



REPORT OF THE
COMPTROLLER AND AUDITOR GENERAL
OF INDIA

FOR THE YEAR ENDED 31 MARCH 2008

(REVENUE RECEIPTS)
GOVERNMENT OF HIMACHAL PRADESH

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PREFACE

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

The audit of revenue receipts of the State Government is conducted under Section 16 of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971. This report presents the results of audit of receipts comprising sales tax, state excise, motor vehicles tax, passengers and goods tax, forest receipts and other tax receipts of the State.

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

OVERVIEW

This report contains 48 paragraphs including one review relating to non/short levy of taxes, duties, royalty, fees, interest and penalty etc., involving Rs. 105.05 crore. Some of the major findings are mentioned below:

1. General

- The total receipts of the Government for the year 2007-08 were Rs. 9,141.54 crore. The revenue raised by the State Government during the year was Rs. 3,780.61 crore comprising tax revenue of Rs. 1,958.18 crore and non-tax revenue of Rs. 1,822.43 crore. The State Government also received Rs. 793.64 crore as State's share of divisible Union taxes and Rs. 4,567.29 crore as grants-in-aid from the Government of India.

(Paragraph 1.1)

- The arrears of revenue at the end of the year 2007-08 as reported by some departments were Rs. 512.43 crore. Of this, Rs. 113.28 crore was recoverable from various dealers on account of sales tax.

(Paragraph 1.5)

- Test check of the records of sales tax, state excise, taxes on vehicles, goods and passengers, forest receipts and other tax and non-tax receipts conducted during the year 2007-08, revealed under assessments/short levy/loss of revenue aggregating Rs. 218.62 crore, in 1,098 cases. During the course of the year 2007-08, the concerned departments accepted under assessments etc., of Rs. 42.55 crore in 187 cases.

(Paragraph 1.9)

2. Taxes on Sales, Trade etc.

- Acceptance of defective/incomplete statutory forms by the assessing authorities and allowing exemption/concessional rate of tax in the case of 69 industrial units resulted in short levy of tax of Rs. 30.20 crore in five districts.

(Paragraph 2.2)

- Incorrect exemption to two existing/new electronic assembly units resulted in underassessment of tax of Rs. 21.31 crore including interest.

(Paragraph 2.3)

- In 70 cases, the assessing authorities allowed exemption/concession on the turnover of Rs. 231.26 crore without obtaining certificate of genuineness from the Industries Department which resulted in irregular grant of concession of Rs. 9.36 crore in five districts.

(Paragraph 2.4)

- Irregular allowing of set off of tax of Rs. 1.76 crore to two industrial units resulted in underassessment of tax.

(Paragraph 2.5)

- In Kangra and Una districts, irregular allowing of concessional rate of tax to five industrial units on the sale of raw material without requisite certificate resulted in underassessment of tax of Rs. 1.20 crore.

(Paragraph 2.6)

3. State Excise

- Four licensees in four districts had belatedly paid bid money and monthly instalments of licence fee during the year 2006-07, resulting in non-levy/recovery of interest of Rs. 99.96 lakh from the licensees.

(Paragraph 3.2)

4. Taxes on Vehicles, Goods and Passengers

- Token tax of Rs. 1.73 crore was neither paid by 3,626 vehicle owners nor recovered by 31 registering and licensing authorities.

(Paragraph 4.2)

- In eight regional transport authorities, non/short payment of special road tax and non-levy of penalty resulted in non-recovery of Government dues of Rs. 2.60 crore.

(Paragraph 4.4 and 4.5)

5. Forest Receipts

- In six forest divisions, the costs of 20,880 trees (including saplings) of different species falling in the alignment area of projects/transmission lines etc. were charged at lower rates resulting in short recovery of revenue of Rs. 3.72 crore.

(Paragraph 5.2)

- In six forest divisions, non-charging of cost of 2,84,906 fence posts from the user agencies for compensatory afforestation and maintenance of plantation in the catchment area under the CAT plan in 2,925.5848 hectares of land resulted in non/short realisation of revenue of Rs. 3.20 crore.

(Paragraph 5.3)

- In 17 forest divisions, non-disposal of 1,136.39 cu.m of seized timber of different species valued as Rs. 2.72 crore resulted in blocking of revenue.

(Paragraph 5.4)

6. Other Tax and Non-Tax Receipts

A review of **Levy and collection of electricity duty** revealed as under:

- In the absence of enabling provisions in the HPED Act, electricity duty (ED) of Rs. 390.40 crore on sale of electricity could not be levied.

(Paragraph 6.2.9)

- Hotels being an industry were being charged ED at the commercial rates instead of industrial rates resulting in loss of ED of Rs. 80.79 lakh.

(Paragraph 6.2.11)

- Incorrect grant of eligibility certificate to five ineligible industrial units of Baddi, Darlaghat and Paonta Sahib resulted in incorrect exemption of Rs. 28.33 crore on account of ED.

(Paragraph 6.2.15)

- In 38 sub registrars, incorrect determination of the market value of property and incorrect preparation of *parta* resulted in short realisation of stamp duty and registration fee of Rs. 4.62 crore in 655 cases.

(Paragraph 6.3 and 6.4)

CHAPTER-1: GENERAL

1.1 Trend of revenue receipts

The tax and non-tax revenue raised by the Government of Himachal Pradesh during the year 2007-08, the State's share of divisible Union taxes and grants-in-aid received from the Government of India during the year and corresponding figures for the preceding four years are mentioned below:

(Rupees in crore)

Sr. No.	Particulars	2003-04	2004-05	2005-06	2006-07	2007-08
I.	Revenue raised by the State Government					
	• Tax revenue	984.33	1,251.88	1,497.02	1,656.38	1,958.18
	• Non tax revenue	291.76	610.77	689.67	1,336.85	1,822.43
	Total	1,276.09	1,862.65	2,186.69	2,993.23	3,780.61
II.	Receipts from the Government of India					
	• State's share of divisible Union taxes	449.54	537.32	493.26	629.16	793.64
	• Grants-in-aid	2,255.29	2,234.54	3,878.67	4,212.83	4,567.29
	Total	2,704.83	2,771.86	4,371.93	4,841.99	5,360.93
III.	Total receipts of the State (I + II)	3,980.92	4,634.51	6,558.62	7,835.22	9,141.54 ¹
IV.	Percentage of I to III	32	40	33	38	41

The above table indicates that during the year 2007-08, the revenue raised by the State Government was 41 *per cent* of the total revenue receipts (Rs. 9,141.54 crore) against 38 *per cent* in the preceding year. The balance 59 *per cent* of the receipts during 2007-08 were from the Government of India.

¹ For details, please see Statement No.11-Detailed accounts of revenue by minor heads in the Finance Accounts of the Government of Himachal Pradesh for the year 2007-2008. Figures under the head 0020 - Corporation tax; 0021 - Taxes on income other than corporation tax; 0028 - Other taxes on income and expenditure; 0032 - Taxes on wealth; 0037 - Customs; 0038 - Union excise duties; 0044 - Service tax and 0045 - Other taxes and duties on commodities and services - 901 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 Government and included in State's share of divisible Union taxes.

1.1.1 The following table presents the details of tax revenue raised during the period 2003-04 to 2007-08:

(Rupees in crore)							
Sr. No.	Head of revenue	2003-04	2004-05	2005-06	2006-07	2007-08	Percentage of increase (+) or decrease (-) in 2007-08 over 2006-07
1.	Taxes on sales, trade etc.	436.75	542.37	726.98	914.45	1,092.16	(+) 19
2.	State excise	280.12	299.90	328.97	341.86	389.57	(+) 14
3.	Stamps and registration fees	52.37	75.34	82.43	92.47	86.99	(-) 6
4.	Taxes and duties on electricity	16.67	88.00	89.29	30.43	81.57	(+)168
5.	Taxes on vehicles	78.37	107.82	101.51	106.35	113.72	(+) 7
6.	Taxes on goods and passengers	33.96	38.32	42.61	50.22	55.12	(+) 10
7.	Other taxes and duties on commodities and services	86.98 ²	97.54 ³	124.10 ⁴	118.65 ⁵	137.13 ⁶	(+)16
8.	Land revenue	0.84	2.30	1.09	1.91	1.89	(-)1
Total		986.06²	1,251.59³	1,496.98⁴	1,656.34⁵	1,958.15⁶	(+) 18

The concerned departments mentioned the following reasons for increase/decrease in receipts during 2007-08 over those of 2006-07:

Taxes on sales, trade etc.: The increase was stated to be due to imposition of Value added tax on tobacco by the Government and impact of frequent checkings/inspections by field/flying squad staff.

State excise: The increase was stated to be due to hike in bid money, increase in licence fee on country liquor/ Indian made foreign liquor (IMFL) and beer, excise duty and assessed fee on IMFL and issuing of more licences during the year.

Taxes and duties on electricity: The increase was stated to be mainly due to deposit of balance amount of electricity duty in the year 2007-08 by the Himachal Pradesh State Electricity Board.

Other taxes and duties on commodities and services: The increase was stated to be due to heavy tourist flow in the state, increase in the rate of tax on cement and clinker under the Himachal Pradesh Taxation (on certain goods carried by road) Act and more amount realised under the Toll Act.

The other departments did not intimate the reasons for variation in receipts from that of the previous year despite being requested (September 2008).

- ² includes Rs. 1.73 crore on account of share of net proceeds assigned to the State.
³ excludes Rs. (-) 29 lakh on account of share of net proceeds assigned to the State.
⁴ excludes Rs.(-) 4 lakh on account of share of net proceeds assigned to the State.
⁵ excludes Rs.(-) 4 lakh on account of share of net proceeds assigned to the State.
⁶ excludes Rs.(-) 3 lakh on account of share of net proceeds assigned to the State.

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

(Rupees in crore)							
Sr. No.	Head of revenue	2003-04	2004-05	2005-06	2006-07	2007-08	Percentage of increase (+) or decrease (-) in 2007-08 over 2006-07
1.	Interest receipts	11.35	42.77	49.29	87.18	66.90	(-) 23
2.	Other non-tax receipts	101.51	89.59	151.41	122.84	125.15	(-) 2
3.	Forestry and wild life	76.93	102.17	149.63	45.55	53.60	(+) 18
4.	Non ferrous, mining and metallurgical industries	36.84	38.42	42.90	48.39	56.59	(+) 17
5.	Miscellaneous general services (including lottery receipts)	1.81	1.86	2.13	73.86	47.51	(-) 36
6.	Power	35.01	284.71	251.47	910.08	1,414.52	(+) 55
7.	Major and medium irrigation	0.06	0.09	0.44	0.21	0.22	(+) 5
8.	Medical and public health	3.36	3.70	5.31	5.38	7.68	(+) 43
9.	Co-operation	1.44	1.64	1.68	7.28	4.93	(-) 32
10.	Public works	7.54	9.08	12.07	16.50	20.38	(+) 24
11.	Police	8.08	7.74	8.98	8.45	12.31	(+) 46
12.	Other administrative services	7.83	29.00	14.36	11.13	12.64	(+) 14
Total		291.76	610.77	689.67	1,336.85	1,822.43	(+) 36

The concerned departments mentioned the following reasons for increase/decrease in receipts during 2007-08 over those of 2006-07:

Interest receipts: The decrease was stated to be due to less receipt of interest from co-operative societies and less refund by the Central Government.

Forestry and wild life: The increase was stated to be due to more receipt from Himachal Pradesh State Forest Corporation and receipts of compensation under Article 68 of the Indian Forest Act.

Police: The increase was stated to be due to receipt of outstanding dues from railways and other organisations on account of police forces deployed with them and more receipt from auction of unserviceable items of the department.

Other administrative services: The increase was stated to be mainly due to more sale of election forms, receipt of fees, fine etc. by Election Department and realisation of audit fee.

The other departments did not intimate the reasons for variation in receipts from that of the previous year despite being requested (September 2008).

1.2 Variations between the budget estimates and actuals

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

(Rupees in crore)

Sr. No.	Head of revenue	Budget estimates	Actual receipts	Variations excess(+) or shortfall (-)	Percentage of variation
1.	Taxes on sales, trade etc.	1,115.00	1,092.16	(-) 22.84	(-) 2
2.	State excise	362.69	389.57	(+) 26.88	(+) 7
3.	Taxes on goods and passengers	46.35	55.12	(+) 8.77	(+) 19
4.	Taxes on vehicles	120.00	113.72	(-) 6.28	(-) 5
5.	Other taxes and duties on commodities and services	135.96	137.13	(+) 1.17	(+) 1
6.	Stamps and registration fees	90.88	86.99	(-) 3.89	(-) 4
7.	Taxes and duties on electricity	78.22	81.57	(+) 3.35	(+) 4
8.	Land revenue	1.76	1.89	(+) 0.13	(+) 7
9.	Industries	10.06	8.13	(-) 1.93	(-) 19
10.	Forestry and wild life	48.64	53.60	(+) 4.96	(+) 10
11.	Interest receipts	12.77	66.90	(+) 54.13	(+) 424
12.	Education, sports, art and culture	47.85	52.72	(+) 4.87	(+) 10
13.	Crop husbandry (including horticulture)	4.88	5.89	(+) 1.01	(+) 21
14.	Non-ferrous, mining and metallurgical industries	42.00	56.59	(+) 14.59	(+) 35
15.	Housing	2.35	1.99	(-) 0.36	(-) 15
16.	Fisheries	1.05	1.09	(+) 0.04	(+) 4
17.	Water supply and sanitation	19.65	14.74	(-) 4.91	(-) 25
18.	Police	11.97	12.31	(+) 0.34	(+) 3
19.	Medical and public health	5.85	7.68	(+) 1.83	(+) 31
20.	Stationery and printing	4.36	4.90	(+) 0.54	(+) 12
21.	Public works	13.30	20.38	(+) 7.08	(+) 53
22.	Animal husbandry	0.40	0.44	(+) 0.04	(+) 10
23.	Power	525.00	1,414.52	(+) 889.52	(+) 169

The concerned departments mentioned the following reasons for increase/decrease in receipts during 2007-08:

Taxes on goods and passengers: The increase was stated to be due to more receipt on account of transportation of iron, steel and plastic goods, increase in number of vehicles and increase in the rate of additional goods tax on all type of yarn.

Interest receipt: The increase was stated to be due to realisation of interest on investment of cash balances, interest on loans from Himachal Pradesh State Electricity Board.

Crop husbandry: The increase under 'Agriculture' sector was stated to be due to more receipts from auction of agriculture farms and other unserviceable items like vehicles, tyre and tube etc. whereas under 'Horticulture' sector, increase was due to receipt of more money from the Government of India under *Mandi Madhyasth Yojna*.

Animal husbandry: The increase was stated to be due to more income generated from sale of sheep/hoggets from departmental sheep breeding farms to the sheep breeders and sale of immovable/moveable property.

Power: The increase was stated to be due to receipt of royalty from different projects, sale of electricity (received free of cost) through M/s Power Trading Corporation India Ltd. at higher rates and more receipts on the allotment of new projects as compared to last year.

The other departments did not intimate the reasons for variation in receipts from that of the previous year despite being requested (September 2008).

1.3 Analysis of collection

The breakup of the total collection at pre assessment stage and after regular assessment of state excise, taxes on sales and trade, passengers and goods tax and other taxes and duties on commodities and services during the year 2007-08 and the corresponding figures for the preceding two years, as furnished by the Excise and Taxation Department is mentioned below:

(Rupees in crore)								
Sr. No.	Head of revenue	Year	Amount collected at pre-assessment stage	Amount collected after regular assessment (additional demand)	Penalties for delay in payment of taxes and duties	Amount refunded	Net collection	Percentage of column 4 to 8
1	2	3	4	5	6	7	8	9.
1.	State excise	2005-06	326.85	--	2.26	0.14	328.97	99
		2006-07	341.33	--	1.62	1.09	341.86	100
		2007-08	388.53	--	1.19	0.15	389.57	100
2.	Taxes on sales, trade etc.	2005-06	711.10	10.20	6.03	0.35	726.98	98
		2006-07	898.73	9.28	6.74	0.30	914.45	98
		2007-08	1,059.01	18.64	16.20	1.69	1,092.16	97
3.	Taxes on goods and passengers	2005-06	40.47	1.07	1.09	0.02	42.61	95
		2006-07	47.76	1.04	1.42	-- ⁷	50.52	95
		2007-08	52.83	1.20	1.09	--	55.12	96
4.	Other taxes and duties on commodities and services	2005-06	120.53	3.56	0.05	--	124.10 ⁸	97
		2006-07	118.06	0.69	0.03	0.09	118.65 ⁹	99
		2007-08	136.54	0.64	0.06	0.08	137.13 ¹⁰	100

The above table shows that collection of revenue at the pre-assessment stage ranged between 95 and 100 per cent during the years 2005-06 to 2007-08.

⁷ Rs.35,463 only.

⁸ excludes Rs. (-) 4 lakh on account of share of net proceeds assigned to the State.

⁹ excludes Rs. (-) 4 lakh on account of share of net proceeds assigned to the State.

¹⁰ excludes Rs. (-) 3 lakh on account of share of net proceeds assigned to the State.

1.4 Cost of collection

The gross collection in respect of major revenue receipts, expenditure incurred on collection and percentage of such expenditure to gross collection during the years 2005-06, 2006-07 and 2007-08 alongwith the relevant all India average percentage of expenditure on collection to gross collection for 2006-07 were as follows:

(Rupees in crore)						
Sr. No.	Head of revenue	Year	Collection	Expenditure on collection	Percentage of expenditure to gross collection	All India average percentage of collection for the year 2006-07
1.	Taxes on sales, trade etc.	2005-06	726.98	9.38	1.29	0.82
		2006-07	914.45	10.33	1.13	
		2007-08	1,092.16	11.35	1.04	
2.	State excise	2005-06	328.97	4.24	1.29	3.30
		2006-07	341.86	3.86	1.13	
		2007-08	389.57	4.05	1.04	
3.	Taxes on vehicles, goods and passengers	2005-06	144.12	1.28	0.89	2.47
		2006-07	156.57	1.90	1.21	
		2007-08	168.84	2.73	1.62	
4.	Stamp duty and registration fee	2005-06	82.43	1.22	1.48	2.33
		2006-07	92.47	2.24	2.42	
		2007-08	86.99	1.01	1.16	

The above table indicates that percentage of expenditure on gross collection in respect of taxes on sales, trade etc. was higher than the all India average.

1.5 Analysis of arrears of revenue

The arrears of revenue as on 31 March 2008 in respect of some principal heads of revenue amounted to Rs. 512.43 crore of which Rs. 125.10 crore were outstanding for more than five years, as mentioned below:

(Rupees in crore)

Sr. No.	Head of revenue	Amount outstanding as on 31 March 2008	Amount outstanding for more than 5 years as on 31 March 2008	Remarks
1.	Taxes on sales, trade/vat etc.	113.28	49.46	Arrears pertained to the year 1968-69 and onwards. Demands for Rs. 48.06 crore had been certified as arrears of land revenue. Recoveries amounting to Rs. 1.21 crore were stayed by the High Court/other judicial authorities. Recovery of Rs. 55 lakh was held up due to rectification/review of applications. Demands for Rs. 3.90 crore were likely to be written off. Specific action taken in respect of the remaining arrears of Rs. 59.56 crore has not been intimated (September 2008).
2.	Forestry and wild life	86.41	Awaited	The outstanding amounts relate to contractor agency: Rs. 3.84 crore; Himachal Pradesh State Forest Corporation: Rs. 82.42 crore and the balance Rs. 15 lakh relates to other Government departments. Period to which the arrears pertained and specific action taken to effect the recovery has not been intimated (September 2008).
3.	Taxes and duties on electricity	115.96	Nil	The arrears were recoverable from Himachal Pradesh State Electricity Board.
4.	Taxes on vehicles	97.26	47.52	The arrears pertained to the year 1977 and onwards. Specific action taken to effect the recovery has not been intimated (September 2008).
5.	Taxes on goods and passengers	13.18	11.10	Arrears pertained to the year 1961-62 and onwards. Demands for Rs. 2.78 crore had been certified as arrears of land revenue. Recoveries amounting to Rs. 4 lakh were stayed by the High Court/other judicial authorities. Specific action taken in respect of the remaining arrears of Rs. 10.36 crore has not been intimated (September 2008).
6.	Police	17.08	6.37	Arrears pertained to the year 1990-91 and onwards. The outstanding amounts relate to Bhakra and Beas Management Board: Rs. 9.58 crore; Nathpa Jhakri Power Corporation: Rs. 1.59 crore; Railway Authorities: Rs. 1.54 crore; Civil Aviation Authority: Rs. 1.01 crore; Yamuna Hydel Project Khodri Majri and Cement Corporation of India, Rajban: Rs. 66 lakh and National Hydro Electric Power Corporation: Rs. 1.66 crore. The remaining Rs. 1.04 crore relates to other ¹¹ departments/institutions. For recovery of arrears pertaining to the Bhakra Beas Management Board and Yamuna Hydel Project, Khodri Majri, cases had been filed under Land Revenue Act. Further report has not been received (September 2008).
7.	Water supply, sanitation and minor irrigation	48.25	3.78	Arrears pertained to the year 1963-64 and onwards. Rs. 44.38 crore relates to Municipal Corporation, Shimla, Municipalities and Notified Area Committees. The remaining arrears relating to minor irrigation and housing (Rs. 3.87 crore) were recoverable through Deputy Commissioners of the districts and Superintending Engineers respectively. Specific action taken to effect the recovery has not been intimated (September 2008).

