice price

The mineral 'Garnet' was subjected to levy of royalty at specific rate on tonnage basis upto the year 1997 and subsequently, the system of levy of royalty was shifted to ad valorem basis. With effect from December 2009, the State wise average published by IBM is the basis for levy of royalty. The rate of royalty as per Schedule to MMDR Act is three *per cent* on the price published by the IBM.

The system of levy on ad valorem basis was envisaged to augment the revenue of the State taking into account the rise in prices of the minerals.

Audit pointed out (2008-09) to the Department the lesser realisation of royalty in respect of Garnet consequent to shifting to the system of levy on ad valorem basis from tonnage basis. The suggestion of the State Government (December 2010) for considering the highest free on

board/sale value among exporters for fixing the sale value of garnet as it reflects the actual sale price of the mineral exported by the lessees was turned down by IBM (February 2011) stating that the same may make the process arbitrary and biased which could be challenged by the mine owners in the court of Law. The IBM further stated that since the copy of the returns is submitted by the mine owners to the concerned State Government, they may make efforts to get the actual price reported in the returns.

Audit scrutiny in Kanyakumari and Tirunelveli Districts revealed that four lessees removed 51.24 lakh MT of Garnet/run of mine (Beach sand mineral) during the years 2008-09 to 2011-12 and paid royalty at rates ranging between ₹ 14.13 and ₹ 18.45 per MT on the basis of IBM declared prices which ranged between ₹ 401 and ₹ 615 per MT for the State. The IBM declared price of the mineral for the State of Orissa ranged between ₹ 2,628 and ₹ 5,362 per MT though the State of Tamil Nadu accounts for 90 per cent of production of the mineral. Audit scrutiny further revealed that a GOI undertaking situated in Kanyakumari District had reported sale price of Garnet ranging between ₹ 2,825 and ₹ 4,400 per MT during the said period.

Audit observed increase in rates of royalty in respect of other minerals like Gypsum, Quartz and Ball Clay subsequent to shifting of levy based on advalorem basis, though the rate of royalty in respect of Garnet had come down. In order to ascertain the reason for reduction in rate of royalty, Audit sought copies of returns filed by the lessees of beach sand minerals and it was replied that apart from GOI undertaking, none of the lessees filed monthly returns with the Government.

Scrutiny of details of production and sale price mentioned in Annual returns submitted by lessees to the IBM of 'Garnet' for the years 2009-10 to 2011-12 revealed that some lessees have quoted run of mine (ROM) values ranging between ₹ 300 and ₹ 500 per MT. Inasmuch as the determination of State-wise average price of minerals is based on weighted average method, the lesser value quoted by major producers of minerals tends to bring down the IBM published price.

The State Government, in the absence of returns of the lessees, could not have verified the sale price of the mineral declared by them to IBM and also did not take up the matter with IBM regarding the adoption of ROM price for the purpose of determining the price of processed minerals.

This resulted in the State continuing to realise lesser amount of royalty in respect of the mineral 'Garnet'.

Audit further noticed that the export price of the lessees during the period 2009-10 and 2010-11 ranged between ₹ 4,990 and ₹ 5,966 per MT. Even adopting the rate of ₹ 45 per MT applicable to the period prior to 1997, the short fall in realisation of royalty in respect of the quantity of minerals removed by the lessees during the period between 2008-09 and 2011-12 works out to ₹ 13.93 crore.

After Audit pointed this out, the Government stated during exit conference that the GOI will suitably be addressed to publish the sale price of Garnet based on export value.

5.5.11 Environmental issues in mining

5.5.11.1 Environmental clearances

The Supreme Court of India held (February 2012) that the leases of minor minerals including their renewal for an area of even less than five hectares be granted by the States and Union Territories only after getting environmental clearances from the Ministry of Environment and Forest.

Audit noticed from a scrutiny of lease files in ten⁴⁸ Districts that 177 leases for quarrying minor minerals involving area less than five hectares were granted during the period from February 2012 to August 2012 without requisite clearances from the Environmental Authorities.

After Audit pointed this out, the Department replied that orders instructing the District offices to insist on environmental clearances even for less than five hectares were communicated by the State Environmental Impact Assessment Authority (SEIAA) and the Commissioner of Geology and Mining between September and November, 2012. The directives of the Supreme Court were made effective on the orders of the executive and hence the leases granted between February, 2012 and August 2012 without environmental clearance was in order.