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All India Radio, Intelligence Bureau, United Commercial Bank, Shimla and Rohru, Punjab National Bank, Shimla, Mandi, Kinnaur and Punjab State Electricity Board, Patiala.

8.	State excise	9.73	4.14	Arrears pertained to the year 1972-73 and onwards. Demands for Rs. 4.20 crore had been certified as arrear of land revenue. Recoveries amounting to Rs. 1 lakh were stayed by the High Court and other judicial authorities. Demands for Rs. 5 lakh were likely to be written off. Specific action taken in respect of the remaining arrears of Rs. 5.47 crore has not been intimated (September 2008).
9.	Other taxes and duties on commodities and services	3.75	1.27	Arrears pertained to the year 1989-90 and onwards. Demands for Rs. 1.38 crore had been certified as arrear of land revenue. Recoveries amounting to Rs. 18 lakh had been stayed by the High Court and other judicial authorities. Specific action taken in respect of the remaining arrears of Rs. 2.19 crore has not been intimated (September 2008).
10.	Industries (including village and small scale industries).	5.26	1.09	Arrears pertained to the year 1979-80 and onwards. Specific action taken to effect the recovery has not been intimated (September 2008).
11.	Non-ferrous, mining and metallurgical industries	0.99	0.17	Arrears pertained to the year 1970-71 and onwards. Specific action taken to effect the recovery has not been intimated (September 2008).
12.	Land revenue	1.03	0.10	Arrears pertained to the year 1975-76 and onwards. Specific action taken to effect the recovery has not been intimated (September 2008).
13.	Public works	0.25	0.10	Period to which the arrears pertained and specific action taken to effect the recovery has not been intimated (September 2008).
Total		512.43	125.10	

1.6 Arrears in assessments

The number of cases pending assessment at the beginning of the year 2007-08, becoming due during the year, disposed during the year and pending at the end of each year during 2003-04 to 2007-08 as furnished by the Excise and Taxation Department are as mentioned below:

Head of revenue	Year	Opening balance	Cases which become due for assessment during 2007-08	Total assessments due	Cases disposed during 2007-08	Cases remaining at the end of the year	Percentage of disposal (Col. 6 to 5)
1.	2.	3.	4.	5.	6.	7.	8
Taxes on sales, trade etc.	2003-04	97,271	58,390	1,55,661	49,492	1,06,169	32
	2004-05	1,06,169	61,266	1,67,435	55,733	1,11,702	33
	2005-06	1,11,702	65,968	1,77,670	76,491	1,01,179	43
	2006-07	1,01,179	32,832	1,34,011	61,251	72,760	46
	2007-08	72,760	36,675	1,09,435	45,361	64,074	41

The above table indicates that the percentage of assessment completed during the year 2003-04 to 2007-08 ranged between 32 and 46 *per cent*. As of 31 March 2008, arrears in assessment under this head were 64,074 cases. Since, value added tax (VAT) has been introduced in the state from April 2005, the department needs to complete the pending assessments in a time bound manner.

1.7 Evasion of tax

The details of cases of evasion of tax detected by the Excise and Taxation Department, cases finalised and demand for additional tax raised during 2007-08 are mentioned below:

Sr. No.	Head of revenue	Cases pending as on 31 March 2007	Cases detected during 2007-08	Total cases	Cases in which assessments/ investigations completed and additional demand including penalty etc. raised		Number of cases pending as on 31 March 2008
					Number of cases	Amount of demand (Rupees in lakh)	
1.	Taxes on sales, trade etc.	79	5,765	5,844	5,794	61.57	50
2.	State excise	1	451	452	448	21.41	4
3.	Passengers and goods tax	802	4,398	5,200	4,900	46.85	300
4.	Other taxes and duties on commodities and services	9	895	904	897	53.28	7
Total		891	11,509	12,400	12,039	183.11	361

It is necessary to finalise these cases at the earliest to minimise the risk of loss of revenue.

1.8 Refunds

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

(Rupees in crore)

Sr. No.	Particulars	Sales tax		State excise	
		No. of cases	Amount	No. of cases	Amount
1.	Claims outstanding at the beginning of the year	21	0.33	01	0.01
2.	Claims received during the year	23	2.10	12	0.14
3.	Refunds made during the year	15	1.69	13	0.15
4.	Balance outstanding at the end of year	29	0.74	--	--

Himachal Pradesh General Sales Tax Act, provides for payment of interest, at the rate of one *per cent* per month, if the excess amount is not refunded to the dealer within 90 days from the date of the order and thereafter at the rate of 1.5 *per cent* per month till the refund is made.

The pending refund cases need attention to avoid mandatory payment of interest.

1.9 Results of audit

Test check of the records of taxes on sale, trade, state excise, taxes on vehicles, goods and passengers, forest receipts, other tax and non-tax receipts conducted during 2007-08 revealed underassessments/short levy/loss of revenue and other observations amounting to Rs. 218.62 crore in 1,098 cases. During the year, the departments accepted under assessment of Rs. 42.55 crore in 187 cases pointed out in 2007-08. No replies have been received in respect of the remaining cases.

This report contains 48 paragraphs including one review relating to non/short levy of tax, royalty, fees, interest and penalty etc. involving Rs. 105.05 crore. The department/Government accepted audit observations involving Rs. 5.96 crore of which Rs. 96.59 lakh had been recovered upto July 2008.

1.10 Failure of the senior officials to enforce accountability and protect the interests of the Government

Principal Accountant General (Audit) (Pr. AG) arranges to conduct periodical inspection of Government departments to test check the transactions and verify the maintenance of important accounting and other records as per the prescribed rules and procedures. These inspections are followed up with inspection reports (IRs). When important irregularities etc., detected during inspection are not settled on the spot, IRs are issued to the heads of the offices inspected with a copy to the next higher authority. The financial rules/orders

of the Government provide for prompt response by the executive to the IRs issued by the Pr. AG to ensure corrective action in compliance of the prescribed rules and procedures and accountability for the deficiencies, lapses, etc., noticed during inspection. The heads of offices and next higher authorities are required to comply with the observations contained in the IRs and rectify the defects and omissions promptly and report their compliance to the Pr. AG. Serious irregularities are also brought to the notice of the head of the department by the Pr. AG. A half yearly report of pending reports is sent to the Financial Commissioner cum Secretary (Finance) in respect of the pending IRs to facilitate monitoring of audit observations in the pending IRs.

The number of IRs and audit observations relating to revenue receipts upto 31 December 2007, which were pending settlement by the departments as on 30 June 2006, 30 June 2007 and 30 June 2008 are mentioned below:

Particulars	Position as on 30 June		
	2006	2007	2008
Number of IRs pending for settlement	3,052	3,209	3,377
Number of outstanding audit observations	7,135	7,586	8,085
Amount of revenue involved (Rupees in crore)	278.05	334.72	403.75

The increase in the outstanding audit observations is indicative of non-compliance with the Government instructions to send replies to the audit observations and report on further action taken thereon within the stipulated time.

The department wise breakup of the IRs and audit observations outstanding as on 30 June 2008 is mentioned below:

Sr. No.	Department	Number of outstanding		Amount of audit observations raised (Rupees in crore)	Year to which observations relate	Number of IRs to which even first replies not received
		IRs	Audit observations			
1.	Revenue	836	1,589	15.70	1977-78 to 2006-07	50
2.	Forest Farming and Conservation	578	1,682	198.21	1970-71 to 2006-07	14
3.	Excise and Taxation	735	1,996	109.29	1973-74 to 2006-07	11
4.	Transport	576	1,713	25.44	1972-73 to 2005-06	14
5.	Other departments (Irrigation and Public Health, Public Works, Agriculture, Horticulture, Co-operation, Food and Civil Supplies and Mining)	652	1,105	55.11	1976-77 to 2006-07	26
Total		3,377	8,085	403.75		115

The issue of outstanding IRs was brought to the notice of the Chief Secretary to the Government in July 2008. It is recommended that the Government may look into the matter and ensure that procedure exists for:

- action against officials who fail to send replies to IRs/ paragraphs as per the prescribed time schedule;
- action to recover loss in a time bound manner and;
- revamping the system to ensure proper response to audit observations by the department.

1.11 Departmental audit committees meetings

In order to expedite the settlement of outstanding audit observations contained in the IRs on revenue receipts of the Government of Himachal Pradesh, the departmental audit committees were to be constituted by the Government, on the recommendations of the Finance Department. These committees were to be chaired by the Special Secretary/Additional/Joint Secretary of the concerned Administrative Department and attended by the head of the department/other concerned officer and the Deputy Accountant General from the office of the Pr. AG.

For expeditious clearance of the outstanding audit observations, it is necessary that the audit committees meet annually and ensure that final action is taken on all outstanding audit observations. For the year 2007-08, four out of 10 Government departments relating to revenue receipts, convened meetings of the audit committees. The matter relating to annual meeting in respect of the remaining departments was under correspondence. In the meetings, 57 paras were settled.

1.12 Response of the State Government to draft audit paragraphs

The draft audit paragraphs proposed for inclusion in the Report of the Comptroller and Auditor General of India are forwarded by the Pr. AG to the Principal Secretaries/Secretaries of the department concerned, drawing their attention to audit findings and requesting them to send their response within eight weeks. The fact of non-receipt of replies from the departments/Government is invariably indicated at the end of such paragraphs included in the Audit Report.

Forty nine draft paragraphs including one review (clubbed into 48 paragraphs of this report) proposed to be included in the Report for the year ended 31 March 2008 were sent to the Principal Secretaries/Secretaries of the respective departments by name between February and May 2008. The Principal Secretaries/Secretaries of the departments did not send replies to the draft paragraphs except review despite issue of reminders (August 2008). These paragraphs have been included in this report without the response of the Principal Secretaries/Secretaries of the departments.

1.13 Follow up on Audit Reports- summarised position

The internal working system of the Public Accounts Committee, notified in December 2002, laid down that after the presentation of the Report of the Comptroller and Auditor General of India in the Vidhan Sabha, the departments shall initiate action on the audit paragraphs and the action taken explanatory notes thereon should be submitted by Government within three

months of tabling the Report, for the consideration of the Committee. In spite of these provisions, the explanatory notes on audit paragraphs of the Report(s) were being delayed inordinately. Out of 153 paragraphs (including reviews) included in the Reports of the Comptroller and Auditor General of India on revenue receipts of the Government of Himachal Pradesh for the years ended 31 March 2003, 2004, 2005 and 2006, action taken explanatory notes had not been received in respect of 22 paragraphs from four¹² departments although these Audit Reports were placed before the Legislature Assembly between 27 February 2004 and 3 April 2007.

1.14 Compliance with the earlier Audit Reports

In respect of paragraphs featured in the Audit Reports 2002-03 to 2006-07, the departments/Government accepted audit observations involving Rs. 167.87 crore of which only Rs. 79.01 crore had been recovered till 31 March 2008 as mentioned below:

(Rupees in crore)			
Year of Audit Report	Total money value	Accepted money value	Recovery made
2002-03	80.37	48.96	44.54
2003-04	107.31	38.20	1.59
2004-05	54.39	7.11	1.89
2005-06	58.32	12.32	0.28
2006-07	82.38	61.28	30.71
Total	382.77	167.87	79.01

1.15 Amendments in the Acts/Rules

On the basis of audit findings that appeared in the Audit Report (Revenue Receipts) para no. 6.2 of 2002-03 and 5.2 of 2003-04, the State Government amended the Himachal Pradesh Forest Produce Transit (Land Routes) Rules 1978, (for item No. 52 & 53) vide notification dated 19 October 2004.

¹² 2004-2005: Revenue and Public Works Department.
2005-2006: Forest Farming and Soil Conservations, Revenue, Public Works and Irrigation-cum-Public Health Department.

CHAPTER-II: TAXES ON SALES, TRADE ETC.

2.1 Results of audit

Test check of the records of sales tax assessments and other records, conducted during the year 2007-08 revealed irregular/incorrect exemption/concession, short assessment, non-deposit of tax and other irregularities amounting to Rs. 82.45 crore in 239 cases, which fall under the following categories:

(Rupees in crore)			
Sr. No.	Particulars	Number of cases	Amount
1.	Irregular/incorrect exemption/concession etc. to industrial units	10	66.35
2.	Evasion of tax due to suppression of sales/purchases	24	5.37
3.	Underassessment of tax	103	3.09
4.	Non-deposit of sales tax	04	1.09
5.	Non-levy of tax due to non-registration of dealers	04	0.79
6.	Other irregularities	94	5.76
Total		239	82.45

During 2007-08, the department accepted under assessments of Rs. 1.26 crore involved in 17 cases which had been pointed out in audit in earlier years.

A few illustrative cases involving Rs. 68.24 crore are mentioned in the succeeding paragraphs.

2.2 Acceptance of defective statutory forms

Under the Central Sales Tax (CST) Act, 1956, and the rules framed thereunder, declaration form 'C' marked 'original' and complete in all respect i.e. bearing registration number and date of issue by the purchasing dealer, purchase order, number and date etc., should be furnished to avail concessional rate of CST. It has judicially been held¹ that production of declaration form is mandatory and second evidence such as duplicate form cannot be permitted to replace the lost one. It has also been held² that production of original 'C' form for claiming concessional rate of tax is mandatory to prevent the forms being misused for the commission of fraud and collusion with a view to evade payment of tax. Further under the CST Act, sale of goods made by one registered dealer for export are to be allowed as deduction from turnover of the selling dealer on his furnishing form 'H' duly filled in and signed by the exporter alongwith the evidence of export of such goods. Similarly, to claim exemption on branch transfer/consignment sales, description of goods, railway receipt, goods receipt, name of railway/transport company etc. should be recorded on declaration in form 'F'. Form 'F' may cover transfer of goods effected during a period of one calendar month by a dealer to any other place of his business or his agent or principal outside the State, as the case may be.

Test check of the records of five districts between March 2008 and May 2008 revealed that the assessing authorities (AAs) accepted defective/incomplete declaration forms in the case of 69 industrial units and allowed concessional rate/exemption on their turnover. This resulted in short levy of tax of Rs. 30.20 crore as mentioned below:

¹ Commissioner Sales Tax V/s Prabhu Dayal Prem Narayan (1988) 71 STC 1 (SC).

² Delhi Automobile Pvt. Ltd. V/s Commissioner of Sale Tax (1997) 104 STC 75(SC).

(Rupees in crore)

Sr. No.	Name of AETC	Number of industrial units	Assessment year/month	Nature of irregularities	Total turnover	Tax leviable	Tax levied	Short levy
1.	Kangra, Mandi, Solan and Una	36	1999-2000 to <u>2004-05</u> April 2002 to December 2007	Defective declaration forms 'C', 'H' and 'F'	255.87	25.96	Nil	25.96
2.	Sirmour and Solan	14	2001-02 to <u>2004-05</u> March 2004 to September 2007	Duplicate/ photocopy of 'C' forms	23.28	2.54	0.23	2.31
3.	Sirmour and Solan	6	1998-99 to <u>2003-04</u> October 2005 and February 2008	Invalid forms 'F'	5.90	0.62	Nil	0.62
4.	Kangra, Mandi and Una	5	2002-03 to <u>2006-07</u> April 2003 to March 2007	Without forms 'F'	3.55	0.23	Nil	0.23
5.	Kangra, Sirmour and Solan	8	2002-03 to <u>2006-07</u> September 2006 to February 2008	The goods were transferred to places not specified in the registration certificate	9.05	1.08	Nil	1.08
Total		69			297.65	30.43	0.23	30.20

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

2.3 Incorrect exemption

According to item 66 of Schedule B of Himachal Pradesh General Sales Tax (HPGST) Act, 1968, sale of electronic goods assembled by the existing³ electronic industrial unit is exempt from levy of sales tax under certain conditions. One of the conditions prescribed is that value addition in the assembling is 25 per cent or more. In respect of new⁴ electronic industrial unit and electronic assembly unit, exemption is admissible, if the value addition in assembling is more than 14 per cent. It has judicially been held⁵ that the word 'in' used in "material used in generation, distribution of electrical energy" was defined for those goods which are directly used for power generation and distribution. The Excise and Taxation Department did not bring out any explanation to the effect that as to what kind of expenses are to be taken for determining the value addition and left the same at the discretion of the AAs.

³ Units which came into production between 31 July 1992 and 30 September 1996.

⁴ Units which came into production between 1 October 1996 and 31 March 1999.

⁵ Spedding Dinga Singh Co. V/s the Government of Punjab.

Test check of the records of Assistant Excise and Taxation Commissioner (AETC), Solan in March 2008 and April 2008 revealed that during the years 1998-99 to 2001-02, sale valued as Rs. 62.75 crore in respect of an electronic assembling⁶ unit which came into production in May 1995, was exempted by the AA between May 2001 and March 2005 from payment of sales tax. The value addition in assembling during these years, as disclosed by the unit, was between 14.23 and 14.82 *per cent* which was less than 25 *per cent*. The AA while granting exemption, treated the unit as new electronic assembling unit instead of an existing electronic assembling unit. This resulted in underassessment of tax of Rs. 8.17 crore including interest.

In another case of an electronic assembling⁷ unit, which came into production from January 1998, it was noticed that the unit claimed exemption of sale valued as Rs. 84.61 crore which was allowed in July 2005 as exempted from tax by the AA. However, the value addition in this case worked out as 2.53⁸ *per cent*, on the basis of judicial pronouncement, which was less than the prescribed value addition of 14 *per cent*. In the absence of suitable explanation by the department, the AA could not determine the value addition correctly. This resulted in underassessment of tax of Rs. 13.14 crore.

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

2.4 Irregular concession

Under the HPGST Act, exemption/concession is available to the industrial units if the units file with the AA concerned, a certificate of genuineness in Form 1⁹ prescribed by the Excise and Taxation Department.

Test check of the records of five¹⁰ districts between March 2008 and May 2008 revealed that the AAs while finalising between November 2002 and November 2007, assessments for the years 1999-2000 to 2005-06, allowed exemption/concession in 70 cases on turnover of Rs. 231.26 crore without obtaining certificate of genuineness from the Industries Department. This resulted in irregular grant of concession of Rs. 9.36 crore.

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

2.5 Underassessment due to irregular set off

Under section 42 C of the HPGST Act, a dealer is entitled to set off of tax from the sale of final product equal to the amount of tax already paid on the purchase of raw materials used by him in the manufacture of finished goods.

⁶	M/s Proview Electronics Ltd. Parwanoo.	
⁷	M/s Okaya Industries, Parwanoo.	
⁸	(a) Raw material consumed:	Rs. 63.95 crore
	(b) Factory related expenses incurred in manufacturing:	Rs. 1.62 crore
	Percentage of value addition:	$\frac{b}{a} \times 100 = 2.53 \text{ per cent}$
⁹	Form 1 containing the details of deployment of bonafide Himachalis.	
¹⁰	Kangra, Mandi, Sirmour, Solan and Una.	

There is no provision under the CST Act to allow set off of tax, as is applicable under the HPGST Act.

Test check of the records of AETC Solan in March 2008 and April 2008 revealed that the AAs while finalising between April 2006 and February 2008 assessments of two industrial units for the period 2001-02 to 2003-04, incorrectly allowed adjustment of set off of tax of Rs. 1.76 crore under the CST Act. This resulted in under assessment of Rs. 1.76 crore.

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

2.6 Irregular concession on raw material

According to the notification of February 1992, tax shall be levied and paid at the rate of one paise in a rupee on the sale of raw material by an existing/new industrial unit for use by them in manufacture for sale or in the processing and packing of goods subject to certain conditions. One of the conditions for availing concessional rate of tax is that the purchasing dealer will furnish a certificate in form ST XXV-B¹¹ to the selling dealer, failing which tax shall be levied at full rate.

Test check of the records of five industrial units of two districts (Kangra and Una), whose assessments for the years 2001-02 to 2004-05 were finalised between September 2005 and June 2007, revealed that the AAs allowed concessional rate of tax at the rate of one *per cent* on the turnover of Rs. 17.22 crore without the requisite certificate. This resulted in underassessment of tax of Rs. 1.20¹² crore.

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

2.7 Non-deposit of sales tax

The HPGST Rules, 1970, provides for deduction of sales tax at the rate of two *per cent* at source from the bills of works contractor and the person making tax deduction is responsible to pay into the Government treasury all the amounts deducted by him during a month on or before the 15th day of the month following the month to which the deduction relates. In the event of non-deposit of the collected tax, the prescribed authority shall after giving an opportunity of being heard, by an order, in writing, direct that such person shall pay by way of penalty, a sum not exceeding twice the amount of tax deductible.

Test check of the records of two¹³ public works divisions (PWDs) between May 2007 and September 2007 revealed that sales tax amounting to Rs. 94.78 lakh deducted at source from the contractor's bills for the period falling between 2000-01 and 2007-08 (upto 31 August 2007), was not deposited into the treasury under the sales tax receipt head of account.

¹¹ Containing description of raw material purchased for availing the concession.

¹² Kangra: Rs. 15 lakh and Una: Rs. 1.05 crore.

¹³ Jubbal and Spiti at Kaza.

After the cases were pointed out between May and September 2007, the PWDs intimated in February 2008 and March 2008 that Rs. 34.26 lakh had been deposited. It was further intimated by the Kaza division that the balance amount of Rs. 40.26 lakh would be deposited on receipt of funds whereas Jubbal division stated that balance of Rs. 20.26 lakh would be deposited. A report on recovery and further development has not been received (September 2008).

The matter was reported to the Government between June 2007 and October 2007; their reply has not been received (September 2008).

2.8 Underassessment due to incorrect deduction

The HPGST Act governs the sale made within the State. Under Rule 31 (xii) of HPGST Rules, a registered dealer for arriving at his taxable turnover, may deduct purchase value of goods used by him in the manufacture of finished goods which have already suffered tax under the HPGST Act. The inter state sales are governed by the CST Act and there is no provision in the Act to allow benefit of deduction as is applicable under the HPGST Act/Rules. Further, if a dealer fails to pay the tax due by the prescribed date, he becomes liable to pay interest at the rate of one *per cent*, on the tax due for a period of one month and at the rate of one and a half *per cent* per month thereafter, till the default continues.

Test check of the records between March 2008 and May 2008 revealed that the AAs while finalising (between July 2002 and March 2007) the assessments for the period 1998-99 to 2004-05 in respect of six industrial units of Sirmour and Una districts, incorrectly allowed deduction of purchase value of tax paid goods of Rs. 4.58 crore from the inter state sales of Rs. 43.36 crore. This resulted in underassessment of tax of Rs. 88 lakh¹⁴ including interest.

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

2.9 Short levy of tax

As per the notification of July 1999, sales tax at the rate of 25 *per cent* of the rates notified under section 6 of the HPGST Act, was to be levied in respect of goods manufactured by the dealers running new village industries and new tiny industries, subject to the condition that annual turnover of the unit did not exceed Rs. 60 lakh in respect of a unit located in an industrially backward area and Rs. 45 lakh in respect of industrially developing areas.

Test check of the records of five¹⁵ AETCs between March 2008 and May 2008 revealed that the AAs while finalising assessments between April 2003 and March 2007 of 13 industrial units, applied concessional rate of tax even though their annual turnover exceeded the prescribed limit. In 14 cases, the AAs applied incorrect concessional rate of tax. This resulted in short levy of sales tax of Rs. 81.60 lakh including interest as mentioned below:

¹⁴ Sirmour: Rs. 85 lakh and Una: Rs. 3 lakh.

¹⁵ Kangra, Mandi, Shimla, Solan and Una.

(Rupees in lakh)					
Sr. No.	Name of the district	Period involved/date of assessment	No. of industrial units	Nature of irregularities	Tax effect
1.	Kangra, Shimla, Solan and Una	1999-2000 to 2004-05 Between November 2004 and December 2006	13	Annual turnover of the dealers engaged in the manufacture of <i>haldi</i> powder, bricks etc. exceeded the prescribed limit of Rs. 45/60 lakh. While finalising the assessments, the AAs incorrectly levied concessional rate of tax of 25 <i>per cent</i> on the turnover of Rs. 19.41 crore.	72.58
2.	Kangra, Mandi, Shimla, Solan and Una	1999-2000 to 2004-05 Between April 2003 and March 2007	14	The concessional rate of 25 <i>per cent</i> was incorrectly applied on turnover of Rs. 6.44 crore instead of the actual turnover of Rs. 5.96 crore.	9.02
Total			27		81.60

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

2.10 Non-levy of tax due to non-registration of dealers

Under Section 2 of the HPGST Act, “a dealer” means any person who carries on (whether regularly or otherwise) the business of buying, selling or supplying or distributing goods directly or indirectly for cash or for deferred payment or for commission, remuneration or other valuable consideration. Further, a dealer is liable to be registered and pay tax from the date on which his gross turnover during any year exceeds the taxable quantum of Rs. 4 lakh, prescribed with effect from 23 April 1999. If a dealer fails to pay the tax due by the prescribed date, he shall be liable to pay interest on the tax due at the rate of one *per cent* per month for a period of one month and at 1.5 *per cent* per month thereafter, till the default continues. *Khairwood* was taxable at the general rate of 12 *per cent* upto 2001-02, being an unspecified item.

Cross verification of the information collected from the case file of a dealer in AETC Una with the records of three¹⁶ AETCs (between April and September 2007) revealed that 12 suppliers of these districts sold *khairwood* valued as Rs. 2.54 crore to a firm¹⁷ of Una district between 2000-01 and 2001-02. The annual turnover of each dealer exceeded Rs. 4 lakh but none of them had applied for registration. The department also failed to detect the cases of non-registration although information relating to sale of *khairwood* by these dealers was available with the department. The dealers had also not paid any tax during this period. This resulted in non-levy of tax of Rs. 30.52 lakh besides interest of Rs. 32.68 lakh for the period between May 2001 and September 2007.

¹⁶ Bilaspur: five cases: Rs. 33.35 lakh; Hamirpur: four cases: Rs. 15.89 lakh and Solan: three cases: Rs. 13.96 lakh.

¹⁷ M/s Mahesh Udyog, Oel, district Una.

After the cases were pointed out between April and September 2007, the Additional Excise and Taxation Commissioner (Addl ETC) in the case of Bilaspur, intimated in February 2008 that concerned AETC had been directed (February 2008) to dispose the cases at the earliest. Further development and reply from other AETCs has not been received (September 2008).

The matter was reported to the department and the Government between May and October 2007; their reply has not been received (September 2008).

2.11 Incorrect application of rate of tax

As per the notification of July 1978, issued under the CST Act, tax at the rate of one *per cent* shall be levied on the taxable turnover for the first five years and at two *per cent* in the second span of five years, subject to the production of 'C'¹⁸ forms. The said notification was rescinded in 1992, according to which, small scale industrial (SSI) units which have started making payment of CST under the rescinded notification, shall continue to make the payment of CST at the rate of two *per cent*, for the unexpired part of the period.

Test check of the records of two AETCs revealed that the AAs while finalising assessments of four industrial units levied tax at incorrect rate on the turnover of Rs. 16.01 crore. This resulted in short levy of tax of Rs. 39.46 lakh as mentioned below:

(Rupees in lakh)

Sr. No.	Name of the district	Period involved/date of assessment	No. of industrial units	Nature of irregularities	Amount
1.	Sirmour	1997-98 and 1998-99 September 2006	1	For the years 1997-98 and 1998-99, rate of tax on inter state sale was incorrectly applied at one <i>per cent</i> instead of two <i>per cent</i> on the turnover of Rs. 5.61 crore.	14.70
2.	Sirmour and Solan	1994-95 to 1999-2000 January 2004 and December 2007	3	The AAs levied incorrect rate of tax at one <i>per cent</i> during the second span of five years on the turnover of Rs. 10.40 crore instead of two <i>per cent</i> .	24.76
Total			4		39.46

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

2.12 Non-withdrawal of concession

According to Schedule B of the HPGST Act, units manufacturing electronic goods and falling in 'C' category of industrial block are entitled to exemption from payment of sales tax for five years from the date of commercial

¹⁸ It is a declaration form issued by the purchasing dealer to the selling dealer during the course of inter state sale.

production. As per the notifications of December 1994 and January 1997, small scale/tiny industrial units located in 'B' category of industrial block are entitled for concessional rate of tax at one *per cent* for a period of seven/nine years and for a period of six years in 'C' category of industrial block. Further, as per the notification of July 1999, the concessional rate of tax at the rate of 25 *per cent* of the specified rate would be available for a period of eight and five years in respect of industrially backward areas and industrially developing areas respectively. However, the department did not prescribe any monitoring mechanism/check list to ensure that the benefits allowed under the incentive scheme(s) do not run beyond the admissible period.

Test check of the records of four¹⁹ AETCs revealed that the AAs while finalising between August 2002 and June 2007, the assessments of nine industrial units for the years 1999-2000 to 2004-05, incorrectly allowed concessional rate of tax on the turnover of Rs. 3.36 crore beyond the expiry of the concessional period. This resulted in irregular allowing of concession of sales tax of Rs. 32.18 lakh including interest.

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

2.13 Evasion of tax due to suppression of sales

Under Section 12 (7) of the HPGST Act, if a dealer has maintained false or incorrect accounts with a view to suppress his sales or purchases, he is liable to pay by way of penalty (in addition to the tax to which he is assessed), an amount not less than 25 *per cent* but not more than one and a half times the amount of his tax liability. If a dealer fails to pay the tax due by the prescribed date, he becomes liable to pay interest at the prescribed rates.

Test check of the records of AETC Sirmour at Nahan in December 2006 revealed that a firm²⁰ had purchased *khairwood* valued as Rs. 92.70 lakh from five dealers of Kangra and Solan districts during the year 2000-01 and 2001-02. Cross verification by audit of the said information with the records of two AETCs revealed that the dealers of Kangra district had not disclosed sales of Rs. 68.78 lakh in their returns whereas the dealers of Solan district had disclosed only Rs. 16.69 lakh (out of Rs. 23.92 lakh) as sales and had been assessed accordingly. Consequently, the taxable turnover of Rs. 76.01 lakh had escaped assessment. The AAs while finalising (between September 2003 and April 2007) the assessments of the dealers for the years 2000-01 and 2001-02 had failed to detect the suppression. This resulted in evasion of tax of Rs. 20.23²¹ lakh including interest of Rs. 8.83 lakh and minimum penalty of Rs. 2.28 lakh.

The matter was reported to the department and the Government between July and October 2007; their reply has not been received (September 2008).

¹⁹ Kangra, Kullu, Solan and Una.

²⁰ M/s Sagar Katha Udyog, Kala Amb.

²¹ Kangra: three, Rs. 18.26 lakh and Solan: two, Rs. 1.97 lakh.

2.14 Underassessment of tax

Under Section 2(m) of the HPGST Act, "turnover" includes the aggregate of the amounts of sales and purchases actually made by any dealer during the given period. The taxable turnover of a registered dealer is arrived at after deducting the amount of tax free/tax paid sales to registered dealers from the gross turnover, provided declarations in the prescribed forms are furnished. As per the Excise and Taxation Department notification of 23 July 1999, a new tiny industrial unit located in industrially backward areas was entitled to a concessional rate of tax of 25 *per cent* of the specified rate of tax for a period of eight years from the date of commercial production. This concession was admissible only if the annual turnover of the unit did not exceed Rs. 60 lakh. The departmental instructions issued in April 1978 also provided that the AAs, while examining the accounts of dealers were required to see that the sales were in agreement with the purchases and to take cognizance of any difference between the figures shown by the dealers in their returns and those reflected in the accounts. If a dealer failed to pay the tax due by the prescribed date, he became liable to pay interest at the prescribed rates:

2.14.1 Test check of the records of AETC Shimla in June 2007 revealed that the assessments for the years 2001-02 to 2004-05 of a dealer engaged in tyre retreading were finalised between September and December 2006 by the AA. Audit scrutiny revealed that the taxable turnovers of the dealer as reflected in the manufacturing, trading and profit and loss account for these years added upto Rs. 2.89 crore (inclusive of gross profit). However, the AA while finalising the assessments for these years, incorrectly determined the aggregate taxable turnover as Rs. 2.19 crore without taking into account the opening stock, purchase of raw materials made, less closing stock and the element of gross profit. It was further noticed that the annual turnover of the dealer had exceeded Rs. 60 lakh in 2002-03 and he was not entitled to concessional rate of tax. Thus, failure of the AA to compute the turnover correctly and incorrect allowing of concessional rate of tax resulted in underassessment of tax of Rs. 7.88 lakh including interest of Rs. 2.82 lakh.

After the case was pointed out in June 2007, the AETC Shimla intimated in June 2008 that the dealer was reassessed in October 2007 and additional demand of Rs. 5.91 lakh (including interest of Rs. 1.96 lakh) had been created by levying concessional rate of tax in 2002-03. The dealer had however filed an appeal before the appellate authority in November 2007. The AETC further stated that the appellate authority had directed the dealer to deposit 75 *per cent* of the amount by 7 April 2008, against which the dealer deposited Rs. 50,000 only. Further report has not been received (September 2008).

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

2.14.2 Test check of the records of AETC Sirmour in October 2007 revealed that a contractor engaged in execution of works contract was assessed in August 2006 for the years 2001-02, 2002-03 and 2004-05 at taxable turnover of Rs. 62.31 lakh. Scrutiny of the trading accounts and assessment records revealed that the taxable turnover of Rs. 62.31 lakh determined by the AA for these years was less than the value of the material of Rs. 84.84 lakh (inclusive

of gross profit) transferred in execution of works contract by the contractor. Thus, taxable turnover amounting to Rs. 22.53 lakh had escaped levy of tax. This resulted in underassessment due to short determination of turnover with a tax effect of Rs. 2.85 lakh including interest of Rs. 1.05 lakh.

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

2.15 Incorrect assessment due to non-linking of connected records

Under the CST Act, "turnover" of a dealer includes aggregate of the sale prices received and receivable by him in respect of sale of any goods in the course of inter state trade or commerce made during any prescribed period. Further, as per the departmental instructions of April 1978, the AAs, while examining the accounts of the dealers, are required to cross check the purchases/sales on barrier chits²² for determining taxable turnover.

Cross verification of the barrier chits (ST XXVI-A forms) with return version in respect of two industrial units of Sirmour district revealed short disclosure of inter state sales of Rs. 46.98 lakh. Failure of the AA to correlate the sales resulted in evasion of CST of Rs. 10.71 lakh including interest between August 2006 and March 2007.

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

²²

It is a declaration form (ST XXVI-A) filed by the dealer at the barrier while importing/exporting goods.

CHAPTER-III: STATE EXCISE

3.1 Results of audit

Test check of the records of state excise, conducted during the year 2007-08, revealed non/short realisation of licence fee, excise duty, interest/penalty and other irregularities amounting to Rs. 2.53 crore in 44 cases, which fall under the following categories:

(Rupees in crore)			
Sr. No.	Particulars	Number of cases	Amount
1.	Non/short realisation of excise duty/interest	18	1.41
2.	Non/short realisation of licence fee/penalty	14	0.44
3.	Other irregularities	12	0.68
Total		44	2.53

During 2007-08, the department accepted under assessments of Rs. 41 lakh involved in eight cases which had been pointed out in audit in earlier years.

A few illustrative cases involving Rs. 1.27 crore are mentioned in the succeeding paragraphs.

3.2 Non-recovery of interest on late payment of bid money and licence fee

Under Section 59 of the Punjab Excise Act, 1914, as applicable to Himachal Pradesh, the Financial Commissioner is empowered to make rules regarding the manner of payment of duty or fee. As per the excise auction announcements for the year 2006-07, the highest bidder shall deposit seven *per cent* of the bid money into the Government treasury within 10 days of the auction or 31 March whichever is earlier. It further provides for payment of licence fee in 10 equal instalments by the licensee holding licence for vending country made liquor or Indian made foreign liquor (IMFL). The licensee is required to pay the instalments by the last day of each month. Failure to pay an instalment or part thereof by the due date, renders him liable to pay interest at the rate of 10 *per cent* per annum for a delay of upto one month from the date of default on the amount which remains unpaid. If the default in the payment of licence fee exceeds one month, such licensee shall pay interest at the rate of 18 *per cent* per annum on the unpaid amount from the date of expiry of one month's period.

Test check of the bid money files¹, M-2² registers and treasury challans of four³ Assistant Excise and Taxation Commissioners (AETCs), between May and September 2007 revealed that four licensees had belatedly paid bid money of Rs. 3.88 crore and monthly instalments of licence fees of Rs. 51.37 crore during 2006-07. The delay in the payment of bid money and licence fees ranged between 4 and 144 days, for which interest of Rs. 99.96 lakh was recoverable from the licensees. The department failed to levy and recover it.

After the cases were pointed out between May and September 2007, the AETC, Hamirpur intimated in July 2008 that Rs. 10 lakh had been recovered in June 2008 and efforts were being made to recover the balance amount. The licensee had also filed a suit in local court. AETC Bilaspur intimated in February 2008 that interest of Rs. 20.11 lakh had been recovered and the licensee had been directed to deposit the balance amount. Details of recovery and reply from two AETCs have not been received (September 2008).

The matter was reported to the Government between May and October 2007; their reply has not been received (September 2008).

3.3 Short recovery of licence fee

The excise auction announcements for the year 2006-07, provide for payment of licence fee by the licensee holding licence for vending country made liquor or IMFL. The licensee is required to pay instalments of licence fee by the prescribed period. If the licensee fails to deposit the instalment or instalments plus interest

¹ Containing particulars regarding the actual bid made by the bidder and the amount of bid money received.

² Register for recording receipts of fees from licensees.

³ Bilaspur: Rs. 22.90 lakh, Chamba: Rs. 2.99 lakh, Hamirpur: Rs. 24.77 lakh and Mandi: Rs. 49.30 lakh.

upto the last day of the next month or the last instalment by 15 February, the AETC/Excise and Taxation Officer (ETO) incharge of the district or any other officer authorised or directed by him would ordinarily seal the vend on 1st day of the following month or 16 February as the case may be.

3.3.1 Test check of the records of two⁴ AETCs between May and September 2007 revealed that two licensees had deposited Rs. 1.54 crore only for the month of January 2007 against the payable licence fee of Rs. 1.69 crore. The department did not take any action to seal the vends and recover the balance amount of Rs. 15.13 lakh even after the close of the financial year. This resulted in short recovery of licence fee.

After the cases were pointed out between May and September 2007, the department intimated between August 2007 and February 2008 that Rs. 13.98⁵ lakh had been recovered. Further report on recovery for the balance amount of Rs. 1.15 lakh has not been received (September 2008).

The matter was reported to the Government between May and October 2007; their reply has not been received (September 2008).

3.3.2 Under Rule 5 of the Punjab Distillery Rules (PDR), 1932, as applicable to Himachal Pradesh, the licence fee for a licence in form D-2⁶ is payable on production of IMFL at the rate of 90 paise per unit of 750 mls for own brands, Rs. 1.40 for other's brands and country liquor at the rate of 70 paise per unit of 750 mls, subject to a minimum of Rs. 75,000 per annum recoverable at the time of grant/renewal of licence.