As per SEIAA, the Environmental Clearances for mining leases even for less than five hectares was mandatory from February 2012. Therefore the granting of leases without obtaining environmental clearance from February 2012 was not in order.

5.5.11.2 Land degradation

As per Rule 37 of GCDR, every lease holder shall take immediate measures for planting in the area held under lease or any other area selected by the State Government for this purpose, such number of trees sufficient to improve the environment and to minimise effects of land degradation during the entire period of such lease. He shall also look after such plantations during the subsistence of the lease.

Audit noticed from a review of the granite quarry records in eight⁴⁹ District Offices that no details were available either regarding identification of alternate land for compensatory afforestation or the details of trees planted and maintained by each lease holder during the currency of lease.

The Department replied that there are no codal instructions to verify the plantation raised in the granite quarry. However

inspection will be carried out to ensure plantation.

⁴⁸ Coimbatore, Cuddalore, Dharmapuri, Krishnagiri, Madurai, Nagapattinam, Salem, Tirunelveli, Tiruppur and Villupuram

⁴⁹ Dharmapuri, Dindigul, Karur, Krishnagiri, Namakkal, Salem Tiruppur and Villupuram

After Audit pointed this out, the Government replied (November 2013) that instructions have since been issued to all the District Officers regarding implementation of the rule viz., planting as well as maintaining such plantations during the subsistence of lease. However, the fact remains that the Government did not collect or maintain data for monitoring compliance in this important area though the rule was framed as far back as in 1999.

5.5.12 Internal control mechanism

The internal control mechanism is intended to provide reasonable assurance of proper enforcement of laws, rules and departmental instructions. The internal controls also help in creation of reliable financial and management information system for prompt and efficient decision making and adequate safeguard against non/short collection or evasion of tax. The internal control mechanism in the Department was weak as might be seen from the following observations.

5.5.12.1 Non submission of returns

The MCDR and GCDR provide for submission of periodical returns by the lessees to the IBM with a copy each to Regional Controller of Mines and the State Government. The returns prescribed under the Rules, *inter alia*, require furnishing of details of opening stock, production, despatches, closing stock, Pit's mouth value of minerals and also details of wastes, rejects, overburden. The returns also require furnishing of details of sales/despaches effected for domestic consumption and for exports. The returns, if filed with the District Offices, could be made use of, while visiting the quarry site and scrutinising the Pit's mouth register. Audit noticed non compliance with the provisions of the Rules regarding filing of returns as mentioned below:

(i) Major minerals

As per Rule 52 of the Rules *ibid*, copies of returns shall also be submitted to the State Government concerned in whose territory the mine area is situated or to such authority as that Government may specify in this behalf. Rule 58 provides for levy of penalty extending to ₹ 50,000 for contravention of any provisions of the rules.

Audit analysis of the information furnished by the office of the CGM revealed that out of 3,615 returns due from the lessees for the years 2008-09 to 2011-12, only 161 annual returns were filed with the Department.

Year	Number of leases	Number of annual returns filed	Returns due
2008-09	871	59	812
2009-10	909	41	868
2010-11	923	59	864
2011-12	912	2	910
Total	3,615	161	3,454

In the absence of such returns, periodical production/closing stock of minerals was also not monitored by the Department. The Department did not take any action regarding such non filing of returns. The Department also did not enforce the provision for levy of penalty.

After this was pointed out, the Government replied that periodical returns would be called for and suitable instructions would be issued to district officers. Report regarding the levy of penalty is awaited (December 2013).

(ii) Granite

As per Rule 41 of GCDR, half yearly and annual returns in respect of a granite quarry is to be submitted within 15 days of the following month for the preceding half year and before 1st July of each year for the preceding year respectively. Rule 47 of GCDR provides for levy of penalty extending upto ₹ 5,000 for contravention of any of the provisions of the rules.

Audit analysis of the information furnished by 12 districts offices⁵⁰ indicate that a total of 2,392 leases for quarrying granite were in operation during the period from 2008-09 to 2012-13. However, returns in respect of 35 leases alone were filed with the Department. The Department did not take any action regarding non filing of returns in remaining cases.

The Department did not also enforce the provision for levy of penalty for failure to file returns.

The above indicates a lack of proper control mechanism in the Department to ensure due filing of returns by the lessees.

5.5.12.2 Internal audit

Internal audit is generally defined as control of all controls as it is a means for an organisation to assure itself that the prescribed systems are functioning reasonably well. An independent and effective internal audit under the direct control of the Head of the Department is essential for ensuring compliance of the provisions of the Acts/Rules and the departmental instructions regarding assessment of revenue, prompt raising of demands and for the overall functioning of the administration effectively, efficiently and economically.

⁵⁰ Coimbatore, Dharmapuri, Dindigul, Kanyakumari, Karur, Krishnagiri, Madurai, Namakkal, Salem, Tirunelveli, Tiruppur and Trichy

Internal audit has not evolved since the formation of the Department in 1983. Internal audit was however conducted by an inspector deputed by the Chief Internal Auditor and Internal Auditor for Statutory Boards and an Assistant Director of the Department. Even this post was withdrawn on 12 April 2008. Internal audit was not conducted in any of the offices thereafter.

Mention was made in the Audit Report (Revenue Receipts) for the year ended 31 March 2009 of the absence of separate internal audit wing in the Department. The Commissioner stated (October 2009) that the Department had already taken up the matter with the Government for establishment of a separate internal audit wing. However, separate internal audit wing has still not been instituted. The Department replied (November 2013) that though many proposals were sent to Government for creation of Internal Audit wing, the same was not favourably considered by the Government. Government during Exit Conference stated that the Chief Internal Auditor and Internal Auditor for Statutory Boards has been requested (April 2013) to redeploy one post of Assistant Director to the internal audit wing.

The Government may take appropriate measures to establish internal audit wing for effective administration of the Department.

5.5.12.3 Absence of departmental manual

Audit observed that the Department has not devised a Code or Manual setting out the functions and the responsibilities of staff of all categories in accordance with the instructions issued by the Government/Department, which could act as a key document for perspective planning, reference and internal control.

5.5.12.4 Inadequate inspection of leases

Section 24 of MMDR Act provides for power of entry and inspection of any mine by any person authorised by the Central or State Government in this behalf. As per Rule 25 of TNMMR, the registered holder or the lessee shall allow the officer so designated to enter upon the premises over which mining operations are carried on for the purpose of inspecting the same.

Audit noticed from the information furnished by the Department that in 10 districts⁵¹, only 1,810 inspections have been carried out during the period from 2008-09 to 2012-13, though a total of 15,231 leases were in operation during the said period. The percentage of inspection varied between 6.97 and 14.74 per cent. In Karur District, only 10 inspections were carried during

the period 2008-09 to 2012-13, while in Krishnagiri District, only 26 inspections were done. In Kanyakumari district, the Deputy Director of Geology and Mining was not able to furnish information regarding inspections carried out during the period 2008-09 to 2011-12.

⁵¹ Coimbatore, Karur, Krishnagiri, Madurai, Namakkal, Nagapattinam, Salem, Tirunelveli, Trichy and Tiruppur.

Audit further observed that the Department did not prescribe any system or procedure for inspection of leases of oil and natural gas. There were 19 leases held by a Government of India Undertaking in Nagapattinam and Tiruvarur Districts and the same were in operation. The Department did not inspect any of these leases at any time during 2008-09 to 2012-13.

Non-inspection of leases is fraught with risk of non-detection of whether:

- Mining and exploration activities are carried out in lawful manner as per provisions of Acts and the Rules made thereunder;
- adequate measures are adopted for preservation, conservation and development of minerals and mining activities are carried out without excessive wastage of minerals; and
- the quantity of minerals, oil, natural gas excavated are correctly reflected in the monthly production returns submitted by the lease holder and royalty, dead rent and surface rent are correctly paid thereon.

5.5.12.5 Enforcement function

The District Officers, besides, forwarding the license and lease applications for the grant of license/lease to the Commissioner and Government, issues permits for removal of mineral from the leased quarry, undertakes enforcement functions by intercepting and checking the suspected vehicles and are also to check the Pit's mouth register.