Test check of the records of AETC Sirmour between January 2007 and March 2008 revealed that a licensee⁷ having D-2 licence was liable to pay a licence fee of Rs. 17.17 lakh (Rs. 10.56 lakh for 2005-06 and Rs. 6.61 lakh for 2006-07) on the production of IMFL and country liquor during these years. Against this, the licensee paid Rs. 7.69 lakh only resulting in short recovery of licence fee of Rs. 9.48⁸ lakh.

After the case was pointed out between January 2007 and March 2008, the department intimated in March 2008 that out of Rs. 4.75 lakh for the year 2005-06, Rs. 3.98 lakh had been recovered. Further report on recovery and reply for the year 2006-07 has not been received (September 2008).

The matter was reported to the Government between January 2007 and April 2008; their reply has not been received (September 2008).

⁴ Bilaspur: one; Rs. 6.31 lakh and Hamirpur: one; Rs. 8.82 lakh.

⁵ Bilaspur: Rs. 5.16 lakh and Hamirpur: Rs. 8.82 lakh.

⁶ Distillery licence for manufacture of country liquor and IMFL.

⁷ M/s Tiloksans Brewery and Distillery, Kala Amb.

⁸ 2005-06: Rs. 4.75 lakh and 2006-07: Rs. 4.73 lakh.

3.4 Non-realisation of duty on excess wastage

The PDR, provides for prescribing of scale of wastage of spirit allowable in the maturation room of a distillery. Through a notification dated 20 September 1965, issued under the PDR, the Excise and Taxation Commissioner prescribed norms for wastage in the spirit maturation warehouse during the period of storage in Kasauli distillery/spirit bottling section in Solan Brewery. Excise duty on all other spirits is leviable at the rate of Rs. 23 per proof litres⁹ (PLs) with effect from 1 April 2006.

Test check of the records of Kasauli distillery¹⁰ in December 2007 revealed that against admissible maturation wastage of 11,801.60 PLs of spirit, the actual wastage allowed was 20,851.50 PLs. Excise duty of Rs. 2.08 lakh was payable by the licensee on the excess wastage of 9,049.90 PLs of spirit during 2006-07. Neither did the department demand the duty nor was it paid by the licensee resulting in non-realisation of Rs. 2.08 lakh.

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

⁹ A unit of measuring spirit's standard strength.

¹⁰ M/s Mohan Meakin Ltd.

CHAPTER-IV:

TAXES ON VEHICLES, GOODS AND PASSENGERS

4.1 Results of audit

Test check of the records of the motor vehicles, goods and passengers tax, conducted during the year 2007-08, revealed evasion, non/short realisation of tax and other irregularities amounting to Rs. 10.75 crore in 271 cases, which fall under the following categories:

(Rupees in crore)			
Sr. No.	Particulars	Number of cases	Amount
1.	Evasion of		
	• Token tax	105	2.58
	• Passengers and goods tax	12	0.24
2.	Non/ short realisation of		
	• Passengers and goods tax	16	0.51
	• Token tax	12	0.09
3.	Other irregularities		
	• Vehicles tax	122	7.17
	• Passengers and goods tax	4	0.16
Total		271	10.75

During 2007-08, the department accepted under assessments of Rs. 10.40 crore involved in 60 cases which had been pointed out in audit in earlier years.

A few illustrative cases involving Rs. 5.65 crore are mentioned in the succeeding paragraphs.

4.2 Non-realisation of token tax

Under the Himachal Pradesh Motor Vehicles Taxation (HPMVT) Act, 1972 and Rules made thereunder, token tax is payable in advance and is collected quarterly or annually in the prescribed manner. The vehicles that have been declared off the road and have deposited registration certificate (RC) in the concerned registering and licensing authority (RLA), shall be exempted from payment of tax for that period. A register called "Token Tax Register" is required to be maintained by each RLA under the Act. Further, the State Government directed (20 March 2002) the Director Transport, all District Magistrates and RLAs to recommend exemption cases from payment of token tax by the owners of a tractor-trailor on the undertaking/documents prescribed to the effect that the tractor-trailor was not being used for commercial activity, for the sanction. If an owner of motor vehicle fails to pay the tax due within the prescribed period, the taxation authority after giving opportunity of being heard, shall direct the owner to pay the penalty at the rate of 25 per cent per annum of the tax due to be calculated/computed in the manner prescribed in the HPMVT (First Amendment) Rules, 2006.

During test check of the records of 31¹ RLAs and five² Regional Transport Officers (RTOs) and State Transport Authority, Shimla, it was noticed between April 2007 and March 2008 that for 3,626³ vehicles, token tax amounting to Rs. 1.73 crore for the years 2005-06 to 2006-07, was neither deposited by the vehicle owners nor had the taxation authorities taken any action to recover it. There was nothing on record to show that any of these vehicles was declared off the road and their RCs were deposited with the concerned RLAs or had paid token tax in any other RLAs. No case of exemption from the Government for payment of token tax in respect of tractor-trailor was on record. Thus, failure to take action as per the rules/instructions by the concerned taxation authorities resulted in non-recovery of token tax of Rs. 1.73 crore. Besides, penalty⁴ at the prescribed rate was also leviable for non-payment of tax.

After the cases were pointed out between April 2007 and March 2008, the RLAs Keylong, Nahan and Solan intimated in February-March 2008 that notices had been issued to the defaulters. Further report and reply from the remaining taxation authorities has not been received (September 2008).

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

¹ Amb, Arki, Baijnath, Bilaspur, Chamba, Dehra, Dharamsala, Gohar, Hamirpur, Kangra, Keylong, Kullu, Mandi, Manali, Nadaun, Nahan, Nalagarh, Nurpur, Palampur, Paonta Sahib, Parwanoo, Pooh, Rampur, Rohru, Sarkaghat, Shimla (Urban), Shimla (Rural), Solan, Sundernagar, Theog and Una.

² Bilaspur, Dharamsala, Mandi, Shimla (Flying squad) and Solan.

³ Buses/mini buses/stage carriages: 609 cases: Rs. 1.07 crore; Construction equipment vehicles: 34 cases: Rs. 3 lakh; Goods carriers/other vehicles: 2,373 cases: Rs. 49 lakh, Tractors: 167 cases: Rs. 3 lakh and Maxi cabs/motor cabs: 443 cases: Rs. 11 lakh.

⁴ Not worked out for want of recovery details.

4.3 Short levy of token tax due to incorrect application of rates

According to the Department of Transport notification of December 2003, token tax in the case of construction equipment vehicles and crane mounted vehicles (based on the maximum prescribed mass) were leviable at the rate of Rs. 6,000 (light), Rs. 9,000 (medium) and Rs. 12,000 (heavy) per annum with effect from 1 January 2004.

Test check of the records of RLA, Bhawanagar and RTO, Kullu, between May 2007 and July 2007 revealed that token tax payable for 63 construction equipment vehicles, for the period January 2004 to March 2007, amounted to Rs. 8.86 lakh. The owners of vehicles, however, deposited tax at a lower rate and paid Rs. 1.89 lakh only. The department also treated these vehicles as heavy goods vehicles and failed to detect the mistake. This resulted in short levy of token tax of Rs. 6.97 lakh.

After the cases were pointed out between May 2007 and July 2007, the department stated between November 2007 and February 2008 that in case of RTO Kullu, efforts were being made to recover the balance amount. In the case of RLA Bhawanagar, notices had been issued to the vehicle owners to deposit the amount. Further development and report on recovery has not been received (September 2008).

The matter was reported to the Government between June and July 2007; their reply has not been received (September 2008).

4.4 Non/short payment of special road tax

As per the HPMVT (Amendment) Act, 1999, there shall be levied, charged and paid to the State Government, a special road tax (SRT) on all transport vehicles used or kept for use in Himachal Pradesh. According to the Transport Department notification dated 22 March 2002, SRT is payable in advance on the 15th of every month. The rates are based on the classification of routes on which vehicles are plying such as national highways, state highways, rural roads and local buses/mini buses operating within a radius of 30 kilometers. The Transport Department had fixed (January 2006) the rates of SRT for the above routes as Rs. 6.04, Rs. 5.03 and Rs. 4.03 per seat per kilometer respectively effective from 1 April 2005. For failure to pay the SRT within the prescribed period, penalty at the rate of 25 *per cent* per annum of the tax due as prescribed in the Transport Department notification dated 26 July 2006, is also to be levied.

4.4.1 Test check of the records of six⁵ RTOs, between July 2007 and March 2008 revealed that in 144 cases, SRT amounting to Rs. 1.01 crore for the period 2005-06 to 2006-07 was not paid by the owners of the vehicles. The RTOs neither initiated any action for the recovery of SRT due nor issued notices to the

⁵ Bilaspur: 36 cases: Rs. 16.88 lakh; Chamba: 19 cases: Rs. 5.64 lakh; Dharamsala: 24 cases: Rs. 24.27 lakh; Kullu: 6 cases: Rs. 3.74 lakh; Shimla: 45 cases: Rs. 37.73 lakh and Solan: 14 cases: Rs. 12.42 lakh.

owners of the vehicles. Besides non-realisation of SRT, penalty for non-payment of tax by prescribed period was also leviable.

After the cases were pointed out between July 2007 and March 2008, the Additional Commissioner Transport, Shimla intimated in November 2007 that in the case of RTO Kullu, a sum of Rs. 72,000 had been recovered from four vehicles and efforts were being made to recover the balance amount. A report on recovery and reply from the remaining RTOs has not been received (September 2008).

The matter was reported to the Government between July 2007 and April 2008; their reply has not been received (September 2008).

4.4.2 Test check of the records of five⁶ RTOs, between October 2007 and January 2008 revealed that in 110 cases, SRT of Rs. 44.80 lakh for the period August 2005 to March 2007 was assessed short due to incorrect classification of routes/application of rates. The RTO concerned failed to detect the mistake. The owners of the vehicles also did not deposit the SRT of Rs. 44.80 lakh short assessed.

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

4.4.3 Test check of the records of two⁷ RTOs, in October 2007 revealed that three route permits⁸ were granted to Hamirpur and Shimla units of Himachal Road Transport Corporation (HRTC). Audit scrutiny revealed that while making payment of SRT by the Hamirpur unit, the amount of SRT of Rs. 2.04 lakh payable in respect of two route permits were not included in the calculation of SRT for the year 2006-07. The Shimla unit paid SRT for the route permit upto June 2006 at the rate of Rs. 14,193 per month and SRT for the period July 2006 to March 2007 amounting to Rs. 1.28 lakh was not paid. There was nothing on record to indicate that the route permits were surrendered by the HRTC or the RTO concerned had enquired about the non-plying of buses against these route permits. This resulted in non-realisation of Rs. 3.32⁹ lakh.

After the cases were pointed out in October 2007, the Additional Commissioner Transport (ACT), Shimla intimated in April 2008 that in the case of RTO Hamirpur, notices had been issued to the concerned authority to deposit the amount. A report on realisation and reply from RTO Shimla has not been received (September 2008).

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

⁶ Bilaspur: 29 cases: Rs. 4.17 lakh; Chamba: 12 cases: Rs. 5.03 lakh; Dharamsala: 17 cases: Rs. 7.47 lakh, Hamirpur : 18 cases: Rs. 5.03 lakh and Shimla: 34 cases: Rs. 23.10 lakh.

⁷ Hamirpur and Shimla.

⁸ No. 14 dated: 29 March 2006: Hamirpur to Una; No. 169 dated October 2005: Hamirpur to Ludhiana and No. R-Stg/97 : Chail to Chandigarh.

⁹ Hamirpur: two cases: Rs. 2.04 lakh and Shimla: one case: Rs. 1.28 lakh.

4.5 Non-levy of penalty for late payment of special road tax

Under Section 3-A of the HPMVT Act, as amended from time to time, there shall be levied, charged and paid to the State Government, monthly SRT on all transport vehicles¹⁰ used or kept for use in the State. SRT is payable in advance on the 15th of every month. As per the Transport Department notification dated 26 July 2006 deemed to have come into force on 31 July 2002, if the owner of a vehicle fails to pay the tax due within the prescribed period, the taxation authority after giving opportunity of being heard, shall direct the owner to pay the penalty at the rate of 25 *per cent* per annum of the tax due. The penalty so levied shall be calculated/computed proportionately on day to day basis in case the delay is less than one year and shall not exceed the sum of tax due from such owner.

Test check of the records of eight¹¹ RTOs, between July 2007 and March 2008 revealed that SRT amounting to Rs. 14.56 crore for the period August 2005 to March 2007 was not paid by the HRTC within the prescribed period. The delay in payment of SRT ranged between 4 and 276 days for which penalty of Rs. 1.11 crore though leviable was not levied by the RTOs concerned.

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

4.6 Undue retention of Government money

The Himachal Pradesh Financial Rules, 1971, stipulate that departmental receipts collected during the day should be credited into the treasury on the same day or latest by the morning of the next working day. Every officer receiving money on behalf of the Government should maintain a cash book in the prescribed form. All monetary transactions should be entered in the cash book as soon as they occur and attested by the head of the office or the officer authorised in this behalf, in token of check. The cash book should be closed daily and completely checked on the same day.

4.6.1 Test check of the records of two¹² RLAs, Additional District Magistrate (Law and Order) (ADM-L&O), Shimla and RTO Chamba, between May 2007 and March 2008 revealed that Rs. 40.75 lakh¹³ collected on account of permit fee, token tax, passing fee, driving licence fee etc. during the period falling between February 2005 and March 2007, were not deposited in the treasury within the prescribed period. The delay in deposit of the Government money ranged between 2 and 202 days. In two offices¹⁴, the entries in the cash book were

¹⁰ It is a public service vehicle, a goods carriage, an educational bus or a private service vehicle.

¹¹ Bilaspur: Rs. 7.34 lakh; Chamba: Rs. 12.35 lakh; Dharamsala: Rs. 33.20 lakh; Hamirpur: Rs. 5.34 lakh; Kullu: Rs. 6.93 lakh; Nahan: Rs. 8.17 lakh; Shimla: Rs. 29.73 lakh and Solan: Rs. 8.29 lakh.

¹² RLA Bhawanagar and RLA Shimla (Urban).

¹³ RLA Bhawanagar: Rs. 3.91 lakh; RLA Shimla (Urban): Rs. 12.66 lakh; ADM (L &O) Shimla: Rs. 69,000 and RTO Chamba : Rs. 23.49 lakh.

¹⁴ RLA Bhawanagar and ADM (L&O) Shimla.

neither attested by the head of the office nor by any other officer authorised in this behalf. Such practices are fraught with the risk of misappropriation of public money.

After the cases were pointed out between May 2007 and March 2008, the ACT, Shimla intimated in February 2008 that concerned official, in case of RLA Bhawanagar, had been directed to deposit the Government money into the treasury by the next day and that the cash book would be maintained regularly. Reply from the remaining offices has not been received (September 2008).

4.6.2 In RLA Shimla (Urban), it was noticed in January 2008 that out of Rs. 1.11 lakh collected on account of driving licence fee, passing fee and token tax etc. between June 2006 and December 2006, an amount of Rs. 69,000 only was deposited in the treasury within the prescribed period, while the remaining amount of Rs. 42,000 was not deposited at all.

After the cases were pointed out in January 2008, the RLA intimated in July 2008 that Rs. 42,000 had been deposited (May 2008) in the treasury.

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

4.7 Non/short realisation of permit fee

As per the instructions of the Department of Home issued in December 2003, permit fee for plying of vehicles on sealed and restricted roads of Shimla town was to be charged at Rs. 3,000 and Rs. 2,000 per annum respectively for more than one route and Rs. 1,500 per annum in case of one route. As per the department's addendum dated 27 March 2004, temporary permit fee for issue of temporary permits for sealed and restricted roads, was chargeable at the rate of Rs. 200 and Rs. 100 per day respectively upto the maximum limit of seven days. Prior to the addendum, temporary permit fee for sealed road was Rs. 100 per day whereas for restricted road it was a minimum of Rs. 50 upto one month. As per the Home Department clarification dated 23 March 2004, permit fee for the permits issued for loading/unloading of construction material, allowing water tanker of private hotels, carriage of personal effects in the event of transfer/shifting of house etc. was chargeable at par with temporary permits. However, for specific purpose like shooting of film etc., permit fee was to be charged at Rs. 3,000 upto five vehicles and beyond five vehicles upto a maximum of eight vehicles at Rs. 500 per vehicle per day.

Test check of the records¹⁵ of ADM (L&O), Shimla revealed between March 2007 and March 2008, that in 103 cases, annual permits were issued during the period falling between September 2003 and May 2007, for plying of vehicles on sealed/restricted roads. The permits were issued for different purposes¹⁶. The department instead of issuing temporary permits upto seven days as required, issued annual permits. As a result, against the chargeable permit fee of Rs. 24.12

¹⁵ Permission orders as available in files and cash book.

¹⁶ Carriage of raw materials, eatables, household articles, carriage of water tankers, goods, exhibition items, equipments for shooting etc.

lakh, the department recovered Rs. 66,000 only. This resulted in short realisation of revenue of Rs. 23.46 lakh, worked out on per day basis.

After the cases were pointed out between March 2007 and March 2008, ADM (L&O) stated between March 2007 and March 2008 that action would be taken to recover the amount realised short. A report on realisation has not been received (September 2008).

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

4.8 Non-levy of special registration fee

Under the Himachal Pradesh Motor Vehicles (Amendment) Rules, 2001, special registration fee for the allotment of registration marks was leviable with effect from 10 August 2001 at the prescribed rates. These rates were revised in June 2002. In September 2003, Principal Secretary (Transport), Government of Himachal Pradesh clarified that if registration numbers from 0101 to 0200 were to be allotted to personal vehicles, special registration fee at the prescribed rates was to be charged. The Transport Department further clarified (23 December 2003) that registration numbers from 0001 to 0100 shall not be allotted to the Government vehicles in future but shall be left open to private individual. In case these numbers had been allotted to the Government vehicles, notices were to be issued to the department/officer concerned to surrender these numbers.

4.8.1 Test check of the records of seven¹⁷ RLAs and RTO Nahan, conducted between April 2007 and December 2007 revealed that in 427 cases, special registration fee of Rs. 11.07 lakh, on allotment of registration numbers between 0001 to 0200, was not realised from the owners of personal vehicles for the period September 2003 to March 2007.

After the cases were pointed out in April 2007 and December 2007, the ACT Shimla intimated in February 2008 that in respect of RLA Bhawanagar, Rs. 45,000 had been recovered from 18 vehicles and efforts were being made to recover the balance amount. A report on recovery and reply from the remaining RLAs/RTO have not been received (September 2008).

4.8.2 In two¹⁸ RLAs, it was noticed in January 2008 that special registration numbers in 28 cases from the series 0001 to 0100 were allotted either to the Government vehicles or vehicles owned by the co-operative societies etc. treating them as Government vehicle between September 2005 and March 2007 in contravention of the instructions of December 2003. The RLAs also failed to issue notices to the concerned department/officers for surrendering the registration numbers. As a result, the Government suffered a revenue loss of Rs. 4.85 lakh on account of special registration fee.

The cases were reported to the Government between May 2007 and February 2008; their reply has not been received (September 2008).

¹⁷ Ani, Arki, Bhawanagar, Kalpa, Paonta Sahib, Parwanoo and Pooh.

¹⁸ Shimla (Rural) and Shimla (Urban).

4.9 Non-realisation of passenger tax and goods tax

Under the Himachal Pradesh Passenger and Goods Taxation (HPPGT) Act, 1955 and the rules made thereunder, owners of vehicles are required to pay tax, etc. at the prescribed rates either monthly or quarterly. However, if the owner of the vehicle fails to pay the tax due, the taxation authority may direct him to deposit the tax due alongwith a penalty not exceeding five times of the amount of tax so assessed subject to a minimum of Rs. 500.

During test check of the demand and collection register maintained in 10¹⁹ Assistant Excise and Taxation Commissioners (AETCs), it was noticed between July 2007 and March 2008 that passenger tax and goods tax amounting to Rs. 60 lakh for 1,430²⁰ vehicles, for the period January 2006 to March 2007, was not paid by the owners of the vehicles. The assessing authorities did not issue demand notices to the owners of the vehicles. This resulted in non-realisation of tax of Rs. 60 lakh besides minimum penalty of Rs. 7.15 lakh.