On a review of the statement showing detection of illicit mining/transportation of minerals, it was noticed in Audit that though illicit mining/transportation of minerals were booked by the Geology and Mining Department, Revenue Department and Police Department, there was no follow up to trace the quarry origin of the mineral. Action was limited to mere imposition of fines on the seized cases. The number of cases booked for illicit transportation/mining of minerals, during a period of four years is given in following table:

(₹ in crore)

Year	Number of cases booked for illicit quarrying		Number cases booked for illicit transportation	
	No.	Penalty realised	No.	Penalty realised
2008-09	409	1.23	7,910	20.71
2009-10	228	1.25	7,938	18.15
2010-11	252	1.49	7,988	19.00
2011-12	103	0.93	9,320	25.81
Total	992	4.90	33,156	83.67

Entrusting the cases to a separate and specialised enforcement wing within the Department which could trace back the mineral to the source of illicit quarrying/transportation would be more effective.

5.5.13 Conclusion

Performance Audit of the mining activities of the State reveals (i) lacunae in the system of grant of leases resulting in blocking of mineral development and consequent loss of revenue to the Government; (ii) short collection of royalty due to deficiencies in system of publishing prices of minerals by IBM as well as in adoption of notified rates; (iii) poor internal controls as evidenced by absence of internal audit, non monitoring of furnishing of returns by the lessees and non inspection of mining leases. No follow up action was undertaken for cases booked for illicit transportation/mining and action was limited to mere imposition of fines.


5.5.14 Recommendations

The Government may

- consider prescribing a system to watch timely disposal of lease applications/renewal applications pending at the Department/ Government level.
- ensure correctness of the sale prices furnished by the lessees of major minerals to the Indian Bureau of Mines to guard against loss of revenue to Government.

- strengthen enforcement mechanism to ensure effective check on illicit quarrying/transportation.
- take measures to strengthen the internal control system to ensure compliance of the provisions of the Acts and Rules.