After the cases were pointed out between July 2007 and March 2008, the department intimated between October 2007 and February 2008 that Rs. 29,000 (passenger tax: Rs. 28,000; goods tax: Rs. 1,000) had been recovered by AETC, Kullu and he had been directed to recover the balance amount. In case of Shimla district, notices had been issued to the owners of the vehicles. A report on recovery and reply from the remaining AETCs has not been received (September 2008).

The matter was reported to the Government between August 2007 and March 2008; their reply has not been received (September 2008).

4.10 Vehicles not registered with the Excise and Taxation Department

Under the HPPGT Act and the rules made thereunder, owners of stage/contract carriages and goods carriers are required to register their vehicles with the concerned excise and taxation officers and pay passenger tax and goods tax at the prescribed rates. Administrative instructions issued in December 1984 also stipulate that the Excise and Taxation Department shall take suitable measures to ensure registration of all vehicles under the HPPGT Act and for that purpose maintain close co-ordination with the RLAs. For failure to apply for registration, penalty not exceeding five times the amount of tax so assessed, subject to a minimum of Rs. 500 is also leviable.

Cross verification of the records of nine RLAs and four RTOs with six²¹ AETCs, between July 2007 and March 2008 revealed that 658²² vehicles registered with the concerned RLAs and RTOs during 2006-07 were not registered with the

¹⁹ Bilaspur, Chamba, Hamirpur, Kangra, Kullu, Mandi, Nahan, Shimla, Solan and Una.

²⁰ Passengers vehicles: 388; Rs. 22.92 lakh and goods vehicles: 1,042; Rs. 37.08 lakh.

²¹ Bilaspur, Hamirpur, Kullu, Mandi Nahan and Una.

²² Passenger tax: 141 vehicles: Rs. 5.84 lakh and goods tax : 517 vehicles: Rs. 9.55 lakh.

Excise and Taxation Department under the HPPGT Act. As a result, tax amounting to Rs. 15.39 lakh for the period 2006-07 was not realised from the owners of the vehicles. There was no co-ordination between the RLAs/RTOs and AETCs to ensure the registration of the vehicles. A minimum penalty of Rs. 3.29 lakh was also leviable.

After the cases were pointed out between July 2007 and March 2008, Additional ETC, intimated in February 2008 that Rs. 20,000 had been recovered from 12 vehicles of Kullu district. The AETC had also been directed to dispose off the cases on priority basis. A report on recovery of balance amount and reply from the remaining AETCs has not been received (September 2008).

The cases were reported to the Government between August 2007 and March 2008; their reply has not been received (September 2008).

CHAPTER-V: FOREST RECEIPTS

5.1 Results of audit

Test check of the records of forest receipts, conducted during the year 2007-08, revealed non/short recovery of royalty, non-levy of extension fee/interest and other irregularities amounting to Rs. 88.34 crore in 252 cases, which fall under the following categories:

(Rupees in crore)			
Sr. No.	Particulars	Number of cases	Amount
1.	Non-levy of extension fee	22	1.12
2.	Non-levy of interest	16	0.35
3.	Non/short recovery of royalty	12	0.27
4.	Other irregularities	202	86.60
Total		252	88.34

During 2007-08, the department accepted under assessments of Rs. 16.89 crore involved in 67 cases which had been pointed out in audit in the earlier years.

A few illustrative cases involving Rs. 10.74 crore are mentioned in the succeeding paragraphs.

5.2 Short recovery of revenue

The standing trees coming in the alignment of a project are marked and handed over to the Himachal Pradesh State Forest Corporation (HPSFC) for exploitation. The cost of trees is, however, recovered from the user agency in whose favour the Government of India had accorded its approval for transfer of the forest land. The State Government had fixed the market rates of green standing trees of various species for the year 1992-93 on 15 May 1993. Thereafter, the rates were charged after taking 10 *per cent* increase each year over the market rates of 1992-93 as per the prevailing practice in the department, until the Government revised the market rates in December 2006.

During audit of the records of six¹ DFOs, it was noticed (between September and December 2007) that cost of 20,880 trees (including saplings) of *deodar*, *kail*, *rai*, *fir* and *chil* species having standing volume of 15,656.928 cu.m, falling in the alignment area of projects/transmission lines etc. were charged between 1999-2000 and 2006-07 without taking into consideration the increase of 10 *per cent* each year in contravention of the prevailing practice in the department. This resulted in short realisation of revenue of Rs. 3.72 crore including value added tax.

After the cases were pointed out between September and December 2007, the DFOs Kullu and Karsog intimated in February and March 2008 that bill for Rs. 1.54 crore had been raised against the user agencies. A report on recovery and reply from the remaining DFOs has not been received (September 2008).

The matter was reported to the department and the Government between October 2007 and January 2008; their reply has not been received (September 2008).

5.3 Non/short charging of cost of fence posts

The Forest Department executes afforestation work in double the area, transferred to user agency under the Forest (Conservation) Act, 1980 for non-forestry purpose. The cost of fence posts required for compensatory afforestation (CA) is to be realised from the user agency as per the departmental instructions of 12 May 2004 and deposited as revenue under the relevant head. Similarly, the cost of fence posts required for fencing for carrying out maintenance of plantation in the catchment area under the catchment area treatment (CAT) plan of the concerned project, is also to be recovered from the user agency.

During test check of the records of six² DFOs, it was noticed between January and December 2007 that cost³ of 2,84,906⁴ fence posts, required for CA and for the maintenance of plantation in the catchment area under CAT plan in total area of

¹ Karsog: 8,236 trees: 1,938.497 cu.m; Kullu: 3,459 trees: 3,767.83 cu.m; Nachan: 544 trees: 134.105 cu.m; Parbati: 3,112 trees: 8,739.494 cu.m; Rampur: 189 trees: 190.946 cu.m and Suket : 5,340 trees : 886.056 cu.m.

² Bharmour, Chopal, Nachan, Rajgarh, Rampur and Una.

³ Cost of fence posts worked out at the rate of Rs. 100 per fence post on the basis of bills raised by the department.

⁴ CA: 6,986; CAT Plan: 2,77,920.

2,925.5848⁵ hectare had not been charged or charged less from the user agencies during the period falling between December 2002 and August 2007. This resulted in non/short realisation of revenue of Rs. 3.20 crore including VAT.

After the cases were pointed out between January and December 2007, the DFO Rampur stated in December 2007 that bill had been raised against the user agency to pay the differential amount. A report on recovery and reply from the remaining DFOs has not been received (September 2008).

The matter was reported to the department and the Government between February 2007 and January 2008; their reply has not been received (September 2008).

5.4 Blocking of revenue due to non-disposal of seized timber

Section 52 of the Indian Forest Act provides for seizure of property liable to confiscation. As per the departmental instructions of April 1951, the seized timber/forest produce should either be kept in the *sapurdagi* (safe custody) of a *sapurdar* (*lambardar* or any other reliable person of the place) or with the concerned field staff after it is accounted for in Form 17⁶. The timber/forest produce so accounted for is required to be disposed off after the offence has either been compounded or decided by the court. The Principal Chief Conservator of Forests (PCCF) instructed (April 1999) all the Conservators of Forest (CFs) that where the *sapurdagi* of forest produce was taken for unduly long period, the concerned investigating officers should be asked to procure orders of the competent court for auctioning the seized property within 15 days, to reduce expenditure on watch and ward and deterioration/pilferage of such produce. No periodical return at apex level has been prescribed to monitor the quantity of timber seized/disposed off.

5.4.1 During test check of the records of 17⁷ DFOs, it was noticed between June 2007 and March 2008 that 1,136.39 cu.m of timber of different species seized between 2002-03 and 2006-07, had not been disposed off as mentioned below:

Year	Species (Volume in cu.m)						Amount
	Deo	Kail	Rai	Chil	Others	Total	
2002-03	61.75	102.32	4.48	0.91	--	169.46	31.67
2003-04	59.31	39.11	4.14	18.70	0.29	121.55	23.11
2004-05	102.12	72.94	31.17	3.57	--	209.80	44.93
2005-06	277.08	68.31	13.98	2.59	6.63	368.59	94.36
2006-07	204.95	59.29	--	0.70	2.05	266.99	77.60
Total	705.21	341.97	53.77	26.47	8.97	1,136.39	271.67

⁵ CA: Area: 115.5848 hectare and CAT plan: Area: 2,810 hectare.

⁶ Register of forest produce seized.

⁷ Chopal, Churah, Dalhousie, Kotgarh, Karsog, Kullu, Kunihar, Mandi, Nachan, Parbati, Pangi, Rohru, Rajgarh, Rampur, Renukaji, Seraj and Theog.

There was nothing on record to indicate that the investigating officers were directed by the concerned DFOs to procure orders of the competent court for auctioning the seized timber. The value of seized timber at market⁸ rate worked out to Rs. 2.72 crore. Non-disposal of seized timber not only resulted in blocking of revenue but also incurring of expenditure on watch and ward and further deterioration of timber/forest produce.

After the cases were pointed out between June 2007 and March 2008, the PCCF intimated in December 2007 that the field DFOs were taking action and the issue was also monitored from his office from time to time. He further informed that the issue had been discussed in November 2007 and periodical information in this regard to be called for from CFs was under consideration of the department.

5.4.2 In Theog and Churah forest divisions, *deodar* and *kail* trees having 61.101 cu.m of timber, illicitly felled by the offenders, were seized between 2003-04 and 2006-07. The seized timber valued as Rs. 18.66 lakh was not accounted for in the register of forest produce seized, as required. There was nothing on record to verify whether the seized timber was auctioned by the department or sent to sale depot of HPSFC for auction. This resulted in non-realisation of revenue of Rs. 18.66 lakh.

The cases were reported to the department and the Government between June 2007 and April 2008; their reply has not been received (September 2008).

5.5 Under assessment of damages and compensation

In accordance with section 68 of the Indian Forest Act, the DFOs fixed the rates of compensation for compounding of various forest offences in the divisions. The value of forest produce was to be charged at the market rate. For the first offence, the market rate plus compensation was to be charged and for the second and subsequent offence, double the rate⁹ was chargeable. The State Government had fixed the market rates of green standing trees of various species for the year 1992-93 on 15 May 1993. Thereafter, the rates were charged after taking 10 per cent increase each year over the market rates of 1992-93 as per the prevailing practice in the department until the Government revised the market rates in December 2006.

Test check of the records of three¹⁰ DFOs between September 2007 and March 2008 revealed that during 2002-03 and 2006-07, the compensation, value of forest produce and penalty amounting to Rs. 1.19 crore was short claimed from the projects and HPPWD¹¹ authorities as mentioned below:

⁸ Prescribed in Department of Forest, Government of Himachal Pradesh letter dated 1 December 2006.

⁹ Market value of forest produce plus compensation.

¹⁰ Joginder Nagar, Parbati and Seraj.

¹¹ Himachal Pradesh Public Works Department.

(Rupees in lakh)							Name of the agency
Sr. No.	Name of the division/ year	No. of trees/ saplings	Species	Amount chargeable	Amount claimed	Amount claimed short	
1.	Parbati/ 2006-07	217/--	Deo, Kail, Fir, B/L	28.11	26.58	1.53	Everest Power Pvt. Ltd.
2.	Seraj/ 2003-04 to 2006-07	16/465	-do-	45.95	32.65	13.30	National Hydroelectric Power Corporation (NHPC)
		--/215	-do-	5.31	0.98	4.33	HPPWD
		26/1,910	-do-	80.95	15.30	65.65	NHPC
		27/200	-do-	2.63	1.19	1.44	HPPWD
3.	Joginder nagar/ 2006-07	144/--	Chil, Ban & B/L	36.62	3.64	32.98	HPPWD
Total				199.57	80.34	119.23	

After the cases were pointed out between September 2007 and March 2008, the DFO Jogindernagar intimated in March 2008 that during checking of forest on 27 December 2006, six km long road was found constructed and the staff issued a single damage report on 26 December 2006. The reply is not tenable as three damage reports for illegal uprooting of 144 trees were issued by the concerned beat guard between 26 and 29 December 2006 as noticed from the damage report file/register. Further report and reply in the remaining cases has not been received (September 2008).

The cases were reported to the department and the Government between October 2007 and April 2008; their reply has not been received (September 2008).

5.6 Short recovery of the value of illicitly felled trees

As per the guidelines issued (December 1986) by the State Government and departmental instructions of July 2005, the DFOs are empowered to compound cases of illicit felling upto the value of Rs. 2 lakh depending upon the merits of the case. The State Government had fixed the market rates of green standing trees of various species for the year 1992-93 on 15 May 1993. Thereafter, the rates were charged after taking 10 per cent increase each year over the market rates of 1992-93 as per the prevailing practice in the department until the Government revised the market rates in December 2006.

During test check of the records of 15¹² DFOs, it was noticed between January 2007 and March 2008 that in 1,376 compounding cases of illicit felling of trees, committed between April 2002 and March 2007, the value of illicitly felled trees at market rates worked out to Rs. 110.27 lakh. The divisions, however, recovered

¹² Ani, Chopal, Chamba, Churah, Karsog, Kotgarh, Nachan, Pangi, Rajgarh, Rohru, Renukaji, Shimla, Solan, Suket and Theog.

(between April 2002 and March 2007) Rs. 28.55 lakh as value of the trees, by applying lower rates instead of the market rates. This resulted in short realisation of revenue amounting to Rs. 81.72 lakh.

The cases were reported to the department and the Government between February 2007 and April 2008; their reply has not been received (September 2008).

5.7 Loss due to non-acceptance/issue of damage bills

As per clause 7 of the standard agreement deed, as applicable to the HPSFC, the forest officer will provide to the lessee a copy of the detailed marking list under proper receipt in token of authorisation to start the work in the leased forest and thereafter the lessee shall be responsible for any damage to the forest crop in the process of forest working by negligence. The deed further stipulates that if a lessee accidentally, negligently, deliberately fells a tree which he is not entitled to fell, he shall be liable to pay the price at lease or the prevailing market rates, whichever is higher alongwith a penalty of 100 *per cent* thereof. The damages/illicit felling etc. are required to be got acknowledged/signed by the regular staff viz. forest guard/block officer (BO)/assistant manager (AM) of the HPSFC immediately.

During test check of the records of two DFOs, between June and December 2007 revealed that 86 coniferous trees having standing volume of 75.032 cu.m were illicitly felled between 2005-06 and 2006-07 during exploitation by the HPSFC. The department did not take timely cognizance of the illicit felling and failed to get the damages accepted by the HPSFC. As a result, revenue of Rs. 39.08 lakh (price of trees at the market rate alongwith penalty) including VAT was not realised as mentioned below:

(Rupees in lakh)				
Sr. No.	Name of the forest division/ Lot No./ year	Nature of irregularities	Volume of timber illicitly felled (In cu.m)	Amount of damages not realised
1.	Chopal/ 6/2005-07	The lot comprising 1,900 trees having standing volume of 3,795.453 cu.m with lease period upto 31 March 2007 was handed over to the HPSFC in December 2004. Checking by the DFO, Flying Squad, Shimla in May 2006 and subsequent enquiry by DFO Chopal (August 2006) revealed that 78 trees of <i>deodar</i> , <i>kail</i> and <i>rai</i> having standing volume of 61.643 cu.m were found illicitly felled. A damage bill was issued in February 2007 which was not accepted by the HPSFC stating that these trees had been felled 5-6 years back. The presumption of the HPSFC that the trees were felled 5-6 years back was not supported by any field investigation or technical data. Scrutiny revealed that the DFO instead of taking recourse to clause 7 of the agreement deed insisted upon HPSFC for payment, which was not paid. This resulted in non-acceptance of damage bill and consequential loss of revenue of Rs. 32.20 lakh.	61.643	32.20
2.	Rampur/ 2/2005-06	Eight <i>Kail</i> trees having standing volume of 13.389 cu.m were illicitly felled in September 2005 in Punan c-113 forest, where exploitation work of the lot was in progress. Scrutiny revealed that the department instead of taking recourse to clause 7 of the agreement deed issued damage reports against unknown offenders and registered the case with the police. As a result, the department could not recover Rs. 6.88 lakh from the HPSFC.	13.389	6.88
Total			75.032	39.08

The cases were reported to the Government between July 2007 and January 2008; their reply has not been received (September 2008).

5.8 Loss of revenue due to cases becoming time barred

As per the Criminal Procedure Code, no court shall take cognizance of forest offence cases after the expiry of the period of limitation. The period of limitation ranges from six months to three years and is determined with reference to the offence committed. As per the departmental instructions of February 1985, the DFOs were required to ensure that no case became time barred for issuing challan and were required to take prompt action for disposal of the forest offence cases, as delay in taking action would result not only in acquittals of offenders in courts but compounding of offence cases also would become difficult.

5.8.1 Test check of the records of nine¹³ DFOs between June 2007 and March 2008 revealed that 22 damage reports involving 163 trees of *deodar*, *kail* and *ban* species, were issued between 2002-03 and 2004-05, against offenders for illicit felling of trees and other offences. Scrutiny revealed that against the standing volume of 146.23 cu.m of timber valuing Rs. 39.27 lakh, the department could seize 27.215 cu.m of timber valuing Rs. 6.84 lakh. The department, however, failed to compound these cases or take them to the court of law within the prescribed period. No action could later be taken against the offenders due to the cases becoming time barred. This resulted in loss of revenue of Rs. 32.43 lakh.

5.8.2 In Theog forest division, it was noticed in June 2007 that 47 trees of *deodar* having standing volume of 45.254 cu.m of timber valued as Rs. 13.24 lakh, had been illicitly felled during 2003-04. Scrutiny revealed that neither the department had issued damage reports against the offenders nor were the cases taken to the court of law. As a result, the cases became time barred. Inaction on the part of department resulted in loss of revenue of Rs. 13.24 lakh.

After the cases were pointed out between June 2007 and March 2008, the DFO Theog and Kotgarh intimated between June 2007 and October 2007 that time barred cases were being investigated. Further development and reply from remaining DFOs has not been received (September 2008).

The cases were reported to the department and the Government between July 2007 and April 2008; their reply has not been received (September 2008).

5.9 Short realisation of royalty due to application of incorrect volume factor

Royalty is payable on the standing volume of trees determined on the volume factor fixed by the Forest Department in the approved working plan. As per the working plan for the year 2002-03 to 2016-17 (applicable from 2004-05 to 2018-19) of Bharmour forest division, volume factor prescribed for IA to ID¹⁴ class of trees of *deodar* specie was to be applied for *kail* specie.

¹³ Ani, Churah, Dalhousie, Karsog, Kotgarh, Pangi, Rohru, Rampur and Renukaji.

¹⁴ It is classification of a tree according to the diameter.

During audit of the records of DFO Bharmour, it was noticed in May 2007 that standing volume of 1,115.29 cu.m in respect of *kail* trees was claimed short from HPSFC. Scrutiny revealed that the volume factor for IA to ID class of 1,408 trees of *kail* trees was taken as 3.89 cu.m per tree against the volume factor of *deodar* prescribed¹⁵ in the working plan. Thus, against standing volume of 6,592.41 cu.m, the division claimed 5,477.12 cu.m of volume while handing over 30¹⁶ lots for the years 2005-06 and 2006-07 to the HPSFC. Application of incorrect volume factor resulted in short realisation of Rs. 34.18 lakh on account of royalty at the rate of Rs. 2,673 and Rs. 2,817 per cu.m for the years 2005-06 and 2006-07 respectively, including VAT.

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

5.10 Non-levy of extension fee

As per the decision of the Pricing Committee, terms and conditions as applicable to the contractors prior to the formation of HPSFC, were applicable to it for exploitation of forests. For all the extensions granted, extension fee at the rate of 1.5 *per cent* per month on the balance amount of royalty payable was leviable. However, where royalty had been paid, extension fee at the rate of 0.2 *per cent* per month was leviable on the amount of royalty of the lot concerned. For second and subsequent extensions, the above rates were two and 0.3 *per cent* per month respectively. The pricing committee in its meeting held on 11 September 2007 approved that in future, extension fee should be charged at the rate of 0.2 *per cent* per month of the total royalty (whether paid or unpaid) and would apply to all lots pending as on 1 April 2007 onwards.

During audit of the records of 10¹⁷ DFOs, it was noticed between June 2007 and March 2008 that 71 lots were handed over to HPSFC for exploitation during lease period ending between 31 March 2005 and 30 September 2007. Scrutiny revealed that though exploitation work of these lots could not be completed within the lease period, extension fee of Rs. 29.86 lakh was neither demanded nor was it paid by the HPSFC. This resulted in non-realisation of revenue of Rs. 29.86 lakh.

After the cases were pointed out between June 2007 and March 2008, the DFO Chopal and Theog intimated in June and July 2007 that bills for extension fee had been raised whereas DFO Seraj stated in September 2007 that bill was being raised. A report on recovery and reply from the remaining divisions has not been received (September 2008).

The cases were reported to the department and the Government between July 2007 and April 2008; their reply has not been received (September 2008).

¹⁵ 1A: 4.11 cu.m; 1B: 5.38 cu.m; 1C: 6.80 cu.m and 1D: 8.50 cu.m.

¹⁶ 2005-06: 20 lots: 30 November 2004 and 2006-07: 10 lots: 15 December 2005.

¹⁷ Chamba, Chopal, Churah, Dalhousie, Kotgarh, Nachan, Nahan, Rohru, Seraj and Theog.

5.11 Non-levy of interest

The HPSFC which is entrusted with the responsibility of exploitation of all forest lots, is required to deposit instalments of royalty in respect of forest lots by due dates as fixed by the State Government. In case royalty is not paid within 90 days after the due date, interest at the rate of 11.5 and nine per cent per annum is chargeable with effect from 1 April 2001 and 1 April 2004 respectively.

During audit of the records of six¹⁸ DFOs, it was noticed between May 2006 and July 2007 that 89 forest lots were handed over to HPSFC for exploitation during the years 2002-03, 2004-05 and 2005-06. Royalty of Rs. 2.67 crore which was payable between March 2003 and November 2006 was, however, paid between June 2005 and June 2007. The delay in payment of royalty ranged between 169 to 820 days. Interest of Rs. 15.71 lakh though leviable was not levied by the department for belated deposit of royalty.

After the cases were pointed out between May 2006 and July 2007, the department stated in June 2007 that in the case of Hamirpur division, bill of Rs. 1.20 lakh had been raised in February 2007. A report on recovery and reply from the remaining divisions has not been received (September 2008).

The cases were reported to the department and the Government between June 2006 and August 2007; their reply has not been received (September 2008).

5.12 Loss of revenue due to non-tapping of resin blazes

As per the instructions dated 24 September 2001, the PCCF increased the minimum diameter for resin tapping as 35 cm dia breast height (dbh) from 30 cm dbh, applicable from 2002 resin tapping season, in respect of trees to be tapped for the first time. However, for the old lots which were already under tapping or trees which had been tapped earlier but left out for enumeration and could be tapped now, the tappable diameter would continue to be 30 cm dbh. Further, according to the instructions issued in May 2000, prior approval of the CF was required to be obtained well before the commencement of the tapping season for deletion of blazes.

During audit of the records of three¹⁹ DFOs, it was noticed between July 2007 and March 2008, that 29,292 chil trees having diameter of 35 cm and above were not handed over to the HPSFC for resin tapping for the tapping season between 2005 and 2007. In Una division, 13,576 resin blazes were not enumerated during 2005 even when they were having more than 40 cm dbh. In the remaining two divisions, prior approval of CF was not obtained before deletion of 15,716 resin blazes from the marking lists. Thus, non-enumeration/deletion of blazes without approval resulted in depriving the Government of revenue of Rs. 9.33 lakh on account of royalty.

The cases were reported to the department and the Government between August 2007 and April 2008; their reply has not been received (September 2008).

¹⁸ Chamba, Chopal, Churah, Hamirpur, Nurpur and Nahan.

¹⁹ Churah, Dalhousie and Una.

5.13 Short realisation of royalty of resin blazes

As per the decision dated September 2007 of the Pricing Committee, royalty of resin blazes for the resin tapping season 2006 was fixed at Rs. 35 per blaze by the Government.

Test check of the records of DFO Palampur revealed in March 2008 that for the tapping season 2006, the division claimed (July 2006) royalty in respect of 60,611 resin blazes at the rate of Rs. 24 per blaze. Scrutiny revealed that neither did the division demand the differential amount of royalty nor was it paid by the HPSFC. This resulted in short realisation of royalty of Rs. 6.67 lakh.

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

CHAPTER-VI: OTHER TAX AND NON-TAX RECEIPTS

6.1 Results of audit

Test check of the records of Multi Purpose Projects and Power, Revenue, Irrigation cum Public Health, Industries departments, conducted during the year 2007-08 revealed non/short levy of electricity duty, incorrect determination of market value of property, non-presentation of documents for registration, short realisation, non-renewal/payment of lease money, non/short recovery of water charges, non-realisation of royalty/interest and other irregularities amounting to Rs. 34.55 crore in 292 cases, which fall under the following categories:

(Rupees in crore)			
Sr. No.	Particulars	Number of cases	Amount
1.	Levy and collection of electricity duty (A review)	01	12.12
2.	Non/ short recovery of water charges	27	12.16
3.	Incorrect determination of market value of property	90	5.43
4.	Non-realisation of royalty/ interest	17	0.41
5.	Loss due to non- renewal/payment of lease money	03	0.30
6.	Short realisation of lease money due to incorrect fixation of rates	01	0.07
7.	Non-presentation of documents for registration	05	0.06
8.	Other irregularities	148	4.00
Total		292	34.55

During 2007-08, the department accepted under assessments of Rs. 13.59 crore involved in 35 cases of which one case involving Rs. 46 lakh had been pointed out in audit during the year and rest in the earlier years.

A few illustrative cases involving Rs. 7.03 crore and a review of **Levy and collection of electricity duty** involving Rs. 12.12 crore are mentioned in the succeeding paragraphs.

A. MULTI PURPOSE PROJECTS AND POWER DEPARTMENT

6.2 Levy and collection of electricity duty

6.2.1 Highlights

- In the absence of enabling provisions in the HPED Act, electricity duty (ED) of Rs. 390.40 crore on sale of electricity could not be levied.

(Paragraph 6.2.9)

- Hotels being an industry were being charged ED at the commercial rates instead of industrial rates resulting in loss of ED of Rs. 80.79 lakh.

(Paragraph 6.2.11)

- Incorrect grant of eligibility certificate to five ineligible industrial units of Baddi, Darlaghat and Paonta Sahib resulted in incorrect exemption of Rs. 28.33 crore on account of ED.

(Paragraph 6.2.15)

6.2.2 Introduction

The levy and collection of duty on electricity are governed by the Himachal Pradesh Electricity (Duty) (HPED) Act, 1975. Under the HPED Act, the Himachal Pradesh State Electricity Board (Board) has the statutory obligation to levy and collect electricity duty (ED) from the consumers at the prescribed rates for the energy consumed and deposit it into the Government account. Those who generate electricity for their own consumption are also required to deposit ED directly into the Government account provided the capacity of generation is 5 KW or above. Under the HPED Rules, 1975, the ED shall be deposited in the Government treasury/scheduled bank half yearly i.e. in April and October every year. Under the HPED Act, if the Board or the licensee or the generating company or the consumer as the case may be, evades or attempts to evade the payment of ED, the Board or such person shall pay by way of penalty in addition to the duty payable under this Act, a sum not exceeding four times the amount of the duty as may be determined by the Chief Electrical Inspector (CEI). However, the HPED Act is silent about the levy of penalty on delayed payments of duty by the Board or the licensee or the consumer. Further the Board and a person generating energy for his own use or consumption shall submit to the CEI by the last day of May and November a statement¹ in the prescribed form and the CEI

¹ Containing details like class of consumers, duty assessed, previous balance, total ED payable, duty realised, balance carried over etc.

shall submit to the Government a return² in prescribed form within three months of the close of the financial year. The duty, which remains unpaid, shall be recoverable as arrear of land revenue or by deduction from amounts payable by the State Government to the Board or person generating energy for his own consumption.

It was decided by audit to review the accuracy of levy and collection of ED. The review revealed a number of system and compliance deficiencies which have been discussed in the subsequent paragraphs.

6.2.3 Organisational set up

The overall administrative control including monitoring, internal controls and internal audit on levy and collection of ED rests with the Principal Secretary Multi Purpose Projects and Power (MPPP) Department who is assisted by the CEI. The CEI is responsible for implementation of the provisions of the HPED Act and Rules, receipt of returns, inspection of premises and checking of electrical installations. He is assisted by five Assistant Electrical Inspectors (AEI)³ who are responsible for checking of electrical installations and meters in the areas of their jurisdiction.

6.2.4 Scope of audit and methodology

The review of the efficacy of the system of levy and collection of ED for the period 2002-03 to 2006-07 was conducted in the office of the CEI between March 2008 and May 2008. During the course of audit, data/information obtained from 44⁴ out of 228 electrical sub divisions of the Board were also cross verified with the records maintained by the CEI. Of these 44 electrical sub divisions, 14 were located in the industrial belt in four districts, 14 in commercially important places in five districts and 16 sub divisions in eight districts having consumers predominantly other than industrial and commercial. This enabled the audit to cover 30 per cent consumers and more than 78 per cent of the revenue earned in all the sub divisions.

6.2.5 Audit objectives

The review was conducted with a view to assess:

- the efficiency and effectiveness of the system of levy and collection of ED; and

² Containing details like duty payable, duty assessed, balance brought forward, total ED payable, amount realised, balance, remarks etc.

³ AEI Dalhousie: Chamba district and Dharamsala of Kangra district, Hamirpur: Hamirpur, Palampur of Kangra district and Una district, Mandi: Mandi, Kullu and Lahaul Spiti, Shimla-I: Shimla and Kinnaur districts and Shimla-II: Solan and Sirmour districts.

⁴ Amb, Baddi, Barotiwala, Bilaspur-I, Bhawanagar, Bhunter, Boileauganj, Chhota Shimla, Dalhousie, Damtal, Darlaghat, Dhaulakuan, Dharamsala-I, Dharamsala-II, Gagret, Idgah, Jutogh, Kala Amb, Kandaghat, Kasauli, Katrain, Khalini, Kullu-I, Kullu-II, Manali-I, Manali-II, Mashobra, Mehatpur, Nahan, Nalagarh-I, Nalagarh-II, Namhol, Nurpur, Paonta Sahib, Parwanoo, Reckongpeo, Ridge, Sanjauli, Sansarpur Terrace, Sataun, Solan-I, Solan-III, Sundernagar and Tahliwal.

- whether an adequate internal control mechanism existed to ensure proper realisation of ED.

6.2.6 Acknowledgement

The Indian Audit and Accounts Department acknowledges the co-operation of the MPPP Department and the CEI in providing necessary information and records for audit. An entry conference was held in March 2008 with the department and the scope and methodology for conducting the review were discussed. The Principal Secretary to the Government of Himachal Pradesh, MPPP Department represented both the Government and the department. The draft review report was forwarded to the department and the Government in June 2008 and was discussed in the Audit Review Committee meeting held in July 2008. The Principal Secretary, MPPP represented the Government while the CEI represented the department. Views of the Government have been incorporated in the relevant paragraphs.

6.2.7 Trend of revenue

As per the Himachal Pradesh Budget Manual, the actuals of previous years and the revised estimates ordinarily afford the best guide in framing the budget estimates (BEs) and a continuance of any growth or decline in income indicated by them, may, in the absence of definite reasons to the contrary, properly be assumed in all cases in which the proportionate estimates can be usefully employed. But special attention should be paid to new sources of revenue of which account has not been taken in previous years. The reasons which led to the adoption of the figures for the BEs should be briefly and clearly explained.

The BEs and actual realisation of ED during the years 2002-03 to 2006-07 are mentioned below:

(Rupees in crore)				
Year	BEs	Actual	Variations increase (+) decrease(-)	Variation (per cent)
2002-03	36.84	0.03	(-) 36.81	(-) 100
2003-04	32.00	16.42	(-) 15.58	(-) 49
2004-05	33.34	87.68	(+) 54.34	(+) 163
2005-06	34.99	88.92	(+) 53.93	(+) 154
2006-07	51.77	29.96	(-) 21.81	(-) 42

Actuals have been at variance with the BEs in all the years which indicates that the BEs were not prepared on realistic basis.

The Government stated that in future, the BEs shall be prepared in consultation with the Himachal Pradesh State Electricity Board (Board) authorities so that the figures are more realistic.

Audit findings

System deficiencies

6.2.8 Absence of provision for levy of surcharge

In terms of the Tariff Order issued under the Indian Electricity Act, if a consumer fails to pay charges for the energy consumed, by the prescribed date, he is liable to pay surcharge (SC) at the rate of two per cent per month upto 2003-04 and one per cent thereafter on the unpaid amount at the rates prescribed by the Board in its tariff. However, the HPED Act is silent about the levy of surcharge on the delayed payment of ED by the consumer.

Scrutiny of the annual statement of accounts of the Board revealed that the Board realised surcharge of Rs. 37.39 crore during the years 2002-03 to 2006-07 but no surcharge could be levied on the unpaid amount of ED as mentioned below:

(Rupees in crore)		
Year	SC realised by the Board	ED unpaid
2002-03	5.85	1.77
2003-04	11.40	2.50
2004-05	7.17	3.28
2005-06	6.04	4.74
2006-07	6.93	5.36
Total	37.39	17.65

The Government stated that the Board has been advised (July 2008) to recover the outstanding ED from the consumers who have defaulted in making payment and a suitable proposal to levy surcharge on delayed payment of ED shall be considered by making an amendment in the HPED Act. In this regard the Government is proposing to constitute a Review Committee shortly.

The Government may, therefore, consider providing a penal clause for levy of surcharge on the delayed payment of ED on the lines of levy of surcharge on delayed payment of energy charges.

6.2.9 Absence of provision for levy of electricity duty on sale of energy

Under the provision of the HPED Act, ED at the prescribed rates shall be levied and paid to the State Government on the energy consumed except the energy consumed by the State Government, consumed or sold to the Government of India for consumption by that Government or consumed by railway/Board for specified purposes. However, the Act is silent about levy of ED on sale of energy by the Board/electricity generating companies/persons to other states/public sector undertakings.

Test check of the records revealed that the Board and Satluj Jal Vidyut Nigam Ltd. (SJVN⁵) sold 18,656.233 million units of electric energy to other states/public sector undertakings during the years 2002-03 to 2006-07. However, in the absence of enabling provisions in the HPED Act, ED of Rs. 390.40 crore could not be levied on the sale of above mentioned units as given below:

Name of the selling agency/unit	Year/Units of electrical energy sold (in million units)				
	2002-03	2003-04	2004-05	2005-06	2006-07
Board	515.67	1,097.57	1,158.21	1,232.72	363.73
SJVN	--	986.09	4,498.62	3,568.60	5,235.02
Total	515.67	2,083.66	5,656.83	4,801.32	5,598.75
Rate ⁶ of ED per unit (in rupees)	0.15	0.15	0.18	0.24	0.24
ED forgone (Rupees in crore)	7.73	31.25	101.82	115.23	134.37

The Government stated that perhaps the confusion arose as a result of ambiguity/lack of clarity in the Act and steps will be taken to make the provisions of the Act clear.

Since the Government is foregoing a considerable amount in the shape of ED, it may consider providing for levy of ED on sale of electric energy.

6.2.10 . Loss of electricity duty on auxiliary consumption

Under the provisions of the HPED (Amendment) Act, 1992, ED at the prescribed rates shall be levied and paid to the State Government on the energy consumed. Accordingly, auxiliary consumption of energy by the electricity generating units other than the Board are liable to ED. The Himachal Pradesh High Court⁷ while accepting the statement of the department directed (October 1994) that the petitioners will not be charged duty on electricity consumed by them (NHPC/PSEB-petitioners) for generating stations, sub-stations and works directly connected with the generation, transmission and distribution of energy and the directions were made a rule of the court. Though the statement of the department was not supported by applicable laws/rules in the State, the department/Government did not proceed either to amend the HPED Act/Rules nor sought legal recourse to regularise the matter of levy of duty on the auxiliary consumption of energy by the electricity generating units.

Test check of the records revealed that six power houses availed exemption of ED of Rs. 5.26 crore during the years 2002-03 to 2006-07 as mentioned below:

⁵ A public sector undertaking of the Government of India established for generation and sale of electric energy.

⁶ Worked out on the basis of rates applicable to other consumers.

⁷ In the matter of National Hydroelectric Power Corporation and Punjab State Electricity Board V/s State of Himachal Pradesh, the Chief Electrical Inspector Himachal Pradesh and Himachal Pradesh State Electricity Board.

Sr. No.	Name of the power house	Year/Generation during the year (in million units)				
		2002-03	2003-04	2004-05	2005-06	2006-07
1.	Baira Siul Power station	683.000	688.000	690.000	791.000	698.000
2.	Chamera-I Power station	2,260.000	2,462.000	2,105.000	2,343.000	2,366.000
3.	Chamera-II Power station	--	--	1,348.000	1,490.000	1,432.000
4.	Baspa stage II Power station	--	1,132.838	1,190.389	1,173.617	1,281.105
5.	Mallana hydel project	263.281	330.643	261.571	320.592	244.362
6.	PSEB Shanan Power station	469.279	564.205	515.474	508.950	495.666
Total		3,675.560	5,177.686	6,110.434	6,627.159	6,517.133
	Auxiliary consumption at the rate (0.5 per cent)	18.378	25.888	30.552	33.136	32.586
	Auxiliary consumption of SJVN	--	7.912	36.196	28.731	42.101
	Total auxiliary consumption	18.378	33.800	66.748	61.867	74.687
	Rate of ED per unit (in Rupees)	0.15	0.15	0.18	0.24	0.24
	Loss of electricity duty (Rupees in lakh)	27.57	50.70	120.15	148.48	179.25

The Government stated that it is true that the advocate of Government informed the Court without any instructions either from the Government or the CEI. However, action on amendment in the Act is being taken separately and the committee constituted to review the Act shall be asked to consider this issue while framing their recommendations.

The Government may, therefore, consider taking suitable remedial measures to safeguard the revenue.

6.2.11 Levy of electricity duty at incorrect rates

Under Section 2 of the HPED Act, commercial consumer is a consumer having non-residential premises such as business houses, clubs, offices, schools, hospitals, hostels, street lighting and places of worship etc. Hotels do not fall under this category. However, as per the industrial policy of 1991 and 2003 of the Government of India, hotels have been declared as thrust sector industry. The HPED Act defines industrial consumers as any person or institution using energy for industrial purpose or purposes subservient to industry. Thus hotels being an industry were required to pay ED at the prescribed rates meant for industrial consumers. However, under the tariff notifications issued by the Board from time to time in pursuance of tariff orders issued by the Himachal Pradesh Electricity Regulatory Commission, restaurants, hotels/motels, lodging and boarding houses have been included under commercial supply.

Test check of the records maintained in 44 sub divisions revealed between March 2008 and May 2008 that in 26⁸ sub divisions, ED in respect of 360 hotels during the period 2002-03 to 2006-07 was levied and recovered at the rates meant for commercial consumers on the basis of tariff orders for commercial supply issued from time to time instead of the rates applicable to the industrial consumers. This resulted in short recovery of ED of Rs. 80.79⁹ lakh.

The Government stated that in order to avoid any conflict in the definition of categories of consumers as provided in the HPED Act and the Tariff order issued by the Himachal Pradesh Electricity Regulatory Commission, it is proposed to amend the Act.

The Government may therefore, consider bringing out suitable order in conformity with the industrial policy of 1991 and 2003 of the Government of India.

Internal controls

6.2.12 Submission of returns

Under the provisions of the HPED Rules, the Board and a person generating energy for his own use or consumption shall submit to the CEI by the last day of May and November, a statement (in duplicate) showing the duty assessed and realised in respect of energy sold to consumers and the duty assessed and paid by persons generating energy for his own use or consumption in Annexure I and II respectively. The CEI in turn shall also submit to the Government a return in Annexure III indicating duty payable by the Board/persons, assessed and balance etc., within three months of the close of the financial year. The CEI may also at any time require the Board to produce for inspection such books and records in its possession or control as may be necessary for ascertaining or verifying the amount of ED leviable under the Act. The duty which remains unpaid shall be recoverable as arrears of land revenue. It was however, noticed that the prescribed returns in Annexure I and Annexure III did not contain column(s) for information on account number of consumer(s), name of defaulter(s) etc. for initiating action for recovery of outstanding ED against the defaulters.