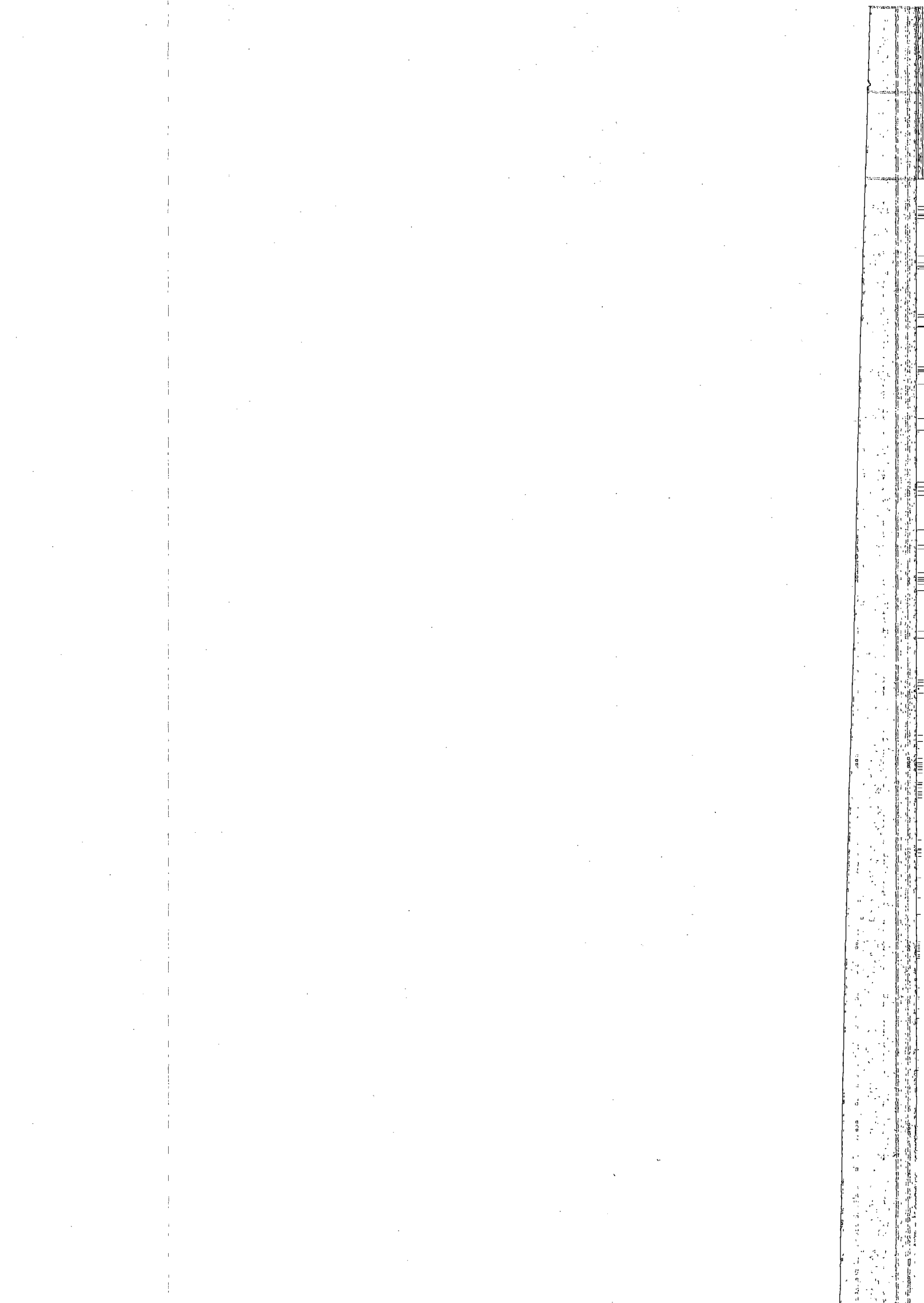
Chennai
Dated 1 April 2014


(SUBHASHINI SRINIVASAN)
Principal Accountant General
(Economic and Revenue Sector Audit)
Tamil Nadu

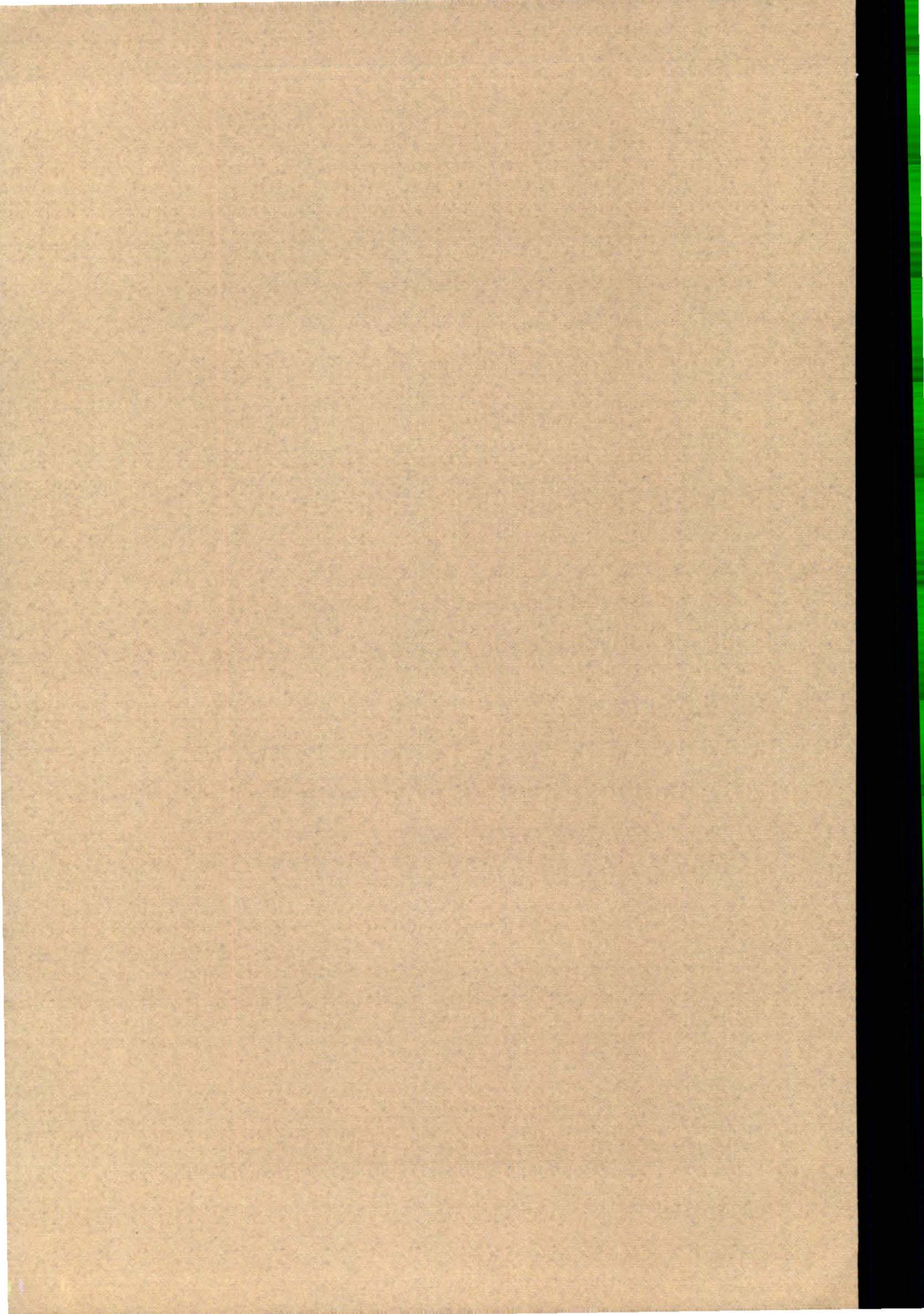
Countersigned

New Delhi
Dated 4 April 2014


(SHASHI KANT SHARMA)
Comptroller and Auditor General of India



ANNEXURE



ANNEXURE - 1
(Refer to Paragraph 1.4 of Chapter I)

Sl.No.	Name of the Department	Nature of receipts	Auditable units	Units planned and audited
1.	Commercial Taxes and Registration	Sales Tax	392	166
		Stamp duty and Registration fee	589	135
2.	Revenue	Urban Land Tax	53	06
3.	Home (Transport)	Taxes on vehicles	85	24
4.	Home (Prohibition and Excise)	State Excise	68	11
5.	Industries	Mines and minerals	30	22
6.	Energy	Electricity duty	24	10
Total			1,241	374

List of Abbreviations

IR	Inspection Reports
FTAC	Fast Track Assessment Circle
PAC	Public Accounts Committee
ATN	Action Taken Note
CTD	Commercial Taxes Department
PAN	Permanent Account Number
TIN	Taxpayers Identification Number
VAT	Value Added Tax
TNVAT	Tamil Nadu Value Added Tax
SEZ	Special Economic Zone
AAs	Assessing Authorities
TNGST	Tamil Nadu General Sales Tax
CST	Central Sales Tax
TNAST	Tamil Nadu Additional Sales Tax
AST	Additional Sales Tax
ITC	Input Tax Credit
DRO	District Revenue Officer
SDC	Special Deputy Collector
DR	District Registrar
ELCOT	Electronics Corporation of Tamil Nadu
STAR	Simple and Transparent Administration of Registration
NIC	National Informatics Centre
IGR	Inspector General of Registration
SRO	Sub-Registrar Office
EC	Encumbrance Certificate
ICT	Information and Communication Technology
TNSWAN	Tamil Nadu State Wide Area Network
NeGP	National e-Governance Action Plan
NLRMP	National Land Records Modernisation Programme
NICSI	National Informatics Centre Services Incorporated
DPR	Detailed Project Report
SAN	Storage Area Network
TB SAN	Tetra Byte Storage Area Network
CD	Compaq Disk
RO	Registering Officer
SDLC	System Development Life Cycle
SHCIL	Stock Holding Corporation of India Limited
CRA	Central Record-keeping Agency
BOT	Build Operate Transfer
eSS	e-Stamping Services
KRP	Key Resource Persons
FMS	Facility Management Service
IS Act	Indian Stamp Act
RR Act	Revenue Recovery Act
MTC	Metropolitan Transport Corporation Limited
TNSTC	Tamil Nadu State Transport Corporation Limited
MMDR Act	Mines and Mineral (Development & Regulation) Act, 1957
MC Rules	Mineral Concession Rules, 1960
TNMMC Rules	Tamil Nadu Minor Mineral Concession Rules, 1959
CGM	Commissioner of Geology and Mining
DC	District Collector

SEIAA	State Environmental Impact Assessment Authority
DD	Deputy Director
AD	Assistant Director
IBM	Indian Bureau of Mines
ROM	Run of mine
MCDR	Mineral Concession and Development Rules, 1988
GCDR	Granite Conservation and Development Rules, 1999
ORD Act	Oilfields (Regulation & Development) Act, 1948
PNG Rules	Petroleum and Natural Gas Rules, 1959