The Government stated that various formats of prescribed returns are proposed to be reviewed by the committee being constituted by the Government.

⁸ Barotiwala, Boileuganj, Chhota Shimla, Dharamsala-I, Dharamsala-II, Idgah, Jutogh, Kala Amb, Kandaghat, Kasauli, Katrain, Manali-I, Manali-II, Mashobra, Mehatpur, Nahan, Nalagarh-I, Nalagarh-II, Paonta Sahib, Parwanoo, Reckongpeo, Ridge, Sanjauli, Solan-I, Solan-III and Sundernagar.

⁹ ED less charged: Rs. 17.21 lakh for the period April 2002 to October 2003 on the consumption of 233.32 lakh units @ of paise 7 (paise 22 - paise 15); Rs. 13.31 lakh for the period December 2003 to May 2005 on the consumption of 195.72 lakh units @ of paise 7 (paise 25 - paise 18) and Rs. 50.27 lakh for the period June 2005 to March 2007 on the consumption of 506.37 lakh units @ of paise 9 (paise 33 - paise 24).

6.2.12.1 Delay in/non-submission of returns by the Board/CEI

Test check of the records maintained by the CEI revealed that the Board had submitted the returns for the period 2002-03 to 2006-07 with delays ranging between 41 to 102 days (except the returns for April 2002 to September 2002, April 2005 to September 2005 and April 2006 to September 2006). The CEI, however, did not initiate any action to ensure timely submission of returns by the Board. Further, the CEI neither submitted the prescribed returns in Annexure-III to the Government nor carried out requisite inspection of records for ascertaining or verifying the amount of ED leviable.

After this was pointed out, the CEI while admitting the facts stated (March 2008) that no such return had been submitted to the Government in the past and the same would be submitted in future.

The Government stated that instructions have already been issued for submission of returns.

6.2.12.2 Non-levy/recovery of electricity duty

Under section 3 (2) of the HPED Act, energy consumed by the State or Central Government is exempted from payment of ED. No such exemption is available to public sector undertakings, boards, corporations and other autonomous bodies whether owned by the Central or State Governments. **The prescribed return in Annexure-I however did not contain details of the department/ Government/ organisations etc. to determine the correctness of exemption of ED availed/allowed.**

Test check of the records of 44 sub divisions, revealed that in five¹⁰ sub divisions, the Board had neither levied nor recovered ED from public sector undertakings, boards, corporations and other autonomous bodies. This resulted in non-levy/recovery of ED of Rs. 5.92 lakh for the period April 2002 to March 2007. In the absence of requisite details in the return, the CEI also could not detect the non-levy of ED on ineligible organisations.

The Government stated that the Board is being directed to take immediate action and submit a report of action taken.

6.2.12.3 Short levy of duty

According to the HPED Act, domestic consumer is a person or any institution occupying a premise ordinarily used for residential purposes and supplied with energy upto 10 KW. The domestic consumers who are supplied energy of more than 10 KW cannot be termed as domestic consumers for levy of ED in terms of Section 3(1) (i) of the HPED Act. Such consumers are required to be charged at the rates meant for any other consumer i.e. other than domestic, commercial and industrial consumers. **However, the prescribed return in Annexure I did not contain information on supply of energy in KW.**

¹⁰ Boileaujanj, Chhota Shimla, Dhaulakuan, Nahan and Sundernagar.

Test check of the records revealed that out of 44 sub divisions, in 22¹¹ sub divisions the ED from domestic consumers having connected load of more than 10 KW was incorrectly realised at the rate of six-paise per unit meant for domestic consumers between March 2002 and March 2007 against the proper duty of Rs. 40.23 lakh at the rate of 15 paise, 18 paise and 24 paise per unit applicable to other consumers. This resulted in short recovery of ED of Rs. 30 lakh¹². **In the absence of the requisite details in the return, the CEI could not detect the short realisation of duty from the domestic consumers.**

The Government stated that in order to avoid any conflict between the definition of categories of consumers, it is proposed to amend section-2 of the HPED Act.

6.2.12.4 Non-maintenance/submission of record/returns by the licensees

Under the HPED Rules, every person generating energy for his own use or consumption shall declare himself as such in writing giving details of the generating plants installed by him to the CEI within 30 days from the date of publication of the rules failing which he is liable to pay a fine not exceeding Rs. 1,000.

Test check of the records revealed that the following units/person generating electricity for their own use or consumption neither declared as such to the CEI nor submitted the prescribed returns in Annexure-II during the years 2002-03 to 2006-07:

Sr. No.	Name of generating company/ persons	Installed capacity (in MW)	Date from which the unit started commercial production
1.	Bhakra Beas Management Board having three power houses at Dehar, Pong and Bhakra	2,711	Not available
2.	Satluj Jal Vidyut Nigam having power house at Jhakri	1,500	2003-04
3.	National Hydroelectric Power Corporation having power houses at Surangani, Khairi and Karian	1,020	Not available
4.	Mallana hydel company having power house at Jari	86	Not available
5.	Baspa Hydel project stage II having power house at Karchham and owned by JP Hydro power	300	2004-05

¹¹ Baddi, Bilaspur-I, Boileauganj, Chhota Shimla, Dharamsala-II, Dhaulakuan, Idgah, Jutogh, Kandaghat, Kasauli, Khalini, Manali-I, Manali-II, Mashobra, Nahan, Nalagarh-I, Paonta Sahib, Parwanoo, Ridge, Sanjauli, Solan-I and Solan-III.

¹² April 2002 to November 2003: 4,06,174 units @ paise 9 per unit (paise 15 – paise 6): Rs. 37,000; December 2003 to May 2005: 5,06,896 units @ paise 12 per unit (paise 18 – paise 6): Rs. 61,000 and June 2005 to March 2007: 1,61,31,645 units @ paise 18 per unit (paise 24 – paise 6): Rs. 29.03 lakh.

6.	56 industrial units having their own generators	162	Not available
7.	9 other firms who were paying electricity duty	Not available	Not available
8.	Micro hydel projects (10 Numbers)	26.65	Between June 2004 to January 2007

The CEI did not initiate any action to ensure submission of returns by these units/persons.

The Government stated that the instructions have already been issued for submission of returns. Matter shall be followed up vigorously.

6.2.12.5 Non-realisation of electricity duty on the energy sold from captive power stations

The Government of Himachal Pradesh exempted (October 1993) all categories of industrial units from the payment of ED on the power generated from their captive generating sets/hydel plants for their own use with immediate effect. A captive generating plant means a power plant set up by a person to generate electricity primarily for his own use. Under the HPED Act, persons generating energy for their own consumption is a consumer provided the capacity of generation is 5 KW or above and ED is payable by the person who supplies energy to a consumer.

Information collected from the balance sheet of a firm¹³ submitted to Superintendent (Central Excise) Baddi, revealed that the firm had sold 170.63 lakh units of energy to other industrial units during 2004-05. Since the energy of 170.63 lakh units was not consumed by the firm for its own use, ED of Rs. 42.66 lakh was payable by the firm. As the firm did not furnish the prescribed return in Annexure-II, the CEI could not detect the sale of energy to other industrial units and levy ED. This resulted in non-realisation of ED of Rs. 42.66 lakh.

The Government stated that action to recover the amount of ED has been initiated by the CEI.

The Government may consider prescribing additional column(s) in Annexure I, II and III to include information on account number and name of the defaulter, supply of energy in KW, issuing instructions to the CEI making the submission of prescribed returns mandatory, timely receipt of returns from the Board and other entities and captive power generating units to check non/short remittance of ED.

6.2.13 Position of arrears

The duty leviable under sub section 1 of section 3 of the HPED Act on the energy supplied to a consumer, shall be collected by the Board alongwith monthly bills and shall be deposited in the Government treasury, sub treasury or a scheduled bank of India, half yearly i.e. in April and October every year. The duty which

¹³ M/s Auro Spinning Mills Baddi.

remained unpaid whether by a consumer to the Board or by the Board or a person shall be recoverable as arrear of land revenue or by deduction from amounts payable by the State Government to the Board or such person. **The HPED Act is, however, silent about obtaining the security for ED at the time of release of the electricity connection.**

6.2.13.1 Non-deposit of electricity duty by the Board

The position of ED realised and deposited during 2002-03 to 2006-07 as furnished by the Board was as under:

(Rupees in crore)

Year	Opening balance of ED as on 1 April	ED assessed	ED realised	ED deposited	Amount of ED outstanding as on 31 March
2002-03	16.37	26.90	26.87	0.32	42.92
2003-04	42.92	31.68	30.95	72.29	1.58
2004-05	1.58	43.21	42.43	32.02	11.99
2005-06	11.99	72.60	71.13	67.33	15.79
2006-07	15.79	95.57	94.97	29.83	80.93

It was further noticed that the Board had not deposited the ED realised in the prescribed months. As a result, percentage of ED short deposited ranged between 2 and 100 *per cent* as mentioned below:

(Rupees in lakh)

Period	Opening balance	ED realised by the Board	Total	ED deposited	Closing balance	Percentage of short deposit
Up to 31 March 2002					1,637.06	
April 2002 to September 2002	1,637.06	1,309.79	2,946.85	--	2,946.85	100
October 2002 to March 2003	2,946.85	1,377.67	4,324.52	32.43	4,292.09	99
April 2003 to September 2003	4,292.09	1,464.38	5,756.47	440.00	5,316.47	92
October 2003 to March 2004	5,316.47	1,631.07	6,947.54	6,789.25	158.29	2
April 2004 to September 2004	158.29	1,851.37	2,009.66	730.00	1,279.66	64
October 2004 to March 2005	1,279.66	2,391.61	3,671.27	2,472.66	1,198.61	33
April 2005 to September 2005	1,198.61	3,199.45	4,398.06	1,650.00	2,748.06	62

October 2005 to March 2006	2,748.06	3,913.61	6,661.67	5,082.64	1,579.03	24
April 2006 to September 2006	1,579.03	4,488.57	6,067.60	2,983.00	3,084.60	51
October 2006 to March 2007	3,084.60	5,008.30	8,092.90	--	8,092.90	100

The above table indicates that the Board had not deposited the amount of ED on the due dates. The CEI continued to request the Board to deposit the same. Thus, ED amounting to Rs. 1.58 crore to Rs. 80.93 crore remained with the Board unauthorisedly.

The Government stated that the late deposit of ED by the Board was on account of cash flow problem. However the Board assured that the total ED realised from the consumers ending 31 March 2008 shall be deposited with the Government positively by 30 September 2008.

6.2.13.2 Non-recovery of ED from consumers

Test check of the annual accounts of the Board for the years 2002-03 to 2006-07, revealed that the following amounts were recoverable from sundry debtors on account of ED. The consolidated statement showing the yearwise breakup of sundry debtors was however, not being maintained in the circle offices of the Board.

(Rupees in crore)		
Sr. No. .	Year	Sundry debtors
1.	2002-03	1.50
2.	2003-04	2.26
3.	2004-05	3.04
4.	2005-06	4.51
5.	2006-07	5.12

The CEI did not initiate any action against the consumers for recovery of dues. The arrears could have been minimised had there been provision for levy of security deposit in the HPED Act.

The Government stated that the Board has been advised to suitably increase the security amount proportionately in the next tariff petition to take care of non-payment of ED by the consumers.

The Government may consider providing a clause in the Act/Rules for obtaining security deposit at the time of release of connection.

6.2.14 Internal audit

The internal audit is a vital component of control mechanism and is generally defined as the control of all controls to enable an organisation to assure itself that the prescribed systems are functioning reasonably well.

It was however, noticed that internal audit wing (IAW) was not in existence in the department, leaving it vulnerable to the risk of control failure.

The Government stated that the proposal for engaging the services of an internal auditor on part time basis for concurrent internal audit shall be considered.

The Government may consider setting up of IAW to monitor the levy and correctness of ED paid.

Compliance deficiencies

6.2.15 Incorrect grant of exemption/refund of ED

To promote industrial growth and attract fresh investment in industries in the State, the Government formulated ED incentive schemes in the Industrial Policy of 1991, 1996 and 2004. The Industries Department formulates the schemes of incentives for industries and issues notifications in this regard setting forth eligibility conditions for the prospective industries. To avail of the benefit of exemption/concession in ED, the unit has to obtain eligibility certificate (EC) from the Director of Industries specifying the category of unit, investment in fixed capital assets, quantum of benefit, employment of Himachalis and period of exemption/concession. Based on the EC, the CEI issues the exemption certificate. On the basis of the EC and the exemption certificate, the electrical divisions of the Board allows exemption/concession to the concerned industrial unit.

Test check of the records revealed that five units were incorrectly granted exemption/concession of ED of Rs. 28.33 crore between April 1996 and June 2005 on the basis of EC issued between February 1996 and June 2005 by the Director of Industries without fulfillment of the prescribed conditions as mentioned below:

(Rupees in crore)						
Sr. No.	Location of unit	Month/ year of issue of EC	Period of availment of exemption/ concession	Nature of irregularity	ED involved	ED involved from April 2002 to September 2004
1.	Darlaghat	February 1996	26 September 1995 to 30 September 2004	The unit started commercial production from 26 September 1995 i.e. after the prescribed period (January 1995)	24.13	8.73
2.	Baddi	July 1996	31 October 1995 to 31 October 2002	The prestigious status to the unit was granted in January 1996 i.e. after the prescribed period between 1992 and March 1995.	1.93	0.47
		September 2000	5 years from 28 August 1998	The firm did not achieve the prescribed percentage of exports.	0.90	--
3.	Paonta Sahib	February 1996	7 years from 20 April 1995	The prestigious status to the unit was granted in January 1996 i.e. after the prescribed period between 1992 and March 1995.	1.19	0.03
4.	Barotiwala	June 2005	August 2005 to March 2007	The exemption from ED was allowed without obtaining the requisite certificate regarding employment of the prescribed percentage of bonafide Himachalis.	0.18	0.18
Total					28.33	9.41

After this was pointed out, the CEI stated between March 2008 and May 2008 that the exemptions granted were based on the ECs issued by the Director of Industries and there was no irregularity on the part of his office.

The Government advised the CEI that in future all exemption cases from the payment of ED should be sent to the Government for prior approval even if a recommendation of the Industries Department is received by him.

6.2.16 Short recovery of electricity duty

The State Government in exercise of the powers conferred by section 11 A of the HPED Act granted exemption (October 1997) to all new industrial units (for which specific concession of ED was not provided), at the rate of 10 paisa per unit for a period of five years with immediate effect. In pursuance of the said orders, Chief Engineer (Commercial) of the Board granted exemption to M/s VMT Spinning Company from payment of ED for a period of five years from 20 October 1997 to 19 October 2002. The rate of ED was revised from 15 paisa to 22 paisa per unit from July 1999.

A scrutiny of records maintained by the electrical sub division Baddi and Barotiwala revealed that the company had paid duty of Rs. 26.63 lakh upto February 1999 which was refunded between August 1999 and October 1999. The firm was, however, required to pay ED at the rate of five paise per unit from November 1997 to June 1999 and at the rate of 12 paise per unit from July 1999 to November 2002 against 15 paise and 22 paise respectively. This resulted in short recovery of ED amounting to Rs. 65.91¹⁴ lakh from November 1997 to November 2002 on the consumption of 702.13 lakh units. Out of this, Rs. 10.95 lakh pertained to the period from April 2002 to November 2002.

6.2.17 Non-recovery of electricity duty at the revised rates

The Government vide notifications issued in November 2003 and May 2005 revised the rates of ED from 22 paise to 25 paise and 25 paise to 33 paise per unit respectively in the case of industrial consumers with immediate effect.

It was noticed that the rates of revised duty were implemented from a month subsequent to the month of issue of notification. Delay in implementation of the revised rates resulted in non-recovery of ED of Rs. 74.63 lakh in 16¹⁵ sub-divisions out of 44 sub-divisions, during November 2003 and May 2005.

6.2.18 Non-levy of electricity duty on the consumption of electrical energy in the board offices

Under section 3(2) (iv) of the HPED Act, consumption of electrical energy by the Board for generating stations, sub stations and works directly connected with the generation, transmission and distribution of energy, is exempt from the payment of ED.

Test check of the records of 44 sub divisions revealed that in 20¹⁶ sub divisions the Board had neither levied nor recovered ED on the energy of 90.41 lakh units consumed in its offices and rest houses not directly connected with generation, transmission and distribution during the period 2002-03 to 2006-07. This resulted in non-levy of duty of Rs. 18.35 lakh¹⁷.

After this was pointed out, the Government stated that section 3(2) (iv) of the HPED Act shall be reviewed by the committee being setup for the purpose.

¹⁴ November 1997 to February 1999: Rs. 9.26 lakh; March 1999 to June 1999: Rs. 3.84 lakh and July 1999 to November 2002: Rs. 52.81 lakh.

¹⁵ Barotiwala, Bilaspur, Bhawanagar, Boileauganj, Darlaghat, Dhaulakuan, Kala Amb, Manali-II, Nahan, Nalagarh-I, Nalagarh-II, Paonta Sahib, Parwanoo, Sataun, Solan-I and Solan-III.

¹⁶ Bilaspur, Bhawanagar, Boileauganj, Chhota Shimla, Darlaghat, Dharamsala-I, Jutogh, Kala Amb, Kandaghat, Kasauli, Manali-I, Manali-II, Nahan, Nalagarh, Namhol, Parwanoo, Reckongpeo, Solan-I, Solan-III and Sundernagar.

¹⁷ April 2002 to November 2003: 17,96,709 units @ paise 15 per unit: Rs. 2.69 lakh; December 2003 to May 2005: 32,99,168 units @ paise 18 per unit: Rs. 5.94 lakh and June 2005 to March 2007: 40,48,807 units @ paise 24 per unit: Rs. 9.72 lakh.

6.2.19 Non-levy of electricity duty

Under Section 3(2) of the HPED Act, the State/Central Government are exempt from payment of ED on the energy consumed by them. The railways have also been exempted from payment of duty on energy consumed or sold for the construction, maintenance or operation of any railway. This clearly shows that ED is not recoverable on the energy consumed in the offices of these Governments and energy used by railway on construction, maintenance or operation of railway. The rest/guest houses/holiday homes and hostels owned by these Governments and used for housing the visiting officers for residential purpose are not entitled for exemption from payment of ED.

During test check of the records of 44 sub divisions it was noticed that in 15¹⁸ sub divisions the Board had neither levied nor recovered ED of Rs. 8.50 lakh¹⁹ during April 2002 to March 2007 on the energy consumed in the rest/guest houses, holiday homes and hostels owned by the State/Central Government/Railways though electricity charges for the period of stay were being recovered.

6.2.20 Conclusion

The HPED Act provides for filing of half yearly returns by the licensees which are an important internal control measure to monitor the payment of ED and its correctness. The department had failed to effectively scrutinise the receipt of the prescribed returns and correctness of ED payable as per the returns. This led to leakage of revenue. The prescribed return did not contain column(s) for information on account number, name of defaulters etc. resulting in non/delayed pursuance of dues. The internal control mechanism of the department was abysmally weak as is evidenced by the absence of internal audit wing which is the control of all internal controls and a management tool for plugging leakages of revenue.

6.2.21 Recommendations

The State Government may consider:

- providing a penal clause for levy of surcharge on delayed payment of ED on the lines of levy of surcharge on delayed payment of energy charges;
- providing for levy of ED on sale of electric energy and taking of suitable remedial measures for levy of ED on auxiliary consumption to safeguard the revenues;
- bringing out suitable order in conformity with the industrial policy of 1991 and 2003 of the Government of India;

¹⁸ Bhawanagar, Boileauganj, Darlaghat, Dharamsala-I, Idgah, Kandaghat, Kasauli, Nahan, Nalagarh, Namhol, Paonta Sahib, Parwanoo, Reckongpeo, Solan-I and Sundernagar.

¹⁹ April 2002 to November 2003: 5,40,603 units @ paise 15 per unit: Rs. 81,000; December 2003 to May 2005: 10,54,206 units @ paise 18 per unit: Rs. 1.90 lakh and June 2005 to March 2007: 24,11,586 units @ paise 24 per unit: Rs. 5.79 lakh.

- prescribing additional column(s) in Annexure I, II and III to include information on account number and name of the defaulter, supply of energy in KW, issuing instructions to the CEI making the submission of prescribed returns mandatory, timely receipt of returns from the Board and other entities and captive power generating units to check non/short remittance of ED;
- providing a clause in the Act/Rules for obtaining security deposit at the time of release of connection; and
- setting up of IAW to monitor the levy and correctness of ED paid.

B. REVENUE DEPARTMENT

6.3 Incorrect determination of the market value of property

Under the Himachal Pradesh Land Record Manual, 1992 (Appendix-XXI) the *patwaris* are responsible for preparation of *partas*²⁰. As per the clarifications issued by the Inspector General Registration (IGR) in June 1998 and October 2004, valuation of land is to be done on the basis of the kind of land mentioned in the revenue records. Further, the average price is based on the consideration amount or market value (MV), whichever is higher on mutation done during the preceding 12 months in respect of a sale deed. The registering officer is also required to verify the consideration shown in the sale deeds with *partas* prepared by the concerned *patwaris*. If the registering officer has reasons to believe that the value of the property or the consideration has not been truly set forth in the instrument, he may, after registering such instrument, refer it to the collector for determination of the value of consideration and the proper duty payable.

During test check of the records of 26²¹ sub registrars (SRs), it was noticed between April 2007 and March 2008 that consideration of properties set forth in 361 documents registered during 2006 was much below the average price shown in the *partas* prepared by the concerned *patwaris* of the localities. Against the market value of Rs. 54.12 crore, the value set forth in the deeds was Rs. 26.62 crore. The registering authorities, while registering the documents failed to correlate the consideration with that of the *partas*. This resulted in short realisation of stamp duty of Rs. 2.19 crore and registration fee of Rs. 13.51 lakh.

After the cases were pointed out between April 2007 and March 2008, the SR concerned stated that relevant documents would be examined. Further reply has not been received (September 2008).

6.4 Short realisation due to incorrect preparation of *parta*

As per the instructions issued by the IGR in July 1997, market value of land for a year is to be worked out on the basis of mutation done during the preceding 12 months. The market value of land for levy of stamp duty is assessed on the basis of classification of land and is calculated in accordance with the procedure given in Appendix-XXI of the Himachal Pradesh Land Record Manual. In October 2004, the IGR clarified that the average price should be based on the consideration amount or market value whichever is higher.

During test check of the records of 16 SRs, it was noticed between April 2007 and March 2008 that *partas* prepared by the *patwaris* were incorrect. The *patwaris* had taken lower value of the land instead of higher value against the mutation mentioned in the *partas*. Consequently 294 deeds executed in 2006 were registered at sale value of Rs. 14.56 crore instead of Rs. 42.43 crore. This

²⁰ It is a valuation report of the land prepared by the *Patwari*.

²¹ Bilaspur, Chirgaon, Dalhousie, Dehra, Dharamsala, Indora, Jogindernagar, Junga, Kalpa, Kandaghat, Kasauli, Kullu, Mandi, Manali, Nadaun, Nahan, Nalagarh, Nurpur, Paonta Sahib, Rajgarh, Rampur, Shimla (Rural), Solan, Suni, Theog and Una.

resulted in short realisation of stamp duty and registration fee of Rs. 2.29 crore as mentioned in Annexure.

After the cases were pointed out between April 2007 and March 2008, three²² SRs intimated in January 2008 and May 2008 that out of Rs. 2.98 lakh, an amount of Rs. 1.22 lakh had been recovered. Further report on realisation and reply from the remaining SRs has not been received (September 2008).

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

6.5 Non-presentation of document for registration

According to section 23 of the Indian Registration Act, 1908, no document other than a will shall be accepted for registration unless presented for that purpose to the proper officer within four months from the date of its execution. The department did not have a system for obtaining periodical information from the registration authority on the presentation of sale deed for levy of stamp duty and registration fee.

Test check of the records of SR Jawali, in November 2007 revealed that the Government sold four cafetaria of the Himachal Pradesh Tourism Development Corporation (HPTDC) in July 2004 and authorised the latter to execute the sale deed of Café Pancham at Trilokpur of Kangra district with the buyer. It was noticed that the sale agreement and sale deed were signed on 10 September 2004 and 1 April 2005 respectively and the buyer had paid (1 April 2005) Rs. 26.60 lakh to the HPTDC. The SR was also informed in April 2005 about the sale of the cafeteria. The Area Manager, Dharamsala complex was to execute the registration of the sale deed document on behalf of the HPTDC. According to the sale deed agreement, all charges of stamp duty and registration fee were to be borne by the buyer. However, neither the buyer presented the document nor the SR pursued the HPTDC to present the document. This resulted in non-realisation of stamp duty and registration fee of Rs. 3.44 lakh.

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

6.6 Embezzlement/undue retention of Government money

Under the Himachal Pradesh Financial Rules, 1971, every Government servant is personally responsible for the money which passes through his hands and for the prompt record of receipts and payments in the relevant account as well as for the correctness of the account in every respect. It further stipulates that all departmental receipts collected during the day should be credited into the treasury on the same day or latest by the morning of the next working day. Every officer receiving money on behalf of Government should maintain a cash book in the prescribed form and close it daily after it is completely checked. All monetary transactions should be entered in the cash book as soon as they occur and attested by the head of the

²²

Sundernagar, Dharampur and Jhandutta.

office or the officer authorised in this behalf, in token of check. Before attesting the cash book, he should satisfy himself that the amount have been actually credited into the treasury or the Bank.

6.6.1 Test check of the records of SR Aut in May 2008 revealed that in 302 cases, Rs. 17.28 lakh were collected as registration and miscellaneous²³ fee between January 2004 and January 2007. Cross verification of the receipts books with cash book/treasury revealed that Rs. 8.30 lakh only was deposited in the treasury and the remaining amount of Rs. 8.98 lakh was neither entered in the cash book nor deposited in the treasury. Scrutiny further revealed that entries in the cash book were neither attested by the head of office nor by any other officer authorised in this behalf. This resulted in embezzlement of Government money of Rs. 8.98 lakh.

After the case was pointed out, the SR while admitting the lapse, stated in May 2008 that the amount involved would be recovered from the concerned official and action would be taken against the defaulting official as per the rules. Further report has not been received (September 2008).

6.6.2 Test check revealed that in 74 cases, Rs. 16.52 lakh collected on account of registration fee and miscellaneous fee between December 2002 and April 2007, were not deposited in the treasury within the prescribed period. The delay in deposit of Government money ranged between 6 and 223 days. However, the department failed to exercise the prescribed checks and ensure that Government receipts collected during the day were promptly deposited in the treasury as prescribed. This resulted in undue retention of Government money which tantamounts to temporary misappropriation of Government receipts.

After the case was pointed out, the SR while admitting the lapse, intimated that concerned official had been directed to submit a clarification for delayed deposit of the Government money in the treasury. The SR further assured that in future the Government money would be deposited promptly in the treasury.

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

6.7 Loss due to non-renewal/payment of lease money

Under the Himachal Pradesh Lease Rules (HPLR) 1993, Government land can be leased out to individual/private companies for various purposes. The lease money is required to be revised after the period specified in the lease agreement and is calculated at the rate of 18/5 per cent of the latest highest market value of land leased or double the average market value of five years whichever is less in the case of individuals, private companies and educational institutions respectively.

Test check of the records of three²⁴ District Collectors between December 2006

²³ Pasting fee.

²⁴ Kullu, Mandi and Una.

and February 2008 revealed that in 13 cases²⁵, Government land measuring 43-4-18 bighas were leased (between January 1986 and December 2005) for the period ranging from 10 to 99 years for various purposes²⁶. Scrutiny revealed that in 10 cases of Kullu and Una districts, the lease money which was to be revised after the period specified in the lease agreement, was not done. Neither the department took any action for the revision of lease money nor was it paid by the lessees. In three cases of Mandi district, although the lease money was revised and approved in November 2006, it had not been recovered. Thus, inaction on the part of the department resulted in non-realisation of revenue of Rs. 19.36 lakh for the period falling between 15 December 1990 and 27 January 2008, of which Rs. 13.80 lakh pertained to the year 2002-03 to 2007-08.

After the cases were pointed out between December 2006 and February 2008, the Collector Kullu intimated in February 2008 that Rs. 51,000 had been recovered in five cases and in the remaining cases notices had been issued. Further report on realisation and reply in respect of Mandi and Una districts have not been received (September 2008).

The matter was reported to the department and the Government between January 2007 and February 2008, their reply has not been received (September 2008).

6.8 Short realisation of lease money due to incorrect fixation of rate

Under the HPLR, Government land can be granted on lease to eligible institutions for establishment/extension of educational institutions. The maximum area that can be sanctioned on lease for high/higher secondary/senior secondary school/college is 10 *bighas*. The lease money under HPLR is to be fixed at the rate of five *per cent* of the latest highest market value of the land leased or double the average market value of five years, whichever is less. As per the Inspector General of Registration (IGR) instructions of July 1997, *patwaris*²⁷ are required to prepare *parta* of the *mohal*²⁸ concerned or the adjoining *mohal* if no land was sold in the concerned *mohal*.

Test check of the records of the Collector, Shimla in January 2008 revealed that a lease deed²⁹ for 99 years was executed in November 2006 with Daughters of Sacred Heart, Tara Hall Convent School, Shimla for leasing Government land measuring 0-89-24 hectare (i.e 11 bigha and 17 biswas) at *mauja Badah*³⁰, for the construction of school building. The department while working out five *per cent* lease money (Rs. 4.13 lakh) considered one year market value (Rs. 82.59 lakh) of the adjoining *mohal* Dhalli-II as no land was sold in *mauja Badah* during 9 May 2005 to 8 May 2006 and compared it with five years (9 May 2001 to 8 May 2006)

²⁵ Kullu: 9 cases: Rs. 8.41 lakh, Mandi: 3 cases: Rs. 7.28 lakh and Una: 1 case: Rs. 3.67 lakh.

²⁶ Establishment of HRTC bus stand, small hydro electric projects, ice cream factory, construction of school building etc.

²⁷ Patwaris are the lowest revenue officials in revenue hierarchy who are responsible for proper upkeep and preservation of all revenue records in respect of all revenue estates falling within their jurisdictions.

²⁸ Means circle of villages.

²⁹ Registration No. 1839/2006.

³⁰ It is a name of village.

market value (Rs. 7.88 lakh) of *mauja Badah*. The department calculated Rs. 39,401 as five per cent of Rs. 7.88 lakh and after doubling it (Rs. 78,802) fixed lease money as Rs. 79,000 per annum being the lesser amount. The action of the department was incorrect because comparison was to be done in respect of the same *mohal*. Scrutiny of *parta* prepared by the *patwaris* and information collected by audit revealed that market value of one year (9 May 2005 to 8 May 2006) and average market value of land for five years (9 May 2001 to 8 May 2006) in respect of *mohal* Dhalli-II were Rs. 82.59 lakh and Rs. 39.54 lakh respectively. As per HPLR, five per cent of one year market value was Rs. 4.13 lakh whereas double of average market value for five years worked out to Rs. 79.08 lakh in respect of *mohal* Dhalli-II. Thus, lease money in this case was chargeable at the rate of Rs. 4.13 lakh per annum. The department, however, incorrectly fixed lease money of Rs. 79,000 per annum for the period November 2006 to October 2008. This resulted in short realisation of lease money of Rs. 7.47 lakh besides crossing of the maximum area limit of 10 bighas.

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

C. IRRIGATION CUM PUBLIC HEALTH DEPARTMENT

6.9 Non-recovery of water charges

Under section 5 of the Himachal Pradesh Water Supply Act, 1968, recovery of water charges shall be effected from the individuals on the basis of the flat rate or on the basis of metered connections. The rates levied shall, if not paid when due, be recovered as arrears of land revenue.

Test check of the records of 19³¹ irrigation cum public health divisions, between April 2007 and March 2008 revealed that water charges amounting to Rs. 1.77 crore for the period 2005-06 and 2006-07 were not recovered. Scrutiny revealed that in Hamirpur division, water charges amounting to Rs. 4.37 lakh were recoverable for the years 2005-06 and 2006-07 whereas in other 18 divisions water charges of Rs. 1.72 crore pertained to the period 2006-07. The department neither recovered the amount nor was it paid by the individuals.

After the cases were pointed out between April 2007 and March 2008, six³² divisions intimated between August 2007 and March 2008 that Rs. 9.27 lakh had been recovered and efforts were being made to recover the balance amount. Further report of recovery and reply from the remaining divisions has not been received (September 2008).

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

³¹ Arki, Barsar, Ghumarwin, Hamirpur, Indora, Jubbal, Karsog, Kullu-I, Kullu-II, Nahan, Nalagarh, Nohradhar, Paonta Sahib, Pooh, Rampur, Rohru, Solan, Sundernagar and Suni.

³² Barsar: Rs. 1.40 lakh; Ghumarwin: Rs. 1.47 lakh; Hamirpur: Rs. 2.76 lakh; Indora: Rs. 49,000; Kullu-I: Rs. 1 lakh and Nahan Rs. 2.15 lakh.

D. INDUSTRIES DEPARTMENT

6.10 Non-recovery of interest on delayed payment of royalty

Under the Mineral Concession Rules (MCR), 1960, royalty is payable as soon as the mineral is removed from the leasehold. A monthly return in form F-8³³ under Rule 45 of the Mineral Conservation and Development Rules, 1988, is required to be submitted to the Controller General, Controller of Mines and the Regional Controller, by the lessee before 15th of every month in respect of the preceding month. As per clause 3 of part-VI of the mining lease agreement executed between the State Government and the lessee³⁴ on 28 May 1992, if the royalty due is not paid by the lessee within the prescribed time, the same may be recovered together with interest due thereon, at the rate of 15 *per cent* per annum.

6.10.1 Test check of the records of the Mining Officer (MO), Solan, in December 2007 revealed that a lessee engaged in the extraction of limestone, had filed monthly returns on the removal of limestone and paid royalty of Rs. 9.22 crore quarterly on the quantity of 20.50 lakh tonnes of limestone. Although the mining lease agreement did not stipulate that royalty was to be paid quarterly yet the department accepted the payments of royalty on quarterly basis during 2006-07. By accepting quarterly payments without any demand for interest, the department had shown undue favour to the lessee. There was nothing on record for remission of interest by the MO/department. As a result, royalty was received late by one to two months every time for which interest of Rs. 18.15 lakh was payable by the lessee which has not been paid (September 2008).

After the case was pointed out in December 2007, the department intimated in May 2008 that notice had been issued to the concerned company for the payment of interest on delayed payment of royalty. Further report on recovery has not been received (September 2008).

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

6.10.2 Rule 21(1)(i)(c) of the Himachal Pradesh Minor Mineral (Concession) Revised Rules, 1971, provides that the lessee shall pay royalty in advance for the material to be removed from the leased area. As per the terms and conditions of standard mining lease agreement, if a lessee does not deposit the royalty in time, interest at the rate of 24 *per cent* per annum shall be charged for the period of default.

Test check of the records of three³⁵ MOs between November and December 2007 revealed that 13 lessees engaged in stone crushing had delayed payments of royalty of Rs. 47.64 lakh during the period between 2004-05 and 2006-07 by 1 to 31 months. Interest of Rs. 3.83 lakh though recoverable from the lessees on the delayed payments of royalty was not charged by the department.

³³ Shows the name of the minerals, address of the lessee, location of the mine, quantity of minerals produced and despatched from mines, stocks at mines head and royalty paid etc.

³⁴ M/s Gujrat Ambuja Cement Ltd.

³⁵ Bilaspur: one: Rs. 1.10 lakh; Kangra: five: Rs. 77,000 and Kullu: seven: Rs. 1.96 lakh.

After the cases were pointed out between November and December 2007, the department intimated in May 2008 that in the case of MOs Kangra and Kullu, Rs. 1.80³⁶ lakh had been recovered from nine lessees and efforts were being made to recover the balance amount. In the case of MO Bilaspur, notice had been served to the concerned party to deposit the outstanding amount of interest. Further report on recovery has not been received (September 2008).

The matter was reported to the Government between December 2007 and January 2008; their reply has not been received (September 2008).

6.11 Non/short realisation of royalty

Under the MCR, royalty is payable as soon as the mineral is removed from the leasehold. As per the notification dated April 2003 made by the Government of India, Ministry of Mines in the MCR, royalty on rock salt is to be computed on the basis of the average value as published by the Indian Bureau of Mines (IBM) in the "Monthly Statistics of Mineral Production". The State Government shall add 20 *per cent* to this bench mark³⁷ value for the purpose of computation of royalty payable at the rate of 10 *per cent* of the value so arrived at..

6.11.1 Test check of the extraction returns filed by the lessee³⁸ under the jurisdiction of MO Mandi, revealed in November 2007 that a lessee had extracted 1,747.8 tonnes of rock salt during 2006-07 on which royalty of Rs. 3.31 lakh was recoverable after adding 20 *per cent* on the average value determined by the IBM. The department neither demanded this amount nor was it paid by the lessee. Inaction on the part of the department resulted in non-realisation of royalty of Rs. 3.31 lakh.

After the case was pointed out in November 2007, the department intimated in May 2008 that the lessee had been directed to deposit the royalty amount. Further report on recovery has not been received (September 2008).

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

6.11.2 Rule 21 of the Himachal Pradesh Minor Mineral (Concession) Revised Rules, 1971 provides that the lessee shall pay the royalty in advance for the material to be removed from the leased area. Royalty for stone (a raw material for production of aggregates through the process of crushing) is to be charged at the rate of Rs. 10 per tonne.

Test check of the records of MO Kullu in November 2007 revealed that, between March 2005 and April 2007, a lessee³⁹ engaged in construction of Parbati Hydro Electric Project in the district had recovered royalty of Rs. 6.93 lakh from a contractor⁴⁰ at the rate of Rs. 6 per tonne instead of the correct rate of Rs. 10 per tonne for 1.16 lakh tonnes of aggregates produced. This resulted in short realisation of royalty of Rs. 4.68 lakh.

³⁶ Kangra: three cases: Rs. 30,000 and Kullu: six cases: Rs. 1.50 lakh.

³⁷ Month wise average value of rock salt fixed by IBM.

³⁸ M/s Hindustan Salts Ltd., Mandi.

³⁹ M/s NHPC Ltd., Nagwain, district Mandi.

⁴⁰ M/s Patel-SEW Joint Venture.

After the case was pointed out in November 2007, the department stated in May 2008 that notice had been served to the lessee for the deposit of royalty. Further report on recovery has not been received (September 2008).

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



(SUMAN SAXENA)
Principal Accountant General (Audit)
Himachal Pradesh

Shimla
The

17 NOV 2008

Countersigned



(VINOD RAI)
Comptroller and Auditor General of India

New Delhi
The

10 NOV 2008

ANNEXURE

Statement showing sub registrar wise details of money value as per actual price applicable and included in *partas* prepared by *patwaris*

(Reference : Paragraph 6.4)

(Rupees in lakh)

Sr. No.	Name of the SR office	Number of cases	MV as per the actual price applicable	MV determined on the basis of <i>parta</i> prepared by <i>patwaris</i>	Short levy		Total
					Stamp duty	Registration fee	
1.	Rampur	27	79.24	64.14	1.18	0.22	1.40
2.	Sundernagar	22	87.45	68.85	1.49	0.31	1.80
3.	Karsog	12	40.01	14.06	2.08	0.36	2.44
4.	Gohar	14	20.05	16.84	0.24	0.06	0.30
5.	Nirmand	21	172.66	129.44	3.46	0.77	4.23
6.	Naina Devi	6	21.11	9.07	0.96	0.24	1.20
7.	Nalagarh	51	3,213.72	795.60	193.42	1.63	195.05
8.	Sarkaghat	11	23.42	11.71	0.94	0.23	1.17
9.	Dharampur	13	8.68	2.98	0.46	0.11	0.57
10.	Nahan	1	32.60	18.37	1.14	--	1.14
11.	Jhandutta	12	36.68	20.52	1.29	0.32	1.61
12.	Bhoranj	32	119.65	36.23	6.67	1.25	7.92
13.	Palampur	19	144.0	90.21	4.30	0.53	4.83
14.	Una	9	33.53	30.33	0.26	0.06	0.32
15.	Amb	30	38.98	28.76	0.81	0.21	1.02
16.	Shimla (Urban)	14	171.43	119.01	4.19	0.22	4.41
Total		294	4,243.21	1,456.12	222.89	6.52	229.41